
STATUTORY INSTRUMENTS

1993 No. 1247

**INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The Treaty on Open Skies (Privileges and
Immunities) (Overseas Territories) Order 1993**

Made - - - - 12th May 1993

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 12th day of May 1993

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred on Her by section 1(2) of the Arms Control and Disarmament (Privileges and Immunities) Act 1988(1) as extended to certain territories by the Arms Control and Disarmament (Privileges and Immunities) Act 1988 (Overseas Territories) Order 1992(2), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Treaty on Open Skies (Privileges and Immunities) (Overseas Territories) Order 1993. It shall come into force on the date of the entry into force of the Treaty on Open Skies, opened for signature at Helsinki on the twenty-fourth of March 1992(3) (hereinafter referred to as the Treaty). This date will be notified in the London, Edinburgh and Belfast Gazettes.

(2) In this Order—

“the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) set out in Schedule 1 to the Diplomatic Privileges Act 1964(4) certain provisions of which are for ease of reference set out in Schedule 1 to this Order;

“designated person” means a person designated by a State other than the United Kingdom pursuant to Article XIII, section I, paragraph 1 of the Treaty for the purpose of carrying out

(1) 1988 c. 2.
(2) S.I.1992/1298.
(3) Cm 2067.
(4) 1964 c. 81.

duties relating to the conduct of observation flights pursuant to the Treaty for that State, but shall not include a person declared unacceptable under the circumstances provided for in Article XIII, section I, paragraph 2 of the Treaty;

“the Territories” means the territories listed in Schedule 2 to this Order.

2.—(1) Designated persons shall in the Territories enjoy the same privileges and immunities as are enjoyed in the United Kingdom by diplomatic agents in accordance with the following provisions of the 1961 Convention Articles, namely—

- (a) Article 29;
- (b) paragraph 2 of Article 30;
- (c) paragraphs 1, 2 and 3 of Article 31; and
- (d) Articles 34 and 35.

(2) Such persons shall, in addition, enjoy in the Territories the same privileges as are enjoyed in the United Kingdom by diplomatic agents in accordance with paragraph 1(b) of Article 36 of the 1961 Convention Articles, except in relation to articles the import or export of which is prohibited by law or controlled by quarantine regulations.

(3) Subject to paragraph (5) of this Article, the privileges and immunities accorded to designated persons by virtue of paragraphs (1) and (2) of this Article shall be enjoyed by them in the Territories for the period between their arrival in the Territories for the purpose of carrying out duties relating to the conduct of observation flights and their departure from the Territories and thereafter with respect to acts previously performed in the exercise of their official functions as designated persons.

(4) Such personnel shall, in addition, enjoy in the Territories the same privileges and immunities as are enjoyed in the United Kingdom by diplomatic agents in accordance with paragraph 1 of Article 40 of the 1961 Convention Articles at any time when they are in the Territories while in transit to or from the territory of any State for the purpose of carrying out duties relating to the conduct of observation flights.

(5) The immunity from jurisdiction enjoyed by a designated person by virtue of paragraph (1)(c) of this Article shall cease to be so enjoyed if expressly waived by the State of which he is a national.

(6) The means of transport of the designated persons in the Territories shall be accorded the same inviolability as is accorded in the United Kingdom to the means of transport of a mission in accordance with Article 22(3) of the 1961 Convention Articles.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Article 1

THE 1961 CONVENTION ARTICLES

Article 22

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the mission;
- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

Article 39

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

SCHEDULE 2

Article 1

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

Bermuda
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities upon persons designated by States Parties to the Treaty on Open Skies, signed at Helsinki on the twenty-fourth of March 1992 (Cm 2067), while they are in the dependent territories listed in Schedule 2 for the purpose of carrying out duties relating to the conduct of overflights pursuant to that Treaty.