
STATUTORY INSTRUMENTS

1979 No. 912**DIPLOMATIC AND INTERNATIONAL IMMUNITIES
AND PRIVILEGES****The International Oil Pollution Compensation Fund
(Immunities and Privileges) Order 1979***Laid before Parliament in draft**Made - - - - 26th July 1979**Coming into Operation On a date to be notified in
the London, Edinburgh
and Belfast Gazettes*

At the Court of Saint James, the 26th day of July 1979

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 16th day of July, 1979, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been laid before Parliament in accordance with section 10(1) of the International Organisations Act 1968(a) (hereinafter referred to as the Act) and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 1 of the said Act and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

PART I**GENERAL**

1. This Order may be cited as the International Oil Pollution Compensation Fund (Immunities and Privileges) Order 1979. It shall come into operation on the date on which the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Oil Pollution Compensation Fund(b) (hereinafter referred to as the Agreement) enters into force. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

(a) 1968 c. 48.

(b) Cmnd. 7585.

2.—(1) For the purposes of this Order, the official activities of the International Oil Pollution Compensation Fund (hereinafter referred to as the Fund) shall include its administrative activities and other activities undertaken pursuant to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage^(a) (hereinafter referred to as the Convention).

(2) In this Order “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964^(b).

3. The International Oil Pollution Compensation Fund (Immunities and Privileges) Order 1975^(c) is hereby revoked.

PART II

THE FUND

4. The International Oil Pollution Compensation Fund is an organisation of which the United Kingdom and foreign sovereign Powers are members.

5. The Fund shall have the legal capacities of a body corporate.

6.—(1) Within the scope of its official activities the Fund shall have immunity from suit and legal process except:

- (a) to the extent that it shall have waived such immunity in a particular case;
- (b) in respect of actions brought against the Fund in accordance with the provisions of the Convention;
- (c) in respect of any contract for the supply of goods or services, and any loan or other transaction for the provision of finance and any guarantee or indemnity in respect of any such transaction or of any other financial obligation;
- (d) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Fund or in respect of a motor traffic offence involving such a vehicle;
- (e) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;
- (f) in the event of the attachment or, in Scotland, arrestment, pursuant to the order of a court of law, of the salaries, wages or other emoluments owed by the Fund to a staff member;
- (g) in respect of the enforcement of an arbitration award made under Article 23 of the Agreement; and
- (h) in respect of a counter-claim directly connected with proceedings initiated by the Fund.

(a) Cmnd. 7383.

(b) 1964 c. 81.

(c) S.I. 1975/159.

(2) Paragraph 1 of this Article shall not prevent the taking of such measures as may be permitted by law in relation to the property and assets of the Fund in so far as they may be temporarily necessary in connection with the prevention and investigation of accidents involving motor vehicles belonging to, or operated on behalf of, the Fund.

7. The Fund shall have the like inviolability of official archives as in accordance with the 1961 Convention Articles is accorded in respect of the official archives of a diplomatic mission.

8. Within the scope of its official activities, the Fund shall have the like exemption or relief from taxes, other than duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

9. The Fund shall have the like relief from rates on its official premises as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

10. The Fund shall have exemption from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the Fund and necessary for the exercise of its official activities, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the revenue.

11. The Fund shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by or on behalf of the Fund and necessary for the exercise of its official activities and in the case of any publications of the Fund imported or exported by it within the scope of its official activities.

12. The Fund shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of duty (whether of customs or excise) paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979(a)) or value added tax paid on the importation of such oil which is bought in the United Kingdom by the Fund and necessary for the exercise of its official activities, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. The Fund shall have relief, under arrangements made by the Secretary of State, by way of refund of car tax and value added tax paid on the purchase of new vehicles of United Kingdom manufacture which are necessary for the official activities of the Fund, and of value added tax paid on the supply of goods or services of substantial value which are necessary for the official activities of the Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

REPRESENTATIVES

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Member State whom they represent, representatives of Member States of the Fund shall enjoy:—

