

2023 No. 208

INTERNATIONAL IMMUNITIES AND PRIVILEGES

**The International Organisations (Immunities and Privileges)
(Scotland) Amendment Order 2023**

Made - - - - - *19th July 2023*

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 19th day of July 2023

Present,

The King'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(a) ("the 1968 Act") and all other powers enabling His Majesty to do so.

In accordance with section 10(1) of the 1968 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(b).

Accordingly, His Majesty is pleased, by and with the advice of His 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 2023.

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

- (a) the day after the day on which it is made, or
- (b) the day on which the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Criminal Police Organization – INTERPOL on the Privileges and Immunities of INTERPOL on the Territory of the

(a) 1968 c. 48. Section 1 of that Act was amended by section 1 of the International Organisations Act 1981 (c. 9) and S.I. 2005/3542.

(b) 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 a reference to the Scottish Parliament, 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. Section 118(4) accordingly includes the powers exercisable by His Majesty in Council.

United Kingdom of Great Britain and Northern Ireland enters into force for the United Kingdom(a).

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

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

(2) After schedule 19 (Inter-American Investment Corporation), insert schedule 20 (International Criminal Police Organization) set out in the schedule of this Order.

Ceri King
Deputy Clerk of the Privy Council

(a) CP 820 – Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Criminal Police Organization - INTERPOL on the Privileges and Immunities of INTERPOL on the Territory of the United Kingdom of Great Britain and Northern Ireland (publishing.service.gov.uk). See Article 23 for the entry into force of the Agreement.

(b) S.S.I. 2009/44 as amended by S.S.I. 2010/186, S.S.I. 2015/421, S.S.I. 2017/431, S.S.I. 2017/447, S.S.I. 2020/322, S.S.I. 2021/69 and S.S.I. 2022/374.

“SCHEDULE 20
INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Interpretation**1.—(1)** In this schedule—

“Constitution of the Organisation” means the Constitution of the International Criminal Police Organization – INTERPOL adopted by the General Assembly at its 25th Session in Vienna, 1956^(a),

“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 2 of schedule 5 of the Scotland Act 1998),

“Official Activities” of the Organisation includes all activities undertaken pursuant to the Constitution of the Organisation and all activities appropriate to fulfil the aims of the Organisation under article 2 of that Constitution,

“INTERPOL officials” means the Secretary General, persons seconded to the Organisation by a Member Country, and persons under contract employed by the Organisation,

“the Organisation” means the International Criminal Police Organization - INTERPOL,

“Requesting Country” means a country which has submitted a request for membership of the Organisation to the Secretary General pursuant to article 4 of the Constitution of the Organisation, provided that the request has been added by the Executive Committee to the provisional agenda of the General Assembly,

“the 1961 Convention Articles” has the meaning given in section 11 of the International Organisations Act 1968.

(2) For the purposes of this schedule, the following terms have the meaning they have in the Constitution of the Organisation—

“Adviser”,

“Commission for the Control of Files”,

“Executive Committee”,

“General Assembly”,

“Member Country”,

“National Central Bureau”,

“Secretary General”.

Immunity from jurisdiction

2.—(1) Within the scope of its Official Activities, the Organisation has immunity from suit and legal process.

(2) Sub-paragraph (1) does not apply in the case of—

- (a) a road traffic offence involving a motor vehicle belonging to the Organisation or operated on its behalf, or

^(a) Available at <https://www.interpol.int/en/content/download/590/file/01%20E%20CONSTITUTION%2011%202021.pdf>.

(b) a civil claim for damages resulting from an accident caused by a motor vehicle belonging to the Organisation or operated on its behalf.

(3) The property, funds and assets of the Organisation, wherever located and by whomever held, are immune from suit and legal process in respect of all forms of seizure, confiscation, requisition, expropriation or other interference by executive, administrative, judicial or legislative action.

Inviolability of premises

3.—(1) The premises of the Organisation have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

(2) Any person having the authority to enter any place under any legal provision must not exercise that authority in respect of the premises of the Organisation unless permission to do so has been given by the Secretary General or by another designated person acting on behalf of the Secretary General.

(3) For the purpose of sub-paragraph (2), permission may be presumed in the event of an uncontrolled fire or other similar disaster which immediately threatens public safety and requires prompt protective action, for the limited purpose of taking such protective action as may be necessary to remove the immediate threat to public safety.

(4) In this paragraph, the “premises of the Organisation” means the land, buildings and parts of the buildings used by the Organisation on a permanent or temporary basis in order to carry out its Official Activities.

Inviolability of archives

4.—(1) The archives of the Organisation have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives of a diplomatic mission.

(2) In this paragraph, the “archives of the Organisation” means all records, correspondence, papers, documents, manuscripts, photographs, films, recordings, computer programmes, video tapes, discs and data, including in electronic form, or held in any other media, belonging to or held by the Organisation where related to its Official Activities and all information contained therein.

