EXPLANATORY MEMORANDUM TO

THE EUROPEAN ORGANIZATION FOR ASTRONOMICAL RESEARCH IN THE SOUTHERN HEMISPHERE (IMMUNITIES AND PRIVILEGES) ORDER 2009

2009 No. 1748

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The United Kingdom signed on 21 May 2002 an Agreement concerning the Accession to the Convention establishing a European Organization for Astronomical Research in the Southern Hemisphere and Related Terms and Conditions ("the Agreement") published as a Treaty Series No 42 (2002) (Cm 5616). The Agreement obliges the United Kingdom to abide by the terms of the instruments of the European Organization for Astronomical Research in the Southern Hemisphere ("the Organization"), including the Multilateral Protocol on privileges and immunities of the European Organization for Astronomical Research in the Southern Hemisphere; and to confer legal capacity and privileges and immunities on specified categories of individuals connected with the Organization: -

(i) representatives of the State Parties (other than British citizens or permanent residents);
(ii) the Director-General of the Organization (other than British citizens or permanent residents); and
(iii) other officials of the Organization (other than British citizens or permanent residents).

2.2 The draft Order confers legal capacity and privileges and immunities on the Organization; and confers privileges and immunities on the categories of individuals referred to in paragraph 2.1.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 It is proposed that the above Order should be made under section 1 of the International Organisations Act 1968 ("the 1968 Act"). Section 10 of the 1968 Act provides that no recommendation shall be made to Her Majesty in Council to make an Order under any provision (other than section 6), unless a

draft has been laid before Parliament and approved by a resolution of each House.

4.2 The privileges and immunities conferred by the draft Order are no greater in extent than those required by the Protocol to enable the Organization and specified individuals connected with the Organization to function effectively.

4.3 Article 1 of the draft Order provides that it will come into force on the date after the day on which the Order is made.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom. In its extent to Scotland it applies only so far as it relates to a reserved matter within the meaning of section 29(2)(b) of the Scotland Act 1998.

6. European Convention of Human Rights

6.1 A Minister will make the following statement regarding Human Rights:

In their view the provisions of the European Organization for Astronomical Research in the Southern Hemisphere (Immunities and Privileges) Order 2009 are compatible with the Convention rights.

7. Policy Background

7.1 The Organization was created in 1962 and has currently 14 member states. Whilst the Headquarters (comprising the scientific, technical and administrative centre of the Organization) are located in Garching near Munich, Germany, the Organization operates, in addition to the Santiago Centre, three observational sites in the Chilean Atacama desert.

7.2 The United Kingdom joined the Organization on the 1 July 2002.

7.3 The Organization is the pre-eminent intergovernmental science and technology organisation in astronomy. It carries out an ambitious programme focused on the design, construction and operation of powerful ground-based observing facilities for astronomy to enable important scientific discoveries. International efforts and collaboration are the only way that expensive research and equipment can carry forward.

7.4 The annual member state contributions to the Organization are approximately 135 million Euros and the Organization employs around 700 staff members. The UK funded £22M Euros in 2008.

7.5 Since the Organization is based in Germany, and is unlikely to move to the United Kingdom, the practical implications of the Protocol for the United Kingdom are limited.

7.6 UK implementation of the Protocol is unlikely to be controversial. Little public or media interest is envisaged.

8. Consultation outcome

8.1 There has been no public consultation on this Order. This is consistent with the general practice on Orders made under the International Organisations Act 1968.

9. Guidance

9.1 No guidance will be published.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has little or no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This Order is not time limited. Monitoring of the implementation of this Order is not intended.

13. Contact

Syed Abidi at the Foreign and Commonwealth Office [Tel: 020 7008 0397 or e-mail: <syed.abidi@fco.gov.uk>] can answer any queries regarding the instrument.