

**Ordinance 34 of 2020**

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**IMMIGRATION ORDINANCE 2020**

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An Ordinance to regulate the entry and presence of persons to and in the Sovereign Base Areas of Akrotiri and Dhekelia and for related purposes

R. Thomson  
**ADMINISTRATOR**

*06 October 2020*

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

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## PART 1

### Preliminary

#### **Short title**

**1.**This Ordinance may be cited as the Immigration Ordinance 2020.

#### **Commencement**

**2.**—(1) Subject to subsection (2), this Ordinance enters into force on 12 October 2020.

(2) Section 13(1) enters into force—

- (a) for the purpose of giving effect to paragraph 1 of Schedule 4, on the date provided for in subsection (1), and
- (b) for remaining purposes, on the date appointed by the Chief Officer by way of a public instrument.

#### **Interpretation**

**3.**—(1) In this Ordinance—

“the 1960 Ordinance” means the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960(a);

“aircraft” has the meaning given to this term in section 2(1) of the Customs Ordinance 2005(b);

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(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, 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.

(b) Ordinance 16/2005.

“areas under government control” means the areas of the Republic in which the government of the Republic exercises effective control;

“authorised airport” means an area designated as a customs airport by an order made, from time to time, under section 12 of the Customs Ordinance 2005;

“authorised land crossing point” means a place designated as a crossing point by an order made, from time to time, under section 15 of the Customs Ordinance 2005;

“authorised entry point” means—

- (a) an authorised airport;
- (b) an authorised land crossing point; and
- (c) an authorised sea entry point

that is not, for the time being, closed in accordance with section 20;

“authorised sea entry point” means an area designated as a customs port by an order made, from time to time, under section 10 of the Customs Ordinance 2005;

“British Authorities or Defence person” has the meaning given in section 4;

“captain” in relation to a vessel or an aircraft includes a person who has, or who has taken, command of the vessel or aircraft;

“child”, in relation to a person, includes an adopted child and anyone else treated by the person as their child;

“conditions of temporary entry” means a condition imposed under section 10;

“court” means the Resident Judge’s Court;

“dangerous infectious disease” has the same meaning as in the Quarantine Ordinance(a);

“dependent” has the meaning given in Part 1 of Annex B to the ToE(b);

“exclusion order” means an order made under section 48;

“immigration bail” means immigration bail granted under section 54(1) ;

“immigration bail condition” means a condition imposed under section 55(1);

“immigration offence” means an offence under this Ordinance or any public instrument made under it;

“immigration officer” means a person appointed by or under section 5;

“national interest” means the interests of the United Kingdom and the Areas, including the maintenance of good relations with any other country or territory;

“person liable to immigration enforcement measures” means—

- (a) a person who is refused entry to the Areas under this Ordinance;
- (b) a person—
  - (i) found within 100 metres of an authorised entry point or of the boundary between the Areas and the areas of the Republic in which the government of the Republic does not exercise effective control,
  - (ii) whom an immigration officer has reasonable grounds to believe has not been outside 100 metres of those boundaries since the person’s entry, and
  - (iii) whom an immigration officer has reasonable grounds to believe has entered the Areas in contravention of section 21(1),
- (c) a person subject to a removal order that has become enforceable, or
- (d) a person subject to an exclusion order;

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(a) Cap 260, Laws of Cyprus, 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960/1369. Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation.

(b) See section 1(i).

“prohibited immigrant” has the meaning given in section 7;

“Refugees Law” means Law No. 6(I)/2000 of the Republic<sup>(a)</sup> as amended or substituted (whether before or after the coming into force of this Ordinance);

“the Refugees Ordinance” means the Refugees Ordinance 2003<sup>(b)</sup>;

“removal order” means an order made under section 45(1);

“residence permit” means a residence permit issued under section 13 (including under section 13(3)(f));

“residence permit condition” means a condition to which a residence permit is subject under section 17;

“transfer order” means an order made under section 43;

“travel document”, in relation to a person, means a passport the period of validity of which is current or a document—

- (e) the period of validity of which, if any, is current;
- (f) that establishes the person’s identity;
- (g) that establishes the person’s nationality or citizenship; and
- (h) that can be reasonably accepted by a state for the purposes of establishing whether to allow the person to enter its territory;

“ToE” means the Treaty of Establishment<sup>(c)</sup>; and

“vessel<sup>(d)</sup>” includes a hovercraft.

(2) For the purposes of this Ordinance, a document is “false”—

- (a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form;
- (b) if it purports to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form;
- (c) if it purports to have been made in the terms in which it is made by a person who did not in fact make it in those terms;
- (d) if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms;
- (e) if it purports to have been altered in any respect by a person who did not in fact alter it in that respect;
- (f) if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect;
- (g) if it purports to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or
- (h) if it purports to have been made or altered by an existing person but the person did not in fact exist.

### **Meaning of British Authorities or Defence person**

**4.—(1)** For the purposes of this Ordinance, each of the following is a British Authorities or Defence person—

- (a) a person who is a member of the armed forces of—
  - (i) the United Kingdom,

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(a) The Refugees Law 2000 (as amended), Republican Gazette No. 3383 of 28<sup>th</sup> January 2000.

(b) Ordinance 10/2003 as amended by Ordinances 22/2008, 25/2014, 8/2015 and 18/2016.

(c) “Treaty of Establishment” is defined in Schedule 1 to the Interpretation Ordinance 2012.

(d) “Vessel” is defined in Schedule 1 to the Interpretation Ordinance 2012 (Ordinance 8/2012).

- (ii) another Commonwealth country to which Annex C to the ToE applies pursuant to paragraph 3 of Section 1 of that Annex, or
  - (iii) another country, if that person is engaged in activities relating to the defence of the United Kingdom,  
for as long as the person is posted, attached or on an official visit to any unit stationed in the island of Cyprus(a) or is in the island of Cyprus in the course of transit on an official movement order;
  - (b) a person who is a member of the civilian component in relation to the armed forces referred to in paragraph (a) or in relation to an authorised service organisation(b);
  - (c) any United Kingdom personnel not referred to in paragraphs (a) or (b), for as long as the person is employed or engaged in duties as such in the Island of Cyprus;
  - (d) a person who—
    - (i) is a dependent of a person referred to in paragraphs (a) to (c), and
    - (ii) who, for the time being, the Secretary of State agrees may enter land occupied by the Crown in right of the Government of the United Kingdom;
  - (e) any other person of a class prescribed in regulations made by the Administrator by way of a public instrument.
- (2) In this section—
- “civilian component” means the civilian personnel accompanying any armed forces falling within subsection (1)(a) who are employed in the service of any such armed forces or by an authorised service organisation accompanying any such armed forces and who are not—
- (a) stateless persons;
  - (b) nationals of the Republic; or
  - (c) ordinarily resident in the Republic; and
- “United Kingdom personnel” has the meaning given in Part 1 of Annex B to the ToE(c).

## PART 2

### Immigration officers, etc.

#### **Immigration officers**

5.—(1) The Chief Officer and customs officers(d) are immigration officers for the purposes of this Ordinance.

(2) The Chief Officer may appoint any other person or class of persons as immigration officers.

(3) Notice of an appointment by the Chief Officer under subsection (2) must be published in the Gazette.

#### **Functions of immigration officers, police officers and others**

6.—(1) Schedule 1 (functions of immigration officers and related matters) has effect.

(2) Any function conferred on an immigration officer under this Ordinance is also exercisable by a police officer.

(a) “Island of Cyprus” is defined in Schedule 1 to the Interpretation Ordinance 2012 .

(b) “Authorised service organisation” is defined in Schedule 1 to the Interpretation Ordinance 2012.

(d) “Customs officer” is defined in Schedule 1 to the Interpretation Ordinance 2012. It includes the Fiscal Officer.

(3) Any person exercising a function under this Ordinance must do so in accordance with any directions given by the Chief Officer either generally or in any specific case or category of cases.

## PART 3

### Presence and residence in the Areas

#### *Persons permitted to be present or reside in the Areas*

##### **Prohibited immigrants**

7.—(1) For the purposes of this Ordinance, “prohibited immigrant” means—

- (a) a person who is not—
  - (i) a British Authorities or Defence person;
  - (ii) a person who, in accordance with the laws of the Republic of Cyprus, may lawfully be present or reside in the Republic;
  - (iii) a person who is permitted to reside in the Areas in accordance with a residence permit;
  - (iv) a person who has been granted temporary leave to enter (see section 9); or
  - (v) a person falling within paragraphs (d) to (f) of the definition of “recognised resident” in section 2 of the 1960 Ordinance; or
- (b) a person subject to an exclusion order.

(2) Subject to section 7(1) of the Refugees Ordinance and to subsections (3) and (5), a prohibited immigrant who is not subject to immigration bail commits an offence if that prohibited immigrant is present in the Areas.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that, either—

- (a) immediately before the presence in respect of which the person is being charged, the person was lawfully present in the Areas, or
- (b) the person did not enter the Areas voluntarily,

and that either the person has not, since the presence became unlawful under subsection (2), had a reasonable opportunity to leave the Areas, or that having been lawfully resident in the Areas when becoming a prohibited immigrant, the person has not had a reasonable opportunity to make arrangements for residing elsewhere.

(4) A person convicted of an offence under subsection (2) is liable to a term of imprisonment not exceeding 3 years, a fine not exceeding €8,543 or to both such penalties.

(5) Subsection (2) does not apply in respect of an entry or presence that constitutes a criminal offence under section 50 (offence of being present in the Areas while subject to an exclusion order).

##### **Residence**

8.—(1) Persons who are not prohibited immigrants by virtue of fulfilling the conditions laid down in section 7(1)(a)(i) or (iii) to (v) are permitted to reside in the Areas.

(2) Persons who—

- (a) are not prohibited immigrants by virtue of fulfilling the conditions laid down in section 7(1)(a)(ii),
- (b) are, for the time being visiting a British Authorities or Defence person residing in the Areas, and
- (c) who, for the time being, the Secretary of State agrees may enter land occupied by the Crown in right of the Government of the United Kingdom.

are also permitted to reside in the Areas.

(3) Other persons are permitted to reside in the Areas if they belong to a class of persons specified by the Administrator by regulations made by way of a public instrument.

(4) Subject to subsection (5), a person who is not subject to immigration bail and resides in the Areas without being authorised to do so by or under this section commits an offence.

(5) It is a defence for a person charged with an offence under subsection (4) to prove—

(a) that, immediately before the residence in respect of which the person is being charged, the person was lawfully resident in the Areas, and the person has not, since the residence became unlawful under subsection (4), had a reasonable opportunity to leave the Areas, or

(b) that the person did not reside in the Areas voluntarily.

(6) A person convicted of an offence under subsection (4) is liable to a term of imprisonment not exceeding 3 years, a fine not exceeding €8,543 or to both such penalties.

*Temporary leave to enter*

**Grant of temporary leave to enter**

**9.**—(1) An immigration officer may grant temporary leave to enter to a person if the officer considers that it is expedient to permit the presence of the person in the Areas for a limited period of time.

(2) The immigration officer granting temporary leave to enter must determine when the temporary leave to enter is to begin and end.

(3) The time when temporary leave to enter begins may be specified as the time when a condition of temporary entry is complied with.

(4) The grant of temporary leave to enter, and the times set under subsection (2), must be notified in writing to the person to whom it is granted.

**Conditions of temporary entry**

**10.**—(1) Temporary leave to enter may be granted to a person (“P”) subject to conditions, which may, in particular, include—

(a) a condition prohibiting or restricting P’s movements in the Areas or any part of the island of Cyprus;

(b) a condition relating to the place at which P is to reside;

(c) a condition prohibiting or restricting P’s employment;

(d) a condition requiring P to surrender P’s passport or other travel document to an immigration officer;

(e) a condition requiring P to maintain and accommodate P and any of P’s dependents without assistance from public funds;

(f) a condition requiring P to report to an immigration officer or to any other specified person; or

(g) a condition requiring the provision of security or surety.

(2) Conditions of temporary entry may be imposed only to the extent necessary for the following purposes—

(a) the peace, good order or good government of the Areas;

(b) protecting the international relations of the United Kingdom;

(c) the effective use of the Areas as military bases;

(d) the military interests of the United Kingdom or the Areas;

(e) the security of the United Kingdom or the Areas;

- (f) the protection of the interests of those resident or working in the Areas,
- (g) compliance with the United Kingdom's international obligations; or
- (h) preventing P from obstructing any processes or the implementation of any decision made in relation to the person under this Ordinance.

