
STATUTORY INSTRUMENTS

1983 No. 143

The Commonwealth Foundation (Immunities and Privileges) Order 1983

PART I

GENERAL

1. This Order may be cited as the Commonwealth Foundation (Immunities and Privileges) Order 1983. 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 Commonwealth Foundation⁽¹⁾ (hereinafter referred to as the Agreement) enters into force. The date shall be notified in the London, Edinburgh and Belfast Gazettes.

2.—(1) For the purposes of this Order, the official activities of the Commonwealth Foundation (hereinafter referred to as the Foundation) includes its administrative activities.

(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.

PART II

THE FOUNDATION

3. The Foundation is an organisation of which Her Majesty's Government in the United Kingdom and the Governments of other sovereign Powers are members.

4. The Foundation shall have the legal capacities of a body corporate.

5. The Foundation 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.

6.—(1) The Foundation shall be immune from any legal process whereby its property or assets may be subjected to any form of constraint, except in accordance with the final determination of a court of law.

(2) The provisions of paragraph (1) of this Article shall not prevent the taking of such measures as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Foundation.

7. Within the scope of its official activities, the Foundation shall have exemption from taxes on income and capital gains.

8. The Foundation 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 motor cars of United

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Kingdom manufacture and of value added tax paid on the supply of other goods or services which are necessary for the official activities of the Foundation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

9. The Foundation shall have exemption from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the Foundation 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.

10. The Foundation shall have exemption from prohibitions and restrictions on importation or exportation of any goods imported or exported by the Foundation and necessary for the exercise of its official activities.

11. The Foundation 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) or value added tax paid on the importation of such oil which is bought in the United Kingdom by the Foundation 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.

PART III

THE CHAIRMAN AND GOVERNORS

12.—(1) The Chairman and, except in so far as in any particular case any privilege or immunity is waived, the Governors of the Foundation shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting:

- (a) immunity from suit and legal process (even after the termination of their mission) 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 the Chairman or a Governor or in the case of damage caused by a vehicle belonging to or driven by him;
- (b) the like inviolability for all their official papers and documents as is accorded to diplomatic agents.

(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 the Chairman or on the official staff of Governors, other than their alternates.

(3) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on any member of the family of the Chairman, a Governor or his alternate.

(4) Neither this Article nor Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative or alternate representative of Her Majesty's Government in the United Kingdom or on any person who is a British citizen, a British Dependent Territories citizen or a British Overseas citizen or who is not a citizen of and ordinarily resident in a country mentioned in section 1(3) of the British Nationality Act 1948.

PART IV

OFFICERS

High Officer

13.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Board of Governors of the Foundation, the Director shall, in addition to the privileges and immunities to which he is entitled under Article 14, enjoy:

- (a) the like immunity from suit and legal process as is accorded to a diplomatic agent, except in the case of a motor traffic offence committed by him or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) the like inviolability of residence and the like exemption or relief from taxes and rates, other than income tax in respect of his salary and emoluments and duties (whether of customs or excise) and taxes on the importation of goods, as are accorded to or in respect of a diplomatic agent;
- (c) the like exemption from duties (whether of customs or excise) and taxes on the importation of articles imported for his personal use or the use of members of his family forming part of his household, 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;
- (d) 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;
- (e) 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) or value added tax paid on the importation of such oil which is bought in the United Kingdom by him or on his behalf for his personal use or the use 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 the provisions of this Article shall not apply to any person who is a British citizen, a British Dependent Territories citizen or a British Overseas citizen or a permanent resident of the United Kingdom or who is not a citizen of a country mentioned in section 1(3) of the British Nationality Act 1948.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any immunity or privilege on the family of the Director.

All Officers

14. Except in so far as in any particular case any privilege or immunity is waived by the Director of the Foundation or, in the case of the Director, by the Board of Governors of the Foundation, all officers of the Foundation employed full time by the Foundation and subject to its staff regulations, with the exception of persons 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 Foundation become subject to an income tax imposed by the Foundation for its benefit,

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exemption from income tax in respect of such salaries and emoluments, provided that nothing in this paragraph 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) provided that they are citizens of a country mentioned in section 1(3) of the British Nationality Act 1948 and are not British citizens, British Dependent Territories citizens or British Overseas citizens 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; and
- (d) provided that they are citizens of a country mentioned in section 1(3) of the British Nationality Act 1948 and are not British citizens, British Dependent Territories citizens or British Overseas citizens or permanently resident in the United Kingdom, and provided that the Foundation has established or joined a social security scheme, exemptions whereby for the purpose of the enactments relating to social security, including enactments in force in Northern Ireland—
 - (i) services rendered for the Foundation 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.

N. E. Leigh
Clerk of the Privy Council