1968 No. 1860

DIPLOMATIC AND INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Commission of the European Communities (Immunities and Privileges) Order 1968

Laid before Parliament in draft

Made - - - -	22*nd November* 1968
Coming into Operation	24*th November* 1968

At the Court at Buckingham Palace, the 22nd day of November 1968

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) (hereinafter referred to as 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 section 3 of the Act 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 I

THE COMMISSION

1. The Commission of the European Communities (hereinafter referred to as the Commission) 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.

2. The Commission 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.

3. The Commission 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.

(a) 1968 c. 48.

4. The Commission 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.

5. The Commission shall have exemption from customs duties and taxes on the importation of goods imported by the Commission for its official use in the United Kingdom, or on the importation of any publications of the Commission 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.

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

7. The Commission 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 any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952(a)) which are bought in the United Kingdom and used for the official purposes of the Commission, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

8. The Commission shall have relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the Commission, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART II

REPRESENTATIVES

9.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Commission, representatives of the Commission at meetings in the United Kingdom of the Council of Association between Her Majesty's Government in the United Kingdom and the Commission or at meetings of Committees of the Council shall enjoy:—

(*a*) 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, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(*b*) exemption from income tax in respect of their official emoluments.

(2) Neither the provisions of the preceding paragraph of this Article nor those of Part IV of Schedule 1 to the Act shall operate so as to confer any exemption from income tax on any person who is a citizen of the United Kingdom and Colonies or a permanent resident of 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 families of representatives or on the families of members of their official staffs.

(a) 1952 c. 44.

PART III

OFFICERS

High Officers

10. Except in so far as in any particular case any privilege or immunity is waived by the Commission, there shall be accorded to or in respect of the Chief Representative of the Commission, the Acting Chief Representative and the Deputy Chief Representative:—

(*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 any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952(**a**)) 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 citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

Senior Officers

11.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Chief Representative, there shall be accorded to or in respect of any officer of the Commission (other than the officers referred to in Article 10) who is a member of the official staff of the Chief Representative and 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 taxes 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 10 (*b*), (*c*) and (*d*) of this Order;

(*c*) in the event of his death, exemptions from:—

(i) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable 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, and

(**a**) 1952 c. 44.

(ii) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965(a) in relation to any such movable property, are included in the gains accruing to that officer in the year of assessment in which he died:

provided that the provisions of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or 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 citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom, the exemptions listed in paragraph (1)(c) of this Article.

All Officers

12.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Chief Representative, all officers of the Commission who are members of the official staff of the Chief Representative shall subject to paragraph (2) of this Article 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 Commission;

(*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 Commission 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 a 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*) exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967(b), the National Insurance (Industrial Injuries) Acts 1965 to 1967(c), any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of the Acts or to any enactment amending any of those Acts,—

(i) services rendered by them for the Commission shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but

(a) 1965 c. 25. (b) 1965 c. 51; 1966 c. 6; 1967 c. 73. (c) 1965 c. 52; 1967 c. 25.

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

(2) The privileges specified in sub-paragraphs (*b*), (*c*) and (*d*) of paragraph (1) of this Article shall not be accorded to any officer who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

PART IV

GENERAL

Interpretation

13.—(1) The Interpretation Act 1889(**a**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(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(**b**).

Citation and Entry into Force

14. This Order may be cited as the Commission of the European Communities (Immunities and Privileges) Order 1968. It shall come into operation on 24th November 1968 and shall have effect as from 6th July 1967.

W. G. Agnew.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order takes the place of the European Coal and Steel Community Act 1955. The repeal of that Act will, by virtue of section 12(7) of the International Organisations Act 1968, take effect when this Order is made.

The Order—

(*a*) makes adjustments consequential on the replacement of the High Authority of the European Coal and Steel Community by the Commission of the European Communities which was established on 6th July 1967;

(*b*) confers privileges and immunities on the Commission of the European Communities, its representatives and officers, including privileges and immunities additional to those conferred by the 1955 Act.

Pursuant to section 3(4) of the International Organisations Act 1968, the Order is made so as to have effect retrospectively from 6th July 1967.

(**a**) 1889 c. 63. (**b**) 1964 c. 81.