STATUTORY INSTRUMENTS

2024 No. 988

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Global Combat Air Programme International Government Organisation (Immunities and Privileges) Order 2024

Made - - - - 2nd October 2024

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 2nd day of October 2024

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 Global Combat Air Programme International Government Organisation (Immunities and Privileges) Order 2024.

(2) This Order comes into force on the day on which the Convention 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 3 to 15 of this Order 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.

(**a**) 1968 c. 48. Section 1 was amended by the International Organisations Act 1981 (c. 9), section 1(1); and by S.I. 2005/3542.

Interpretation

2.—(1) In this Order—

"the Chief Executive" means the Chief Executive referred to in Article 14(1) of the Convention;

"classified information" has the same meaning as in Article 52(3) of the Convention;

"the Convention" means the Convention on the Establishment of the "Global Combat Air Programme - GCAP International Government Organisation" signed on 14 December 2023(**a**);

"the Directors" means the Directors of the GCAP Agency referred to in Article 14(2) of the Convention;

"GCAP" has the same meaning as in Article 1(2) of the Convention;

"the GCAP Agency" means the agency of the GIGO referred to in Article 3(1)(b) of the Convention;

"the GIGO" means the GCAP International Government Organisation established by Article 1(1) of the Convention;

"member of Agency Personnel" means a person who has a written arrangement with the GCAP Agency to work directly for it in accordance with Article 15(2) of the Convention;

"Official Activities" in relation to the GIGO means the activities that the GIGO undertakes pursuant to the Convention, including any administrative activities in support of those activities;

"premises of the GIGO" means any land, building or part of a building in the United Kingdom occupied by the GIGO on a permanent or temporary basis as specified in an arrangement or notification referred to in Article 10(2) of the Convention;

"representative of a Party" means—

(a) a member of the Steering Committee;

(b) a member of a subordinate committee established by the Steering Committee; or

(c) an individual designated by a Party as a national auditor pursuant to the Convention; and

"the Steering Committee" means the committee of the GIGO referred to in Article 3(1)(a) of the Convention.

(2) For the purposes of this Order, "the Parties" or "a Party" have the meaning they have in the Convention.

PART 2

The GIGO

Membership of the GIGO

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

(**a**) CP 1101, available at https://assets.publishing.service.gov.uk/media/657b1171095987001295e109/GIGO_treaty.pdf.

Legal personality

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

PART 3

Immunities, privileges, reliefs and exemptions of the GIGO

Immunity of the GIGO

5.—(1) The GIGO has immunity from suit and legal process.

(2) Paragraph (1) does not apply in the following cases—

(a) a dispute arising out of a contract with the GIGO that does not provide for arbitration or an alternative binding mechanism of dispute resolution;

(b) a counterclaim or application directly connected with court proceedings initiated by the GIGO;

(c) a road traffic offence involving a motor vehicle or other mode of transport belonging to, or operated on behalf of, the GIGO; or

(d) a civil action brought against the GIGO by a third party for damages, resulting from an accident caused by a motor vehicle or other mode of transport belonging to, or operated on behalf of, the GIGO.

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

Inviolability of premises

6.—(1) The premises of the GIGO 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) Subject to paragraphs (3) and (4), any person having the authority to enter any place under any legal provision must not exercise that authority in respect of the premises of the GIGO except with the consent, or at the request, of the Chief Executive.

(3) The consent or request referred to in paragraph (2) may be subject to compliance with such conditions as may be imposed by the Chief Executive.

(4) For the purpose of paragraph (2), permission may be presumed in the event of a fire or other emergency that requires prompt protective action, or where a public authority has reason to believe that such a fire or other emergency has occurred, or is about to occur, in the premises of the GIGO.

Inviolability of archives

7.—(1) The archives of the GIGO 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 GIGO" includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the GIGO and all the information contained therein.

(**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.

Taxes, rates, duties and customs treatment

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

(2) The GIGO is exempt from duties (whether of customs or excise) and taxes on the importation of goods imported by the GIGO for its Official Activities.

