

2004 No. 1282

INTERNATIONAL IMMUNITIES AND PRIVILEGES

**The Preparatory Commission for the Comprehensive Nuclear-
Test-Ban Treaty Organization (Immunities and Privileges) Order
2004**

Made - - - -

6th May 2004

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the 6th day of May 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968(a) ("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(b) 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

1. This Order may be cited as the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Immunities and Privileges) Order 2004. It shall come into force on the date on which the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization on the conduct of activities, including post-certification activities, relating to International Monitoring Facilities for the Comprehensive Nuclear-Test-Ban Treaty, adopted at Vienna on 12th November 1996(c) enters into force. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

(a) 1968 c.48.

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

(c) Cm. 4675.

2. In this Order:

- (a) “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(a);
- (b) “the Commission” means the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization established by the Text on the establishment of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization annexed to the resolution of 19th November 1966 of the States Signatories of the Comprehensive Nuclear-Test-Ban Treaty(b);
- (c) “official activities” in relation to the Commission means its administrative activities and those which it is authorised to undertake pursuant to the above-mentioned Text on the establishment of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization;
- (d) “Member” means a State Signatory to the Comprehensive Nuclear-Test-Ban Treaty(c);
- (e) “Executive Secretary” means the Executive Secretary of the Commission;
- (f) “staff member” means a person appointed or recruited for employment with the Commission and subject to its staff regulations, other than persons in domestic service and persons recruited locally and assigned to hourly rates of pay;
- (g) “representatives” means representatives of Members and in each case means heads of delegations, their alternates and advisers; and
- (h) “experts” means any persons, other than representatives to and officials of the Commission, who are performing missions specifically authorised by the Commission, including persons doing so on an uncompensated or seconded basis, or serving on committees or other subsidiary organisations of the Commission at the request of the Commission.

PART II

The Commission

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

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

5. The Commission shall enjoy immunity from suit and legal process, including in respect of its property and assets, except in so far as the Commission has expressly waived such immunity in any particular case. No waiver of immunity shall be deemed to extend to any measure of execution.

6. The Commission 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 Commission shall have exemption from taxes on income and capital gains, including in respect of its property and income.

8. The Commission shall have the like relief from non-domestic 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.

(a) 1964 c.81.

(b) Treaty Series No. 46 (1999) Cm. 4399.

(c) Cm. 3665.

9. The Commission 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 which are necessary for the official activities of the Commission, and of value added tax paid on the supply of any other goods and services of substantial value which are necessary for the official activities of the Commission, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

10. The Commission shall have relief, under arrangements made by the Secretary of State, by way of refund of insurance premium tax and air passenger duty paid by the Commission in the exercise of its official activities.

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

12. The Commission shall have exemption from prohibitions and restrictions on importation or exportation of goods by the Commission and necessary for the exercise of its official activities, and in the case of any publication of the Commission imported or exported by it within the scope of its official activities, except where the prohibitions or restrictions arise from European Community law.

13. The Commission 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 Commission 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

Representatives

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Member which they represent, representatives at the meetings of the Commission shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting:—

- (a) the like immunity from personal arrest or detention and the like exemptions 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, 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; and
- (b) immunity from suit and legal process, even after the termination of their mission, in respect of acts, including words spoken or written, performed by them in their official capacity, 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.

(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 their alternate representatives and advisers.

(3) Neither the provisions of the preceding paragraphs of 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 of the delegation of the United Kingdom or on any person who is a British citizen, a British overseas 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.

(a) 1979 c.5.

PART IV

Staff Members

Executive Secretary

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Commission, the Executive Secretary shall enjoy:—

- (a) the like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission;
- (b) the like exemption from customs duties 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;
- (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 customs duty paid on any 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, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and
- (e) exemptions whereby, for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland:—
 - (i) services rendered for the Commission by the Executive Secretary 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 so to be excepted.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the family of the Executive Secretary, other than his spouse and minor children forming part of his household to whom paragraph (1) of this Article shall apply.

Staff Members

16.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Executive Secretary, all staff members shall enjoy:—

- (a) immunity from suit and legal process (even after they have left the service of the Commission) in respect of acts, including words spoken or written, done by them in the exercise of their official functions; this immunity shall not, however, apply in the case of a motor traffic offence committed by a staff member or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) exemption from income tax in respect of salaries and emoluments received by them as staff members, provided that nothing in this sub-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; and
- (c) provided that they are participating in a social security scheme established by the Commission or in another scheme approved by the United Kingdom Government, exemptions whereby for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland:—

- (i) services rendered for the Commission by the staff member 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 deemed so to be excepted.

(2) Paragraph (1)(b) of this Article shall not apply to pensions or annuities paid by the Commission.

PART V

Experts

17. Except in so far as in any particular case any privilege or immunity is waived by the Executive Secretary, experts (other than staff members) serving on committees of or performing missions for the Commission shall enjoy:—

- (a) the like immunity from personal arrest or detention and the like exemptions and privileges in respect of their personal baggage as in accordance with paragraph 2 Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent; and
- (b) immunity from suit and legal process (even after the termination of their service or mission) in respect of acts, including words spoken or written, done by them in the exercise of their official functions; this immunity shall not, however, apply 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.

A.K.Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities upon the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, on representatives of its Members, its staff members and experts. These privileges and immunities are conferred in accordance with the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization on the conduct of activities, including post-certification activities, relating to International Monitoring Facilities for the Comprehensive Nuclear-Test-Ban Treaty (Cm. 4675). The Order will enable Her Majesty's Government to give effect to that Agreement and will come into force on the date on which that Agreement enters into force.

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