(3) The power to impose the initial conditions of temporary entry is vested in the immigration officer who grants leave to enter.

(4) An immigration officer may amend, cancel or impose further conditions of temporary entry.

(5) The imposition, amendment or cancellation of a condition of temporary entry must be notified in writing to the person to whom the temporary leave has been granted.

(6) Before amending a condition under this section, the immigration officer proposing to do so must—

- (a) give that person the opportunity to make representations; and
- (b) consider any representations made by that person.

### **Duration and cancellation of temporary leave to enter**

**11.**—(1) Subject to subsection (2), temporary leave to enter is valid between the dates set under section 9(2).

(2) An immigration officer may cancel temporary leave to enter by giving notice of its cancellation, in writing, to the person to whom it was issued.

(3) Before cancelling temporary leave to enter, the officer proposing to do so must—

- (a) give that person the opportunity to make representations; and
- (b) consider any representations made by that person.

### **Offence of breach of conditions of temporary entry**

**12.**—(1) person commits an offence if, without reasonable excuse, the person contravenes a condition of temporary entry, except to the extent that such a contravention would be an offence under section 60(1) in so far as it relates to a breach of section 58(2).

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

### *Residence permits*

#### **Residence permits**

**13.**—(1) On the application of a person intending to reside in the Areas who is authorised to enter the Areas by virtue of section 7(1)(a)(ii), or who is likely to be so authorised at the time when the person intends so to reside, the Chief Officer must grant the person a residence permit, having effect from that time, unless—

- (a) the granting of that application would, in the opinion of the Chief Officer, be likely to be contrary to the military interests or the security of the United Kingdom or the Areas, or
- (b) the Administrator would have the power to make an exclusion order against the person if the person became resident in the Areas, and the Administrator would be minded to do so. (a)

(2) Before refusing an application under subsection (1) the Chief Officer must give an opportunity to the person to make representations.

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(a) Section 13(1) enters into force or the purposes of giving effect to paragraph 1 of Schedule 4, on the 12 October 2020, and, for remaining purposes, on the date appointed by the Chief Officer by way of a public instrument.

(3) Subject to section 15, the Chief Officer may issue a residence permit to any other person but only for the following purposes—

- (a) humanitarian grounds;
- (b) national interest;
- (c) compliance with the United Kingdom's international obligations;
- (d) the effective use of the Areas as military bases;
- (e) the protection of the interests of those resident or working in the Areas; or
- (f) when required or permitted by or under any other Ordinance.

#### **Application for residence permit by persons permitted to reside in Cyprus**

**14.**—(1) This section applies to an application for a residence permit under section 13(1).

(2) The application must—

- (a) be in any form prescribed by regulations made under subsection (5), or, if no such form has been prescribed, give reasons why a residence permit should be issued to the applicant; and
- (b) be accompanied by any fee prescribed by or under regulations made under subsection (6).

(3) The Chief Officer may, in writing, require the applicant to provide any additional information required in order to deal with the application.

(4) The Chief Officer is not required to determine the application the applicant has complied with the requirements made by or under subsections (2) and to (3).

(5) The Administrator may by way of a public instrument make regulations prescribing forms to be used for making the application.

(6) The Administrator may by way of a public instrument make regulations—

- (a) prescribing a fee for the application, and
- (b) prescribing any circumstances in which the fee may or must be waived.

#### **Application for residence permit on humanitarian etc. grounds**

**15.**—(1) This section applies where an application for a residence permit is made on a ground specified in section 13(3)(a) to (e).

(2) The application must—

- (a) be accompanied by any fee prescribed by or under Regulations made under subsection (6);
- (b) state whether or not the person making the application (“the applicant”) has applied for any form of permit entitling the applicant to reside in the Republic (including an application under the Refugees Law) and, if so, state the outcome of that application if known; and
- (c) give reasons why a residence permit should be issued to the applicant.

(3) The Chief Officer is not required to determine the application until subsection (2) has been complied with.

(4) The Chief Officer must refuse the application—

- (a) if the applicant is not in the Areas or at an authorised entry point;
- (b) if the applicant has also made an application (the “other application”)—
  - (i) under the Refugees Ordinance or the Refugees Law, or for any other form of permit from a competent authority of the Republic that, if granted, would entitle the applicant to reside in the Republic; and
  - (ii) the other application has not yet been decided; or
- (c) if the applicant has previously made an application (the “first application”)—

- (i) under the Refugees Ordinance or the Refugees Law that has been refused;
- (ii) the grounds of the application for a residence permit are the same or substantially the same as the grounds of the first application; and
- (iii) the Chief Officer is satisfied that there is no good reason for granting the application.

(5) If the Chief Officer thinks that the grounds of the application are such that it would be more appropriate for the applicant to make an application under the Refugees Ordinance or the Refugees Law, the application must be treated as if it had been made under the Refugees Ordinance.

(6) The Administrator may by way of a public instrument make regulations—

- (a) prescribing a fee for the application, and
- (b) prescribing any circumstances in which the fee may or must be waived.

### **Duration and cancellation of residence permit**

**16.**—(1) When granting a residence permit, the Chief Officer must determine the dates when it begins and ends.

(2) The time when a residence permit begins may be specified as the time when a condition imposed under section 17 is complied with.

(3) The dates specified in subsection (1) must be stated in the residence permit.

(4) Subject to subsection (5), a residence permit has effect between the dates specified in subsection (1).

(5) The Chief Officer may cancel a residence permit by giving notice of its cancellation, in writing, to the person to whom it was issued.

(6) Before cancelling a residence permit, the Chief Officer must—

- (a) give that person the opportunity to make representations; and
- (b) consider any representations made by that person.

(7) A residence permit expires on the earliest of—

- (a) the date on which, as specified in the permit, the permit is to expire;
- (b) the date on which the person to whom the permit is issued becomes subject to an exclusion order or a removal order; or
- (c) the date on which the permit is cancelled.

### **Residence permit conditions**

**17.**—(1) A residence permit may be issued to a person (“P”) subject to conditions, which may, in particular, include—

- (a) a condition prohibiting or restricting P’s movements in the Areas or any part of the island of Cyprus;
- (b) a condition relating to the place at which P is to reside;
- (c) a condition prohibiting or restricting P’s employment;
- (d) a condition requiring P to surrender P’s passport or other travel document to an immigration officer;
- (e) a condition requiring P to maintain and accommodate P and any of P’s dependents without assistance from public funds;
- (f) a condition requiring P to report to an immigration officer or to any other specified person;
- (g) a condition requiring the provision of security or surety.

(2) Conditions under subsection (1) may be imposed only to the extent necessary for the following purposes—

- (a) the peace, good order or good government of the Areas;
- (b) the effective use of the Areas as military bases;
- (c) the protection of the interests of those resident or working in the Areas;
- (d) the military interests of the United Kingdom or the Areas;
- (e) the security of the United Kingdom or the Areas;
- (f) protecting the international relations of the United Kingdom;
- (g) compliance with United Kingdom's international obligations;
- (h) in the case of a condition imposed under section 13(3)(c) or (f), preventing P from obstructing any processes or the implementation of any decision made in relation to the person under this Ordinance or the Ordinance under which the permit was issued under section 13(3)(f), including by leaving the Areas;

(3) The Chief Officer may amend or cancel or impose conditions relating to the residence permit.

(4) The imposition, amendment or cancellation of a condition under this section must be specified in the residence permit or otherwise notified in writing to the person to whom the residence permit has been issued.

(5) Before amending a condition under this section, the Chief Officer must—

- (a) give that person the opportunity to make representations; and
- (b) consider any representations made by that person.

### **Offence of breach of residence permit condition**

**18.**—(1) A person commits an offence if, without reasonable excuse, the person contravenes a residence permit condition, except to the extent that such a contravention would be an offence under section 60(1) in so far as it relates to a breach of section 58(2).

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

## PART 4

### Entering and leaving the Areas

#### *Authorised entry points*

### **Entry via authorised entry point**

**19.** Except for the purposes of section 52, for the purposes of this Ordinance, a person who wishes to enter the Areas via an authorised entry point is not deemed to have entered the Areas for as long as the person is at the authorised entry point.

### **Power to close authorised entry points**

**20.**—(1) The Chief Officer may direct that an authorised entry point be temporarily closed.

(2) A direction under subsection (1) must—

- (a) specify the period of time for which the authorised entry point will be closed; and
- (b) be published in the Gazette.

(3) Where reasonably practicable, the Chief Officer must make arrangements for advance notice of the proposed closure of an authorised entry point to be given to any person that the Chief Officer considers may be affected by the closure and such arrangements may include signs being erected at or near the authorised crossing point.

*Entering and leaving the Areas: general*

**Entering and leaving the Areas**

**21.**—(1) A person may only enter or leave the Areas by land—

- (a) via an authorised land crossing point, or
- (b) to or from the areas under government control.

(2) Subject to subsection (4), a person may only enter or leave the Areas by air via an authorised airport.

(3) Subject to subsection (4), a person may only enter or leave the Areas by sea via an authorised sea entry point.

(4) Subsections (2) and (3) do not apply to a person who enters or leaves the Areas by air or by sea if the person's journey—

- (a) begins and ends in either the Areas or in the areas under government control; and
- (b) does not involve a break of journey outside the Areas or the areas under government control.

(5) For the purposes of subsection (4)(b), a break of journey does not include a vessel entering or stopping in seas outside the territorial waters of the Areas or the Republic.

**Offence of unlawfully entering or leaving the Areas**

**22.**—(1) Subject to section 7(1) of the Refugees Ordinance, a person who contravenes section 21 commits an offence.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

*Powers of immigration officers at an authorised entry point*

**Entry and refusal of entry at authorised entry point**

**23.**—(1) This section applies to a person (“P”) who wishes to enter the Areas via an authorised entry point.

(2) P must not enter the Areas without the permission of an immigration officer.

(3) Subject to section 7(1) of the Refugees Ordinance, a person who contravenes subsection (2) commits an offence and is liable to a fine not exceeding €1,000, to imprisonment for a term not exceeding 6 months or to both such penalties.

(4) An immigration officer may examine P and, on conclusion of any such examination, may—

- (a) allow P to enter the Areas; or
- (b) if one or more of the grounds specified in subsection (7) applies and subject to subsection (5), refuse to allow P to enter the Areas.

(5) An immigration officer may not, under this Ordinance, refuse to allow P to enter the Areas if P makes an application under section 13(1) of the Refugees Ordinance.

(6) Where an immigration officer refuses to allow P to enter the Areas, the immigration officer must, as soon as reasonably practicable, notify P, in writing, of the refusal and the reasons for it.

(7) An immigration officer may refuse to allow P to enter the Areas where—

- (a) P does not have either—
  - (i) a travel document, or
  - (ii) a document that establishes P's status as a British Authorities or Defence person;
- (b) P refuses to comply with a requirement under section 24(1) to produce a document;
- (c) P refuses to comply with a requirement under section 25 to provide such information and complete such forms as specified by an immigration officer;

- (d) P refuses to comply with a requirement made under section 26 or the requirements of any enactment made for the purposes of preventing the spread or incidence of dangerous infectious diseases;
- (e) the immigration officer considers that this is a proportionate measure to prevent the spread or incidence of dangerous infectious diseases;
- (f) the officer has reasonable grounds for believing that—
  - (i) if P entered the Areas, P would be a prohibited immigrant; or
  - (ii) there are grounds for making an exclusion order against the person; or
- (g) in the case of a person who is not a citizen of a Member State of the European Union, the officer has reasonable grounds for believing that permitting the person to enter would contravene the applicable EU measures.

(8) In assessing, for the purposes of subsection (7)(e), whether a person may be infected or contaminated by a dangerous infectious disease, an immigration officer must act in accordance with guidance from a medically qualified person.

(9) In subsection (7)(g), “the applicable EU measures” means—

- (a) before 1 January 2021, Protocol 3 to the Act concerning the conditions of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia and the adjustments to the Treaties on which the European Union is founded, on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus(a), as read in conjunction with Article 2(5) of Protocol 10 to the Act of Accession dated 29th April 2004(b), and
- (b) from 1 January 2021, article 7 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(c).

### **Requirement to produce document**

**24.**—(1) An immigration officer may require a person who wishes to enter or to leave the Areas, via an authorised entry point to produce to the immigration officer either—

- (a) a travel document; or
- (b) where the person claims to be a British Authorities or Defence person, a document establishing that fact.

(2) An immigration officer may, for the purposes of this Ordinance, take a copy of any document produced under subsection (1).

