

*Draft Order in Council laid before Parliament under section 10(1) of the International Organisations Act 1968, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2017 No.**

**INTERNATIONAL IMMUNITIES  
AND PRIVILEGES**

**The Unified Patent Court (Immunities  
and Privileges) Order 2017**

*Made* - - - - *\*\*\*\**

*Coming into force in accordance with article 1(1)*

At the Court at Buckingham Palace, the *\*\*\** day of *\*\*\*\** *\*\*\*\**

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 1 and 5 of the International Organisations Act 1968 ("the Act")(1).

A draft of this Order has been approved by resolution of each House of Parliament pursuant to section 10(1) of the Act(2).

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

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(1) 1968 c.48. Section 1 was amended by section 1 of the International Organisations Act 1981 (c.9) and article 2 of the Civil Partnership Act 2004 (International Immunities and Privileges, Companies and Adoption) Order 2005 (S.I. 2005/3542).

(2) The function of approving a draft of an Order in Council under section 10 of the Act has been transferred from both Houses of Parliament to the Scottish Parliament under section 118 of the Scotland Act 1998 (c.46) (as amended by section 12 of the Scotland Act 2012 (c.11)) in so far as the function is exercisable within devolved competence.

## PART 1

### General

#### Citation, commencement, extent and application

1.—(1) This Order may be cited as the Unified Patent Court (Immunities and Privileges) Order 2017 and comes into force on the date on which the Protocol enters into force in accordance with Article 18 of the Protocol(3).

(2) The Order extends to the whole of the United Kingdom subject to paragraph (3).

(3) Article 9 extends to England and Wales and Northern Ireland only(4).

(4) In Scotland—

(a) articles 5, 6, 7, 11, 16, 17 and 18 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;

(b) article 8 does not apply to devolved taxes or local taxes to fund local authority expenditure (within the meaning of the exceptions to Section A1 (fiscal, economic and monetary policy) of Part 2 of Schedule 5 to the Scotland Act 1998(5).

#### Interpretation

2. In this Order—

“the Agreement” means the Agreement on a Unified Patent Court done in Brussels on 19th February 2013(6);

“Committee” means any of the Administrative Committee, the Budget Committee and the Advisory Committee established under Article 11 of the Agreement;

“the Court” means the Unified Patent Court established under Article 1 of the Agreement;

“Deputy-Registrar” means the Deputy-Registrar appointed under Article 25 of the Statute;

“Judge” means a Judge of the Court;

“official activities” in relation to the Court means the activities that are necessary for the purposes and functions conferred upon it by the Agreement and the Statute;

“premises of the Court” means land and buildings made available to the Court by a State party to the Agreement in accordance with Article 37 of the Agreement and used for the official activities of the Court;

“the Presidium” means the Presidium referred to in Article 15 of the Statute;

“the Protocol” means the Protocol on Privileges and Immunities of the Unified Patent Court done in Brussels on 29th June 2016(7);

“Registrar” means the Registrar appointed under Article 22 of the Statute;

“Staff” means all personnel employed by the Court as officials and other servants of the Court except the Judges, Registrar and Deputy-Registrar;

“State Party” means a State party to the Protocol; and

“the Statute” means the Statute of the Court as set out in Annex I of the Agreement.

(3) The date on which the Protocol enters into force in the United Kingdom will be published on the relevant page on UK Treaties Online which can be found at this link: <https://www.gov.uk/uk-treaties>.

(4) The setting of non-domestic rates is within the legislative competence of the Scottish Parliament by exemption to Section A1 of Schedule 5 of the Scotland Act 1998 c.46. Section A1 was amended by section 23(5) of the Scotland Act 2012 (c.11).

(5) 1998 c.46. Section A1 was amended by section 23(5) of the Scotland Act 2012 (c.11).

(6) Cm 8653.

(7) Cm 9405.

## PART 2

### The Court

3. The Court is an organisation of which the United Kingdom and other sovereign Powers are members.
4. The Court has the legal capacities of a body corporate.

