POLICY NOTE

THE INTERNATIONAL ORGANISATIONS (IMMUNITIES AND PRIVILEGES) (SCOTLAND) AMENDMENT ORDER 2025

SSI 2025/

The above instrument was made in exercise of the powers conferred by section 1 of the International Organisations Act 1968 and all other powers enabling His Majesty to do so. The instrument is subject to affirmative – order in council procedure.

Summary Box

The purpose of this instrument is primarily twofold. Firstly, to amend the International Organisations (Immunities and Privileges) (Scotland) Order 2009 ("the 2009 Order") by adding a new schedule 21 to confer privileges and immunities in accordance with the Host Country Agreement between the Government of the United Kingdom and the European Forest Institute.
Secondly, to add a new schedule 22 to confer privileges and immunities in accordance with the Convention between the Government of the Italian Republic, the Government of Japan and the Government of the United Kingdom establishing the Global Combat Air Programme International Government Organisation.

Additionally, the Order amends paragraph 7(5) of schedule 15 of the 2009 Order to correct an erroneous cross-reference.

This Order deals only with those matters which are within the legislative competence of the Scottish Parliament.

Policy Objectives

European Forest Institute ("EFI")

1. The UK Government has entered into a treaty ("the Agreement") with the EFI in order to provide the EFI with the privileges and immunities necessary for it to function effectively within the UK. In particular, the Agreement obliges the UK to grant certain privileges and immunities to the EFI including immunity from jurisdiction within the scope of its official activities and inviolability of its premises and archives; and to grant certain privileges and immunities to EFI staff members and affiliated persons. The Agreement provides for exceptions to immunity in respect of road traffic offences and accidents.

2. The UK Government is taking forward an Order in Council to implement the Host Country Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the European Forest Institute into domestic law in the UK.

3. This Order takes forward equivalent action for those matters which are within the legislative competence of the Scottish Parliament.

Global Combat Air Programme International Government Organisation ("GIGO")

4. In December 2022, the Prime Ministers of UK, Japan and Italy launched the Global Combat Air Programme (GCAP) to deliver a next generation aircraft by 2035. The signing of the

GCAP Convention between the partners took place in December 2023 and was conducted by the respective Defence Secretaries of the three nations. The GIGO will function as the executive body with the legal capacity to place contracts with industrial partners engaged in the GCAP. The GIGO HQ will be based in the UK, employing personnel from the UK, Italy and Japan.

5. This Order in Council forms part of the secondary legislation needed to establish the GIGO. It ensures the relevant privileges and immunities are in place for the GIGO, its representatives and employees for those matters which are within the legislative competence of the Scottish Parliament. The Order provides for exceptions to immunity in respect of road traffic offences and accidents.

Corrective Action

6. This Order amends paragraph 7(5) of schedule 15 of the 2009 Order to correct an erroneous cross-reference contained within the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2024 (SSI 2024/158).

7. This meets the undertaking given to the Delegated Powers and Law Reform Committee to take corrective action in relation to SSI 2024/158. The cross-reference in paragraph 7(5) should not include a reference to head (c). The effect of this incorrect cross-reference is that SSI 2024/158 when amending the 2009 Order omitted to provide for a Director General of the European Organisation for Astronomical Research in the Southern Hemisphere, or a person acting in their place, who has a form of British nationality to benefit from exemptions relating to devolved social security set out in SSI 2024/158. This Order corrects this so that exemptions relating to devolved social security apply to such persons.

Scotland Act

8. Under the Scotland Act 1998, international relations (including relations with international organisations) is reserved to the UK Parliament. However, to the extent that the UK's obligations in respect of international organisations fall within devolved competence – for instance, conferral of immunity from criminal and civil proceedings, and relief from local and devolved taxes – the making of orders under section 1 of the 1968 Act to meet those obligations is subject to procedure in the Scottish Parliament, given the terms of paragraph 7(2) of Part I of schedule 5 of the Scotland Act 1998, under which the observance and implementation of international obligations is a devolved matter.

9. The effect of section 118(4) of the Scotland Act 1998 is that a power to make an Order in Council in a pre-commencement enactment (i.e. an Act preceding the Scotland Act 1998) which is exercisable within devolved competence must be approved by a resolution of the Scottish Parliament rather than the UK Parliament. Consequently, Orders in Council made by His Majesty under section 1 of the 1968 Act, so far as they are within devolved competence, are subject to approval by the Scottish Parliament.

EU Alignment Consideration

10. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

11. The instrument has been prepared in consultation with the Foreign, Commonwealth and Development Office and other relevant United Kingdom Government Departments. No

external consultation was undertaken as this Order implements provisions of an international agreement to which the United Kingdom is obliged to give effect as a matter of international law. This is consistent with the general practice on Orders made under the 1968 Act.

Impact Assessments

12. No impact assessment has been completed as there is no effect on people other than those to whom the UK Government has afforded privileges and immunities.

Financial Effects

13. The Cabinet Secretary for Justice and Home Affairs confirms that no Business and Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate
December 2024