(3) A person who, without reasonable excuse, refuses to comply with a requirement under subsection (1) is guilty of an offence.

(4) A person guilty of an offence under subsection (3) is liable to a fine, to imprisonment of not more than 6 months or to both such penalties.

### **Requirement to provide information and complete forms**

**25.**—(1) An immigration officer may require a person who wishes to enter or to leave the Areas via an authorised entry point to provide such information as may be specified by the immigration officer, including by completing such forms as may be so specified.

(2) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) is guilty of an offence.

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(a) OJ No. L 236, 23.9.2003, p. 940.

(b) O.J. No. L 206, 9.6.2004, p.128, as last amended by Commission Implementing Regulation (EU) 2015/1472 dated 26 August 2015, O.J. No.L 225, p. 3.

(c) OJ No. L 29, 31.01.2020, p. 7.

(3) A person guilty of an offence under subsection (2) is liable to a fine, to imprisonment of not more than 6 months or to both such penalties.

### **Public health requirements**

**26.**—(1) A person wishing to enter the Areas must comply with any requirement imposed by an immigration officer for the purpose of preventing the spread or incidence of dangerous infectious diseases, which may include a requirement to—

- (a) answer questions or submit to an oral, ear, or armpit temperature check for the purpose of determining the risk that the person may have been contaminated by a contagious or infectious disease; or
- (b) submit to a medical examination by a medical practitioner at a time and place specified by the immigration officer.

(2) A person who, without reasonable excuse, refuses to comply with requirements imposed under subsection (1) is guilty of an offence.

(3) A person guilty of an offence under subsection (2) is liable to a fine, to imprisonment of not more than 6 months or to both such penalties.

### *Vehicles, vessels and aircraft*

#### **Offence of concealment in vehicle, vessel or aircraft**

**27.**—(1) A person commits an offence if—

- (a) the person conceals themselves in, on or about a vehicle, vessel or aircraft that is entering the Areas; and
- (b) does so with the intention of escaping the notice of an immigration officer or otherwise avoiding immigration control.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 12 months, a fine not exceeding €5,000 or to both such penalties.

#### **Information on passengers and crew of vessel or aircraft**

**28.**—(1) This section applies where a vessel or an aircraft—

- (a) arrives, or is expected to arrive, in the Areas;
- (b) leaves, or is expected to leave, the Areas.

(2) An immigration officer may require the captain of the vessel or the aircraft to supply a list of the names and details of the nationality or citizenship of every passenger or crew member (or both) in the vessel or aircraft, together with any other relevant information that the immigration officer may reasonably require for the purposes of any function under this Ordinance.

(3) Every passenger or crew member in the vessel or aircraft must provide the captain of the vessel or aircraft with any information needed by the captain for the purposes of subsection (2), where the passenger or crew member holds the information or where the information is reasonably accessible to the passenger or crew member.

(4) A person who contravenes subsection (2) or (3), or, in response to a requirement made by or under those subsections, provides information that the person does not believe to be true, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

#### **Consent to disembark from vessel or aircraft**

**29.**—(1) This section applies where a vessel or aircraft arrives in the Areas, whether at an authorised entry point or otherwise.

(2) A person must not disembark from the vessel or aircraft without the consent of an immigration officer.

(3) The captain of the vessel or aircraft must not allow a person to disembark from the vessel or aircraft without the consent of an immigration officer.

(4) A person who contravenes subsection (2) or (3) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

#### **Detention of vessel or aircraft in connection with immigration offence committed by captain**

**30.**—(1) This section applies if the captain of a vessel or an aircraft is charged with or convicted of an immigration offence related to the person's functions as such.

(2) Where the court considers it just and expedient, for the purposes of securing that the captain—

- (a) surrenders to custody,
- (b) makes themselves available for the purpose of enabling inquiries or a report to be made to assist the court in dealing with the captain for the offence, or
- (c) pays any fine which the captain has been or may be sentenced to pay,

the court may order that the vessel or aircraft be detained by an immigration officer.

(3) The following persons may apply to the court for the release of the vessel or aircraft —

- (a) the captain, or
- (b) any person who—
  - (i) owns the vessel or aircraft; or
  - (ii) is its hirer or charterer.

(4) Where an application is made under subsection (3), the court may release vessel or aircraft on any condition, if any, as it thinks fit, including the provision of security or surety.

## **PART 5**

### **Enforcement against persons unlawfully present in the Areas**

*General provisions as to detention under this Part*

#### **Grounds for detention**

**31.** Except to the extent permitted by sections 36 to 40, a power to detain a person under this Part may only be exercised where the person or authority authorising the detention has reasonable grounds for considering that there is a risk—

- (a) of the person leaving the Areas;
- (b) that the person will otherwise obstruct any processes or the implementation of any decision made in relation to the person under this Ordinance;
- (c) to the peace, good order or good government of the Areas;
- (d) the military interests of the United Kingdom or the Areas;
- (e) the security of the United Kingdom or the Areas;
- (f) of an adverse impact on the international relations of the United Kingdom; or
- (g) of the United Kingdom failing to comply with any of its international obligations.

#### **Time limits for detention without a court order**

**32.**—(1) Subject to subsections (2) to (4), a person detained under this Part may not be detained for a period of time exceeding 8 days without an order of the court.

(2) In relation to detention under sections 36 to 38, the period specified in subsection (1) is taken to be 24 hours.

(3) In relation to detention under section 39, the period specified in subsection (1) is taken to be 48 hours, except where subsection (4) applies.

(4) In relation to the detention of a child, the period specified in subsection (1) is taken to be 24 hours.

### **Reasons to be given in writing**

**33.** Where a person is detained under a provision of this Part otherwise than under a court order, the person who ordered the detention must, as soon as reasonably practicable after the beginning of the detention, give the person notice, in writing, of the detention and the reasons why the person has been detained.

### **Place of detention**

**34.**—(1) A person detained under a provision of this Part may be detained in a police station (within the meaning of section 2A of the Police (Detainees and Volunteers) Ordinance 2007(a)) or in any place approved by the Chief Officer.

(2) In the case of detention under section 42 or 44, a person detained under a provision of this Part may also be detained in any place approved by the Chief Constable.

(3) Any person detained under this Part may be taken, in the custody of a person specified in subsection (4), to and from the place of detention and any other place where the person's presence is—

- (a) required or expedient for a purpose connected with any matter under this Ordinance; or
- (b) is necessary for the purposes of the person's, or another person's, care, health or welfare.

(4) For the purposes of subsection (3), the persons specified are—

- (a) an immigration officer;
- (b) a person assisting an immigration officer in the exercise of any function under this Ordinance; or
- (c) a police officer.

### **Detention of a child**

**35.**—(1) A person under the age of 18 years of age ("child") may not be detained under this Part unless—

- (a) even giving primacy to the best interests of the child, detention is necessary to mitigate one of the risks listed in section 31, or for the welfare of the child, and
- (b) except in the case of detention under sections 36, 37 or 40, the place of detention has facilities that are suitable for detaining a child of that age.

(2) A child must not be detained for longer than is necessary to achieve the purpose mentioned in subsection (1)(a).

(3) For the purposes of this section, a person is not deemed to be a child if the decision to detain or keep in detention the person under this Part was taken by an authority other than a Court, which, after acting with all the diligence and prudence required in the circumstances, and taking into account the undesirability of detaining a child for reasons other than the ones mentioned in those subsections, reasonably concluded that the person was not a child.

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(a) Ordinance 3/2007, amended by Ordinance 16/2016.

*Detention on refusal of entry etc*

**Detention on refusal of entry to Areas**

**36.**—(1) Where an immigration officer refuses to allow a person to enter the Areas via an authorised entry point, or finds a person to whom paragraph (b) of the definition of “person liable to immigration enforcement measures” in section 3(1) applies, the immigration officer may detain the person in custody pending the person’s—

- (a) departure from the Areas; or
- (b) removal from the Areas in accordance with this Ordinance.

(2) An immigration officer may detain a person in custody for as long as is necessary for the purposes of examining P under section 23(4).

**Detention in connection with requirement to produce documents**

**37.** When an immigration officer has imposed a requirement on a person under section 24(1), the immigration officer may detain the person in custody until the person has complied with that requirement.

**Detention in connection with requirement to provide information and complete forms**

**38.** When an immigration officer has imposed a requirement on a person under section 25(1), the immigration officer may detain the person in custody until the person has complied with that requirement.

**Detention in connection with medical examination**

**39.** Where a person is required to submit to a requirement under section 26(1), an immigration officer may detain the person in custody.

**Detention in connection with a requirement not to disembark**

**40.** An immigration officer may detain a person in custody for the purpose of ensuring compliance by that person with section 29(2).

*Persons suspected of being prohibited immigrants*

**Examination by immigration officers of persons suspected of being prohibited immigrants**

**41.** Sections 24 to 26 apply to a person present in the Areas whom an immigration officer has reasonable ground for suspecting is a prohibited immigrant or a person liable to immigration enforcement measures as they apply to a person wishing to enter or to leave the Areas via an authorised entry point.

**Detention of persons suspected of being prohibited immigrants**

**42.** Where a customs officer of the rank of higher officer or above, or a police officer of the rank of inspector or above, has reasonable grounds for suspecting that a person is a prohibited immigrant, the officer may detain the person in custody for the purposes of investigating whether the person is a prohibited immigrant.

## *Transfer orders*

### **Transfer orders**

**43.**—(1) This section applies where a relevant officer is reasonably satisfied that a person (“P”) is a prohibited immigrant.

(2) A relevant officer may make a transfer order in relation to P if a competent authority of the Republic confirms that P may be transferred to the territory of the Republic.

(3) The relevant officer must cause a written record to be made—

- (a) that such confirmation has been obtained,
- (b) of the person who gave it,
- (c) of the function of the person who gave it,
- (d) of the time when the confirmation was obtained,
- (e) of the means of communications by which it was obtained, or that it was given orally and in person,
- (f) of whom it was given to, and
- (g) where the person to whom it was given was when that person received it.

(4) In determining whether P is a prohibited immigrant, the relevant officer may take into account, in particular—

- (a) any failure by P to provide information that confirms P’s right or permission to be in the Areas or the Republic;
- (b) any other unreasonable failure to cooperate with the relevant officer, and
- (c) anything which the relevant officer reasonably considers to be a deliberate attempt by P to mislead the relevant officer about such matters.

(5) Before making a transfer order under this section, a relevant officer must—

- (a) inform P of the consequences, as set out in subsection (4), of failing to provide information or providing information that is inaccurate or false;
- (b) give P the opportunity to make representations; and
- (c) consider any representations made by P.

(6) A transfer order must—

- (a) be in writing; and
- (b) set out the grounds on which the relevant officer is reasonably satisfied that P is a prohibited immigrant.

(7) A copy of a transfer order must be given to P and the Chief Officer as soon as possible after it is made.

(8) Failure to comply with subsection (7) does not invalidate the transfer order.

(9) The Chief Officer may cancel a transfer order at any time before P has been transferred to the Republic.

(10) A transfer order—

- (a) comes into force when it is made; and
- (b) remains in force until the earliest of the following—
  - (i) P is transferred to the Republic;
  - (ii) P ceases to be a prohibited immigrant; or
  - (iii) the Chief Officer cancels the order.

(11) Where a transfer order is in force in relation to P, the Chief Officer may authorise an immigration officer or any other person to transfer P, to the territory of the Republic.

(12) Where a person is authorised by the Chief Officer under this section to transfer P to the Republic, the person may, to the extent necessary, use force on P to do so.

(13) In this section, “relevant officer” means—

- (a) a customs officer of the rank of higher officer or above; or
- (b) a police officer of the rank of inspector or above.

#### **Power to detain: transfer orders**

**44.** Where a transfer order has been made in relation to a person, the relevant officer who made it may detain the person in custody pending the transfer of the person to the Republic under the order.

#### *Removal orders*

#### **Removal orders**

**45.**—(1) The Chief Officer may order a prohibited immigrant (“P”) to be removed from the Areas.

(2) Before making a removal order in relation to P, the Chief Officer must—

- (a) give P the opportunity to communicate with a legal adviser;
- (b) give P the opportunity to make representations; and
- (c) consider any representations made by P.

(3) Subsection (2) does not apply if P cannot be found or contacted, despite reasonable steps having been taken by the Chief Officer to find or contact the person.

(4) The Chief Officer may, before a removal order is carried out, cancel the order.

(5) A removal order or its cancellation under subsection (4) must be made in writing.

