EXPLANATORY MEMORANDUM TO

THE CONFERENCE OF THE PARTIES TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (IMMUNITIES AND PRIVILEGES) ORDER 2021

2021 No. 1090

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument confers immunities and privileges in relation to the 26th Conference of the Parties to the United Nations Framework Convention on Climate Change (the "Conference") to be held in Glasgow between 31 October and 12 November 2021. This includes the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, and all pre-sessional and other additional meetings convened in the United Kingdom in connection with the Conference.

2.2 Privileges and immunities are conferred on representatives of the Parties to the Conference and others in attendance.

2.3 These privileges and immunities are conferred in accordance with a Host Country Agreement (CP 454) which has been negotiated between Her Majesty's Government and the United Nations Framework Convention on Climate Change secretariat (UNFCCC). This Order will enable Her Majesty's Government to give effect to that Agreement.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 Apart from the application of articles 4-10, so far as they fall within the legislative competence of the Scottish Parliament, the territorial extent and application of this Order includes Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland.

4.3 In Scotland, articles 4 to 10 do not apply in so far as they would, if included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament.

4.4 The Devolved Administrations in Scotland and Northern Ireland have been consulted on the production of this instrument.

5. European Convention on Human Rights

5.1 The Minister has made the following statement regarding Human Rights:

"In my view the provisions of the Conference of the Parties to the United Nations Framework Convention on Climate Change (Immunities and Privileges) Order 2021 are compatible with the Convention rights"

6. Legislative Context

6.1 Sections 1 and 5A of the International Organisations Act 1968 ("the 1968 Act") provide that Her Majesty may by Order in Council specify an organisation falling within section 1(1) of the 1968 Act and confer the privileges and immunities set out in Part II of Schedule 1 to the 1968 Act on persons who are, or are to be, representatives at any conference convened in the United Kingdom by that organisation. The organisation that is convening the Conference is the Conference of the Parties to the United Nations Framework Convention on Climate Change..

6.2 Section 10(1) of the 1968 Act provides that no recommendation shall be made to Her Majesty in Council to make the Order unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

6.3 Article 1 of the instrument provides that it will come into force on the later of: the day after the day on which it is made; and the day on which the Host Country Agreement between the Government of the United Kingdom and the UNFCCC secretariat enters into force for the United Kingdom.

7. Policy background

What is being done and why?

7.1 The United Kingdom is hosting this Conference on behalf of the Parties to the UNFCCC, Kyoto Protocol and Paris Agreement. A foundational principle of this and conferences managed by the United Nations system is the granting of immunity from legal process in respect of words spoken or written and any act performed by participants in their official capacity in connection with the conference.

7.2 The negotiated Host Country Agreement confers certain privileges and immunities on representatives of the Parties and observer states, and other officials of the specialized agencies of the United Nations. Representatives of the Parties and observer states will, for example, be granted immunity from suit and legal process in respect of things done or omitted to be done by them while exercising their official functions in connection with the Conference, as well as certain privileges relating to their personal baggage. Officials of the specialised agencies of the United Nations and experts on mission on behalf of those agencies will benefit from immunity from suit and legal process in respect of things done or omitted to be done by them in their official capacity. These privileges and immunities are reflected in the instrument.

7.3 This instrument also grants immunity from legal process in respect of words spoken or written and any act performed by them in connection with the COP to core personnel of the Adaptation Fund, Green Climate Fund, Global Environment Facility

and to representatives of the Executive Board of the Clean Development Mechanism (CDM) in connection with the CDM meeting.

7.4 The privileges and immunities being granted to individuals in this instrument are limited in scope to acts and omissions committed by those individuals in their official capacity in connection with the Conference.

7.5 This instrument will not confer privileges and immunities on British nationals and UK permanent residents.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

10.1 No further external consultation was undertaken as this Order implements provisions of an international agreement to which the United Kingdom will be obliged to give effect as a matter of international law once the agreement enters into force.

10.2 Consultation was undertaken with the devolved administrations in Scotland and Northern Ireland who raised no objection to this Order.

11. Guidance

11.1 No guidance will be published.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it has no or no significant impact on business, charities or voluntary bodies, or the public sector as set out in 12.1 and12.2.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause.

15. Contact

15.1 Rob Daniel at the Foreign, Commonwealth and Development Office. Email: rob.daniel@fcdo.gov.uk, +44 07464 9898 45 can be contacted with any queries regarding the instrument.

15.2 Richard Wildash, Additional Director Protocol, at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nigel Adams Minister of State at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.