**EXPLANATORY MEMORANDUM TO**

# THE EUROPEAN ORGANIZATION FOR ASTRONOMICAL RESEARCH IN THE SOUTHERN HEMISPHERE (IMMUNITIES AND PRIVILEGES) (AMENDMENT) ORDER 2017

**2017 No. [XXXX]**

## 1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 This Order amends the European Organization for Astronomical Research in the Southern Hemisphere (Immunities and Privileges) Order 2009 (S.I. 2009/1748) ("the principal Order") to confer limited privileges and immunities on those officers of the European Organization for Astronomical Research in the Southern Hemisphere ("the Organization") who have British nationality.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 The principal Order gives effect to the Protocol on the privileges and immunities of the Organization (Cm 8516) ("the Protocol"). Articles 15 and 16 of the principal Order confer privileges and immunities on high officers and all other officers of the Organization respectively. The provisions in the Protocol applying privileges and immunities to officers with British nationality were inadvertently omitted from the principal Order. The Department regrets this omission and this Order will be issued free of charge to all known recipients of S.I. 2009/1748.

***Other matters of interest to the House of Commons***

3.2 The Protocol provides that all officers should be exempted from social security schemes, but this exemption can be conferred by Order under the International Organisations Act 1968 on high officers only. The Depositary for the Protocol has confirmed it will accept a late reservation from the UK in respect of social security exemptions for other officers.

## 4. Legislative Context

4.1 Section 1 of the International Organisations Act 1968 ("the 1968 Act") allows Her Majesty, by Order in Council, to confer on an international organisation, of which the United Kingdom (and any other sovereign Power) is a member, the legal capacities of a body corporate and to grant certain immunities and privileges to the international organisation and its officers and employees.

4.2 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.

## 5. Extent and Territorial Application

5.1 This Order applies to the whole of the UK, but some provisions do not extend to, or apply in, Scotland. A separate Scottish Order in Council has been prepared to deal with those provisions within the legislative competence of the Scottish Parliament and will be laid before the Scottish Parliament.

## 6. European Convention on Human Rights

6.1 The Minister of State at the Foreign and Commonwealth Office, Rt Hon Sir Alan Duncan KCMG MP, has made the following statement regarding Human Rights:

In my view the provisions of the European Organization for Astronomical Research in the Southern Hemisphere (Immunities and Privileges) (Amendment) Order 2017 are compatible with the Convention rights.

## 7. Policy background

***What is being done and why***

7.1 The principal Order gives effect to the Protocol. The provisions in the Protocol for officers with a form of British nationality were inadvertently omitted from the principal Order. This Order gives effect to those of the provisions for officers with a form of British nationality which are permissible under the International Organisations Act 1968.

7.2 This Order also clarifies the territorial extent and application of the principal Order with reference to matters devolved to Scottish Ministers.

***Consolidation***

7.3 The Foreign and Commonwealth Office will keep the need for consolidation under review.

## 8. Consultation outcome

8.1 No external consultation was undertaken as this Order implements the provisions of an international agreement to which the UK is obliged to give effect as a matter of international law.

## 9. Guidance

9.1 No guidance will be issued.

## 10. Impact

10.1 There is no impact on business, charities or voluntary bodies in the United Kingdom.

10.2 There is no impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

## 12. Monitoring & review

12.1 As this Order makes a technical amendment to the principal Order, no specific monitoring or review is considered necessary. The principal Order will be reviewed and amended as appropriate following any modifications to the Protocol by States parties.

## 13. Contact

13.1 Verity Robson at the Foreign and Commonwealth Office can answer any queries regarding the instrument, by telephone (020 7008 1154) or email (verity.robson@fco.gov.uk).