

2008 No. 3124

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The International Organization for Migration (Immunities and Privileges) Order 2008

Made - - - - - *10th December 2008*

Coming into force - - - - - *11th December 2008*

At the Court at Buckingham Palace, the 10th day of December 2008

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by section 1 of the International Organisations Act 1968 ("the Act") (a).

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 10 of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is ordered, as follows: —

PART I

GENERAL

1. This Order may be cited as the International Organization for Migration (Immunities and Privileges) Order 2008. It shall come into force on the day after the day on which it is made.

2. In this Order—

"the Act" means the International Organisations Act 1968;

"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 (b);

"Member" means a State which is a member of the International Organization for Migration;

"the Organisation" means the International Organization for Migration.

(a) 1968 c.48; section 1 was amended by the International Organisations Act 1981 (c.9), section 1, and SI 2005/3542, article 2(1).
(b) 1964 c.81.

PART II

THE ORGANISATION

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

4. 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, shall enjoy immunity from suit and legal process.

5. 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.

6. Within the scope of its official activities the Organisation, its property, income and assets shall be exempt from Income Tax, Corporation Tax and Capital Gains Tax.

7.—(1) The Organisation shall have—

- (a) relief, under arrangements made either by the Secretary of State or by the Commissioners for Her Majesty's Revenue and Customs, by way of refund of duty (whether of customs or excise) paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979 (a)) 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 Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;
- (b) relief, under arrangements made by the Secretary of State, by way of refund of value added tax paid on the supply of any goods and services of substantial value which are necessary 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;
- (c) exemption from duties (whether of customs or excise) and taxes on the importation of goods by the Organisation for its official use in the United Kingdom, such exemption to be subject to compliance with such conditions as the Commissioners for Her Majesty's Revenue and Customs may prescribe for the protection of the Revenue;
- (d) exemption from prohibitions and restrictions on importation or exportation of goods by the Organisation for its official use, except where the prohibitions or restrictions arise from European Community law.

(2) No exemption or relief shall be granted for duties, taxes or other charges of any kind which only constitute remuneration for services rendered.

PART III

REPRESENTATIVES

8.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Member which they represent, representatives of Members at the meetings of the Organisation shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting—

- (a) the like immunity from personal arrest or detention as is accorded to the head of a diplomatic mission;

(a) 1979 c.5.

- (b) 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; and
- (c) immunity from suit and legal process, even after the termination of their mission, in respect of things done or omitted to be done in the course of the performance of official duties, except in the case of a motor traffic offence committed by a representative or in the case of damage caused by a motor vehicle belonging to or driven by him.

(2) This Article shall not operate so as to confer any privilege or immunity on any person as the representative of the United Kingdom or Her Majesty's Government in the United Kingdom, or as a member of the official staff of such a representative, and shall not apply to any person who is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National (Overseas) or a permanent resident of the United Kingdom.

PART III OFFICERS

High Officers

9.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Director-General of the Organisation, the Head of the London Office of the Organisation, shall enjoy—

- (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 duties (whether of customs or excise) 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 duties (whether of customs or excise) and taxes on the importation of articles imported for his personal use or the personal 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 either by the Secretary of State or the Commissioners for Her Majesty's Revenue and Customs, by way of refund of duty (whether of customs or excise) 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.

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

All Officers

10.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Director-General of the Organisation, all officers of the Organisation shall enjoy—

- (a) immunity from suit and legal process, even after the termination of their functions, in respect of things done or omitted to be done in the course of the performance of official duties; this immunity shall not apply, however, in the case of a motor traffic offence committed by an officer of the Organisation, nor in the case of damage caused by a motor vehicle belonging to or driven by an officer of the Organisation;

- (b) exemption from income tax in respect of emoluments received as an officer of the Organisation, from the date that an internal effective tax for the benefit of the Organisation is applied by the Organisation on such emoluments;
- (c) the like exemption from duties (whether of customs or excise) and taxes on the importation of articles which 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 which were in his ownership or possession or that of such a member of his family 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.

(2) Paragraph (1)(c) of this Article shall not apply to any person who is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National (Overseas) or a permanent resident of the United Kingdom.

Judith Simpson
Clerk to the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities upon the International Organization for Migration and its members of staff, and also confers the legal capacities of a body corporate on the Organisation. It also confers certain privileges and immunities upon representatives of Members of the Organisation attending its meetings. The privileges and immunities are conferred in accordance with the Co-operation Agreement between the International Organization for Migration and the Government of the United Kingdom of Great Britain and Northern Ireland. The Order will enable Her Majesty's Government to give effect to that Agreement. The Order will come into force on the day after the day on which it is made.

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