

Draft Order laid before the Scottish Parliament under section 10(1) of the International Organisations Act 1968, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

**INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The International Organisations (Immunities and
Privileges) (Scotland) Amendment Order 2020**

Made - - - - 2020

Coming into force in accordance with article 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 section 1(2) of the International Organisations Act 1968(1) and all other powers enabling Her Majesty to do so.

In accordance with section 10(1) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(2).

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

Citation and commencement

1.—(1) This Order may be cited as the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2020.

(2) This Order comes into force on the later of—

(1) 1968 c.48. Section 1 was amended by the International Organisations Act 1981 (c.9) and S.I. 2005/3542.
(2) The function of approving a draft of an Order in Council under section 10 of that Act has transferred to the Scottish Parliament under section 118 of the Scotland Act 1998 (c.46) in so far as the function is exercisable within devolved competence. Section 118(4) of that Act provides that any reference in a pre-commencement enactment to a requirement for a draft instrument to be approved by either or both Houses of Parliament (as specified in section 118(2)) is to be taken to be, in relation to the exercise of a devolved function by a person other than a Minister of the Crown, a member of the Scottish Government or a Scottish public authority with mixed functions or no reserved functions, a reference to the Scottish Parliament. Section 118(4) accordingly includes the powers exercisable by Her Majesty in Council.

- (a) the day after the day on which it is made, or
- (b) the day on which the Convention establishing the Square Kilometre Array Observatory done in Rome on 12 March 2019⁽³⁾ enters into force in accordance with Article 19(2) of the Convention⁽⁴⁾.

Amendment of the International Organisations (Immunities and Privileges) (Scotland) Order 2009

2.—(1) The International Organisations (Immunities and Privileges) (Scotland) Order 2009⁽⁵⁾ is amended as follows.

(2) After schedule 17, insert schedule 18 (Square Kilometre Array Observatory) set out in the schedule of this Order.

Name
Clerk of the Privy Council

(3) CP154.

(4) The United Kingdom will become a member of the Observatory in accordance with Article 6(1) of the Convention when the Convention enters into force for the United Kingdom. The date on which the Convention enters into force for the United Kingdom will be published on the relevant page of UK Treaties Online which can be found at this link: <https://www.gov.uk/uk-treaties>.

(5) S.S.I. 2009/44, amended by S.S.I. 2010/186, S.S.I. 2015/421, S.S.I. 2017/431 and S.S.I. 2017/447.

SCHEDULE

Article 2

“SCHEDULE 18

Article 2

SQUARE KILOMETRE ARRAY OBSERVATORY

Interpretation

1. In this schedule—

“the 1961 Convention Articles” means the Articles (being certain of the Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in schedule 1 of the Diplomatic Privileges Act 1964⁽⁶⁾;

“the Convention” means the Convention establishing the Square Kilometre Array Observatory done in Rome on 12 March 2019⁽⁷⁾;

“the Council” means the governing body of the Observatory as established by Article 8 of the Convention;

“devolved and local taxes” means devolved taxes and local taxes to fund local authority expenditure (within the meaning of the exceptions to Section A1 (fiscal, economic and monetary policy) of Part II of schedule 5 of the Scotland Act 1998⁽⁸⁾);

“Director-General” means the Director-General of the Observatory;

“expert” means a person named by the Observatory as being in the service of the Observatory for a defined period of time;

“member of staff” means members of staff of, or secondees to, the Observatory;

“the Observatory” means the Square Kilometre Array Observatory established under the Convention;

“official activities” means all activities undertaken pursuant to the Convention including the Observatory’s administrative activities;

“official archives” means correspondence documents, manuscripts, photographs, films, recordings, computer and media data, data carriers and any other similar material belonging to or held by the Observatory and all the information contained therein; and

“premises of the Observatory” means sites, buildings and facilities or parts thereof, irrespective of ownership, that are occupied exclusively by the Observatory for the performance of its official activities.

