STATUTORY INSTRUMENTS

1968 No. 1862

DIPLOMATIC AND INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968

Laid before Parliament in draft

Made - - - - 22*nd November* 1968

Coming into Operation *On a date to be notified in the London Gazette* *

At the Court at Buckingham Palace, the 22nd day of November 1968

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968(a) (hereinafter referred to as the Act) and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 1, 2 and 12(6) of the Act or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

THE ORGANISATION

1. The Inter-Governmental Maritime Consultative Organisation (hereinafter referred to as the Organisation) is an Organisation of which the United Kingdom and foreign sovereign Powers are members.

2. The Organisation shall have the legal capacities of a body corporate and, except in so far as in any particular case it has expressly waived its immunity, immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution.

3. The Organisation shall have the like inviolability of official archives and premises as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

4. The Organisation shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

(a) 1968 c. 48.

* Date notified 28.11.68

5. The Organisation shall have the like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

6. The Organisation shall have exemption from customs duties and taxes on the importation of goods imported by the Organisation for its official use in the United Kingdom, or on the importation of any publications of the Organisation imported by it, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

7. The Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation for its official use and in the case of any publications of the Organisation imported or exported by it.

8. The Organisation shall have relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952(**a**)) which are bought in the United Kingdom and used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

9. The Organisation shall have relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART II

REPRESENTATIVES

10.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member whom they represent, representatives of members of the Organisation on any of its organs at meetings convened by it shall enjoy:—

(*a*) in respect of words spoken or written and all acts done or omitted to be done by them in their official capacity, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(*b*) while exercising their functions and during their journeys to and from the place of meeting, the like immunity from personal arrest or detention and the like inviolability for all papers and documents as is accorded to the head of a diplomatic mission;

(*c*) while exercising their functions and during their journeys to and from the place of meeting, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Where the incidence of any form of taxation depends upon residence, any period during which representatives of members of the Organisation on any of its organs at meetings convened by it are present in the United Kingdom for the exercise of their functions shall, for the purpose of determining their liability to taxation, be treated as not being a period of residence in the United Kingdom.

(**a**) 1952 c. 44.

(3) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives of members of the Organisation other than alternates, advisers, technical experts and secretaries of delegations.

(4) Neither the provisions of the preceding paragraphs of this Article nor those of Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative of Her Majesty's Government in the United Kingdom or as a member of the official staff of such a representative or on any person who is a citizen of the United Kingdom and Colonies.

(5) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives or on the families of members of their official staffs.

PART III

OFFICERS

High Officers

11. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of the Secretary-General of the Organisation, the Deputy Secretary-General (or, in the absence of both, any other official specially designated to act on behalf of the Secretary-General) and the Secretary of the Maritime Safety Committee:—

(*a*) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission;

(*b*) the like exemption from customs duties and taxes on the importation of articles imported for their personal use or the use of members of their families forming part of their households, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

(*c*) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent;

(*d*) relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952 which are bought in the United Kingdom by them or on their behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that the provisions of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

Senior Officers

12.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of any officer of the Organisation (other than the officers referred to in Article 11) who is recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent:—

(*a*) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent;

(*b*) the exemptions, privileges and reliefs specified in Article 11 (*b*), (*c*) and (*d*) of this Order;

(*c*) in the event of his death, exemptions from—

(i) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred, and

(ii) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965**(a)** in relation to any such movable property, are included in the gains accruing to that officer in the year of assessment in which he died;

provided that the provisions of this paragraph shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

(2) There shall be accorded in respect of a member of the family forming part of the household of such an officer as is mentioned above, unless the member is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom, the exemptions listed in paragraph (1)(*c*) of this Article.

All Officers

13. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, all officers of the Organisation with the exception of those who are recruited locally and assigned to hourly rates of pay shall enjoy:—

(*a*) immunity from suit and legal process in respect of words spoken or written and all acts done or omitted to be done by them in the course of the performance of their official duties;

(*b*) exemption from income tax in respect of emoluments received by them as officers of the Organisation;

(*c*) the like exemption from customs duties and taxes on the importation of articles which—

(i) at or about the time when the officer first enters the United Kingdom as an officer of the Organisation are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and

(ii) are articles which were in his ownership or possession or that of such a member of his family, or which he or such a member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

(*d*) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraph (*c*) of this Article were fulfilled, such exemption to be subject to compliance with such conditions as the Commis-

(a) 1965 c. 25.

sioners of Customs and Excise may prescribe for the protection of the Revenue:

(*e*) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967(**a**), the National Insurance (Industrial Injuries) Acts 1965 to 1967(**b**), any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

(i) services rendered by them for the Organisation shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but

(ii) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

PART IV

EXPERTS

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, experts (other than officers of the Organisation) serving on any committee of the Organisation or employed on missions on behalf of the Organisation shall, so far as is necessary for the effective exercise of their functions, enjoy:—

(*a*) in respect of words spoken or written and all acts done or omitted to be done by them in the performance of their official functions, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(*b*) while exercising their functions and during their journeys in connection with service on such committees or missions, the like immunity from personal arrest or detention and the like inviolability for all papers and documents relating to the work on which they are engaged for the Organisation as is accorded to the head of a diplomatic mission;

(*c*) while exercising their functions and during their journeys in connection with service on such committees or missions, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff or on families of experts to whom the provisions of paragraph (1) of this Article apply.

PART V

GENERAL

Interpretation

15.—(1) The Interpretation Act 1889(**c**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Order hereby revoked were Acts of Parliament.

(**a**) 1965 c. 51; 1966 c. 6; 1967 c. 73. (**b**) 1965 c. 52; 1967 c. 25.
(**c**) 1889 c. 63.

(2) In this Order "the 1961 Convention Articles" means 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(a).

Revocation

16. The Inter-governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1959(b) is hereby revoked.

Citation and Entry into Force

17. This Order may be cited as the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968. It shall come into operation on the date on which the Agreement between the Inter-Governmental Maritime Consultative Organisation and the Government of the United Kingdom of Great Britain and Northern Ireland regarding the Headquarters of the Organisation enters into force. This date shall be notified in the London Gazette.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order replaces the Inter-governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1959, and confers privileges and immunities upon the Inter-Governmental Maritime Consultative Organisation, its officers, representatives on its organs, and experts serving on committees of the Organisation or employed on missions on its behalf. These privileges and immunities are conferred in accordance with

(i) the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations (Cmnd. 855), as modified, in relation to the Organisation, by the revised Annex XII to that Convention approved by the Council of the Organisation on 16th May 1968 (Cmnd. 3776): the present Order will enable Her Majesty's Government to accept the revised Annex;

(ii) an Agreement which has been negotiated between the Government of the United Kingdom and the Inter-Governmental Maritime Consultative Organisation regarding the Headquarters of the Organisation (Cmnd. 3775): this Order will enable Her Majesty's Government to sign the Agreement.

(a) 1964 c. 81. (b) S.I. 1959/1296 (1959 I, p. 972).