DIPLOMATIC AND INTERNATIONAL IMMUNITIES AND PRIVILEGES

1960 No. 442

The Council of Europe (Immunities and Privileges) Order, 1960

Laid before Parliament in draft
Made - - - - 16*th March*, 1960
Coming into Operation 16*th March*, 1960

ARRANGEMENT OF ORDER

PART I THE ORGANISATION
PART II REPRESENTATIVES
PART III OFFICERS
PART IV EUROPEAN COMMISSION OF HUMAN RIGHTS
PART V GENERAL

At the Court at Buckingham Palace, the 16th day of March, 1960

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section six of the International Organisations (Immunities and Privileges) Act, 1950(a) (hereinafter referred to as the Act), and an address has been presented to Her Majesty by each House of Parliament praying that an Order may be made in the terms of the said draft:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf conferred on Her by 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 ORGANISATION

1. The Council of Europe (hereinafter referred to as the Council) is an organisation of which Her Majesty's Government in the United Kingdom and the Governments of foreign sovereign Powers are members.

2. The Council shall have the legal capacities of a body corporate and, except in so far as in any particular case the Committee of Ministers has expressly authorised the waiver of this immunity, immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution or detention of property.

(a) 14 Geo. 6. c. 14.

3. The Council shall have the like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to Her Majesty.

4. The Council shall have the like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

5. The Council shall have exemption from taxes on the importation of goods directly imported by the Council for its official use in the United Kingdom or for exportation, or on the importation of any publications of the Council directly 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 Council shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the Council for its official use and in the case of any publications of the Council directly imported or exported by it.

PART II

REPRESENTATIVES

7.—(1) Except in so far as in any particular case any privilege or immunity is waived by the member whom he represents, any permanent representative of a member of the Council shall, while exercising his functions and during his journeys to and from the place of meeting, enjoy the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty.

(2) Part IV of the Schedule to the Act shall not operate so as to confer any immunity or privilege on members of the official staff of any permanent representative.

(3) The provisions of paragraph (1) of this Article shall not operate so as to confer any immunity or privilege on any person as the permanent representative of Her Majesty's Government in the United Kingdom or on any person who is a citizen of the United Kingdom and Colonies.

8.—(1) Except in so far as in any particular case any privilege or immunity is waived by the member whom he represents, any representative of a member of the Council at the Committee of Ministers or attending either a meeting of the Ministers' Deputies, or a meeting convened by the Council held when neither the Committee of Ministers nor the Ministers' Deputies are in session, shall enjoy:—

(*a*) In respect of words spoken or written and all acts done by him in his official capacity, the like immunity from legal process as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty;

(*b*) While exercising his functions and during his journeys to and from the place of meeting, the like immunity from personal arrest or detention and from seizure of his personal baggage and the like inviolability for all papers and documents as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty.

Provided that any representative attending a meeting convened by the Council held when neither the Committee of Ministers nor the Ministers' Deputies are in session shall not be exempt from arrest or prosecution when found committing, attempting to commit, or just having committed an offence.

(2) Part IV of the Schedule to the Act shall not operate so as to confer any immunity or privilege on members of the official staff of any representatives to whom this Article applies other than alternate representatives, advisers, technical experts, and secretaries of delegations.

(3) Neither the provisions of the preceding paragraphs of this Article nor those of Part IV of the Schedule to the Act shall operate so as to confer any immunity or privilege 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 citizen of the United Kingdom and Colonies.

9.—(1) Representatives to the Consultative Assembly shall enjoy, in respect of words spoken or votes cast by them in the exercise of their functions, the like immunity from arrest and all legal proceedings as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty.

(2) Except in so far as in any particular case any privilege or immunity is waived by the Assembly, representatives to the Consultative Assembly shall enjoy in the United Kingdom during the period of the sessions of the Consultative Assembly, while attending meetings of Committees or Sub-Committees of the Consultative Assembly (whether or not the Assembly is in session), and during their journeys to and from the place of meeting of the Assembly or such Committees or Sub-Committees:—

(*a*) If they are representatives of the United Kingdom, the like immunity from arrest and legal process as is accorded to a Member of Parliament under the law and custom of the United Kingdom;

(*b*) If they are representatives of the countries of other members of the Council, the like immunity from arrest and prosecution as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty.

Provided that representatives to the Consultative Assembly shall not enjoy any immunity or privilege under this paragraph in cases where they are found committing, attempting to commit, or just having committed an offence.

(3) Part IV of the Schedule to the Act shall not operate so as to confer any immunity or privilege on members of the official staff of representatives to the Consultative Assembly, other than substitute representatives.

Part III

Officers

10. Except in so far as in any particular case any privilege or immunity is waived by the Committee of Ministers, the Secretary-General and the Deputy Secretary-General of the Council shall enjoy the like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes, other than income tax, as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty, and exemption from income tax in respect of emoluments received by them as officers of the Council.

11. Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General, all permanent and temporary members of the staff of the Council shall enjoy:—

(*a*) Immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity and within the limits of their authority;

(*b*) Exemption from income tax in respect of emoluments received by them as officers of the Council.

PART IV

EUROPEAN COMMISSION OF HUMAN RIGHTS

12.—(1) Except in so far as in any particular case any privilege or immunity is waived by the European Commission of Human Rights, members of the Commission shall enjoy:—

(*a*) In respect of words spoken or written and all acts done by them in their official capacity, the like immunity from legal process as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty;

(*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 from seizure of their personal baggage and the like inviolability for all papers and documents as is accorded to an envoy of a foreign sovereign Power accredited to Her Majesty.

(2) Part IV of the Schedule to the Act shall not operate so as to confer any immunity or privilege on the official staff of members to whom this Article applies.

PART V

GENERAL

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

14.—(1) The International Organisations (Immunities and Privileges of the Council of Europe) Order in Council, 1950(**b**), the International Organisations (Immunities and Privileges of the Council of Europe) (Amendment) Order, 1954(**c**), and the International Organisations (Immunities and Privileges of the Council of Europe) (Amendment) Order, 1958(**d**), are hereby revoked.

(2) Section 38 of the Interpretation Act, 1889, shall apply in relation to the said Orders as if the present Order were an Act of Parliament and as if the said Orders were enactments repealed by an Act of Parliament.

15. This Order may be cited as the Council of Europe (Immunities and Privileges) Order, 1960.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order consolidates, with technical and drafting amendments, the International Organisations (Immunities and Privileges of the Council of Europe) Order in Council, 1950, and its amending Orders which have hitherto made provision for the privileges and immunities of the Council of Europe, representatives to it, its officers, and Members of the European Commission of Human Rights. These privileges and immunities are conferred in accordance with the General Agreement on Privileges and Immunities of the Council of Europe signed at Paris on the 2nd of September, 1949 (Cmd. 8852), as amended by the Protocols to that Agreement signed at Strasbourg on the 6th of November, 1952 (Cmnd. 84), and at Paris on the 15th of December, 1956 (Cmnd. 579).

(**a**) 52 & 53 Vict. c. 63.
(**b**) S.I. 1950/1268 (1950 I, p. 1140).
(**c**) S.I. 1954/1470 (1954 I, p. 682).
(**d**) S.I. 1958/1050 (1958 I, p. 954).