

POLICY NOTE

THE INTERNATIONAL ORGANISATIONS (IMMUNITIES AND PRIVILEGES) (SCOTLAND) AMENDMENT ORDER 2015

SSI 2015/XXX

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

Policy Objectives

The purpose of the instrument is to confer legal privileges and immunities on the Asian Infrastructure Investment Bank (the Bank), and on persons associated with the Bank, so far as this is within devolved competence of the Scottish Parliament.

The privileges and immunities conferred by the instrument in respect of devolved matters reflect those that have been conferred, or are in the course of being conferred, in relation to the Bank by a related order that is subject to consideration by the UK Parliament as it relates to reserved matters.

This is being done in order to help secure compliance by the United Kingdom with its international obligations and to enable the Bank to operate effectively.

Effect of Order

This Order will confer privileges and immunities on the Bank. The Order will afford the Bank immunity from suit and legal process. Where the Bank operates in the UK, the Bank's property and assets are immune from seizure and judgment. There can be no search or confiscation (etc.) of the Bank's property. The Bank's premises are inviolable, as that term is understood in the 1961 Convention Articles. These Articles are part of the Vienna Convention on Diplomatic Relations, and have the force of law in the UK by their incorporation in domestic law: Schedule 1 of the Diplomatic Privileges Act 1964.

Section 1 of the International Organisations Act 1968 empowers Her Majesty to make Orders in Council to confer legal personality and/or privileges and immunities on certain international organisations, representatives to those organisations, staff members and experts on missions.

Under the Scotland Act 1998, international relations (including relations with international organisations) is reserved to the Westminster Parliament. However, in terms of paragraph 7(2) of Part I of Schedule 5 to the Scotland Act 1998, observing and implementing international obligations is not reserved. The effect of section 118(4) of the Scotland Act is that a power to make an Order in Council in a pre-commencement enactment (i.e. an Act preceding the Scotland Act) which is exercisable within devolved competence must be approved by a resolution of the Scottish Parliament rather than the UK Parliament.

Consequently, Orders in Council made by Her Majesty under section 1 of the 1968 Act, so far as they are within devolved competence, are subject to approval by the Scottish Parliament.

Consultation

The instrument has been prepared in consultation with the Foreign and Commonwealth Office and other relevant United Kingdom Government Departments.

Impact Assessments

No equality impact assessment has been completed as there is no effect on people other than those to whom the UK Government has afforded privileges and immunities.

Financial Effects

The Cabinet Secretary for Justice confirms that no BRIA is necessary as no financial effects on the Scottish Government, local government or on business are foreseen.

Scottish Government
Justice Directorate
September 2015