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

2023 No. 0000

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The International Criminal Police Organisation (Immunities and Privileges) Order 2023

Made - - - - ***

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the *** day of *** 2023

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, is pleased, by and with the advice of His Privy Council, to order as follows:

PART 1

General

Citation, commencement, extent and application

1.—(1) This Order may be cited as the International Criminal Police Organisation (Immunities and Privileges) Order 2023.

(2) This Order comes into force on the day on which the Agreement enters into force for the United Kingdom or, if later, on the day after the day on which it is made.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

(4) In Scotland, articles 4 to 18 of this Order do not apply in so far as they would, if included in an Act of Scottish Parliament, be within the legislative competence of that Parliament.

(**a**) 1968 c. 48. Section 1 was amended by the International Organisations Act 1981 (c. 9), section 1(1); and by the Civil Partnership Act 2004 (International Immunities and Privileges, Companies and Adoption) Order 2005 (S.I. 2005/3542), article 2(1).

Interpretation

2.—(1) In this Order—

"Agreement" means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Criminal Police Organization – INTERPOL on the Privileges and Immunities of INTERPOL on the Territory of the United Kingdom of Great Britain and Northern Ireland(**a**);

"the Constitution" means the Constitution of the International Criminal Police Organisation adopted by the General Assembly at its 25th Session in Vienna, 1956(**b**);

"the International Criminal Police Organisation" or "the Organisation" means the organisation entitled the International Criminal Police Organization – INTERPOL in accordance with article 1 of the Constitution;

"INTERPOL officials" means the Secretary General, persons seconded to the Organisation by a Member Country, and persons under contract employed by the Organisation;

"Official Activities" of the Organisation includes all activities undertaken pursuant to the Constitution and all activities appropriate to fulfil the aims of the Organisation under article 2 of the Constitution;

"Requesting Country" means a country which has submitted a request for membership of the Organisation to the Secretary General pursuant to article 4 of the Constitution, provided that the request has been added by the Executive Committee to the provisional agenda of the General Assembly.

(2) For the purposes of this Order, the following terms have the meaning they have in the Constitution—

"Adviser";

"Commission for the Control of Files";

"Executive Committee";

"General Assembly";

"Member Country";

"National Central Bureau";

"Secretary General".

PART 2

The Organisation

Membership of the Organisation

3. The International Criminal Police Organisation is an organisation of which the United Kingdom and other sovereign Powers are members.

Legal personality

4. The Organisation has the legal capacities of a body corporate.

(**a**) CP820, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1145313/MS_3.2023_UK_Interpol_Agreement_Privileges_Immunities.pdf.

(**b**) Available at https://www.interpol.int/en/content/download/590/file/01%20E%20CONSTITUTION%2011%202021.pdf.

PART 3

Immunities, privileges, reliefs and exemptions of the Organisation

Immunity from jurisdiction

5.—(1) Within the scope of its Official Activities, the Organisation has immunity from suit and legal process.

(2) Paragraph (1) does not apply in the case of—

(a) a road traffic offence involving a motor vehicle belonging to the Organisation or operated on its behalf, or

(b) a civil claim for damages resulting from an accident caused by a motor vehicle belonging to the Organisation or operated on its behalf.

(3) The property, funds and assets of the Organisation, wheresoever located in the United Kingdom and by whomsoever held, are immune from suit and legal process in respect of all forms of seizure, confiscation, requisition, expropriation or other interference by executive, administrative, judicial or legislative action.

Inviolability of premises

6.—(1) The premises of the Organisation have the like inviolability as, in accordance with the 1961 Convention Articles(**a**), is accorded in respect of the premises of a diplomatic mission.

(2) Any person having the authority to enter any place under any legal provision shall not exercise that authority in respect of the premises of the Organisation unless permission to do so has been given by the Secretary General or by another designated person acting on behalf of the Secretary General.

(3) For the purpose of paragraph (2), permission may be presumed in the event of an uncontrolled fire or other similar disaster which immediately threatens public safety and requires prompt protective action, for the limited purpose of taking such protective action as may be necessary to remove the immediate threat to public safety.

(4) In this article, the "premises of the Organisation" means the land, buildings and parts of buildings in the United Kingdom used by the Organisation on a permanent or temporary basis in order to carry out its Official Activities.

Inviolability of archives

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

(2) In this article, the "archives of the Organisation" means all records, 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 Organisation where related to its Official Activities and all information contained therein.

Taxes, rates, duties etc.

8.—(1) Within the scope of its Official Activities, the Organisation is exempt from all direct taxation on its assets, property, income, gains, operations and transactions, except for the proportion of any business rates charged for specific public services rendered.