(6) A removal must be notified in writing to the person in relation to whom it is made.

(7) A removal order becomes enforceable 7 days after such notification has been given, unless, before that time, an application for review is made under section 47, in which case it becomes enforceable when the decision to make it is upheld under section 47(4)(a).

(8) The cancellation of a removal order under subsection (4) comes into force when it is made.

(9) A removal order ceases to be in force if P ceases to be a prohibited immigrant.

(10) Where a person leaves the Areas, or is removed under this Ordinance, while a removal order is in force in relation to that person, but returns to the Areas within six months of that person’s departure or removal, the order comes back into force and may be enforced as if the person had not left the Areas.

#### **Power to detain: removal orders**

**46.** The Chief Officer may order a person to be detained in custody where—

- (a) the Chief Officer is considering making a removal order in relation to the person; or
- (b) where a removal order has been made in relation to the person, pending the departure or removal of the person from the Areas.

#### **Right of review: removal order**

**47.**—(1) A person subject to a removal order may, in accordance with this section, make an application to the Administrator to review the order.

(2) An application made under subsection (1) must—

- (a) be made, in writing, to the Administrator;
- (b) be made before the order becomes enforceable under section 45(7);

- (c) state the reasons for challenging the order; and
  - (d) be accompanied by all other information or documentation that the applicant considers relevant to the application for review.
- (3) An application for a review under this section may be dealt with by the Administrator as if the Administrator was making the original decision of whether to make a removal order.
- (4) After considering the application, the Administrator must either—
- (a) uphold the decision to make the removal order; or
  - (b) cancel the removal order.

*Exclusion orders*

**Exclusion orders**

- 48.**—(1) The Administrator may make an exclusion order in relation to a person on one or more of the following grounds—
- (a) the security of the United Kingdom or the Areas;
  - (b) the security of the Republic of Cyprus;
  - (c) national interest;
  - (d) public health;
  - (e) that the person’s presence in the Areas is not conducive to—
    - (i) the effective use of the Areas as military bases; or
    - (ii) the public good.
- (2) The Administrator may also make an exclusion order if a person (“relevant offender”) who is not lawfully resident in the Areas is convicted of a relevant offence.
- (3) The Administrator must not make an exclusion order under subsection (2) while—
- (a) the period for an appeal (including any second or further appeal) against the conviction for the relevant offence, or an appeal against the sentence for that conviction, has not expired; or
  - (b) such an appeal (including any second or further appeal) has been instituted and has not been withdrawn or determined.
- (4) An exclusion order may be made in relation to a person whether or not the person is in the Areas when the order is made.
- (5) Before making an exclusion order in relation to a person who is in the Areas, the Administrator must—
- (a) give the person the opportunity to make representations; and
  - (b) consider the representations.
- (6) Subsection (5) does not apply if the person in respect of whom an exclusion order is proposed cannot be found or contacted, despite reasonable steps having been taken by the Administrator to find or contact the person.
- (7) An exclusion order must be made in writing.
- (8) An exclusion order must specify the date from which P is prohibited from entering or being present in the Areas.
- (9) The Administrator may cancel an exclusion order.
- (10) Where the Administrator makes or cancels an exclusion order, the Administrator must, so far as reasonably practicable, give the person notice of the order or cancellation of the order, as soon as possible after it is made or cancelled.
- (11) Failure to comply with subsection (10) does not invalidate an exclusion order or its cancellation.

(12) In this section, “relevant offence” means an offence against the law of the Areas for which the relevant offender was—

- (a) 18 years of age or over at the date of conviction for the relevant offence; and
- (b) sentenced to term of imprisonment of at least 2 years(a).

### **Power to detain: exclusion orders**

**49.** The Chief Officer may order a person to be detained in custody where—

- (a) the Administrator is considering making an exclusion order in relation to the person; or
- (b) where an exclusion order has been made in relation to the person, pending the departure or removal of the person from the Areas.

### **Offence of being present in the Areas when subject to an exclusion order**

**50.**—(1) Subject to section 7(1) of the Refugees Ordinance, and to subsection (2), a person subject to an exclusion order (“P”) commits an offence if P is present in the Areas on or after the date specified in the exclusion order from which P is prohibited from doing so.

(2) It is a defence for a person charged with an offence under subsection (1) prove that, either—

- (a) immediately before the presence in respect of which the person is being charged, the person was lawfully present in the Areas, or
- (b) the person did not enter the Areas voluntarily,

and that either the person has not, since the presence became unlawful under subsection (1), had a reasonable opportunity to leave the Areas, or that having been lawfully resident in the Areas when the presence became unlawful under that subsection, the person has not had a reasonable opportunity to make arrangements for residing elsewhere.

(3) It is also a defence for a person charged with an offence under subsection (1) prove that the person was present in the Areas only as part of a reasonable route to transit from one part of the island of Cyprus not in the Areas to another.

(4) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 4 years, a fine not exceeding €10,000, or to both such penalties.

### **Limit to judicial review of exclusion orders**

**51.**—(1) This section applies to an exclusion order made on the grounds—

- (a) of the security of the United Kingdom, the Areas or the Republic of Cyprus; or
- (b) that a person’s presence in the Areas is not conducive to the effective use of the Areas as military bases.

(2) A decision to make an exclusion order to which this section applies is an exempt activity for the purposes of section 8 of the Courts (Judicial Review) Ordinance 2004(b).

### *Removal arrangements*

### **Arrangements for removing persons from the Areas**

**52.**—(1) Where a person liable to immigration enforcement measures arrived in the Areas otherwise than through a vessel or aircraft, an immigration officer may direct the person to leave the Areas for any country or territory—

- (a) being the last country or territory which the person visited before arriving in the Areas;

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(a) Under section 5(1) of the Ordinance 6/1960, any sentence in “recognised criminal proceedings”, as defined in section 3(2), is deemed to be a sentence of the Courts of the Areas.

(b) Ordinance 10/2004, amended by Ordinance 8/2012 (the Interpretation Ordinance 2012).

- (b) of which the person is a national;
- (c) in which the person obtained a travel document; or
- (d) to which there is reason to believe that the person will be admitted.

(2) For the purposes of subsection (1)(a), where the person entered the Areas from areas of the Republic that are not areas under government control, a direction under that section may require the person to leave the Areas for the latter areas.

(3) A direction under subsection (1) may include a requirement—

- (i) to leave the Areas by specified means of transport;
- (ii) to leave the Areas within a specified period of time; or
- (iii) to leave the Areas by a specified route.

(4) Where a person liable to immigration enforcement measures arrived in the Areas through a vessel or aircraft, the Chief Officer may, subject to subsection (5), direct—

- (a) the captain or owners of the vessel or aircraft to remove the person from the island of Cyprus in that vessel or aircraft; or
- (b) the owners of the vessel or aircraft—
  - (i) to remove the person from the island of Cyprus in any vessel or aircraft which they own; or
  - (ii) to make arrangements for the removal of the person to any country or territory—
    - (aa) specified in subsection (1); or
    - (bb) in which that person boarded the vessel or aircraft.

(5) A direction under subsection (4)(b) must be given within two months of the person's arrival, unless the Chief Officer has, within that period, given the owners in question notice of an intention to give directions to them in respect of that person.

(6) Where it appears to the Chief Officer that directions might be given under subsection (4) in respect of a person liable to immigration enforcement, but that either—

- (a) it is not practicable to give such a direction, or such a direction would, if given, be ineffective, or
- (b) the time limit specified in subsection (5) has elapsed,

the Chief Officer may give to the owners of any ship or aircraft any such directions in respect of that person as are authorised by subsection (4)(b)(ii) in relation to the owners of the vessel or aircraft through which the person arrived in the Areas, or give directions for the person's removal in accordance with arrangements to be made by the Chief Officer to any country or territory to which the person could be removed under subsection (4)(b)(ii).

(7) The costs of complying with a direction under subsection (6) must be paid from public revenues of the Areas.

(8) A person liable to immigration enforcement may also be removed to the Republic, where—

- (a) arrangements are made by any person (including a competent authority for the Areas or for the Republic) for the removal of the person from the island of Cyprus to a country or territory specified in subsection (1); and
- (b) such arrangements are to be effected from the Republic.

(9) Where a direction can be given in relation to a person under this section, it can also be given in relation to a child of the person who is under the age of 18.

(10) Arrangements for removing a person liable to immigration enforcement measures from the Areas or any direction under this section may include provision for the person to be accompanied by an immigration officer or any other person.

(11) A person other than an immigration officer accompanying a person under subsection (10) has, for the purpose of securing the person's removal from the Areas under this Ordinance, the same power to use reasonable force as an immigration officer has for the purposes of the officer's functions under this Ordinance.

(12) Subject to subsection (13), where a person to whom a direction is given under this section fails or refuses to comply with the direction, that person commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

(13) It is a defence for a person charged with an offence under subsection (12) to prove that the person had a reasonable excuse for doing so.

(14) In this section, “country or territory” includes any place in the island of Cyprus that is outside the Areas.

### **Steps to facilitate removal from the Areas**

**53.**—(1) The Chief Officer may require, in writing, a person liable to immigration enforcement measures to take any step specified, if the Chief Officer considers that—

- (a) the step will, or may, assist in a travel document for the person being obtained; and
- (b) if obtained, the travel document will facilitate the person’s departure or removal from the Areas.

(2) The Chief Officer may, in particular, require the person to do one or more of the following—

- (a) provide information or documents to the Chief Officer or to any other person;
- (b) obtain or apply for information or documents from any person;
- (c) make an application, or consent to or co-operate with the making of an application, to a person acting for the government of a country or territory outside the Areas;
- (d) co-operate with a process designed to enable the determination of an application;
- (e) attend an interview and answer questions accurately and completely;
- (f) complete a form accurately;
- (g) make and attend an appointment.

(3) A person who fails or refuses, without reasonable excuse, to comply with a requirement under this section commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

(4) For the purposes of subsection (3), it is for the person who has failed to comply with a requirement under this section to adduce evidence that the person had a reasonable excuse for failing to do so.

### *Immigration bail*

#### **Grant of immigration bail**

**54.**—(1) Immigration bail may be granted to a person liable to immigration enforcement measure, or to a prohibited immigrant not so liable, by an immigration officer, or, an application by the person, the court—

- (a) pending consideration of whether any decision should be made in relation to the person under this Ordinance, or
- (b) if the person is liable to immigration enforcement measure, pending the person’s removal from the Areas under this Ordinance.

(2) The grant of immigration bail must be notified in writing to the person to whom it is granted.

#### **Immigration bail conditions**

**55.**—(1) When granting immigration bail to a person (“P”), a court or immigration officer may make it subject conditions, including any of the following conditions—

- (a) a condition prohibiting or restricting P’s movements in the Areas or any part of the island of Cyprus;
- (b) a condition relating to the place at which P is to reside;

- (c) a condition prohibiting or restricting P's employment;
- (d) a condition requiring P to surrender P's passport or other travel document to an immigration officer;
- (e) a condition requiring P to maintain and accommodate P and any of P's dependents without assistance from public funds;
- (f) a condition requiring P to report to an immigration officer or to any other person, as notified to the P, in writing, by an immigration officer; or
- (g) a condition requiring the provision of security or surety.

(2) Immigration bail conditions may only be imposed to the extent necessary for the following purposes—

- (a) the peace, good order or good government of the Areas;
- (b) the effective use of the Areas as military bases;
- (c) the protection of the interests of those resident or working in the Areas;
- (d) the military interests of the United Kingdom or the Areas;
- (e) the security of the United Kingdom or the Areas;
- (f) protecting the international relations of the United Kingdom; or
- (g) compliance with the United Kingdom's international obligations;
- (h) preventing P from obstructing any processes or the implementation of any decision made in relation to the person under this Ordinance; or
- (i) assisting with ensuring the departure of P from the Areas.

(3) Where an immigration bail condition consists of a requirement to be complied with before immigration bail is granted, immigration bail is not deemed to have been granted until that condition has been complied with.

(4) A court may, on the application of a person subject to immigration bail or an immigration officer, vary or revoke any of the immigration bail conditions imposed on a person.

(5) When an immigration officer has imposed immigration bail conditions, the officer may, as long as the court has not exercised its powers under subsection (4) in relation to any of them, vary such conditions, or revoke any of them.

(6) Before exercising the powers under section (5), the immigration officer must—

- (a) give the person to whom the permit was issued the opportunity to make representations; and
- (b) consider any representations made by that person.