Immunity of the Observatory

2. Within the scope of its official activities, the Observatory has immunity from suit and legal process, except—

(a) to the extent that, by a decision of the Council, the Observatory waives it in a particular case;

(b) in respect of a civil action by a third party or damage arising from an accident caused by a vehicle belonging to or operated on behalf of the Observatory or in respect of a traffic offence;

(c) in respect of an arbitration award made under Article 14 of the Convention;

⁽⁶⁾ 1964 c.81.

⁽⁷⁾ CP154.

⁽⁸⁾ 1998 c.46; the exception for devolved taxes was added by the Scotland Act 2012 (c.11), section 23(5).

- (d) in the event of an attachment order, pursuant to a decision by the administrative or judicial authorities, or the salaries, wages and emoluments owed by the Observatory to a member of staff; and
- (e) in respect of a counterclaim relating directly to a main claim brought by the Observatory.

Archives and premises

3. The official archives and premises of the Observatory has the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

Taxes

4.—(1) The Observatory—

- (a) has the like relief from non-domestic rates on the premises of the Observatory as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission; and
- (b) is otherwise, within the scope of its official activities, exempt from all devolved and local taxes.

(2) The exemptions and reliefs granted in this paragraph do not apply to the disposal or hiring out of goods acquired or imported in circumstances where their acquisition or importation benefitted from an exemption or relief under this paragraph or articles 7, 9, 10 or 11 of the Square Kilometre Array Observatory (Immunities and Privileges) Order 2020(9).

Privileges and immunities of members of staff including the Director-General

5.—(1) The Director-General and members of staff have the privileges and immunities set out in this paragraph except where, in the case of an immunity, it is waived—

- (a) in the case of the Director-General, by the Council, and
- (b) in the case of a member of staff, by the Director-General.

(2) The Director-General and members of staff 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, except in relation to road traffic offences and damage resulting from a vehicle driven by them.

(3) The Director-General and members of staff enjoy the like exemption and privileges in respect of their personal baggage, to the extent necessary to protect official papers and documents which relate to the exercise of their functions within the scope of the official activities of the Observatory as, in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent.

Privileges and immunities of representatives

6.—(1) A representative of a member of the Observatory has the privileges and immunities set out in this paragraph except where they are waived by the government of that member.

(2) A representative has immunity from suit and legal process in respect of things done by them or omitted to be done in the course of the performance of official duties, except in relation to road traffic offences and damage resulting from a vehicle driven by them.

(3) A representative enjoys the like exemption and privileges in respect of their personal baggage, to the extent necessary to protect official papers and documents which relate to the exercise of

(9) S.I. 2020/xxx.

their functions within the scope of the official activities of the Observatory as, in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent.

(4) Part IV of schedule 1 of the 1968 Act does not operate so as to confer any privilege or immunity on a member of the official staff of representatives of members of the Observatory other than designated delegates, alternates, advisers, and secretaries of delegations.

(5) Neither the provisions of this paragraph nor those of Part IV of schedule 1 of the 1968 Act operate so as to confer any privilege or immunity on any person as the representative of Her Majesty's Government in the United Kingdom or as a member of the official staff of such a representative.

(6) Part IV of schedule 1 of the 1968 Act does not operate so as to confer any privilege or immunity on families of representatives or on a member of the family or members of their official staffs.

Privileges and immunities of experts

7.—(1) An expert has the privileges and immunities set out in this paragraph except where they are waived by the Director-General.

(2) An expert enjoys the like exemption and privileges in respect of their personal baggage, to the extent necessary to protect official papers and documents which relate to the exercise of their functions within the scope of the official activities of the Observatory as, in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles, are accorded to a diplomatic agent.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the International Organisations (Immunities and Privileges) (Scotland) Order 2009 to confer immunities and privileges, insofar as they are within devolved competence, upon the Square Kilometre Array Observatory and its representatives, experts and members of staff.

The Order gives effect to the Articles of Annex A (Protocol on Privileges and Immunities of the Square Kilometre Array Observatory) of the Convention establishing the Square Kilometre Array Observatory done in Rome on 12 March 2019 (CP154). It should be read together with the Square Kilometre Array Observatory (Immunities and Privileges) Order 2020 (S.I. 2020/xxx) which confers additional immunities and privileges.