(2) The Organisation shall have relief under arrangements made by the Secretary of State by way of refund on car tax paid on any vehicles which are used for the Official Activities of the

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(**a**) Section 11(1) of the International Organisations Act 1968 defines "the 1961 Convention Articles" as 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.

Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

(3) The Organisation shall have relief under arrangements made by the Secretary of State by way of refund on value added tax paid on the purchase of any goods or services which are of substantial value and which are used for the Official Activities of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

(4) The Organisation shall have relief by way of refund on insurance premium tax paid in the course of activities which are necessary for the exercise of the Official Activities of the Organisation.

(5) The Organisation shall have relief under arrangements made by the Commissioners of His 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(**a**)) or value added tax paid on the importation of such oil which is purchased in the United Kingdom and which is used for the Official Activities of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

Customs treatment

9.—(1) The Organisation is exempt from duties (whether of customs or excise) and taxes on the importation of—

(a) goods imported by the Organisation for its Official Activities, and

(b) publications of the Organisation.

(2) The Organisation is exempt from all prohibitions and restrictions on the importation or exportation of—

(a) goods imported or exported by the Organisation for its Official Activities, and

(b) publications of the Organisation.

(3) This article does not apply in respect of firearms.

PART 4

Immunities, privileges, reliefs and exemptions of representatives, officials etc.

Members of an INTERPOL body

10.—(1) A member of an INTERPOL body has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

(a) subject to paragraph (2), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents;

(c) immunity from inspection or seizure of their official baggage, and their personal baggage shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than those for the official use of the Organisation or their personal use, or articles the import or export of which is prohibited by law or controlled by the enactments relating to quarantine.

(2) The immunity granted under paragraph (1)(a) continues to apply to the person after they cease to be a member of an INTERPOL body.

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

(3) In this article, "member of an INTERPOL body" means—

(a) a member of the Executive Committee,

(b) a member of the Commission for the Control of Files, or

(c) an Adviser.

Representatives of a Member Country or a Requesting Country

11.—(1) A representative of a Member Country or a Requesting Country, who has been notified to the Secretary of State, has the following privileges and immunities while participating in Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

(a) subject to paragraph (2), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents;

(c) immunity from inspection or seizure of their official baggage, and their personal baggage shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than those for the official use of the Organisation or their personal use, or articles the import or export of which is prohibited by law or controlled by the enactments relating to quarantine.

(2) The immunity granted under paragraph (1)(a) continues to apply to the person after they cease to be the representative of a Member Country or Requesting Country (as the case may be).

(3) This article does not apply to a representative of the United Kingdom.

INTERPOL officials

12.—(1) An INTERPOL official has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

(a) subject to paragraph (2), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents;

(c) exemption from income tax on the salaries, indemnities and other emoluments, except pensions and annuities, paid to them by the Organisation.

(2) The immunity granted under paragraph (1)(a) continues to apply to the person after they cease to be an INTERPOL official.

(3) In addition to the privileges and immunities granted under paragraph (1), the Secretary General has the following privileges and immunities—

(a) the like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates (including being liable to pay anything in respect of council tax), other than duties (whether of customs or excise) and taxes on the importation of goods, as, in accordance with the 1961 Convention Articles, are accorded to or in respect of the head of a diplomatic mission;

(b) the like exemption and privileges in respect of their personal baggage as, in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent.

INTERPOL officials stationed in the United Kingdom

13.—(1) In addition to the privileges and immunities granted under article 12, an INTERPOL official stationed in the United Kingdom is exempt from duties (whether customs or 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 in the United Kingdom.

(2) The exemption granted under paragraph (1) is subject to the conditions governing the disposal of goods imported into the United Kingdom duty-free and to any general restrictions on the importation of goods.

(3) For the purposes of the enactments relating to social security, including enactments in force in Northern Ireland—

(a) services rendered for the Organisation by a relevant official is deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but

(b) no person is to be rendered liable to pay any contribution or premium which that person would not be required to pay if those services were not deemed to be so excepted.

(4) A relevant official is not entitled to any benefits paid by domestic social security bodies for so long as they enjoy the exemption referred to in paragraph (3).

(5) In this article—

"INTERPOL official stationed in the United Kingdom" means an INTERPOL official who—

(a) has been appointed to a post within the Organisation,

(b) has been notified to the Secretary of State prior to taking up that post,

(c) is regularly performing their functions in the United Kingdom in accordance with their letter of appointment or letter of approval of secondment, and

(d) is physically resident in the United Kingdom for 183 days or more in a tax year;

"relevant official" means an INTERPOL official stationed in the United Kingdom other than a person who has been seconded to the Organisation by the United Kingdom.