## PART 3

### Immunities, privileges, reliefs and exemptions of the Court

- 5.—(1) Subject to paragraph (2), the Court has immunity from suit and legal process except to the extent that it expressly waives such immunity.
  - (2) The immunity of the Court under paragraph (1) does not apply in respect of—
    - (a) any civil action brought against it—
      - (i) with respect to contractual liability brought by persons other than the Judges, Registrar, Deputy-Registrar or the Staff of the Court;
      - (ii) with respect to non-contractual liability except where the claim is based on the performance of the Court’s jurisprudence; and
      - (iii) by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Court; or
    - (b) a motor traffic offence involving such a vehicle.
6. The official archives of the Court have the like inviolability as is accorded in respect of the official archives of a diplomatic mission in accordance with the 1961 Convention Articles.
- 7.—(1) Subject to paragraph (2), the premises of the Court have the like inviolability as is accorded in respect of the premises of a diplomatic mission in accordance with the 1961 Convention Articles.
  - (2) The inviolability of the premises of the Court does not apply to the extent that the Secretary of State is responsible for premises which have been made available to the Court by the Secretary of State.
8. Within the scope of its official activities, the Court is exempt from all direct taxation and enjoys the exemptions and reliefs set out in articles 9 to 14.
9. The Court has the like relief from non-domestic rates on the premises of the Court as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.
10. The Court is exempt from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the Court for its official use in the United Kingdom.
11. The Court is exempt from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Court for its official use.
12. The Court has relief, under arrangements made 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<sup>(8)</sup>) or value added

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(8) 1979 c.5.

tax paid on the importation of such oil which is bought in the United Kingdom and is used for its official purposes.

13. The Court has relief under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicle used for its official purposes and value added tax paid on the supply of any goods or services which are supplied for its official purposes.

14. The Court has relief by way of refund of insurance premium tax paid by the Court in exercise of its official activities.

15. The exemptions and relief granted in articles 10, 12 and 13 are 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.

## PART 4

### Representatives

16.—(1) Except in so far as in any particular case any immunity is waived by the Presidium of the Court, representatives of a State Party shall enjoy immunity from suit and legal process in respect of all acts performed by them while attending a meeting of a Committee in their official capacity.

(2) This article does not apply to a person who is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or any person who at the time of taking up their functions with the Court is a permanent resident of the United Kingdom.

## PART 5

### Judges, Registrar and Deputy-Registrar

17.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Presidium of the Court, the Judges, Registrar and Deputy-Registrar of the Court have the privileges and immunities in this article.

(2) They have immunity from suit and legal process.

(3) They are exempt from national taxes in respect of salaries, wages and emoluments paid to them by the Court (other than pensions and annuities) from the date on which the internal tax for the benefit of the Court on salaries, wages and emoluments is applied to them.

(4) They are exempt from duties (whether of customs or excise) and taxes on the importation of furniture and effects and the right to re-export free of duty on termination of their duties.

(5) They are exempt from duties (whether of customs or excise) and taxes on—

(a) the importation of a motor car for personal use, acquired either in the country of their last residence or in the country of which they are nationals; and

(b) the exportation of that motor car on termination of their duties,

subject to compliance with such conditions as the Commissioners for Her Majesty's Revenue and Customs may prescribe for the protection of the Revenue.

(6) From the date on which they are subject to a social security and health scheme established by the Court, with respect to services rendered for the Court, they are deemed to be excepted from any class of employment in respect of which contributions under enactments relating to social security (including enactments in force in Northern Ireland) are payable.

(7) In the event of the death of a Judge, Registrar or Deputy-Registrar, where their presence in the United Kingdom at that time is solely due to their capacity as a Judge, Registrar or Deputy-Registrar, they are exempt from estate duty leviable on death under the law of any part of the United Kingdom in respect of moveable property which is in the United Kingdom immediately before their death.

## PART 6

### The Staff

**18.**—(1) Except in so far as in any particular case any privilege or immunity is waived by the Presidium of the Court, the Staff of the Court have the privileges and immunities set out in this article.

(2) They have immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

(3) They are exempt from national taxes in respect of salaries, wages and emoluments paid to them by the Court (other than pensions and annuities) from the date on which the internal tax for the benefit of the Court on salaries, wages and emoluments is applied to them.

(4) From the date on which they are subject to a social security and health scheme established by the Court, with respect to services rendered for the Court, they are deemed to be excepted from any class of employment in respect of which contributions under enactments relating to social security (including enactments in force in Northern Ireland) are payable.

(5) Paragraphs (3) and (4) do not apply to a person who is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or any person who at the time of taking up their functions with the Court is a permanent resident of the United Kingdom.

*Name*  
Clerk of the Privy Council

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Unified Patent Court (Immunities and Privileges) Order 2018 (revoked) No. 184*

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order confers legal capacity and grants immunities and privileges on the Unified Patent Court and its representatives, Judges, Registrar, Deputy-Registrar and Staff.