(7) The imposition, amendment or cancellation of an immigration bail condition must be notified in writing to the person to whom they relate.

### **Lapse of immigration bail**

**56.—(1)** Immigration bail lapses in the following circumstances—

- (a) it is revoked
  - (i) in the case of immigration bail granted by an immigration officer, an immigration officer, or
  - (ii) in the case of immigration bail granted by the court, the court, on an application by an immigration officer;
- (b) in the case of immigration bail granted under section 54(1)(a), the decision in question is taken, or
- (c) in the case of immigration bail granted under section 54(1)(b), the person has been removed under this Ordinance.

(2) Before revoking immigration bail under subsection (1)(a)(i), the immigration officer must—

- (a) give that person the opportunity to make representations; and
- (b) consider any representations made by that person.

#### **Offence of breach of immigration bail conditions**

**57.**—(1) A person commits an offence if, without reasonable excuse, the person contravenes an immigration bail condition, except to the extent that such a contravention would be an offence under section 60(1) in so far as it relates to a breach of section 58(2).

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

## **PART 6**

### **Employment in the Areas**

#### **Persons permitted to take up employment**

**58.**—(1) A prohibited immigrant not subject to immigration bail may not to take up employment in the Areas.

(2) A person may not take up employment in breach of a residence permit condition, a condition of temporary entry or an immigration bail condition.

(3) A person who is a British Authorities or Defence person by virtue only of domestic employment in the household of another British Authorities or Defence person is permitted to take up employment in the Areas only in domestic employment in the household of a British Authorities or Defence person.

(4) A person referred to in section 7(1)(a)(ii) must not take up employment in the Areas where this would contravene the laws of the Republic.

#### **Offence of employing a person illegally**

**59.**—(1) A person (“the employer”) commits an offence if the person employs someone in circumstances where the employment is prohibited by section 58, and the employer knew or had reasonable cause to believe that this was the case.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 3 years, a fine not exceeding €10,000 or to both such penalties.

(3) Where —

- (a) a person is convicted of an offence under subsection (1),
- (b) contributions to one or more of the funds specified in subsection (5)—
  - (i) were payable in relation to the employment, or
  - (ii) would have been so payable if the employee had been lawfully employed, and
- (c) such contributions have not been paid,

the court may also order the employer to pay such contributions.

(4) An order under subsection (3) may require a person to pay a contribution that is equal to the amount that would have been payable to the fund specified in the order—

- (a) for the period during which the employee was employed; or
- (b) where the employee was employed for less than 3 months, an amount equal to the contributions payable for a period of 3 months for such employment.

(5) The specified funds are funds of the Republic of Cyprus recognised in the Areas under the following Ordinances—

- (a) the Annual Holidays with Pay Ordinance 1973(a);
- (b) the Employment (Termination) Ordinance 2010(b);
- (c) the Human Resource Development Authority (Republic of Cyprus) (Recognition) Ordinance 2001(c);
- (d) the Social Coherence Fund Ordinance 2002(d);
- (e) the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013(e).

### **Offence of taking up employment illegally**

**60.**—(1) A person who contravenes section 58 commits an offence.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 12 months, a fine not exceeding €5,000 or to both such penalties.

## **PART 7**

### **Offences, etc.**

#### *Offences*

### **Offence of facilitating breach of Ordinance**

**61.**—(1) Subject to subsection (3), a person commits an offence if the person, without lawful authority or reasonable excuse—

- (a) does an act that facilitates the commission of an offence under this Ordinance by another person; and
- (b) knows, or has reasonable cause to believe, that the act facilitates the commission of an offence under of this Ordinance by the other person.

(2) A person convicted of an offence under subsection (1) is liable to the same penalty as the one provided for the offence the commission of which the person has facilitated.

(3) Nothing is an offence under this section if it is an offence under any other provision of this Ordinance.

### **Offence of facilitating illegal entry, etc.**

**62.**—(1) Subject to subsection (3), a person commits an offence where the person knowingly does an act that facilitates the entry into the Areas of another person (“P”) into the Areas as a prohibited immigrant.

(2) Subject to subsection (3), a person commits an offence where the person—

- (a) knowingly does an act likely to facilitate the entry of another person (“P”) into a country or territory (“intended destination”) other than the Areas;
- (b) it cannot be reasonably expected that such an entry will be lawful, or it can be reasonably expected that such an entry will be lawful only by virtue of P claiming a status equivalent to asylum or subsidiary protection within the meaning of the Refugees Ordinance(f); and

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(a) Ordinance 10/1973.

(b) Ordinance 3/2010.

(c) Ordinance 22/2001.

(d) Ordinance 37/2002.

(e) Ordinance 19/2013.

(f) For the meaning of these phrases, see section 3 of the Refugees Ordinance.

(c) as a consequence of the act, P enters the Areas as a prohibited immigrant.

(3) It is a defence for a person charged with an offence under subsections (1) or (2) to prove that the person—

(a) was not acting for financial gain, and had a reasonable belief that either—

(i) in the case of subsection (1), P intended to apply in good faith for asylum within the meaning of the Refugees Ordinance, or

(ii) in the case of subsection (2) P intended to apply in good faith, in the intended destination, for a status equivalent to asylum or subsidiary protection within the meaning of the Refugees Ordinance, or

(b) was acting on behalf of an organisation which—

(i) aimed to assist refugees and persons entitled to subsidiary protection within the meaning of the Refugees Ordinance, or to an equivalent status in other jurisdictions, and

(ii) did not charge for services provided in furtherance of such aims,  
and the act was done in pursuance of such aims.

(4) A person convicted of an offence under this section is liable to imprisonment for a term not exceeding 8 years, to a fine, or to both such penalties.

### **Offence of lease or licence of residential premises to prohibited immigrant**

**63.**—(1) A person (L) who owns, occupies or controls premises commits an offence if—

(a) L enters into a lease or licence that grants a right to a person (T) to occupy the premises as T's only or main residence (whether or not the premises may also be used for other purposes);

(b) the lease or licence provides for the payment of rent (whether or not a market rent);

(c) T is a prohibited immigrant; and

(d) at the time of entering into the lease or licence, L knows or has reasonable grounds for believing that T is a prohibited immigrant.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 12 months, a fine not exceeding €5,000 or to both such penalties.

(3) In this section, “lease” means—

(a) a lease, sub-lease, tenancy or sub-tenancy; and

(b) an agreement for a lease, sub-lease, tenancy or sub-tenancy.

### **Offence of entering Areas or obtaining residence permit by making false statement**

**64.**—(1) A person (“P”) commits an offence if—

(a) P makes a false statement in connection with an application for a residence permit (whether for P or another person);

(b) P obtains a residence permit (whether for P or another person) by making a false statement; or

(c) P or another person is allowed to enter the Areas as a result of a false statement made by P.

(2) For the purpose of subsection (1), P makes a false statement if—

(a) P makes a statement that P knows, or has reasonable cause to believe, is false; or

(b) P fails to correct a statement made by another person about P that P—

(i) knows has been made; and

(ii) knows, or has reasonable cause to believe, is false.

(3) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding €1,000 or to both such penalties.

### **Offence of use or possession of false documents**

**65.**—(1) A person commits an offence if—

- (a) for the purpose of entering or seeking to enter the Areas, the person uses a false document that the person knows or has reasonable grounds for believing, is a false document; or
- (b) the person—
  - (i) has possession of a false document used or intended to be used for the purpose of entering or seeking to enter the Areas; and
  - (ii) knows, or has reasonable cause to believe, that it is a false document.

(2) It is a defence for a person charged with an offence under subsection (1)(a) to prove that the person had a reasonable excuse for using the document.

(3) It is a defence for a person charged with an offence under subsection (1)(b) to prove that the person had a reasonable excuse for having possession of the document.

(4) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding €1,000 or to both.

### **Offence of assaulting or obstructing immigration officers, etc.**

**66.**—(1) A person commits an offence if the person assaults—

- (a) an immigration officer exercising a function under this Ordinance; or
- (b) a person assisting an immigration officer in the exercise a function under this Ordinance.

(2) A person commits an offence if the person intentionally obstructs or fails to cooperate with any of the persons mentioned in subsection (1).

(3) A person convicted of an offence under subsection (1) is liable to imprisonment for a term not exceeding 2 years.

### *Offences: supplementary*

### **Offences by officers of corporate bodies**

**67.**—(1) If an immigration offence is committed by a corporate body and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a person who is a director, manager, secretary or other similar officer of the corporate body or a person purporting to act in such a capacity—

- (a) the person (as well as the corporate body) commits the offence; and
- (b) proceedings may be brought against the person whether or not proceedings are also brought against the corporate body.

(2) In subsection (1), “director”, in relation to a corporate body whose affairs are managed by its members, means a member of the corporate body acting in the exercise of the member’s functions of management.

(3) If an immigration offence is committed by a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a person who is a partner in the partnership or a person purporting to act in such a capacity—

- (a) the person (as well as the partnership) commits the offence; and
- (b) proceedings may be brought against the person whether or not proceedings are also brought against the partnership.

## **Seizure and retention of vehicle, vessel, aircraft or money**

**68.**—(1) This section applies where an immigration officer has reasons to believe that an offence has been committed under any of the following provisions—

- (a) section 61 (offence of facilitating breach of Ordinance); or
- (b) section 62 (offence of assisting illegal entry, etc.).

(2) An immigration officer may seize and detain a vehicle, vessel or aircraft (“relevant vehicle, vessel or aircraft”) that the immigration officer reasonably believes has been used or intended to be used in connection with the offence.

(3) An immigration officer may seize and detain any money—

- (a) which the officer finds in a vehicle, vessel or aircraft to which subsection (2) applies, or
- (b) which the officer reasonably believes has been used or has been intended to be used to facilitate the commission of the offence, including by paying for any act that is part of or that facilitates the offence.

(4) Seizure and detention under subsection (2) or (3) may last until the later of the following occurs—

- (a) a decision not to charge any person with the offence;
- (b) if a person has been charged with the offence, the person is acquitted, the charge is dismissed or withdrawn or the proceedings are discontinued; or
- (c) if a person has been convicted, until the court decides whether or not to order forfeiture of the relevant vehicle, vessel or aircraft.

(5) The immigration officer must, as soon as reasonably practicable, give notice in writing of the seizure and of the grounds for it to any person who to the officer’s knowledge was at the time of the seizure the owner or one of the owners of the relevant vehicle, vessel, aircraft or money, unless the seizure was made in the presence of—

- (a) a person suspected by the immigration officer of having committed the offence;
- (b) an owner of the thing seized or any employee or agent of such an owner; or
- (c) in the case of the seizure of a ship or aircraft, the captain.

(6) A person other than a person under arrest for, charged with or convicted of the offence may, within one month of being given a notice of seizure under subsection (5), or, if that person has not received such a notice, within one month of the seizure, apply to the court for the release of the vehicle, vessel or aircraft if the person—

- (a) owns the vehicle, vessel, aircraft or money; or
- (b) is the hirer or charterer of the vehicle, vessel, or aircraft.

(7) On an application under subsection (6), the court may release the relevant vehicle, vessel, aircraft or money.

(8) The court may make the release under subsection (7) conditional upon the person making the application providing such security or surety as the court thinks fit.

(9) If, within three months of the offence having been committed, no application is made to the court under subsection (6), and no person is arrested, charged or convicted in relation to the offence, the thing seized must be forfeited by the Crown.

## **Forfeiture of vehicle, vessel, aircraft or money**

**69.**—(1) This section applies where a person is convicted of an offence under—

- (a) section 61 (offence of facilitating breach of Ordinance); or
- (b) section 62 (offence of assisting illegal entry, etc.).

(2) The court may order the forfeiture of a vehicle, vessel or aircraft used or intended to be used in connection with the offence, or of money that has been used or has been intended to be used to

facilitate the commission of the offence, including by paying for any act that is part of or facilitates the offence where, at the time the offence was committed, the person convicted for it—

- (a) owned the vehicle, vessel aircraft or money
- (b) owned, hired or chartered the vehicle, vessel or aircraft;
- (c) was a director, secretary, manager or other similar officer of a corporate body that did one of the things referred to at paragraphs (a) or (b);
- (d) was a partner in a partnership that did so; or
- (e) was the driver of the vehicle or the captain of the vessel or aircraft.

(3) Where a person claiming to have an interest in a vehicle, vessel, aircraft or money applies to the court to make representations on the question of forfeiture, the court must not make an order under this section unless the person has been given the opportunity to make representations.