INTERPOL statutory meetings

14.—(1) This article applies where an INTERPOL statutory meeting is held in the United Kingdom.

(2) In addition to the privileges and immunities granted under article 10 or article 11, a person to whom paragraph (3) applies has, while carrying out or participating in Official Activities and throughout their journey to or from the place where the INTERPOL statutory meeting is held, immunity from personal arrest and detention, except when found committing, attempting to commit or just having committed an offence.

(3) This paragraph applies to—

(a) a member of the Executive Committee,

(b) a member of the Commission for the Control of Files,

(c) an Adviser,

(d) a representative of a Member Country who has been notified to the Secretary of State, and

(e) a representative of a Requesting Country who has been notified to the Secretary of State.

(4) A relevant participant has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where the INTERPOL statutory meeting is held—

(a) subject to paragraph (5), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity in connection with Official Activities;

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

(5) The immunity granted under paragraph (4)(a) continues to apply to the person after the relevant INTERPOL statutory meeting has ended, irrespective whether they continue to be a servant of the Organisation or a person serving under the Organisation as an expert or as a person engaged on a mission for the Organisation (as the case may be).

(6) In this article—

"INTERPOL statutory meeting" means—

(a) a session of the General Assembly or Executive Committee,

(b) a Regional Conference,

(c) a Heads of National Central Bureau Conference, and

(d) any other meeting of a body, or subsidiary body, of the Organisation which is held in accordance with the Constitution;

"relevant participant" means a servant of the Organisation, or other person serving under the Organisation as an expert or as a person engaged on a mission for the Organisation, who—

(a) is not a person mentioned in article 10, article 11 or article 12,

(b) is attending an INTERPOL statutory meeting in the United Kingdom, and

(c) has been notified to the Secretary of State.

Road traffic offences etc.

15.—(1) No immunity conferred on a person by a relevant provision of this Part applies in relation to—

(a) a road traffic offence committed by the person, or

(b) 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, the person.

(2) In this article, a "relevant provision of this Part" means—

(a) article 10(1)(a) (functional immunity of members of an INTERPOL body),

(b) article 11(1)(a) (functional immunity of representatives of a Member Country or a Requesting Country),

(c) article 12(1)(a) (functional immunity of INTERPOL officials), or

(d) article 14(4)(a) (functional immunity of relevant participants in INTERPOL statutory meetings).

British nationals and permanent residents

16. The privileges and immunities referred to in the following provisions do not apply to a person if that person is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or a permanent resident of the United Kingdom—

(a) article 12(1)(c) (income tax privilege of INTERPOL officials);

(b) article 12(3) (additional privileges and immunities of the Secretary General);

(c) article 13(1) (import privileges of INTERPOL officials stationed in the United Kingdom);

(d) article 14(2) (immunity from personal arrest and detention).

Disapplication in respect of official staff or family members

17. Part 4 of Schedule 1 to the International Organisations Act 1968 does not operate so as to confer any privilege or immunity on—

(a) a member of the official staff of any person granted privileges and immunities under this Part,

(b) a member of the family of any person granted privileges and immunities under this Part, or

(c) a member of the family of a member of the official staff of any person granted privileges and immunities under this Part.

PART 5

Waiver

Waiver

18.—(1) The Organisation may waive any privilege or immunity granted under this Order, except any privilege or immunity granted to a representative of a Member Country or a Requesting Country under article 11 or article 14.

(2) The Member Country or Requesting Country (as the case may be) may waive any privilege or immunity granted to their representative under article 11 or 14.

(3) Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Criminal Police Organization – INTERPOL on the Privileges and Immunities of INTERPOL on the Territory of the United Kingdom of Great Britain and Northern Ireland (CP 820) ("the Agreement").

This Order confers legal capacity on INTERPOL. It grants privileges and immunities to INTERPOL and to certain officials, experts and members of INTERPOL bodies, as well as to representatives of Member or Requesting Countries.

The Agreement and the Constitution of INTERPOL are available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1145313/MS_3.2023_UK_Interpol_Agreement_Privileges_Immunities.pdf and https://www.interpol.int/en/content/download/590/file/01%20E%20CONSTITUTION%2011%20 2021.pdf respectively; copies can also be obtained on request from the Foreign, Commonwealth and Development Office, King Charles Street, London, SWIA 2AH.

An Impact Assessment has not been prepared for this Order as no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.

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