(a) immunity from suit and legal process in respect of acts, including

words written or spoken, done by them in the exercise of their functions, except in the case of a motor traffic offence committed by a representative or in the case of damage caused by a motor vehicle belonging to or driven by him;

- (b) while exercising their functions and in the course of their journeys to and from the place of meeting, the like immunity from personal arrest or detention and from seizure of their personal baggage as is accorded to a diplomatic agent, provided that a representative shall not enjoy such immunity if there are reasonable grounds for suspecting that he is in the course of committing, attempting to commit, or has just committed an offence;
- (c) while exercising their functions and during their journeys to and from the place of meeting, the like inviolability for all their official papers and documents as is accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives, other than alternate representatives and advisers.

(3) Neither the provisions of the preceding paragraphs of this Article, nor those of Part IV of Schedule 1 to the Act, shall operate so as to confer any privilege or immunity on any persons as the representatives or alternate representatives, or their advisers, of Her Majesty's Government in the United Kingdom or on any person who is a citizen of the United Kingdom and Colonies.

(4) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives, alternate representatives or advisers.

PART IV

OFFICERS

High Officer

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Assembly or the Executive Committee of the Fund, the Director of the Fund shall enjoy:—

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes (other than income tax in respect of his emoluments and duties and taxes on the importation of goods) and rates as are accorded to or in respect of a diplomatic agent;
- (b) the like exemption from duties and taxes on the importation of articles imported for his personal use, including articles intended for his 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 his personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;
- (d) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of duty (whether of customs or excise) paid

on any hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979) which is bought in the United Kingdom by him or on his behalf and which is for his personal use or for that of members of his family forming part of his household, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or who is a permanent resident of the United Kingdom.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the family of an officer to whom this Article applies.

All Officers

16. Except in so far as in any particular case any privilege or immunity is waived by the Director of the Fund or, in the case of the Director, by the Assembly or the Executive Committee of the Fund, all officers of the Fund appointed or recruited for full-time employment with the Fund and subject to its staff regulations, with the exception of persons who are in the domestic service of the Fund and persons who are recruited locally and assigned to hourly rates of pay, shall enjoy:—

- (a) immunity from suit and legal process in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an officer or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) as from the date on which the salaries and emoluments received by them as officers of the Fund become subject to taxation by the Fund for its benefit, exemption from income tax in respect of such salaries and emoluments, provided that nothing in this subparagraph shall be interpreted as precluding such salaries and emoluments from being taken into account for the purpose of assessing the amount of taxation to be applied to income from other sources;
- (c) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, the like exemption from duties and taxes on the importation of furniture and personal effects (including one motor-car each) which—
 - (i) at the time when they first enter the United Kingdom to take up their post, are imported for their personal use or for their establishment, and
 - (ii) were in their ownership or possession or which they were under contract to purchase immediately before they so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

- (d) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, and provided that the Fund

has established its own social security scheme or has joined that of another international organisation under conditions laid down in the staff regulations of the Fund, exemptions whereby for the purposes of the enactments relating to social security, including enactments in force in Northern Ireland—

- (i) services rendered for the Fund by them shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but
- (ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted.

PART V

EXPERTS

17. Except in so far as in any particular case any immunity or privilege is waived by the Director, experts (other than officers of the Fund) shall, so far as is necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of missions for the Fund, enjoy:—

- (a) immunity from suit and legal process in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) while exercising their functions in connection with the Fund or in carrying out missions for the Fund, the like inviolability for all their official papers and documents as is accorded to a diplomatic agent.

N. E. Leigh,

Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order confers privileges and immunities on the International Oil Pollution Compensation Fund, on representatives of its members and on its officers and experts. These privileges and immunities are conferred in accordance with an Agreement which has been negotiated between the Government of the United Kingdom and the International Oil Pollution Compensation Fund (Cmnd. 7585). The Order revokes the International Oil Pollution Compensation Fund (Immunities and Privileges) Order 1975. The Order will enable Her Majesty's Government to give effect to the Agreement, which will enter into force on signature; the Order will come into operation on the date on which the Agreement enters into force.

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