



COUNCIL
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Agenda item 18

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PRIVILEGES AND IMMUNITIES

Note by the Secretary-General

SUMMARY

- Executive summary:** This document provides an update on developments relating to privileges and immunities
- Action to be taken:** Paragraph 4
- Related documents:** Assembly resolution A.908(22)

1 At its eighty-eighth session, the Council was provided with information concerning developments relating to privileges and immunities since the adoption by the twenty-second session of the Assembly of resolution A.908(22) on Agreement with the Host State regarding the extension of privileges and immunities to Permanent Representatives and Divisional Directors. Further to that, on 17 July 2002, the Organization was advised by the United Kingdom Foreign and Commonwealth Office that the process for enacting legislation to extend privileges and immunities to Permanent Representatives, acting Permanent Representatives and Divisional Directors, as outlined in resolution A.908(22), had been completed, and that the legislation had come into force on that date (17 July 2002). Circular letter No. 2405 dated 29 July 2002 brought this information to the attention of all IMO Members.

2 Subsequently, the Secretary-General received a letter from the United Kingdom Foreign and Commonwealth Office enclosing copies of the final version of the Order which came into force on 17 July 2002. A copy of this letter and the enclosed Order are provided in annex.

3 The revised texts of the Headquarters Agreement, Annex XII to the Convention on Privileges and Immunities of the Specialized Agencies as well as the amended Procedures for the Accreditation to IMO of Permanent Representatives and Members of the Permanent Missions of Member Governments will be issued by circular letter in due course.

Action requested of the Council

4 The Council is invited to take note of the information in this document and to comment, as appropriate.

For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

ANNEX



Foreign &
Commonwealth
Office

12 September 2002

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Dear Secretary General,

EXTENSION OF PRIVILEGES AND IMMUNITIES

I have pleasure in enclosing copies of the final version of the International Maritime Organisation (Immunities and Privileges) Order 2002 (S.I. 2002 No.1826), which came into force on 17 July 2002.

The United Kingdom Permanent Representative informed the Secretary-General of the United Nations, by note deposited on 17 July 2002, that the United Kingdom accept the provisions of the revised Annex XII to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations 1947 (which was transmitted by the IMO to the UN Secretary-General on 8 April 2002) from the date of deposit of the note. The Exchange of Notes between Her Majesty's Government and the IMO also entered into force on 17 July 2002.

I should like to thank you and your officials for all the help and co-operation, which has enabled us to complete this legislative process.

Yours sincerely,

Peter Baldwin

Peter Baldwin
Protocol Division

STATUTORY INSTRUMENTS

2002 No. 1826

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The International Maritime Organisation (Immunities and Privileges) Order 2002

Made - - - - - *16th July 2002*

Coming into force - - - - - *17th July 2002*

At the Court at Buckingham Palace, the 16th day of July 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968(a) ("the Act") and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 1, 2 and 10(3) of the Act(b) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART 1

General

1. This Order may be cited as the International Maritime Organisation (Immunities and Privileges) Order 2002. It shall come into force on the day after the day on which it is made.

2. In this Order "the 1961 Convention Articles" means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964(c).

3. The Orders specified in the Schedule to this Order are hereby revoked to the extent specified in the third column of that Schedule.

(a) 1968 c. 48.

(b) As amended by section 1 of the International Organisations Act 1981 (c. 9).

(c) 1964 c. 81.

PART 2

The Organisation

4. The International Maritime Organisation (hereinafter referred to as the Organisation) is an Organisation of which the United Kingdom and foreign sovereign Powers are members.

5. The Organisation shall have the legal capacities of a body corporate and, except in so far as in any particular case it has expressly waived its immunity, immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution.

6. The Organisation shall have the like inviolability of official archives and premises as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

7. The Organisation shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

8. The Organisation shall have the like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

9. The Organisation shall have exemption from customs duties and taxes on the importation of goods imported by the Organisation for its official use in the United Kingdom, or on the importation of any publications of the Organisation imported by it, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

10. The Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation for its official use and in the case of any publications of the Organisation imported or exported by it.

11. The Organisation shall have relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on or value added tax paid on the importation of any hydrocarbon oils (within the meaning of the Hydrocarbon Oil Duties Act 1979(a)) which are bought in the United Kingdom and used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Organisation shall have relief, under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicles and value added tax paid on the supply of any goods or services which are used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. The Organisation shall have relief, under arrangements made by the Secretary of State, by way of refund of Insurance Premium Tax and Air Passenger Duty paid by the Organisation in the exercise of its official activities.

