Draft Order laid before Parliament under section 10(1) of the International Organisations Act 1968, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No. ***

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Inter-American Investment Corporation (Immunities and Privileges) Order 2022

Made - - - - 2022

Coming into force in accordance with article 1(2)

At the Court at [Windsor Castle], the *** day of *** 2022

Present,

The King's Most Excellent Majesty in Council

In accordance with section 10(1) of the International Organisations Act 1968(**a**), a draft of this Order was laid before, and approved by a resolution of, each House of Parliament.

Accordingly, His Majesty, in exercise of the powers conferred on Him by section 1 of that Act(**b**), is pleased, by and with the advice of His Privy Council, to order as follows:

PART 1

General

Citation and commencement

1.—(1) This Order may be cited as the Inter-American Investment Corporation (Immunities and Privileges) Order 2022.

(2) It comes into force on the day on which the United Kingdom becomes a member of the Corporation(**c**).

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

(**b**) Section 1 was amended by section 1 of the International Organisations Act 1981 (c. 9) and S.I. 2005/3542.

(**c**) The United Kingdom will become a member of the Corporation in accordance with Article XI(1)(c) 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.

Extent and application

2.—(1) Subject to paragraph (2), this Order extends to the whole of the United Kingdom.

(2) Article 9 (relief on payment of non-domestic rates) extends to England and Wales and Northern Ireland only(**a**).

(3) In Scotland—

(a) articles 6 (immunity of the Corporation), 7 (archives and premises), 11 (exemption of restrictions on imports and exports) and 15 (persons connected with the Corporation) 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 8 (exemption from taxes) 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 (reserved matters) to the Scotland Act 1998)(**b**).

Interpretation

3. In this Order—

"the Act" means the International Organisations Act 1968;

"the Agreement" means the Agreement establishing the Inter-American Investment Corporation done at the city of Washington, District of Columbia, United States of America on 19th November 1984(**c**);

"the Corporation" means the Inter-American Investment Corporation established by the Agreement;

"member of the Corporation" means a member in accordance with Article II or Article XI of the Agreement;

"official activities" means activities of the Corporation undertaken pursuant to the Agreement, including administrative activities;

"official purposes" means the purposes of the Corporation pursuant to the Agreement;

"official use" means for the use of the Corporation pursuant to the Agreement;

"person connected with the Corporation" means a Governor, Executive Director, Alternate, other officer or employee of the Corporation, but does not include a person referred to in section 1(6)(b) of the Act;

"premises of the Corporation" means the land, buildings and parts of buildings used by the Corporation for its official activities.

PART 2

The Corporation

The Corporation

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

Legal personality

5. The Corporation has the legal capacities of a body corporate.

(**a**) The setting of non-domestic rates is within the legislative competence of the Scottish Parliament by exemption to Section A1 of Schedule 5 to the Scotland Act 1998, as amended by section 23(5) of the Scotland Act 2012.
(**b**) 1998 c. 46.
(**c**) Cm. 9659.

PART 3

Immunities, privileges, reliefs and exemptions

Immunity of the Corporation

6.—(1) Subject to paragraph (2), within the scope of its official activities the Corporation has immunity from suit and legal process.

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

(a) established an office;

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

(c) issued or guaranteed securities.

(3) The property and assets of the Corporation, wherever located and by whomever held, are immune from suit and legal process, in respect of—

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

(b) search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive or legislative action.

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

Archives and premises

7. The official archives and premises of the Corporation 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.

Exemption from taxes

8. Within the scope of its official activities, the Corporation—

(a) is exempt from all taxation (other than duties, whether of customs or excise, and taxes on the importation of goods) on its assets, property, income, operations and transactions; and

(b) enjoys the exemptions and reliefs set out in articles 9 to 14.

Relief on payment of non-domestic rates

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

Customs treatment

10. The Corporation is exempt from duties (whether of customs or excise) and taxes on the importation of goods or publications of the Corporation imported by or on behalf of the Corporation for its official use in the United Kingdom, subject to compliance with such conditions as the Commissioners for His Majesty's Revenue and Customs may prescribe for the protection of the Revenue.

(**a**) The definition of "the 1961 Convention Articles" is in section 11 of the Act.

Exemption of restrictions on imports and exports

11. The Corporation is exempt from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Corporation for its official use and in the case of any of the Corporation's publications imported or exported by the Corporation.

Relief on VAT and customs duty on imported hydrocarbon oil

12. The Corporation has relief under arrangements made by the Commissioners for His Majesty's Revenue and Customs by way of refund of—

(a) duty (whether of customs or excise) paid on imported hydrocarbon oil within the meaning of the Hydrocarbon Oil Duties Act 1979(**a**)), or

(b) value added tax paid on the importation of such oil,

which is brought into the United Kingdom for its official use, and subject to such conditions as may be imposed in accordance with the arrangements.

Relief on VAT on car tax and supply of goods and services

13. The Corporation has relief under arrangements made by the Secretary of State, by way of refund of—

(a) car tax paid on any vehicle used for its official purposes, and

(b) value added tax paid on the supply of any goods or services which are supplied for its official purposes,

subject to such conditions as may be imposed by the arrangements.

Insurance premium tax relief

14. The Corporation has relief by way of refund of insurance premium tax paid by the Corporation in exercise of its official activities.

Persons connected with the Corporation

15.—(1) A person connected with the Corporation enjoys immunity from suit and legal process in respect of things done, or omitted to be done, in the course of the performance by that person of their functions within the scope of official activities.

(2) A person connected with the Corporation is exempt from income tax in respect of emoluments paid to that person by the Corporation.

(3) Paragraph (2) does not apply to a person who is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person.

(4) Part 4 (privileges and immunities of official staffs and of families of representatives, high officers and official staffs) of Schedule 1 (privileges and immunities) to the Act does not apply to this Order.

Waiver

16. The Corporation may waive any of the immunities, privileges, reliefs and exemptions conferred by this Part to such extent and upon such conditions as it may determine.

(**a**) 1979 c. 5.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers legal capacity on and grants immunities and privileges to the Inter-American Investment Corporation and its officers and employees.

The Order gives effect to the Agreement establishing the Inter-American Investment Corporation done at the city of Washington, District of Columbia, United States of America on 19th November 1984 (Cm. 9659).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen.

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