## PART 8

### Miscellaneous

#### **Recovery orders: general**

**70.**—(1) Where, on the application of a public officer(a), the court is satisfied that recoverable expenses have been incurred, the court must make a recovery order.

(2) A recovery order may impose a joint and several liability on the persons against whom it is made, or order them to pay only some of the recoverable expenses, but—

- (a) the total of the sums ordered to be paid by the recovery order must amount to the total of the recoverable expenses, and
- (b) no liability imposed by virtue of section 73 may be greater than the recoverable expenses incurred in the period specified in section 73(1)(b).

(3) Before making a recovery order, the court must give the persons against whom it proposes to make the order an opportunity to make representations to it.

(4) In this section and in sections 71 to 73—

“liable person” means a person against whom the court is authorised by sections 71 to 73 to make a recovery order;

“recoverable expenses” means expenses incurred by the Crown in connection with the maintenance, medical treatment or removal from the Areas of a prohibited immigrant or a child under the age of 18 of a prohibited immigrant; and

“recovery order” means an order requiring one or more of the liable persons to pay the recoverable expenses to the Crown within 28 days.

#### **Recovery orders: prohibited immigrant or person of whom the prohibited immigrant is a dependent**

**71.** A recovery order may be made against—

- (a) a prohibited immigrant in relation to whom recoverable expenses have been incurred, or
- (b) a person of whom such a prohibited immigrant is a dependent, if that person is also a prohibited immigrant.

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(a) “Public officer” is defined in Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012).

### **Recovery orders: facilitator**

**72.** A recovery order may be made against a person who committed an offence under section 62 (offence of assisting illegal entry, etc), in relation to the prohibited immigrant or child of the prohibited immigrant referred to in that section.

### **Recovery orders: employer**

**73.—(1)** Where—

- (a) a prohibited immigrant (the “employee”) entered the Areas as a prohibited immigrant for the purpose of employment in the Areas under a contract of employment with another person (“employer”); and
- (b) recoverable expenses have been incurred during the contract period, or within 6 months from the end of that period or the determination of the contract of employment (whichever is the earlier),

a recovery order may be made against the employer for those expenses.

(2) For the purposes of this section, the “contract period” is the period of time for which the employment of the employee under the contract referred to in subsection (1)(a) is to subsist or any extension of that period by contract between the parties.

(3) In this section, an agreement is deemed to be a contract even when it is void under the Contract Ordinance(a).

### **Surety and security**

**74.—(1)** This section applies where, under this Ordinance, a person has entered into a recognizance pursuant to a requirement to provide surety or security.

(2) Subject to subsection (3), if the event for which the recognizance was conditioned does not take place, a court may, on the application of the Fiscal Officer, order the whole or part of the recognizance to be forfeited.

(3) The court must only order such forfeiture after giving an opportunity to the person having made the recognizance to make representations to it.

### **Disclosure of information**

**75.—(1)** Subject to this section, no information relating to an individual that has been obtained under or by virtue of any of the provisions of this Ordinance or for the purposes of functions conferred by this Ordinance, may, during the lifetime of that individual, be disclosed outside a public authority of the Areas.

(2) Subsection (1) does not apply to disclosure to which the individual consents.

(3) Subsection (1) does not apply to disclosure for the purposes of any civil or criminal proceedings, within the meaning of the Courts (Constitution and Jurisdiction) Ordinance 2007(b), brought under or by virtue of this Ordinance, or relating to a decision taken in the course of functions under this Ordinance.

(4) The Chief Officer may disclose information of the kind referred to in subsection (1) to an authority of the United Kingdom, the Republic or any other country or territory if disclosure of the information can reasonably be expected to be necessary for—

- (a) the exercise of a function under this Ordinance;
- (b) the exercise by an authority of the United Kingdom or the Areas of functions relating to—
  - (i) the peace, good order or good government of the Areas;

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(a) Cap. 149, Laws of Cyprus, 1959 ed.

(b) 5/2007. The phrases “civil proceeding” and “criminal proceeding” are defined in section 2(1).

- (ii) the effective use of the Sovereign Base Areas as military bases;
  - (iii) the protection of the interests of those resident or working in the Areas
  - (iv) the international relations of the United Kingdom or the Areas;
  - (v) the security of the United Kingdom or the Areas;
  - (vi) the security of the Republic of Cyprus;
  - (vii) national interest;
  - (viii) the defence of the United Kingdom or the Areas; or
- (c) the exercise of the authority's functions, relating to immigration control or the determination or implementation of immigration policy.
- (5) Subsection (1) does not apply to disclosure made in pursuance of an order of a court.

## **Regulations**

- 76.**—(1) The Administrator may, by way of a public instrument, make regulations—
- (a) for the regulation of any matter within the scope of this Ordinance;
  - (b) for the better implementation of this Ordinance.
- (2) Without limiting the general power in subsection (1), regulations made under that subsection may set out the procedures to be followed or criteria that apply in relation to any matter provided for under this Ordinance.

## **Proof of Republican law and entitlements in legal proceedings**

- 77.**—(1) A document issued by a competent authority of the Republic certifying a matter referred to in subsection (2)—
- (a) is admissible in proceedings for an immigration offence; and
  - (b) may be held by the court to be conclusive as to the matter certified.
- (2) The matters are—
- (a) whether a person is or is not a citizen of the Republic;
  - (b) whether a person has the right or permission to be in the Republic;
  - (c) whether a person has the right or permission to be employed in the Republic;
  - (d) where a person has the right or permission to be employed in the Republic, any condition restricting that employment.
- (3) In proceedings for an immigration offence, a court may take judicial notice of legislation of the Republic or a document issued under that legislation.
- (4) For the purposes of subsection (3), the production of a copy of any legislation of the Republic—
- (a) contained in a printed collection of legislation printed and published by an authority of the Republic;
  - (b) contained in an issue of the official Gazette of the Republic; or
  - (c) printed by the Government Printer of the Republic,
- may be held by a court to be conclusive evidence, for all purposes, of the due and lawful making of that legislation.
- (5) For the purposes of subsection (3), a version of legislation of the Republic translated into English and—
- (a) produced by an authority of the Republic;
  - (b) certified in writing as being accurate by an officer of the Administration who is considered by the court to be a competent translator into English from the language in which the legislation of the Republic was published;

- (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; or
- (d) stated orally in court or produced in writing by a Registrar or official court interpreter, may be held by a court to be conclusive evidence, for all purposes, that the version is an accurate English translation of the legislation in question.

(6) For the purposes of subsection (3), the production of—

- (a) a document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the legislation under which the document was issued; or
- (b) an English translation of a document, the accuracy of which is certified in writing by a person considered by the court to be a competent translator for the purpose,

may be held by the court to be conclusive evidence, for all purposes, of the contents of the document.

### **Police (Detainees and Volunteers) Ordinance 2007**

**78.**—(1) Subject to the modifications specified in subsections (2) and (3), the Police (Detainees and Volunteers) Ordinance 2007(the “2007 Ordinance”) applies to a person who is arrested by an immigration officer for an immigration offence.

(2) In the application of the 2007 Ordinance to a person who is arrested by an immigration officer for an immigration offence —

- (a) a “police officer” is a reference to an immigration officer;
- (b) an “Inspector” is a reference to a customs officer(a) not below the rank of a higher officer;
- (c) “Chief Inspector” is a reference to a customs officer not below the rank of an Officer in Charge;
- (d) a “police station” is a reference to a customs station; and
- (e) “custody area” is a reference to a place in which a person may be detained under this Ordinance.

(3) Section 8 of the 2007 Ordinance (arrested persons to be taken to a police station) does not apply to a person who is arrested by an immigration officer for an immigration offence, save to the extent that the person arrested must, without delay, be informed of the offence with which the person is charged.

### **Repeals and revocations**

**79.** Schedule 2 (repeals and revocations) has effect.

### **Consequential amendments**

**80.** Schedule 3 (consequential amendments) has effect.

### **Savings**

**81.** Schedule 4 (savings) has effect.

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(a) A “customs officer” is defined in Schedule 2 of the Interpretation Ordinance 2012 (Ordinance 8/2012).

## SCHEDULE 1

Section 6(1)

### Functions of immigration officers and related matters

#### General provisions relating to searches

- 1.—(1) In this Schedule, “seizable item” means an item that—
- (a) might be used to establish information about a person (P)’s journey, identity, nationality or citizenship;
  - (b) might be or might have been used—
    - (i) to assist P or any other person in entering or remaining in the Areas unlawfully;
    - (ii) to assist P or any other person in committing an immigration offence;
    - (iii) to interfere with evidence of an immigration offence (whether committed by P or another person);
    - (iv) to hinder the investigation of an immigration offence (whether committed by P or another person);
    - (v) to cause physical injury;
    - (vi) for escaping from lawful custody; or
  - (c) an immigration officer conducting a search under this Schedule has reasonable grounds for suspecting to be evidence relating to an immigration offence (whether committed by P or another person).
- (2) A search under this Schedule may only be conducted for the purpose of finding seizable items.

#### Power to search persons, baggage and vehicles

- 2.—(1) This paragraph applies where—
- (a) an immigration officer has reasonable grounds for suspecting that a person, who is seeking entry to the Areas—
    - (i) is a prohibited immigrant; or
    - (ii) is committing, has committed or is attempting to commit, an immigration offence; or
  - (b) a person is arrested by an immigration officer for an immigration offence.
- (2) An immigration officer may search a person referred to in paragraph (1) (“P”), P’s baggage or any vehicle belonging to, or under the control of, P.
- (3) Before making a search under this paragraph, the immigration officer must explain to P why the search is being made.
- (4) Subject to subparagraph (5), a search of P must be carried out by a person of the same sex as P.
- (5) Subparagraph (4) does not apply where—
- (a) an immigration officer has reasonable grounds for believing that an immediate search is necessary for the purpose of preventing harm to any person (including P); and
  - (b) a person of the same sex as P is not immediately available to carry out the search.
- (6) This paragraph does not authorise—
- (a) a search which involves a physical examination of P’s orifices other than P’s mouth; or
  - (b) an immigration officer to require P to remove any clothing other than outer clothing (such as a coat, jacket or glove).

## **Power to search vessels and aircraft entering or leaving the Areas**

**3.**—(1) This paragraph applies where an immigration officer has reasonable grounds for suspecting that a person who wishes to enter or leave the Areas is committing, has committed or is attempting to commit an immigration offence.

(2) An immigration officer may board and search any aircraft or vessel present in the Areas.

## **Powers supplementary to search of vehicles, vessels and aircraft**

**4.**—(1) This paragraph applies where an immigration officer (“O”) uses powers—

- (a) to search a vehicle under paragraph 2; and
- (b) to board and search a vessel or an aircraft under paragraph 3.

(2) For the purpose of searching a vehicle, O may give a direction to any person who appears to be in charge of the vehicle to take any steps to stop it and prevent it from being moved from the place at which it is stopped.

(3) If O considers that it would not be reasonably practicable to search a vehicle in the place at which the vehicle is stopped, O may require any person who appears to be in charge of the vehicle to take it to a place specified by O at which the vehicle may be searched.

(4) For the purpose of boarding and searching a vessel or an aircraft under paragraph 2, O may give directions to the captain of the vessel or aircraft to stop the vessel or aircraft and to do anything to facilitate the boarding and search of the vessel or aircraft.

(5) If O has boarded a vessel or aircraft in order to carry out a search under paragraph 2, O may require the captain of the vessel or aircraft to do anything to assist O, or any person accompanying O, to disembark from the vessel or aircraft.

(6) If O thinks that it would not be reasonably practicable to board or search a vessel without detaining the vessel in a port or any other place, O may—

- (a) require the captain of the vessel to take it, its crew and any passengers on it to a port or any other place specified by O; or
- (b) make arrangements for the vessel, its crew and any passengers to be taken to such port or place.

(7) Where, under subparagraph (6), a vessel has been taken to a port or other place, O may direct the captain of the vessel not to do either or both of the following without the permission of an immigration officer—

- (a) move the vessel from the port or other place;
- (b) allow its crew or any passengers to disembark.

(8) A person commits an offence if the person fails, without reasonable excuse, to—

- (a) stop a vehicle when requested to do so under subparagraph (2);
- (b) comply with a requirement under subparagraph (3), (4), (5) or (6); or
- (c) comply with a direction under subparagraph (7).

(9) A person convicted of an offence under subparagraph (8) is liable to imprisonment for a term not exceeding 12 months or a fine not exceeding €5,000 or to both.

