

This Statutory Instrument has been printed to correct errors in S.I. 2018/787 and is being issued free of charge to all known recipients of that Statutory Instrument.

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

DRAFT STATUTORY INSTRUMENTS

2023 No. 0000

**INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The European Organization for Astronomical Research in
the Southern Hemisphere and the European Space Agency
(Immunities and Privileges) (Amendment) Order 2023**

Made - - - - ***

Coming into force - - ***

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

Present,

The King's Most Excellent Majesty in Council

In accordance with section 10(1) of the International Organisations Act 1968(1), a draft of this Order was laid before, and approved by a resolution of, each House of Parliament.

Accordingly, His Majesty, in exercise of the powers conferred on Him by sections 1 and 10(3) of that Act, is pleased, by and with the advice of His Privy Council, to order as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the European Organization for Astronomical Research in the Southern Hemisphere and the European Space Agency (Immunities and Privileges) (Amendment) Order 2023.

(2) This Order comes into force on the day after the day on which it is made.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

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

Amendments to the European Organization for Astronomical Research in the Southern Hemisphere and the European Space Agency (Immunities and Privileges) (Amendment) Order 2018

2.—(1) The European Organization for Astronomical Research in the Southern Hemisphere and the European Space Agency (Immunities and Privileges) (Amendment) Order 2018⁽²⁾ is amended as follows.

(2) In article 2 after “article 4(2)”, insert “, (2A)”.

(3) Article 4(2)(c) is revoked.

(4) After article 4(2), insert—

“(2A) After article 15, insert—

“High ranking staff

15A.—(1) This article applies to up to seven officers of the Agency who—

- (a) hold the position of Head of Office,
- (b) are high ranking staff discharging their functions in the United Kingdom, and
- (c) are notified to the Secretary of State by the Agency.

(2) Except in so far as in any particular case any privilege or immunity is waived by the Director General of the Agency, an officer mentioned in paragraph (1) shall enjoy—

- (a) the like immunity from suit and legal process, except in the case of a motor traffic offence committed by that officer or in the case of damage caused by a motor vehicle belonging to or driven by that officer, the like inviolability of residence and the like exemption or relief from rates and taxes, other than income tax in respect of their emoluments and customs or excise duties and taxes on the importation of goods, as are accorded to or in respect of a diplomatic agent,
- (b) the like exemption from customs duties and taxes on the importation of articles imported for their personal use or the use of members of their family forming part of their household, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent,
- (c) 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, and
- (d) relief, under arrangements made by the Commissioners of His Majesty’s Revenue and Customs, by way of refund of customs duty paid on or value added tax paid on any hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979⁽³⁾ which is bought in the United Kingdom, by them or on their behalf, for their personal use or the use of members of their family forming part of their household, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements,

(2) S.I. 2018/787.

(3) 1979 c. 5.

provided that this paragraph shall not apply to an officer who is a British citizen, a British overseas territories citizen, a British Overseas citizen or a British National (Overseas) or to an officer who, at the time of taking up his duties in the United Kingdom, is a permanent resident of the United Kingdom.

(3) Part IV of Schedule 1 to the Act does not operate so as to confer any privilege or immunity on any person who is a member of the family of an officer mentioned in paragraph (1) if that member of the family is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National (Overseas) or permanent resident of the United Kingdom.

(4) “High ranking staff” has the same meaning in this article as is set out in the Agreement between the United Kingdom and the European Space Agency concerning the European Space Agency’s Sites and Facilities in the United Kingdom signed in Glasgow on 16th July 2013.””

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the European Organization for Astronomical Research in the Southern Hemisphere and the European Space Agency (Immunities and Privileges) (Amendment) Order 2018 (S.I. 2018/787) (“the 2018 Order”).

The 2018 Order, was intended to, amongst other things, enable His Majesty’s Government to give effect to its obligations relating to privileges and immunities under the Agreement between the United Kingdom and the European Space Agency (“ESA”) concerning the ESA’s Sites and Facilities in the United Kingdom signed in Glasgow on 16th July 2013 (“the Agreement”). The Agreement provides for the establishment and operation of an ESA centre at the Harwell Science and Innovation Campus.

Article 4(2) of the 2018 Order amended article 15 of the European Space Agency (Immunities and Privileges) Order 1978 (S.I. 1978/1105) (“the 1978 Order”) to include the Head of the Harwell Centre as a high officer. It also provides that up to seven high-ranking officials, in addition to the Director General and the Head of the Harwell Centre, are high officers but limits their privileges and immunities so that they do not have immunity from suit and legal process (except in relation to things done in the exercise of their functions) or inviolability of their residence.

These limitations regarding immunity from suit and legal process and inviolability of residence were inconsistent with the obligations set out in the Agreement. Furthermore, the Order neglected to except those immunities in relation to motor traffic offences, which was also set out in the Agreement. As such, this Order amends the 2018 Order to ensure that those high officers enjoy the same privileges and immunities as diplomatic agents, with the exception of motor traffic offences, thus giving full effect to the Agreement.

An Impact Assessment has not been prepared for this Order as no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.