Draft Order laid before Parliament under section 12(4) of the International Development Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No. 0000

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Bank for International Settlements (Immunities and Privileges) Order 2021

Made - - - -	***
Coming into force - -	***

At the Court at Windsor Castle, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 12(4) of the International Development Act 2002(**a**), a draft of this Order was laid before, and approved by a resolution of, each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred by section 12(1) of the International Development Act 2002, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

1. This Order may be cited as the Bank for International Settlements (Immunities and Privileges) Order 2021 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"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**);

"the Bank" means the Bank for International Settlements;

"BISIH London Centre" means the Bank for International Settlements Innovation Hub London Centre in the United Kingdom;

(**a**) 2002 c. 1. Section 12 was amended to include reference to the Bank for International Settlements by the International Settlements (International Development Act 2002 and Immigration (Exemption from Control) Order 1972) (Amendment) Order 2021.

(**b**) 1964 c. 81. Schedule 1 was amended by section 6 of, and paragraph 1 of Schedule 2 to, the Diplomatic and Consular Premises Act 1987 (c. 46).

"expert" means a person, other than a member of staff of the Bank or a secondee—

(a) designated as such by the Bank to perform tasks in connection with the official activities of the Bank or to carry out missions for the Bank; and

(b) whose designation was notified to the Secretary of State by the Bank prior to the person performing those tasks or carrying out those missions;

"member of staff of the Bank" does not include the General Manager of the Bank, Deputy General Manager of the Bank, or any member of the board of directors of the Bank;

"official activities" includes all activities undertaken pursuant to the statutes of the Bank, and all activities appropriate to fulfil the purpose and functions of the Bank under Article 3 of the statutes of the Bank;

"secondee" means a person—

(a) who is seconded to the BISIH London Centre from a central bank which is a member of the Bank; and

(b) whose secondment was notified to the Secretary of State by the Bank prior to the person taking up the secondment.

"statutes of the Bank" means the version of the statutes of the Bank for International Settlements of 20th January 1930 as last amended on 7 November 2016 and effective from 1st January 2019(**a**);

"tax year" means a year beginning with 6th April and ending on the following 5th April.

(2) In this Order a member of staff appointed to the BISIH London Centre is a person—

(a) who is a member of staff of the Bank;

(b) who is appointed by the Bank to the BISIH London Centre; and

(c) whose appointment was notified to the Secretary of State by the Bank prior to the person taking up the appointment.

Legal personality

3. The Bank has the legal capacities of a body corporate.

Immunity from jurisdiction and waiver

4.—(1) Within the scope of its official activities, the Bank is immune from suit and legal process except—

(a) to the extent that the Bank may expressly waive such immunity in a particular case;

(b) in respect of a civil action arising out of a banking or financial transaction with a contractual counterparty of the Bank;

(c) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;

(d) in respect of the enforcement of an arbitration award made against the Bank as a result of an express submission to arbitration by or on behalf the Bank;

(e) in respect of any counter-claim directly connected with court proceedings initiated by the Bank.

(2) Except in respect of a final judgment or arbitral award issued by a court or tribunal where paragraph (1)(b) or (d) applies, the property and assets of the Bank, wherever they may be located and by whomsoever they may be held, are immune from suit and legal process in respect of all forms of seizure, attachment, sequestration, execution, requisition, inhibition, confiscation, expropriation, freezing, taking or foreclosure by executive, judicial or legislative action.

(**a**) https://www.bis.org/about/statutes-en.pdf

Inviolability of premises and archives

5.—(1) The premises of the BISIH London Centre have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

(2) Permission to enter the premises of the BISIH London Centre may be granted by—

(a) the General Manager of the Bank;

(b) the Deputy General Manager of the Bank;

(c) the Head of the BISIH London Centre; or

(d) a person—

(i) authorised by a person listed in sub-paragraph (a), (b), or (c) to act as their representative; and

(ii) in respect of whom the Bank has notified the Secretary of State as acting in that capacity.

(3) The premises of the BISIH London Centre may be entered without permission granted under paragraph (2) in connection with any emergency requiring prompt protective action.

(4) Any person who enters the premises of the BISIH London Centre must leave the premises immediately if requested to by any person listed in paragraph (2).

(5) In this article, "premises" means the land, buildings, or parts of buildings in the United Kingdom, made available to, maintained, occupied or used by the BISIH London Centre in order to carry out the Bank's official activities.

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

(7) In this article, "the archives of the Bank" means all correspondence, papers, documents, manuscripts, photographs, films, recordings, computer programmes, video tapes, discs and data, including in electronic form, or held in any other media belonging to or held by the Bank and all the information contained therein.

Exemption from restriction on import or export of publications, data or data media

6.—(1) The Bank is exempt from any restrictions on the importation of any publication, any type of data or any type of data media imported for use pursuant to its official activities.

(2) The Bank is exempt from any restrictions on the exportation of any of its publications, any type of data or any type of data media.

Taxes, rates, duties etc.

7.—(1) Within the scope of its official activities, the Bank is exempt from all direct taxes on its assets, property, income, gains, operations and transactions, except where the tax is charged for specific public services rendered.

(2) The Bank is not liable for the collection or payment of any tax, duty (whether customs or excise) or rate.