Exemption from devolved taxes

5. Within the scope of its Official Activities, the Organisation is exempt from all direct devolved and local taxes, on its assets, property, income, gains, operations and transactions except for the proportion of any non-domestic rates charged for specific public services rendered.

Customs treatment

6.—(1) The Organisation is exempt from all prohibitions and restrictions on the importation or exportation of goods imported or exported by the Organisation for its Official Activities and publications of the Organisation.

(2) Sub-paragraph (1) does not apply—

- (a) as respects the matters reserved by virtue of Section C5 (import and export control) of Part 2 of schedule 5 of the Scotland Act 1998(a), or
- (b) in respect of firearms.

(a) Section C5 was amended by S.I. 2000/3252 and S.I. 2014/1559.

Members of an INTERPOL body

7.—(1) A member of an INTERPOL body has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

- (a) subject to sub-paragraph (2), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity,
- (b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents,
- (c) immunity from inspection or seizure of their official baggage, and their personal baggage will be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than those for the official use of the Organisation or their personal use, or articles the import or export of which is prohibited by law or controlled by the enactments relating to quarantine.

(2) The immunity granted under sub-paragraph (1)(a) continues to apply to the person after they cease to be a member of an INTERPOL body.

(3) In this paragraph, “member of an INTERPOL body” means—

- (a) a member of the Executive Committee,
- (b) a member of the Commission for the Control of Files, or
- (c) an Adviser.

Representatives of a Member Country or a Requesting Country

8.—(1) A representative of a Member Country or a Requesting Country, who has been notified to the Secretary of State, has the following privileges and immunities while participating in Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

- (a) subject to sub-paragraph (2), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity,
- (b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents,
- (c) immunity from inspection or seizure of their official baggage, and their personal baggage will be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than those for the official use of the Organisation or their personal use, or articles the import or export of which is prohibited by law or controlled by the enactments relating to quarantine.

(2) The immunity granted under sub-paragraph (1)(a) continues to apply to the person after they cease to be the representative of a Member Country or Requesting Country (as the case may be).

(3) This paragraph does not apply to a representative of the United Kingdom.

INTERPOL Officials

9.—(1) An INTERPOL official has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where a meeting is held by the Organisation—

- (a) subject to sub-paragraphs (2) and (3), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity,
- (b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents,

- (c) exemption from income tax on the salaries, indemnities and other emoluments, except pensions and annuities, paid to them by the Organisation.

(2) Sub-paragraph (1)(c) does not apply as respects the matters reserved by virtue of Section A1 (fiscal, economic and monetary policy) of Part 2 of schedule 5 of the Scotland Act 1998).

(3) The immunity granted under sub-paragraph (1)(a) continues to apply to the person after they cease to be an INTERPOL official.

(4) In addition to the privileges and immunities granted under sub-paragraph (1), the Secretary General has the following privileges and immunities—

- (a) the like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from devolved and local taxes (including being liable to pay anything in respect of council tax) as in accordance with the 1961 Convention Articles, are accorded to or in respect of the head of a diplomatic mission.
- (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.

INTERPOL Officials stationed in the UK

10.—(1) Subject to sub-paragraph (3), in addition to the privileges and immunities granted under paragraph 9, an INTERPOL official stationed in the United Kingdom has the following privileges and immunities, for the purposes of the enactments relating to social security—

- (a) services rendered for the Organisation by a relevant official are deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but
- (b) no person is to be rendered liable to pay any contribution or premium which that person would not be required to pay if those services were not deemed to be so excepted.

(2) A relevant official is not entitled to any benefits paid by domestic social security bodies for so long as they enjoy the exemption referred to in sub-paragraph (1).

(3) This paragraph does not apply as respects the matters reserved by virtue of Head F (social security) of Part 2 of schedule 5 of the Scotland Act 1998.

(4) In this paragraph—

“INTERPOL official stationed in the United Kingdom” means an INTERPOL official who—

- (a) has been appointed to a post within the Organisation,
- (b) has been notified to the Secretary of State prior to taking up that post,
- (c) is regularly performing their functions in the United Kingdom in accordance with their letter of appointment or letter of approval of secondment, and
- (d) is physically resident in the United Kingdom for 183 days or more in a tax year,

“relevant official” means an INTERPOL official stationed in the United Kingdom other than a person who has been seconded to the Organisation by the United Kingdom.

INTERPOL statutory meetings

11.—(1) This paragraph applies where an INTERPOL statutory meeting is held in the United Kingdom.

(2) In addition to the privileges and immunities granted under paragraph 7 (members of an INTERPOL body) or paragraph 8 (representatives of a Member Country or a Requesting Country), a person to whom sub-paragraph (3) applies has, while carrying out or

participating in Official Activities and throughout their journey to or from the place where the INTERPOL statutory meeting is held, immunity from personal arrest and detention, except when found committing, attempting to commit or just having committed an offence.

