EXPLANATORY MEMORANDUM TO

THE EUROPEAN ORGANIZATION FOR ASTRONOMICAL RESEARCH IN THE SOUTHERN HEMISPHERE AND THE EUROPEAN SPACE AGENCY (IMMUNITIES AND PRIVILEGES) (AMENDMENT) ORDER 2023

2023 No. [XXXX]

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 His Majesty.

2. Purpose of the instrument

2.1 The Instrument amends the European Space Agency (Immunities And Privileges) (Amendment) Order 2018 ("2018 Order") to correctly reflect the privileges and immunities set out in the agreement between the European Space Agency and the United Kingdom Concerning the European Space Agency's Sites and Facilities in the United Kingdom ("the Headquarters Agreement") and thus implementing correctly those Treaty obligations into UK domestic law.

2.2 The Instrument confers privileges and immunities on the European Space Agency and accords certain privileges and immunities to certain European Space Agency officials.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

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

5. European Convention on Human Rights

5.1 Parliamentary Under-Secretary of State David Rutley has made the following statement regarding Human Rights:

"In my view the provisions of the European Space Agency (Immunities and Privileges) (Amendment) Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 1 of the International Organisations Act 1968 (c. 48) allows His Majesty by Order in Council to specify an organisation of which the United Kingdom and other sovereign Powers are members, to confer on the organisation the legal capacities of a body corporate, and to confer on the organisation and persons connected with it certain privileges and immunities.

7. Policy background

What is being done and why?

7.1 It is important that the European Space Agency (ESA) has a solid presence within the United Kingdom with an identity that is aligned with the strengths of the United Kingdom space sector. The ESA presence at Harwell strengthens the 'UK Space Gateway' that comprises the Satellite Application Catapult, Rutherford Appleton Laboratory and the existing (smaller scale) ESA office and business incubation centre. A wider, already acknowledged, benefit of this cluster is that it is attracting businesses and research organisations to locate near to the cluster to enable them to easily access facilities, services and funding that the cluster offers.

7.2 To support this the UK agreed the Headquarters Agreement with the European Space Agency in Harwell in 2013. This facility is an expansion of the ECSAT facility in Harwell. However, the 2018 Order which was brought in to implement obligations arising under the Headquarters Agreement, contained errors. Because of these errors, the Headquarters Agreement was not brought into force in 2018. Therefore only those privileges and immunities included in the original The European Space Agency (Immunities And Privileges) Order 1978 ("the 1978 Order") are actually in force.

Explanations

What did any law do before the changes to be made by this instrument?

7.3 The 1978 Order implemented domestically the relevant provisions of the 1975 Convention for the Establishment of a European Space Agency in the UK. The 2018 order did not correctly implement the 2013 Headquarters Agreement.

Why is it being changed?

7.4 The 2018 Order is being changed in order to fully reflect the provisions of the Headquarters Agreement.

What will it now do?

7.5 It will bring the provisions of UK domestic law into line with the Headquarters Agreement and thus ensure that the UK is meeting its international Treaty obligations.

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 external consultation was undertaken as the instrument corrects the error in the implementation of an already agreed Treaty. The Instrument implements provisions of an international agreement to which the United Kingdom is obliged to give effect as a matter of international law.

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 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact on the public sector, business, charities or voluntary bodies.

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 is not time limited and there is no requirement to monitor its implementation. Officials at the Foreign, Commonwealth and Development Office and UK Space Agency will monitor the implementation of the Agreement on an ongoing and informal basis.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Alex Wareham at the Foreign, Commonwealth and Development Office Email: Protocol.DMIOUIntOrgs@fcdo.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jeremy Pilmore-Bedford, Deputy Director Protocol at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Parliamentary Under-Secretary of State David Rutley at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.