(3) The GIGO is exempt from all prohibitions and restrictions on the importation or exportation of goods imported or exported by the GIGO for its Official Activities.

(4) The GIGO 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 by the GIGO for its Official Activities, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART 4

Immunities, privileges, reliefs and exemptions of representatives and agency personnel

Representatives of the Parties

9.—(1) A representative of a Party has the following privileges and immunities while exercising their functions and throughout their journey to and from where a meeting is held by the GIGO—

(a) immunity from personal arrest or detention;

(b) immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity; and

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

(2) The immunity granted under sub-paragraph (1)(b) continues to apply to the person after they cease to be a representative of a Party.

(3) This article does not apply to any person as the representative of the United Kingdom, or of His Majesty's Government in the United Kingdom.

Agency Personnel

10.—(1) A member of Agency Personnel has the following privileges and immunities—

(a) 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 in respect of salaries and emoluments paid to them by the GIGO;

(d) exemption 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, provided such importation takes place within six months of the time when they first enter the United Kingdom to take up their post as a member of Agency Personnel.

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

Social security and welfare

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

(a) services rendered for the GIGO by a member of Agency Personnel 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 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.

(2) Paragraph (1) applies to a member of the family forming part of the household of the Agency Personnel unless they are employed or self-employed in the United Kingdom or otherwise entitled to benefits paid by domestic social security bodies of the United Kingdom.

(3) A member of Agency Personnel is not entitled to any benefits paid by domestic social security bodies for so long as they enjoy the exemption referred to in paragraph (1).

Road traffic offences etc.

12.—(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 or other mode of transport belonging to, or operated by, the person.

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

(a) article 9(1)(b) (the immunity of a Representative of a Party from suit and legal process); or

(b) article 10(1)(a) (the immunity of a member of Agency Personnel from suit and legal process).

British nationals and permanent residents

13. 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 9(1) (privileges and immunities of a Representative of a Party);

(b) article 10(1)(a) (the immunity of a member of Agency Personnel from suit and legal process) in respect of an offence relating to the disclosure, release, dissemination, sharing or provision of access to classified information;

(c) article 10(1)(c) (exemption from any taxation on salaries and emoluments of a member of Agency Personnel);

(d) article 10(1)(d) (exemption from custom duties and taxes on imports of furniture and personal effects of a member of Agency Personnel);

(e) article 11(1) (social security exceptions for a member of Agency Personnel);

(f) article 11(2) (social security exceptions for members of the family forming part of the household of a member of Agency Personnel).

Disapplication in respect of official staff or family members

14. Part 4 of Schedule 1 to the International Organisations Act 1968 does not operate so as to confer any privileges 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

15.—(1) Subject to paragraph (4), the Chief Executive may waive any privilege or immunity granted under this Order—

(a) under Part 3, or

(b) in relation to a member of Agency Personnel or a member of their family forming part of their household, or both.

(2) The Steering Committee may waive any privilege or immunity granted under this Order in relation to—

(a) the Chief Executive, or

(b) the Directors.

(3) A Party may waive any privilege or immunity granted under this Order in relation to a representative of that Party.

(4) For the purposes of paragraph (1)(a) waiver of immunity from suit and legal process in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of judgment, for which a separate waiver by the Steering Committee shall be necessary.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order in Council)

This Order gives effect to the Convention between the Government of the Italian Republic, the Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland ("the Parties") establishing the Global Combat Air Programme International Government Organisation signed on 14 December 2023 (CP 1101) ("the Convention").

The Order confers legal capacity on the GCAP International Government Organisation ("the GIGO"). It grants privileges and immunities to the GIGO, to representatives of the Parties and to personnel working for the GIGO.

The Convention is available online at https://assets.publishing.service.gov.uk/media/657b1171095987001295e109/GIGO_treaty.pdf. Copies can also be obtained on request from the Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 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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