Draft Order laid before Parliament under section 10 of the International Organisations Act 1968, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015

Made - - - - 2015

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the *** day of *** 2015

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by section 1 of the International Organisations Act 1968(**a**).

A draft of this Order has been approved by resolution of each House of Parliament pursuant to section 10(1) of the International Organisations Act 1968(**b**).

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to order as follows—

PART 1

General

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015.

(2) It comes into force on:

(**a**) 1968 c.48.

(**b**) The function of approving a draft of an Order in Council under section 10 of that Act has been transferred from both Houses of Parliament to the Scottish Parliament under section 118 of the Scotland Act 1998 c.46 (as amended by section 12 of the Scotland Act 2012 c.11) in so far as the function is exercisable within devolved competence.

(a) the day after the day on which it is made; or

(b) if later, the day on which the United Kingdom becomes a member of the Bank(**a**).

2. The Order extends to the whole United Kingdom subject to article 3.

3. Article 11 extends to England and Wales and Northern Ireland only(**b**).

4. In Scotland—

(a) articles 8, 9, 13 and 18 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;

(b) article 10 does not apply to devolved taxes or local taxes to fund local authority expenditure (within the meaning of the exceptions to Section A1 (fiscal, economic and monetary policy) of Part 2 of Schedule 5 to the Scotland Act 1998)(**c**).

Interpretation

5.—(1) In this Order:

(a) "Agreement" means the Articles of Agreement of the Asian Infrastructure Investment Bank done in Beijing on 29th June 2015(**d**);

(b) "Bank" means the Asian Infrastructure Investment Bank established by the Agreement;

(c) "member of the Bank" means a member in accordance with Article 3 or Article 58 of the Agreement;

(d) "official activities" means activities of the Bank undertaken pursuant to the Agreement, including administrative activities;

(e) "person connected with the Bank" means a Governor, Alternate Governor, Director, Alternate Director, President, Vice-President, other officer or employee of the Bank, or expert or person engaged on a mission for the Bank;

(f) "premises of the Bank" means the land, buildings and parts of buildings used by the Bank for its official activities.

(2) In this Order, in respect of the Bank, references to:

(a) "official purposes" are to its official purposes pursuant to the Agreement;

(b) "official use" are to its official use pursuant to the Agreement.

PART 2

The Bank

6. The Bank is an organisation of which the United Kingdom and other sovereign Powers are members.

7. The Bank shall have the legal capacities of a body corporate.

(**a**) The United Kingdom will be become a member of the Bank in accordance with Article 58(2) of the Agreement when the Agreement enters into force for the United Kingdom. The date on which the Agreement enters into force for the United Kingdom will be published on the relevant page on UK Treaties Online which can be found at this link: https://www.gov.uk/uk-treaties.

(**b**) The setting of non-domestic rates is within the legislative competence of the Scottish Parliament by exemption to Section A1 of Schedule 5 of the Scotland Act 1998 c.46; Section A1 was amended by the Scotland Act 2012 (c.11), section 23(5).

(**c**) 1998 c.46.

(**d**) Cm. 9126.

PART 3

Immunities, privileges, reliefs and exemptions

Immunity of the Bank

8.—(1) Subject to paragraph (2), the Bank shall have immunity from suit and legal process except to the extent that it shall have expressly waived such immunity.

(2) The immunity of the Bank under paragraph (1) does not apply in respect of any civil action arising out of, or in connection with, the exercise of its powers to raise funds, borrow money, guarantee obligations or buy, sell, or underwrite the sale of securities if the Bank has in the United Kingdom:

(a) established an office;

(b) appointed an agent for the purpose of accepting service of process; or

(c) issued or guaranteed securities.

(3) The property and assets of the Bank, wherever they may be located and by whomsoever they may be held, shall be immune from suit and legal process, except to the extent that the Bank shall have expressly waived such immunity, in respect of:

(a) all forms of seizure, attachment or execution before final judgment against the Bank; and

(b) search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by the executive or pursuant to legislation.

(4) Nothing in paragraph (2) permits any action against the Bank by any member of the Bank or by a person acting on behalf of any member of the Bank.

Archives and premises

9. The official archives and the premises of the Bank shall have the like inviolability as, in accordance with the 1961 Convention Articles(**a**), is accorded in respect of the official archives and premises of a diplomatic mission.

Taxes, rates and duties

10. Within the scope of its official activities, the Bank shall be exempt from all taxation, other than rates, duties (whether of customs or excise) and the taxes referred to in Articles 12, 14, 15 and 16, on its assets, property, income, operations and transactions.

11. The Bank shall have the like relief from non-domestic rates on the premises of the Bank as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

12. The Bank shall be exempt from duties (whether of customs or excise) and taxes on the importation of goods or publications of the Bank imported by or on behalf of the Bank for its official use in the United Kingdom.

13. The Bank shall be exempt from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Bank for its official use and in the case of any of the Bank's publications imported or exported by the Bank.

14. The Bank shall have relief, under arrangements made by the Commissioners for Her Majesty's Revenue and Customs, 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(**b**)) or

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(**a**) The definition of "the 1961 Convention Articles" is in section 11 of the International Organisations Act 1968, c.48.
(**b**) 1979 c.5.

value added tax paid on the importation of such oil which is bought in the United Kingdom and is used for its official purposes.

15. The Bank shall have relief under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicle used for its official purposes and value added tax paid on the supply of any goods or services which are supplied for its official purposes.

16. The Bank shall have relief, under arrangements made by the Secretary of State, by way of refund of insurance premium tax paid by the Bank in exercise of its official activities.

17. The exemptions and relief granted in articles 12, 14 and 15 are to be subject to compliance with such conditions as the Commissioners for Her Majesty's Revenue and Customs may prescribe for the protection of the Revenue.

Person connected with the Bank

18.—(1) A person connected with the Bank shall enjoy immunity from suit and legal process in respect of things done, or omitted to be done, in the course of the performance of the person's official duties for the Bank, except to the extent that the Bank shall have expressly waived such immunity.

(2) No tax of any kind shall be levied on, or in respect of, emoluments paid by the Bank to a person connected with the Bank.

(3) Paragraph (2) does not apply to a person who is—

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person;

(b) a Governor or an Alternate Governor of the Bank.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers legal capacity and grants immunities and privileges on the Asian Infrastructure Investment Bank and its officers, employees, experts and persons engaged on missions for the Bank.

The Order gives effect to the Articles of Agreement of the Asian Infrastructure Investment Bank done in Beijing on 29th June 2015 (Cm. 9126).

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ISBN 978-0-11-113982-0

£4.25

UK2015100926 10/2015 19585

http://www.legislation.gov.uk/id/ukdsi/2015/9780111139820