

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL ATOMIC ENERGY AGENCY (IMMUNITIES AND PRIVILEGES) (AMENDMENT) ORDER 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The Instrument corrects a discrepancy between the provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency 1959 (signed by the UK in 1961) and the International Atomic Energy Agency (Immunities and Privileges) Order 1974, which implemented the Treaty obligations into UK domestic law.

2.2 Where the 1959 Treaty grants privileges and immunities to representatives of Members attending UK hosted, International Atomic Energy Agency (IAEA) convened international symposiums, seminars, or panels, the 1974 Order only grants privileges and immunities to representatives of Members attending a limited range of UK hosted IAEA convened meetings. The Instrument corrects this error.

2.3 Furthermore, the Instrument sets out the meaning of ‘representatives of Members’ as defined in the 1959 Treaty.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland. In Scotland, articles 4 to 18 of this Order do not apply in so far as they would, if included in an Act of Scottish Parliament, be within the legislative competence of that Parliament. A separate Scottish Order in Council will be prepared to deal with those provisions within the legislative competence of the Scottish Parliament and will be laid before the Scottish Parliament.

5. European Convention on Human Rights

5.1 Minister Rutley has made the following statement regarding Human Rights:

“In my view the provisions of the International Atomic Energy Agency (Immunities and Privileges) Order 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 1 of the International Organisations Act 1968 (c. 48) (the Act) allows His Majesty by Order in Council to specify an organisation of which the United Kingdom and other sovereign Powers are members, to confer on the organisation the legal capacities of a body corporate, and to confer on the organisation and persons connected with it certain privileges and immunities. Subsection (6) provides that such Order in Council shall be framed as to secure that the privileges and immunities conferred by the Order are not greater in extent than those which are required to be conferred in accordance with any agreement between the United Kingdom and the organisation. Section 10(3) provides that any power conferred by any provision of the Act to make an Order in Council includes a power to vary that Order by a subsequent Order in Council made under the same provision.

7. Policy background

What is being done and why?

- 7.1 The UK regularly hosts IAEA convened events and accepts as the host nation to provide the privileges and immunities set out in the 1959 Treaty. The 1974 Order therefore needs to be amended to enable HMG to fulfil its obligations to provide privileges and immunities to international delegates attending applicable IAEA convened events hosted in the UK.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.2 The 1974 Order implemented all other relevant provisions of the 1959 Treaty in the UK.

Why is it being changed?

- 7.3 It is being changed in order to fully reflect the provisions of the 1959 Treaty by granting representatives of IAEA Members the privileges and immunities necessary for their participation in UK hosted, IAEA convened events as defined in the 1959 Treaty and the Instrument.

What will it now do?

- 7.4 It will bring the provisions of UK domestic law into line with the 1959 Treaty and allow the UK to fully meet its international Treaty obligations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Not applicable.

10. Consultation outcome

- 10.1 No external consultation was undertaken as the instrument corrects a historic error in the implementation of an already agreed Treaty. The Instrument implements

provisions of an international agreement to which the United Kingdom is obliged to give effect as a matter of international law.

11. Guidance

11.1 No guidance will be published.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact on the public sector, business, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The instrument is not time limited and there is no requirement to monitor its implementation. Officials at the Foreign, Commonwealth and Development Office and the Department for Energy Security and Net Zero (DESNZ) will monitor the implementation of the Agreement on an ongoing and informal basis.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Jane Farrar at the Foreign, Commonwealth and Development Office Telephone: 07394 292835 or email: Jane.Farrar@fcdof.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jeremy Pilmore-Bedford, Deputy Director Protocol at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Rutley at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

David Rutley MP
Parliamentary Under Secretary of State
Foreign, Commonwealth and Development Office