(3) This sub-paragraph applies to—

- (a) a member of the Executive Committee,
- (b) a member of the Commission for the Control of Files,
- (c) an Adviser,
- (d) a representative of a Member Country who has been notified to the Secretary of State, and
- (e) a representative of a Requesting Country who has been notified to the Secretary of State.

(4) A relevant participant has the following privileges and immunities while carrying out Official Activities and throughout their journey to or from the place where the INTERPOL statutory meeting is held—

- (a) subject to sub-paragraph (5), immunity from suit and legal process in respect of words spoken or written and all acts performed by them in their official capacity in connection with Official Activities,
- (b) the like inviolability as, in accordance with the 1961 Convention Articles, is accorded to a diplomatic agent in respect of official papers and documents.

(5) The immunity granted under sub-paragraph (4)(a) continues to apply to the person after the relevant INTERPOL statutory meeting has ended, irrespective whether they continue to be a servant of the Organisation or a person serving under the Organisation as an expert or as a person engaged on a mission for the Organisation (as the case may be).

(6) In this paragraph—

“INTERPOL statutory meeting” means—

- (a) a session of the General Assembly or Executive Committee,
- (b) a Regional Conference,
- (c) a Heads of National Central Bureau Conference, and
- (d) any other meeting of a body, or subsidiary body, of the Organisation which is held in accordance with the Constitution of the Organisation,

“relevant participant” means a servant of the Organisation, or other person serving under the Organisation as an expert or as a person engaged on a mission for the Organisation, who—

- (a) is not a person mentioned in paragraph 7, 8 or 9,
- (b) is attending an INTERPOL statutory meeting in United Kingdom, and
- (c) has been notified to the Secretary of State.

Road traffic offences etc.

12.—(1) No immunity conferred on a person by a relevant provision of this schedule applies in relation to—

- (a) a road traffic offence committed by the person, or
- (b) a civil action brought against the person by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated by, the person.

(2) In this paragraph, a “relevant provision of this schedule” means—

- (a) paragraph 7(1)(a) (functional immunity of members of an INTERPOL body),
- (b) paragraph 8(1)(a) (functional immunity of representatives of a Member Country or a Requesting Country),

- (c) paragraph 9(1)(a) (functional immunity of INTERPOL officials), or
- (d) paragraph 11(4)(a) (functional immunity of relevant participants in INTERPOL statutory meetings).

British nationals and permanent residents

13. The privileges and immunities referred to in the following provisions do not apply to a person if that person is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or a permanent resident of the United Kingdom—

- (a) paragraph 9(1)(c)(income tax privilege of INTERPOL officials),
- (b) paragraph 9(4)(additional privileges and immunities of the Secretary General),
- (d) paragraph 11(2)(immunity from personal arrest and detention).

Disapplication in respect of official staff or family members

14. Part 4 of schedule 1 of the International Organisations Act 1968 does not operate so as to confer any privilege or immunity on—

- (a) a member of the official staff of any person granted privileges and immunities under paragraphs 7 to 13 (immunities, privileges, reliefs and exemptions of representatives, officials etc.),
- (b) a member of the family of any person granted privileges and immunities under paragraphs 7 to 13, or
- (c) a member of the family of a member of the official staff of any person granted privileges and immunities under paragraphs 7 to 13.

Waiver

15.—(1) The Organisation may waive any privilege or immunity granted under this schedule except any privilege or immunity granted to a representative of a Member Country or a Requesting Country under paragraph 8 (representatives of a Member Country or a Requesting Country) or paragraph 11 (INTERPOL statutory meetings).

(2) The Member Country or Requesting Country (as the case may be) may waive any privilege or immunity granted to their representative under paragraph 8 or 11.

(3) Waiver of immunity from jurisdiction in respect of civil or administrative proceedings will not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver will be necessary.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the International Organisations (Immunities and Privileges) (Scotland) Order 2009 (“the 2009 Order”) and grants immunities and privileges, insofar as they are within devolved competence, to the International Criminal Police Organization – INTERPOL and its officers and employees.

Article 2 amends the 2009 Order to insert schedule 20 into that Order. That schedule makes provision about immunities and privileges for the purposes of the persons and organisation to which the schedule relates. These immunities and privileges are conferred in accordance with the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Criminal Police Organization – INTERPOL on the Privileges and Immunities of INTERPOL on the Territory of the United Kingdom of Great Britain and Northern Ireland.

This Order should be read together with the International Criminal Police Organisation (Immunities and Privileges) Order 2023, which applies across the UK and confers additional immunities and privileges.

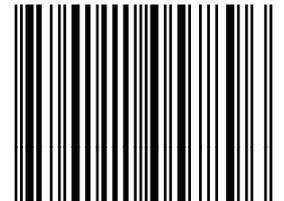
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