PART 3

Representatives

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member whom they represent, representatives of members of the Organisation on any of its organs at meetings convened by it shall enjoy:—

- (a) in respect of words spoken or written and all acts done or omitted to be done by them in their official capacity, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(a) 1979 c. 5.

- (b) while exercising their functions and during their journeys to and from the place of meeting, the like immunity from personal arrest or detention and the like inviolability for all papers and documents as is accorded to the head of a diplomatic mission;
- (c) while exercising their functions and during their journeys to and from the place of meeting, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Where the incidence of any form of taxation depends on residence, any period during which representatives of members of the Organisation on any of its organs at meetings convened by it are present in the United Kingdom for the exercise of their functions shall, for the purpose of determining their liability to taxation, be treated as not being a period of residence in the United Kingdom.

(3) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives of members of the Organisation other than alternates, advisers, technical experts and secretaries of delegations.

(4) Neither the provisions of the preceding paragraphs of this Article nor those of Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative of Her Majesty's Government in the United Kingdom or as a member of the official staff of such a representative or on any person who is a British citizen, British overseas territories citizen, British Overseas citizen, or British National (Overseas).

(5) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives or on the families of members of their official staffs.

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member whom he represents, every person designated by a member of the Organisation as its principal permanent representative or acting principal permanent representative to the Organisation in the United Kingdom, and members of their family forming part of their household, shall enjoy for the term of his business with the Organisation:—

- (a) the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;
- (b) the like immunity from personal arrest or detention and the like inviolability for all his papers and documents as is accorded to the head of a diplomatic mission;
- (c) the like exemption and privileges in respect of his personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;
- (d) the like exemption or relief from taxes and rates, other than duties (whether of customs or excise) and taxes on the importation of goods, as are accorded to or in respect of a diplomatic agent;
- (e) the like exemption from duties (whether of customs or excise) and taxes on the importation of articles imported for his personal use or for that of members of his family forming part of his household, including articles intended for his establishment and the like privilege as to the importation of such articles, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (f) relief, under arrangements made by the Commissions of Customs and Excise, by way of refund of duty (whether of customs or excise) paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979) or value added tax paid on the importation of such oil which is bought in the United Kingdom by him or on his behalf for his personal use or for that of members of his family forming part of his household, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;
- (g) exemptions whereby, for purposes of the enactments relating to social security, including enactments in force in Northern Ireland—
 - (i) services rendered by him for the Organisation shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but

(ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted; and

(h) the like exemption or relief from being liable to pay anything in respect of council tax, as is accorded to or in respect of the head of a diplomatic mission,

provided that sub-paragraphs (d) to (h) of this paragraph shall not apply to any person who is a permanent resident of the United Kingdom, and sub-paragraphs (a) to (c) shall apply to any such person only while he is exercising his official functions.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of a principal permanent representative or acting principal permanent representative other than members of his staff of diplomatic status resident in the United Kingdom.

(3) Neither this Article nor Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the principal permanent representative or acting principal permanent representative of the United Kingdom or as a member of the staff of such a representative, or as a member of the family of such a representative, or on any person who is a British citizen, British overseas territories citizen, British Overseas citizen or British National (Overseas).

PART 4

Officers

High Officers

16. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of the Secretary-General of the Organisation, the Deputy Secretary-General (or, in the absence of both, any other official specially designated to act on behalf of the Secretary-General), the Secretary of the Maritime Safety Committee and the Directors of the Administrative Division, the Technical Co-operation Division, the Legal Affairs and External Relations Division, the Conference Division and the Marine Environment Division:—

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission;
- (b) the like exemption from customs duties and taxes on the importation of articles imported for their personal use or the use of members of their families forming part of their households, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (c) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent;
- (d) relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on or value added tax paid on the importation of any hydrocarbon oils (within the meaning of the Hydrocarbon Oil Duties Act 1979) which are bought in the United Kingdom by them or on their behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that the provisions of this Article shall not apply to any person who is a British citizen, British overseas territories citizen, British Overseas citizen, or British National (Overseas) or a permanent resident of the United Kingdom.

Senior Officers

17.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of any officer of the Organisation (other than the officers referred to in Article 16) who is recognised by Her Majesty's

Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent:—

- (a) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent;
- (b) the exemptions, privileges and reliefs specified in Article 16(b), (c) and (d) of this Order;
- (c) in the event of his death, exemption from inheritance tax leviable on his death under the law of any part of the United Kingdom in respect of moveable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred;
- (d) exemption from vehicle excise duty;

provided that the provisions of this paragraph shall not apply to any person who is a British citizen, British overseas territories citizen, British Overseas citizen, or British National (Overseas) or a permanent resident of the United Kingdom.

