

EXECUTIVE NOTE

DRAFT SSI: THE INTERNATIONAL ORGANISATIONS (IMMUNITIES AND PRIVILEGES) (SCOTLAND) AMENDMENT ORDER 2010 (S.S.I. 2010/)

The above instrument is proposed to be made in exercise of the powers conferred by **section 1(2)** of the **International Organisations Act 1968 (c.48)**. The instrument is subject to affirmative resolution procedure.

Policy Objectives

The main purpose of the instrument is to confer legal privileges and immunities, insofar as they are within the devolved competence of the Scottish Parliament, in relation to:

- foreign military or civilian staff seconded to European Union institutions deployed on UK soil in support of the command of EU operations or the conduct of training exercises: this is covered by Schedule 1 to the Order; and
- the European Organisation for Astronomical Research in the Southern Hemisphere (ESO) and on persons associated with it: this is covered by Schedule 2 to the Order.

These privileges and immunities are similar to those commonly referred to as “diplomatic immunity” as set out in the Vienna Convention on Diplomatic Relations 1961 and incorporated into UK law by the Diplomatic Privileges Act 1964, covering matters such as immunity from personal arrest and relief from local taxes (for example, council tax and non-domestic rates). Their precise nature and scope vary in each case in accordance with the requirements of the relevant international convention or agreement, and are set out in detail in the relevant Schedule. A summary of the subjects covered by the Order is set out below:

Foreign military or civilian staff seconded to EU institutions	This is in pursuance of the European Union Status of Forces Agreement that was signed by the UK in 2003 and which will come into force once it has been ratified by all EU Member States. The conferring of the privileges and immunities set out in the Order is part of the process to enable UK compliance with, and ratification of, the Agreement. Status of forces agreements establish the status of military and civilian personnel originating from one country when they are located in the territory of another country. They also provide for the status of military headquarters established in other countries. The status, privileges and immunities conferred on military and civilian personnel by the Order are no greater than those required by the Agreement or the established custom and practice, to enable the EU and specified individuals connected with its organisations to function effectively.
European Organisation for Astronomical Research in the Southern Hemisphere (ESO)	The making of this Order is part of the process of enabling the UK to accede to the Multilateral Protocol on Privileges and Immunities of the ESO. ESO is an intergovernmental science and technology organisation in astronomy. It is focused on the design, construction and operation of

powerful ground-based observing facilities for astronomy, and employs around 700 staff across the world. It was created in 1962 and currently has 14 member states, including the UK.

The Order confers these privileges and immunities by adding new Schedules to a similar Order that was made in 2009 (the International Organisations (Immunities and Privileges) (Scotland) Order 2009) (S.S.I. 2009/44).

The Order also amends the 2009 Order so as to confer on high and other officials of the UN Educational, Scientific and Cultural Organisation (UNESCO) protection from seizure of their personal baggage. The 2009 Order conferred a range of privileges and immunities under Scots law in relation to UNESCO, and the proposed change would bring those fully into line with those applicable to other specialised agencies of the UN.

Overall, these provisions are being made in order to help secure compliance by the United Kingdom with its international obligations and to enable the organisations and arrangements concerned to operate effectively. The privileges and immunities conferred by the instrument in respect of devolved matters reflect those that have been conferred in relation to these matters by related orders that have been considered by the UK Parliament as they relate to reserved matters.

Under the Scotland Act 1998, international relations (including relations with international organisations) are reserved to the Westminster Parliament. However, to the extent that the UK's obligations in respect of international organisations fall within devolved competence – for instance, conferral of immunity from criminal and civil proceedings, and relief from local taxes – the making of orders under section 1 of the 1968 Act to meet those obligations is subject to procedure in the Scottish Parliament.

Consultation

There has not been any public consultation by the Scottish Government on the instrument. The instrument has been prepared in consultation with the Foreign and Commonwealth Office and other relevant United Kingdom Government Departments.

Financial Effects

The instrument has no appreciable financial effects on the Scottish Government, local government or on business.

Scottish Government
February 2010