STATUTORY INSTRUMENTS

2000 No. 1815

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The International Seabed Authority (Immunities and Privileges) Order 2000

Made - - - - - *12th July 2000*

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the 12th day of July 2000

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**) ("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 section 1 of the Act(**b**), 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

GENERAL

Citation and Entry into Force

1.—(1) This Order may be cited as the International Seabed Authority (Immunities and Privileges) Order 2000.

(2) It shall, with the exception of Article 14, come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the Protocol on the Privileges and Immunities of the International Seabed Authority(**c**) enters into force in respect of the United Kingdom.

(3) Article 14 shall come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the Enterprise operates independently of the Secretariat of the Authority.

(**a**) 1968 c. 48.
(**b**) As amended by section 1 of the International Organisations Act 1981 (c. 9).
(**c**) Cm. 4592.

Interpretation

2. In this Order:

(a) "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**);

(b) "Convention" means the United Nations Convention on the Law of the Sea of 10th December 1982(**b**);

(c) "Authority" means the International Seabed Authority established by the Convention;

(d) "Enterprise" means the organ of the Authority referred to in Article 158(2) and Article 170 of the Convention;

(e) "Representative" means a representative of a member of the Authority attending meetings of the Assembly, the Council or organs of the Assembly or Council.

3. The International Sea-Bed Authority (Immunities and Privileges) Order 1996(**c**) is hereby revoked.

PART II

THE AUTHORITY

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

5. The Authority (including the Enterprise) shall have the legal capacities of a body corporate.

6. The Authority, its property and assets shall enjoy immunity from suit and legal process, except to the extent that the Authority expressly waives this immunity in a particular case.

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

8. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorised by the Convention, shall have exemption from income tax, capital gains tax and corporation tax.

9. The Authority 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.

10. The Authority shall have exemption from customs duties and taxes on the importation of goods for its official use in the United Kingdom.

11. The Authority shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979(**d**)) or value added tax paid on the importation of such oil which is bought in the United Kingdom and used for the official purposes of the Authority, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Authority shall have relief, under arrangements made by the Secretary of State, by way of refund of value added tax paid on the purchase of new motor vehicles of United Kingdom manufacture and of value added tax on the supply of any goods or services which are used for the official purposes of the Authority, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. The Authority shall have relief, under arrangements made by the Secretary of State, by way of a refund of insurance premium tax and air passenger duty paid by the Authority in the exercise of its official activities.

(**a**) 1964 c. 81.
(**b**) Cmnd. 8941.
(**c**) S.I. 1996/270.
(**d**) 1979 c. 5.

PART III

THE ENTERPRISE

14. Articles 5 to 11 of this Order shall not apply to the Enterprise.

15. Except to the extent that the Enterprise shall have waived such immunity, the Enterprise shall have immunity from suit and legal process—

(a) where the Enterprise has no office in the United Kingdom, has not appointed any agent in the United Kingdom for the purpose of accepting service or notice of process, has not entered into a contract for goods or services in the United Kingdom, has not issued securities in the United Kingdom and has not otherwise engaged in commercial activity in the United Kingdom;

(b) in respect of all forms of seizure, attachment or execution before the delivery of final judgment against the Enterprise; and

(c) in respect of the requisition, confiscation, expropriation or any other form of seizure of property or assets of the Enterprise wherever located and by whomsoever held.

PART IV

REPRESENTATIVES

16.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Member which they represent, representatives of Members of the Authority shall enjoy:

(a) immunity from suit and legal process (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the exercise of their functions;

(b) while exercising their functions and during their journeys to and from the place of meeting the like inviolability for all their papers and documents as is accorded to a diplomatic agent; and

(c) while exercising their functions and during their journeys to and from the place of meeting the like immunity from personal arrest or detention and from seizure of their personal baggage as is 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—

(a) the official staff of a representative other than alternate representatives and advisers, or

(b) the family of a representative.

(3) Neither the preceding paragraphs of this Article nor 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 the United Kingdom or as a member of the official staff of such a representative or on any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British National (Overseas).

(4) Where the incidence of any form of taxation depends upon residence, a representative shall not be deemed to be resident in the United Kingdom during any period when he is present in the United Kingdom for the discharge of his duties.

PART V

OFFICIALS

High Officials

17.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Assembly of the Authority in the case of the Secretary-General, or by the Secretary-General, in the case of the Director-General of the Enterprise, the Secretary-General of the Authority or any official acting on his behalf during his absence from duty and the Director-General of the Enterprise shall enjoy:

(a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, 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 his personal use or the use of members of his family forming part of his household, including articles intended for his 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 his personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;

(d) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979) or value added tax paid on the importation of such oil which is bought in the United Kingdom by him or on his behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and

(e) exemptions whereby, for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland,—

(i) services rendered for the Authority by the officer shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but

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

(2) This Article shall not apply to any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British national (Overseas) or a permanent resident of the United Kingdom.

(3) Part IV of Schedule 1 of the Act shall not operate so as to confer any privilege or immunity on any member of the family of any officer to whom this Article applies other than his spouse and minor children.

(4) Paragraph 1(a) of this Article shall not apply to pensions and annuities paid by the Authority.

All Officials

18.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the Authority, or, in the case of the Secretary-General, by the Assembly of the Authority, officials of the Authority shall enjoy:

(a) immunity from suit and legal process and from personal arrest or detention in respect of acts, including words written or spoken, done by them in the exercise of their functions;

(b) exemption from income tax in respect of salaries and emoluments received by them as officials of the Authority;

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

(i) at or about the time when they first enter the United Kingdom to take up their

posts as officials of the Organisation are imported for their personal use or that of members of their families forming part of their households, including articles intended for their establishment, and

(ii) are articles which were in their ownership or possession or that of such members of their families, or which they or such members of their families were under contract to purchase, immediately before they 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; and

(d) 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, as if in that paragraph the reference to paragraph 1 of the Article were a reference to paragraph 1(c) of this Article.

(2) Paragraph 1(b) of this Article shall not apply to pensions and annuities paid by the Authority.

PART VI

EXPERTS PERFORMING MISSIONS

19.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General of the Authority, experts (other than officials of the Authority) performing missions on behalf of the Authority shall enjoy:

(a) immunity from suit and legal process (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the exercise of their functions;

(b) during the period of their missions, including during journeys made in connection with service on such missions, the like immunity from personal arrest or detention and the like inviolability for all papers and documents as is accorded to a diplomatic agent; and

(c) unless they are British citizens, British Dependent Territories citizens, British Overseas citizens or British Nationals (Overseas), exemption from income tax in respect of salaries and emoluments received by them from the Authority.

(2) Paragraph 1(c) of this Article shall not apply to pensions and annuities paid by the Authority.

A K Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities on the International Seabed Authority, its officials, representatives of its Members and experts performing missions for it, and on the Enterprise, an organ of the Authority. These privileges and immunities are conferred in accordance with the United Nations Convention on the Law of the Sea (Cmnd. 8941) and the Protocol on the Privileges and Immunities of the International Seabed Authority (Cm. 4592). The Order will enable Her Majesty's Government to give effect to that Convention and the Protocol and will come into force, with the exception of Article 14, on the date on which the Protocol enters into force in respect of the United Kingdom. Article 14 will come into force when the Enterprise operates independently of the Secretariat of the Authority.

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