(2) There shall be accorded in respect of a member of the family forming part of the household of such an officer as is mentioned above, unless the member is a British citizen, British overseas territories citizen, British Overseas citizen, or British National (Overseas) or a permanent resident of the United Kingdom, the exemption listed in paragraph (1)(c) of this Article.

All Officers

18. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, all officers of the Organisation with the exception of those who are recruited locally and assigned to hourly rates of pay shall enjoy:—

- (a) immunity from suit and legal process in respect of words spoken or written and all acts done or omitted to be done by them in the course of the performance of their official duties;
- (b) exemption from income tax in respect of emoluments received by them as officers of the Organisation;
- (c) the like exemption from customs duties and taxes on the importation of articles which—
 - (i) at or about the time when the officer first enters the United Kingdom as an officer of the Organisation are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and
 - (ii) are articles which were in his ownership or possession or that of such a member of his family, or which he or such member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

- (d) unless they are British citizens, British overseas territories citizens, British Overseas citizens, or British Nationals (Overseas) or permanently resident in the United Kingdom, exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraph (c) of this Article were fulfilled, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue;
- (e) unless they are British citizens, British overseas territories citizens, British Overseas citizens, or British Nationals (Overseas) or permanently resident in the United Kingdom, exemptions whereby, for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland—
 - (i) services rendered by them for the Organisation shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable but,

- (ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted.

PART 5

Experts

19.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, experts (other than officers of the Organisation) serving on any committee of the Organisation or employed on missions on behalf of the Organisation shall, so far as is necessary for the effective exercise of their functions, enjoy:—

- (a) in respect of words spoken or written and all acts done or omitted to be done by them in the performance of their official functions, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;
- (b) while exercising their functions and during their journeys in connection with service on such committees or missions, the like immunity from personal arrest or detention and the like inviolability for all papers and documents relating to the work on which they are engaged for the Organisation as is accorded to the head of a diplomatic mission;
- (c) while exercising their functions and during their journeys in connection with service on such committees or missions, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff or on families of experts to whom the provisions of paragraph (1) of this Article apply.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 3

REVOCATIONS

(1) Orders revoked	(2) References	(3) Extent of revocation
The Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968	S.I. 1968/1862	The whole Order
The Inter-Governmental Maritime Consultative Organization (Immunities and Privileges) (Amendment) Order 1972	S.I. 1972/118	The whole Order
The International Organisations (Immunities and Privileges) Miscellaneous Provisions Order 1975	S.I. 1975/1209	That part of the Schedule to the Order specifying amendments to the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968
The Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) (Amendment) Order 1982	S.I. 1982/709	The whole Order
The International Organisations (Immunities and Privileges) Miscellaneous Provisions Order 1999	S.I. 1999/2034	That part of the Schedule to the Order specifying amendments to the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates and updates, with consequential revocations, the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968, as amended by the Inter-Governmental Maritime Consultative Organization (Immunities and Privileges) (Amendment) Order 1972, the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) (Amendment) Order 1982, the International Organisations (Immunities and Privileges) Miscellaneous Provisions Order 1975 and the International Organisations (Immunities and Privileges) Miscellaneous Provisions Order 1999. It also provides for additional privileges and immunities to be accorded to the principal permanent representative or acting principal permanent representative of each member of the Organisation in the United Kingdom and to the Directors of the Administrative Division, the Technical Co-operation Division, the Legal Affairs and External Relations Division, the Conference Division and the Marine Environment Division of the Organisation. The additional privileges and immunities are conferred in accordance with an Exchange of Notes between Her Majesty's Government and the International Maritime Organisation signed on 4th January 2002 and 23rd January 2002 (Cmnd. 5473 Miscellaneous Series No. 3 (2002)) which amends the Agreement regarding the Headquarters of the Organisation signed in London on 28th November 1968 (Cmnd. 3964); and in accordance with the revised text of Annex XII to the Convention on the Privileges and Immunities of Specialized Agencies of the United Nations 1947 ("the revised Annex XII") approved by the International Maritime Organisation on 22nd November 2001 (Cmnd. 5474 Miscellaneous Series No. 4 (2002)). This Order will enable Her Majesty's Government to give effect to the Exchange of Notes and to accept the revised Annex XII.