Relief on VAT on purchased goods of a substantial value

8. The Bank has relief by way of refund of value added tax paid on the purchase of any goods or services of substantial value and which are necessary for the exercise of its official activities.

Insurance premium tax relief

9. The Bank has relief by way of refund of insurance premium tax, paid by the Bank in the course of activities which are necessary for the exercise of its official activities.

Relief on VAT and customs duty on imported hydrocarbon oil

10. The Bank has relief 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(**a**)) or value added tax paid on the importation of such oil which is purchased in the United Kingdom and is used for the Bank's official activities.

Customs treatment

11.—(1) The Bank is exempt from duties (whether of customs or excise), taxes and other levies on all goods imported or exported by the Bank used pursuant to its official activities.

(2) The Bank is exempt from any obligation for the payment, withholding or collection of any customs or excise duty.

Social security and welfare

12.—(1) Where the Bank establishes or joins a social security scheme in respect of protected members of staff the Bank is exempt from the requirements of any enactment relating to social security, including enactments in force in Northern Ireland or Scotland in, relation to those members of staff.

(2) In this article, a "protected member of staff" is—

(a) a member of staff appointed to the BISIH London Centre; or

(b) a secondee.

Members of the board of directors and staff of the Bank and secondees

13.—(1) A person connected with the Bank has the following immunities—

(a) immunity from suit and legal process in respect of things done, or omitted to be done, while carrying out any official activities of the Bank;

(b) the like exemption and privileges in respect of their official baggage as, in accordance with the 1961 Convention Articles, are accorded to a diplomatic agent; and

(c) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of all official papers, documents, data and data media.

(2) The immunity granted under paragraph (1)(a) continues to apply to the person after they cease to be a person connected with the Bank.

(3) In addition to the immunities granted under paragraph (1), any person who is the General Manager of the Bank, the Deputy General Manager of the Bank, a member of staff of the Bank or a secondee—

(a) is exempt from tax of any kind on the salaries and emoluments, except pensions or annuities, paid by the Bank (but such salaries or emoluments may be taken into account by the Commissioners for Her Majesty's Revenue and Customs, for the purpose of taxation to be applied to income from other sources); and

(b) enjoys exemptions whereby, for the purposes of the requirements of any enactment relating to social security, including enactments in force in Northern Ireland or Scotland—

(i) services rendered for the Bank by the person are deemed excepted from any class of employment in respect of which contributions or premiums under those enactments are payable; but

(**a**) 1979 c. 5; to which there are amendments not relevant to this Order. For the definition of "hydrocarbon oil" see section 1.

(ii) the person may not be rendered liable to pay any contribution or premium which the person would not be required to pay if those services were not deemed to be so excepted.

(4) A person who is a member of staff appointed to the BISIH London Centre or a secondee—

(a) is exempt from public service of any kind, except serving on a jury; and

(b) is exempt from duties (whether customs of excise) and taxes on the importation of articles (except payments for services) in respect of import of their furniture and personal effects (including one motor vehicle), provided such importation takes place within six months of the time of first taking up their post with the BISIH London Centre.

(5) A person who ceases to be a member of staff appointed to the BISIH London Centre, or a secondee, is exempt from duties (whether customs or excise) and taxes on the exportation of articles (except payments for services) in respect of export of their furniture and personal effects.

(6) Paragraph (3)(b) does not apply to a person who is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or any person who at the time of taking up their functions with the Bank is a permanent resident of the United Kingdom.

(7) Paragraphs (1)(b), (3)(a), (4)(a) and (b) and (5) do not apply to a member of staff appointed to the BISIH London centre or secondee who is a British Citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or any person who at the time of taking up their functions with the Bank is a permanent resident of the United Kingdom.

(8) In this article, "person connected with the Bank" means—

(a) a member of the board of directors of the Bank;

(b) the General Manager of the Bank;

(c) the Deputy General Manager of the Bank;

(d) a member of staff of the Bank;

(e) a secondee; or

(f) a representative of a central bank or monetary authority which is a member of the Bank.

Experts

14.—(1) Experts have the following immunities—

(a) immunity from suit and legal process in respect of things done, or omitted to be done in connection with the official activities of the Bank;

(b) while carrying out any official activities of the Bank, the like inviolability in respect of official papers, documents, data and data media as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent.

(2) The immunity granted under paragraph (1)(a) continues to apply to a person after they cease to be engaged as an expert by the Bank.

Power to waive in relation to the board of directors, members of staff, secondees and experts

15.—(1) The chairman of the Bank's board of directors may waive any immunity granted under this Order to—

(a) a member of the board of directors of the Bank;

(b) the General Manager of the Bank;

(c) the Deputy General Manager of the Bank; or

(d) a representative of a central bank or monetary authority which is a member of the Bank.

(2) The General Manager of the Bank may waive any immunity granted under this Order to—

(a) a member of staff of the Bank;

(b) a secondee; or

(c) an expert.

General exception from immunity in case of road traffic accidents

16. No immunity conferred on a person by this Order applies in relation to—

(a) a civil action brought against the person by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated by or on behalf of, the person; or

(b) a road traffic offence.

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 Bank for International Settlements and certain of its officers, members of staff, secondees and experts. These privileges and immunities are conferred in accordance with a Host Country Agreement (CP 368) which has been negotiated between Her Majesty's Government and the Bank. It will enable Her Majesty's Government to give effect to that Agreement.

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