
STATUTORY INSTRUMENTS

1996 No. 1295

**INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The International Oil Pollution Compensation
Fund 1992 (Immunities and Privileges) Order 1996**

Made - - - - 15th May 1996

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the 15th day of May 1996

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968(1) ("the Act") and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by section 1 of the Act(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:—

**PART I
GENERAL**

Citation and Entry into Force

1. This Order may be cited as the International Oil Pollution Compensation Fund 1992 (Immunities and Privileges) Order 1996. It shall come into force 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 1992(3) ("the Agreement") enters into force. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

(1) 1968 c. 48.

(2) As amended by section 1 of the International Organisations Act 1981 (c. 9.).

(3) Cm. 3241.

Interpretation

2.—(1) For the purposes of this Order, the official activities of the International Oil Pollution Compensation Fund 1992 (“the 1992 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, 1992 (“the Convention”) being the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage signed at Brussels on 18 December 1971⁽⁴⁾ as amended by the Protocol of 1992 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 signed at London on 27 November 1992⁽⁵⁾.

(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⁽⁶⁾.

PART II

THE 1992 FUND

3. The 1992 Fund is an organisation of which the United Kingdom and other sovereign Powers are members.

4. The 1992 Fund shall have the legal capacities of a body corporate.

5.—(1) Within the scope of its official activities the 1992 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 1992 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 1992 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 1992 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 1992 Fund.

(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 1992 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 1992 Fund.

⁽⁴⁾ Cmnd. 7383.

⁽⁵⁾ Cm. 2658.

⁽⁶⁾ 1964 c. 81.

6. The 1992 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.

7. Within the scope of its official activities, the 1992 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.

8. The 1992 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.

9. The 1992 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 1992 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.

10. The 1992 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 1992 Fund and necessary for the exercise of its official activities and in the case of any publications of the 1992 Fund imported or exported by it within the scope of its official activities.

11. The 1992 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(7)) or value added tax paid on the importation of such oil which is bought in the United Kingdom by the 1992 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.

12. The 1992 Fund shall have relief, under arrangements made by the Secretary of State, by way of refund of value added tax paid on the purchase of new vehicles of United Kingdom manufacture which are necessary for the official activities of the 1992 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 1992 Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

REPRESENTATIVES

13.—(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 1992 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 British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British National (Overseas).

(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

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Assembly of the 1992 Fund, the Director of the 1992 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 British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British National (Overseas) 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

15. Except in so far as in any particular case any privilege or immunity is waived by the Director of the 1992 Fund or, in the case of the Director, by the Assembly of the 1992 Fund, all officers of the 1992 Fund appointed or recruited for employment with the 1992 Fund and subject to its staff

regulations as well as the Director and all persons appointed or recruited for employment with the Fund established by the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage and subject to its staff regulations functioning as the Director and Secretariat of the 1992 Fund, with the exception of persons who are in the domestic service of either 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 1992 Fund become subject to taxation by the 1992 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 British citizens, British Dependent Territories citizens, British Overseas citizens, or British Nationals (Overseas) 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 British citizens, British Dependent Territories citizens, British Overseas citizens, or British Nationals (Overseas) or permanently resident in the United Kingdom, and provided that the 1992 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 1992 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 1992 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

16. Except in so far as in any particular case any immunity or privilege is waived by the Director, experts (other than officers of the 1992 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 their missions for the 1992 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

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

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 1992 Fund or in carrying out missions for the 1992 Fund, the like inviolability for all their official papers and documents as is accorded to a diplomatic agent.

N. H. Nicholls
Clerk of the Privy Council

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities on the International Oil Pollution Compensation Fund 1992, 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 1992 (Cm 3241). 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 force on the date on which the Agreement enters into force.