## **Retention of seizable items**

**5.**—(1) Where an immigration officer conducting a search under this Schedule has reasonable grounds for suspecting that an item found during that search is a seizable item, the immigration officer may seize and retain it for whichever is the latter of the following periods—

- (a) for a period not exceeding 7 days for the purpose of examining it;
- (b) for as long as the immigration officer has reasonable grounds for suspecting that—
  - (i) the person is a prohibited immigrant; and

- (ii) retention of the property may facilitate the person's removal from the Areas;
  - (c) for as long as the immigration officer has reasonable grounds for believing that the property may be required for one or more of the following purposes—
    - (i) the investigation of an immigration offence;
    - (ii) legal proceedings under this Ordinance; or
    - (iii) any other function under this Ordinance;
  - (d) for as long as the immigration officer has reasonable grounds for suspecting that the property—
    - (i) is a false travel document or
    - (ii) otherwise is a false document, that is connected to an immigration offence; or
  - (e) in the case of any property seized on the ground that it might be used to cause physical injury, escape from custody or to interfere with evidence—
    - (i) for as long as there is a risk of such physical injury, escape or interference; or
    - (ii) until the person from whom it was seized is released from custody.
- (2) If, on the application of an immigration officer or a person who makes claim to the property, the court is satisfied that the conditions for its retention under this paragraph are no longer fulfilled, the court may—
- (a) order an immigration officer to deliver up the property to the person appearing to the court to be its owner; or
  - (b) make any other order about the property (including its disposal) that the court thinks appropriate.
- (3) If an order made under subparagraph (2) is made, a person may bring proceedings against the person in possession of the property by virtue of the order for the recovery of the property; but no proceedings may be brought after the expiry of six months from the date on which the order is made.

### **Arrest without warrant**

- 6.—(1)** An immigration officer may, without a warrant, arrest a person in the following circumstances—
- (a) if the person is, or the immigration officer reasonably suspects the person to be, committing or attempting to commit an immigration offence punishable by imprisonment;
  - (b) if the immigration officer has reasonable grounds for believing that the person has escaped, or is attempting to escape, from lawful custody;
  - (c) if the immigration officer has reasonable grounds for believing that a warrant of arrest in respect of the person has been issued;
  - (d) if the immigration officer has reasonable grounds for believing that the person is liable to detention under Part 5.
- (2) Subparagraph (1) does not limit a power of arrest in any other Ordinance.
- (3) The arrested person—
- (a) may be detained at a customs station for a period of up to 6 hours for the purpose of investigating the matters referred to in subparagraph (1); and
  - (b) must, unless released, be delivered within that period to a police station or into the custody of a police officer for delivery to a police station.
- (4) The arrested person must be detained or released by the police in accordance with section 23 of the Criminal Procedure Ordinance 2016(a) (arrest without warrant: disposal of persons

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(a) Ordinance 9/2016.

arrested) as if the arrest by the immigration officer had been an arrest without a warrant by a police officer, without the need for any second arrest; and for the purposes of that Ordinance, the arrest must be treated as having been made at the time the person was arrested by the immigration officer under this paragraph (see also subparagraph (5)(d)).

(5) The following provisions of the Criminal Procedure Ordinance 2016, as modified below, apply in relation to an arrest made, or to the power of arrest, under this paragraph—

- (a) section 16 (arrest) applies as if any reference to a police officer were a reference to an immigration officer;
- (b) section 17 (search of arrested person) applies as if any reference to a police officer were a reference to an immigration officer;
- (c) section 18 (intimate search of arrested person) applies as if any reference to a police officer of at least the rank of inspector were a reference to the Fiscal Officer or any officer designated for such purposes by the Fiscal Officer;
- (d) section 23 (arrest without warrant: disposals of persons arrested and brought to a police station) applies as if—
  - (i) the reference in subsection (1) to a police officer were a reference to an immigration officer; and
  - (ii) any provision conferring a function on the officer in charge of the police station required the function to be performed either—
    - (aa) by the relevant immigration officer, after consulting the relevant officer in charge of the police station; or
    - (bb) by the officer in charge of the police station, after consulting the relevant immigration officer;
- (e) section 30 (court's power to remand in police custody) applies as if the reference in subsection (3) to a police officer of the rank of inspector or above were to—
  - (i) the relevant immigration officer;
  - (ii) a person acting on behalf of the relevant immigration officer; or
  - (iii) a police officer of the rank of inspector or above.

(6) In this paragraph “relevant immigration officer” means the immigration officer who made the arrest or any other officer nominated by the Fiscal Officer.

### **Power to take steps for identification of arrested person**

**7.—(1)** Where a person is arrested for an immigration offence, an immigration officer may take such steps as are reasonable to identify, or verify the identity of, the person.

(2) Without limit to the power in subparagraph (1), the steps that can be taken under that subparagraph include taking photographs or measurements of a person or taking the person's fingerprints.

### **Power to request assistance**

**8.—(1)** An immigration officer may request any other person to assist the immigration officer in the exercise of any function under this Ordinance and the person may, accordingly, assist the immigration officer.

(2) Where a person assists an immigration officer in the exercise of a function under this Ordinance, the person must do so under the supervision and direction of the immigration officer.

### **Power to use reasonable force**

**9.—(1)** An immigration officer may use reasonable force in the exercise of a function under this Ordinance, including—

- (a) the use of force on a person;

- (b) the breaking open of any sealed or locked item or container; or
  - (c) the breaking open of a door, window or other means of access.
- (2) A person assisting an immigration officer with the exercise of a function under this Ordinance may use reasonable force when assisting an immigration officer but only if authorised to do so by an immigration officer.

### **Power to carry weapons**

**10.**—(1) An immigration officer may carry an authorised weapon while acting in the course of the officer's duties.

(2) In this paragraph, “authorised weapon” means a weapon of a kind prescribed by the Chief Officer in an order made as a public instrument.

## **SCHEDULE 2**

### **Repeals and revocations**

Section 79

#### **Provisions of Ordinances**

- 1.** The 1960 Ordinance is repealed, except for the following provisions—
  - (a) section 1 (short title)
  - (b) section 2 (interpretation);
  - (c) section 18 (recognised residents list);
  - (d) section 19 (recognised residents certificates);
  - (e) section 21 (business licences);
  - (f) section 22(1)(a) to (d), (i) and (k) (offences and penalties);
  - (g) sections 23 (power of Administrator to make regulations); and
  - (h) section 24 (legal proceedings).
- 2.** The following provisions are repealed—
  - (a) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 1960(a);
  - (b) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2001(b);
  - (c) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) (No. 2) Ordinance 2001(c), apart from sections 1 and 2;
  - (d) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2004(d);
  - (e) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) (No. 2) Ordinance 2004(e);

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(a) Ordinance 5/1960.

(b) Ordinance 4/2001.

(c) Ordinance 6/2001.

(d) Ordinance 17/2004

(e) Ordinance 18/2004.

- (f) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2009(**a**), apart from sections 1, 2, 3, 7 and 8 and 9;
- (g) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2010(**b**), apart from sections 1, 4 and 5; and
- (h) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2015(**c**);
- (i) paragraph 2 of Schedule 3 to the Criminal Procedure Ordinance 2016(**d**); and
- (j) the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2019(**e**).

### **Public instruments**

- 3.** The following public instruments are revoked—
  - (a) the Appointment of Control Officers under Subsection (1) of Section (3) dated 6 July 1979(**f**); and
  - (b) the Control (Entry, Settlement and Commercial Enterprises) (Approved Ports) Notice 2009(**g**).

## SCHEDULE 3

### Consequential amendments

Section 80

#### **Akrotiri Community Ordinance 2001 amended**

- 1.** In section 77 of the Akrotiri Community Ordinance 2001(**h**), after “Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960”, insert “or the Immigration Ordinance 2020”.

#### **Akrotiri Village (Special Provisions) Ordinance 1966 amended**

- 2.** In section 9(2A) of the Akrotiri Village (Special Provisions) Ordinance 1966 (**i**), after “Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960”, insert “or the Immigration Ordinance 2020”.

#### **Employment (Equality) Ordinance 2013 amended**

- 3.—(1)** The Employment (Equality) Ordinance 2013(**j**) is amended in accordance with this paragraph.
  - (2) In section 4(4), for “who is not a recognised resident or who does not lawfully reside in the Republic”, substitute “who does not lawfully reside in the Areas or the Republic”.
  - (3) Omit section 4(5).

#### **Exercise of Functions Ordinance 2012 amended**

- 4.** In Schedule 1 to the Exercise of Functions Ordinance 2012 (**a**), omit “Chief Control Officer”.

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(a) Ordinance 13/2009.  
 (b) Ordinance 31/2010.  
 (c) Ordinance 16/2015.  
 (d) Ordinance 9/2016.  
 (e) Ordinance 8/2019.  
 (f) Public Instrument 5/1979.  
 (g) Public Instrument 23/2009.  
 (h) Ordinance 23/2001.  
 (i) Ordinance 6/1966. Section 9(2A) was inserted by Ordinance 4/1989.  
 (j) Ordinance 04/2013

## **Overlapping Municipalities Ordinance 2011 amended**

**5.** In section 6(7) of the Overlapping Municipalities Ordinance 2011 **(b)**, after “Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960”, insert “or the Immigration Ordinance 2020”.

## **Refugees Ordinance 2003 amended.**

**6.—(1)** The Refugees Ordinance 2003**(c)** is amended in accordance with this paragraph.

**(2)** In section 2—

- (a) delete the definitions of “Chief Control Officer” and “control officer”,
- (b) after the definition of “corresponding Republican law”, insert—  
““immigration officer” has the same meaning as in the Immigration Ordinance 2020.”;  
and
- (c) for the definition of “residence permit”, substitute—  
““residence permit” means a residence permit within the meaning of the Immigration Ordinance 2020; and any reference to a permit for temporary residence is to be construed as a residence permit valid for a limited period.”.

**(3)** For the phrase “control officer”, wherever it appears (once the amendment provided for by sub-paragraph (2) is made), substitute “immigration officer”.

**(4)** For the phrase “Chief Control Officer”, wherever it appears (once the amendment provided for by sub-paragraph (2) is made), substitute “Chief Officer”.

## **SCHEDULE 4**

Section 81

### **Savings**

**1.—(1)** A permit issued under section 20 of 1960 Ordinance that was in force immediately before the date specified in section 2(1) is deemed to be a residence permit issued on that date under section 13(1).

**(2)** Any end date that the permit had immediately before that date is deemed to be the end date of the permit under section 16(1).

**(3)** Any condition attached to the permit by virtue of section 20 of the 1960 Ordinance that had effect immediately before that date is deemed to be a residence permit condition.

**2.** An order made under section 6 of the 1960 Ordinance that was in force immediately before the entry into force of this Ordinance is deemed to be an exclusion order made on that date under this Ordinance.

**3.** The designation of a reception centre by the Chief Officer under section 2 of the 1960 Ordinance is deemed to be an approval by the Chief Officer of a place of detention under section 34(1).

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**(a)** Ordinance 12/2012, amended by 25/2013.

**(b)** Ordinance 27/2001, amended by 25/2007.

**(c)** Ordinance 10/2003, amended by Ordinances 22/2008, 25/2014, 18/2015, 18/2016 and 07/2017.

## EXPLANATORY NOTE

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

**1.** This explanatory note relates to the Immigration 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 full description of the Ordinance.

**3.** The Ordinance makes provision for the rights of entry and residence in the Areas, and for immigration enforcement.

**4.** Part 1 of the Ordinance, which comprises sections 1 to 4, deals with preliminary points, of which only some are summarised below.

**5.** Most provisions enter into force on the date set out in section 2(1). Under section 2(2), the only exception is that section 13(1), to the extent that it requires the granting of a residence permit to persons entitled to be present or reside in the Republic, enters into force on a day appointed by the Chief Officer by way of a Public instrument.

**6.** Section 4 defines the concept of “British Authorities of Defence Persons”, namely persons which, because of their connection with the Administration of the Areas or the defence of the United Kingdom, have, under sections 7 and 8, certain rights of entry and residence in the Areas.

**7.** Part 2 of the Ordinance, which comprises sections 5 and 6 and Schedule 1, confers powers on immigration officers. These are the Chief Officer, customs officers, and any other person or class of person whom the Chief Officer may appoint. Their powers can also be exercised by police officers. They include powers to search persons, baggage, vehicles, vessels and aircraft and to seize and retain property, subject to the control of the Court. They also include a power of arrest without warrant in some circumstances, of taking steps to identify a person, of requesting assistance from others, of using reasonable force, and of carrying weapons of a kind prescribed by the Chief Officer.

**8.** Part 3 of the Ordinance, which comprises sections 7 to 18, deals with the entitlement to be present and reside in the Areas.

**9.** Section 7 defines the categories of persons who are not prohibited immigrants for the purposes of the Ordinance. These are British Authorities or Defence Persons, persons entitled to be present or reside in the Republic, persons who have been granted a residence permit (as to which, see sections 13 to 18), persons who have been granted temporary leave to enter (see sections 9 to 12), and persons falling within paragraph (d) to (f) of the definition of “recognised resident in section 2 of the Control (Entry, Settlement and Commercial Enterprise) Ordinance 1960 (the 1960 Ordinance). Section 18 of the latter gives the Administrator the power to grant certain persons the right to reside in the Areas. However, a person subject to an exclusion order (see sections 48 to 51) is automatically a prohibited immigrant. Subject to certain defences, it is an offence for a prohibited immigrant to be present in the Areas, unless immigration bail has been granted (see sections 54 to 57).

**10.** Section 8 defines the categories of persons who are permitted to reside in the Areas. These are British Authorities and Defence Persons, persons who have been granted a residence permit (as to which, see sections 13 to 18), persons who have been granted temporary leave to enter (see sections 9 to 12), and persons falling within paragraph (d) to (f) of the definition of “recognised resident” in section 2 of the 1960 Ordinance. Persons entitled to be present or reside in the Republic, who are visiting a British Authority or Defence Person, and have been granted by the Secretary of State the right to enter land occupied by the Crown in right of its Government of the United Kingdom also have the right to reside in the Areas. The Administrator may, by Public Instrument, grant the right of residence in the Areas to other classes of persons. However, subject

to certain defences, it is an offence to reside in the Areas without being authorised to do so by or under section 8, unless immigration bail has been granted (see sections 54 to 57).

**11.** Sections 9 to 12 provides for the granting of temporary leave to enter. This can be granted by an immigration officer when it is considered expedient to permit the presence of a person in the Areas for a limited period of time. It can be made subject to conditions, to the extent necessary to fulfil the purposes listed in section 10(2).

**12.** Sections 13 to 18 deal with residence permits. They must normally be granted to persons who intend to reside in the Areas if they entitled to be present or reside in the Republic, or if they are likely to be so at the time when the person intends to reside in the Areas. There is an exception for the case when the granting of the application would be contrary to the military interests or the security of the United Kingdom or the Areas, and one for the case where the Administrator would be minded to make an exclusion order against the person. The Chief Officer may also grant a residence permit on humanitarian grounds, for the purposes of the interests of the United Kingdom or the Areas, to comply with the United Kingdom's international obligations, to protect the effective use of the Sovereign Base Areas as military bases or the interests of those resident or working in the Areas, or when required to do so by or under any other Ordinance. A residence permit may be made subject to conditions, to the extent necessary to fulfil the purposes listed in section 10(2).

**13.** Part 4 of the Ordinance, which comprises sections 19 to 30, makes provision about entry to and departure from the Areas.

**14.** Under section 21, subject to some exceptions, a person may only enter the Areas through an authorised entry point, or via the areas under the effective control of the Republic of Cyprus. Doing otherwise is a criminal offence (section 22). Authorised entry points are points that have been designated under the Customs Ordinance 2005 as a customs airport, customs port or crossing point, subject to a power of the Chief Officer to temporarily close the authorised entry point under section 20. For most purposes, a person who wishes to enter the Areas via an authorised entry point is not deemed to have entered the Areas for as long as the person is at the authorised entry point. (see section 19).

**15.** Under section 23, to enter via an authorised entry point, the permission of an immigration officer is required. An immigration officer may refuse entry on one of the grounds set out in section 23(7), unless the person makes an application under the Refugees Ordinance 2003. Immigration Officers have the power to require persons to produce documents (section 24), provide information and complete forms (section 25), and submit to medical examinations and provide medical information for the purpose of preventing the spread or incidence of dangerous contagious diseases (section 26).

**16.** Sections 27 to 30 make provisions relating to vehicles, vessels and aircraft. It is an offence to conceal oneself in one of these with the intention of avoiding immigration controls (section 27). Advance information on passengers and crew of vessels or aircraft arriving in the Areas may be required. The consent of an immigration officer is required to disembark from a vessel or aircraft (section 29). The court may order the detention of a vessel or aircraft where the captain is charged or convicted of an immigration offence, for the purpose of ensuring surrender to custody, court enquiries or the payment of fines, although it may, on the application of the captain or of certain persons with an interest in the vessel or aircraft, order its release, including on conditions (section 30.)

**17.** Part 5 of the Ordinance, which comprises sections 31 to 57, relates to immigration enforcement.

**18.** Sections 31 to 35 make general provisions as to detention under that Part, namely: the grounds for the detention (section 31); the time limit for detention without a court order (section 32); the requirement to give reasons in writing (section 33); the place of detention (section 34); and the detention of children (section 35).

**19.** Sections 36 to 40 make provisions for detention on refusal of entry into the Areas or where a person seeking to enter the Areas refuses to comply with a requirement that an immigration officer has power to impose. The time limits for detention without a court order are different from those imposed generally by section 32 in relation to detention under Part 5.

**20.** Sections 41 and 42 make provisions about suspected prohibited immigrants. In their respect, section 41 confers on immigration officers the same powers as they have in relation to persons wishing to enter the Areas through an approved port, and section 42 confers a power to detain suspected prohibited immigrants.

**21.** Section 43 makes provision for transfer orders. Under these, customs or police officers of the requisite seniority may order a suspected prohibited immigrant to be transferred to the Republic, with the agreement of a competent authority of the Republic. Section 44 provides for a power to detain a person in relation to which a transfer order has been made.

**22.** Section 45 provides for the Chief Officer to make a removal order, i.e. an order requiring a prohibited immigrant to be removed from the Areas. Section 46 provides for a power to detain a person subject to, or potentially subject to, a removal order. Section 47 grants a person against whom a removal order has been made the right to apply to the Administrator for a review; the order cannot be enforced while the Administrator is considering the application (see section 45(7)).

**23.** Section 48 confers on the Administrator the power to make an exclusion order against a person on grounds relating to security, the interest of the Areas or the United Kingdom, public health, the effective use of the Areas as military bases, or the public good. The Administrator may also make an exclusion order against a person who was convicted after the age of 18, in the Areas or elsewhere, of an offence for which the person received a term of imprisonment of at least 2 years. Section 49 provides for a power to detain a person subject to, or potentially subject to, an exclusion order. Under section 50, subject to certain defences, it is an offence for a person subject to an exclusion order to be present in the Areas. The maximum penalty for such an offence is higher than the penalty for being a prohibited immigrant present in the Areas under sections 7. Under section 51, a decision to make an exclusion order on the ground of the security of the United Kingdom, the Areas or the Republic of Cyprus or that a person's presence in the Areas is not conducive to the effective use of the Areas as military bases is an exempt activity for the purposes of section 8 of the Courts (Judicial review) Ordinance 2004. This means that the grounds under which such a decision can be judicially reviewed are limited.

**24.** Section 52 provides for the removal arrangements for persons liable to immigration enforcement measures. Under section 3(1), these include a person refused entry to the Areas under this Ordinance; in some circumstances, a person found within 100 metres of an authorised entry point or of the boundary between the Areas and the areas of the Republic in which the government of the Republic does not exercise effective control; a person subject to a removal order that has become enforceable; and a person subject to an exclusion order. Section 52 makes provision about the territories to which the person may be removed, the means of transport and routes for the removal, transport providers who may receive a direction to remove a person, and the powers of immigration officers accompanying the person. Section 53 confers on the Chief Officer a power to require a person liable to immigration enforcement measures to take certain steps to facilitate removal from the Areas.

**25.** Sections 54 to 57 provide for immigration bail. It can be granted by an immigration officer or a court to a person liable to immigration enforcement measures or to a prohibited immigrant not so liable, pending consideration of whether a decision should be made in relation to the person under the Ordinance, or the person's removal from the Areas. Among other things, immigration bail makes it lawful for the person to be present and reside in the Areas (see sections 7(2) and 8(2)). It can be made subject to conditions (see section 55), breach of which is a criminal offence (see section 57). Section 56 makes provision about the lapse, including by revocation, of immigration bail.

**26.** Part 6 of the Ordinance, which comprises sections 58 to 60, deals with the immigration restrictions applying to employment in the Areas. Under section 57, a prohibited immigrant not

subject to immigration bail may not take up employment in the Areas; nor may a person take up employment in breach of a residence permit condition, a condition of temporary entry, or an immigration bail condition. Persons entitled to be present or work in the Republic may not work in the Areas where this would contravene the laws of the Republic. The section also restricts the employment of those who are British Authorities or Defence Persons by virtue only of domestic employment in the household of another such person. Under section 59, knowingly or recklessly employing a person in contravention of section 58 is an offence; if the employer failed to pay the contributions it should have paid to a number of funds set up by the Republic, the court may order such payment to be made. Under section 60, taking up employment in contravention of section 58 is also an offence.

**27.** Part 7 of the Ordinance, which comprises section 61 to 66, makes provisions about offences under the Ordinance. Section 61 makes it an offence to facilitate the commission of an offence under the Ordinance, except to the extent that the conduct in question is also an offence under any other provision of the Ordinance. Section 62 makes it an offence to facilitate the entry into the Areas of a prohibited immigrant, or to facilitate the unlawful entry of a person to another country or territory where this results in the entry of the person as a prohibited immigrant into the Areas. The section provides for a defence for those who acted to assist asylum seekers in good faith, if they were not acting for gain or if they were acting for an organisation that aims to assist, without a gain motive, refugees and persons entitled to subsidiary protection. Section 63 makes it an offence to lease or licence premises to prohibited immigrants. Section 64 makes it an offence to obtain a residence permit by making a false statement. Section 65 makes it an offence to use or possess a false document for the purpose of entering the Areas. Section 66 makes it an offence to assault or obstruct an immigration officer. Section 67 provides that an offence committed by a corporate body is also committed by certain officers of the body in certain circumstances. Sections 68 and 69 provide for the seizure, retention and forfeiture of a vehicle, vessel, aircraft or money used in connection with an offence under section 61 (facilitating a breach of the Ordinance) or 62 (assisting illegal entry etc).

**28.** Part 8, which comprises sections 70 to 81, makes miscellaneous provisions

**29.** Sections 70 to 73 provide for the recovery of expenses incurred by the Crown in connection with a prohibited immigrant, or a child under the age of 18 of a prohibited immigrant. These may be recovered from the prohibited immigrant, another prohibited immigrant of which the former is a dependent, a facilitator of an immigration offence or an employer of the prohibited immigrant.

**30.** Section 74 makes provision for the forfeiture of surety or security provided under the Ordinance where the event for which it was provided does not take place.

**31.** Section 75 makes provision in relation to disclosure of information obtained under the Ordinance. It restricts disclosure of such information outside of a public authority of the Areas. There are certain exceptions. One of them is consent. Another is court proceedings. Another relates to disclosure of information the United Kingdom or the Republic, for immigration enforcement purposes or a number of purposes relating to good government, the effective use of the Sovereign Base Areas as military bases, the protection of the interests of those resident or working in the Areas, security, national interest and defence.

**32.** Section 76 confers on the Administrator a power to make regulations for the regulation of any matter within the scope of the Ordinance, or for the better implementation of the Ordinance, including procedures or criteria to be applied in relation to any matter within the scope of the Ordinance. Section 77 makes provisions about proof of Republican law and entitlements in legal proceedings, such as the content of Republican legislation, or the entitlement of a person to be present in the Republic.

**33.** Section 78 provides that the Police (Detainees and Volunteers) Ordinance 2007, which makes provision for the rights of persons arrested or attending a police station voluntarily, applies, with modifications, to a person arrested by an immigration officer for an immigration offence.

**34.** Section 79 and Schedule 2 repeal and revoke a number of legislative provisions. These include some provisions of the 1960 Ordinance, some of its amendments, and some instruments

made under it. Section 80 and Schedule 3 make consequential amendments to a number of Ordinances. Section 81 and Schedule 4 provide that a number of documents and decisions made under the 1960 Ordinance continue to have effect under the Ordinance despite the repeal of the provisions under which they were made. These are: permits issued under section 20 of the 1960 Ordinance, orders to prohibit entry under its section 6, and designation of reception centres under its section 2.

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