

INTERNATIONAL ORGANISATIONS ACT 2005

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the International Organisations Act 2005 which received Royal Assent on 7 April 2005. They have been prepared by the Foreign and Commonwealth Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. This Act enables the UK to fulfil international commitments to confer legal capacity and privileges and immunities on a number of international organisations and bodies, and certain categories of individuals connected to them.
4. The International Organisations Act 2005 covers the Commonwealth Secretariat/Commonwealth Secretariat Arbitral Tribunal, the Organization for Security and Co-operation in Europe (OSCE), bodies established under Title V (Provisions on a common foreign and security policy) or Title VI (Provisions on police and judicial cooperation in criminal matters) of the Treaty on European Union, the International Criminal Court (ICC), the European Court of Human Rights (ECHR) and the International Tribunal for the Law of the Sea (ITLOS). The Act consists of 11 sections and a Schedule.

TERRITORIAL EXTENT

5. The Act extends to the whole of the UK.

COMMENTARY ON SECTIONS

Sections 1, 2 and 3 Commonwealth Secretariat/Commonwealth Secretariat Arbitral Tribunal

6. The Commonwealth Secretariat Act 1966 has been interpreted by the courts as allowing the courts to exercise supervisory jurisdiction, under the Arbitration Act 1996, over the Commonwealth Secretariat Arbitral Tribunal (CSAT). The International Organisations Act 2005 gives the Commonwealth Secretariat full immunity from the jurisdiction of the United Kingdom courts, bringing the Secretariat into line with a number of other international organisations based in the United Kingdom. This immunity does not extend to written contracts entered into by or on behalf of the Commonwealth Secretariat before section 1 of the Act comes into force. The Act also accords the President and members of the CSAT the same immunity from legal process in relation to their official activities as is conferred on the Commonwealth Secretariat staff under the Commonwealth Secretariat Act 1966. The International Organisations Act 2005 also provides that, if CSAT is replaced by a successor body, an order may be made by the Secretary of State for the purpose of conferring on the successor body privileges

and immunities equivalent to those conferred on CSAT. The Act exempts the staff of the Commonwealth Secretariat from United Kingdom income tax on their salaries and emoluments on condition that the Secretariat levies its own internal income tax for the benefit of the Secretariat.

Section 4 The Organization for Security and Co-operation in Europe

7. The Organization for Security and Co-operation in Europe (“the OSCE”), was previously known as the Conference on Security and Co-operation in Europe (“the CSCE”). The OSCE consists of 55 member states and is active in conflict prevention, crisis management, human rights, democracy building and post-conflict rehabilitation throughout the Euro-Atlantic region, extending to the Caucasus and Central Asia. Although the OSCE has similar structures and working methods to an international organisation it is not considered to have international legal personality separate from its participating States. It is, therefore, not currently an “organisation” for the purposes of the International Organisations Act 1968 (“the 1968 Act”). The International Organisations Act 2005 brings the OSCE within the scope of the 1968 Act and enables the United Kingdom to implement the provisions regarding legal capacity and privileges and immunities set out in a report of the CSCE Ad Hoc Group of Legal and Other Experts annexed to the decision of the CSCE Council of Ministers of 1 December 1993 held in Rome.

Section 5 Bodies established under the Treaty on European Union

8. The International Organisations Act 2005 adds a further section to the 1968 Act to enable the UK to confer legal capacity and privileges and immunities, by Order in Council, on bodies established under Title V (Provisions on a common foreign and security policy (CFSP)) or Title VI (Provisions on police and judicial cooperation in criminal matters (PJCC)) of the Treaty on European Union and certain categories of individuals connected with those bodies. Prior to this Act there was no provision to enable the United Kingdom to implement its commitments under a number of CFSP and PJCC European Union measures to confer domestic legal capacity and privileges and immunities on bodies established under those measures.

Section 6 International Criminal Court

9. The International Organisations Act 2005 amends the International Criminal Court Act 2001 to allow the UK to confer privileges and immunities on representatives of States participating in the Assembly and its subsidiary organs, representatives of inter-governmental organisations and also on family members of the judges, prosecutor, deputy prosecutors or the registrar who form part of their household, during their period of residence in the UK. This enables the UK to implement fully its obligations in the Agreement on the Privileges and Immunities of the International Criminal Court of 2002 which the UK signed on 10 September 2002. Before the International Organisations Act 2005 it was not possible to use the 2001 Act to confer privileges and immunities on these individuals.

Section 7 European Court of Human Rights

10. The Sixth Protocol to the General Agreement on the Privileges and Immunities of the Council of Europe confers privileges and immunities on members of the European Court of Human Rights. The UK has signed and ratified the Sixth Protocol. However, ratification of the Sixth Protocol was subject to a reservation in respect of Article 1, which confers privileges and immunities on judges and their family members. The International Organisations Act 2005 enables the conferral of immunities and privileges on the members of the family of a judge of the European Court of Human Rights, allowing the UK to give full effect to the Sixth Protocol.

Section 8 International Tribunal for the Law of the Sea

11. The International Tribunal for the Law of the Sea (“ITLOS”) was established by Annex VI to the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”). ITLOS is an international court with its seat in Hamburg and has jurisdiction to hear disputes submitted to it in accordance with UNCLOS and all matters specifically provided for in any other agreement which confers jurisdiction on it. The UK is a State Party to UNCLOS. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea (“the ITLOS Privileges and Immunities Agreement”) provides that the Tribunal and various categories of individuals connected with it shall enjoy certain privileges and immunities. The UK signed the ITLOS Privileges and Immunities Agreement but did not ratify it because it was not possible to implement the provisions of the Agreement relating to the Tribunal itself using any of the enabling provisions of the 1968 Act. The International Organisations Act 2005 brings ITLOS within the scope of the 1968 Act and thus enables the making of an Order in Council conferring privileges and immunities on the Tribunal and allows the United Kingdom to ratify the ITLOS Privileges and Immunities Agreement.

COMMENCEMENT DATE

12. Except for sections 1 to 3, the International Organisations Act 2005 comes into force at the end of the period of two months beginning with the day on which it was passed (which was 7 April 2005). Sections 1 to 3 come into force on such a day as the Secretary of State appoints, by order made by statutory instrument.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard Reference</i>
House of Lords		
Introduction/First Reading	24 November 2004	Vol 667, Col 21
Second Reading	16 December 2004	Vol 667, Cols 1460 - 1478
Grand Committee	11 January 2005	Vol 668, Cols GC1 – GC56
Report	7 February 2005	Vol 669, Cols 546 - 571
Third Reading	28 February 2005	Vol 670, Col 12 - 13
House of Commons		
Introduction/First Reading	1 March 2005	House of Commons Votes and Proceedings, Tuesday 1 March 2005, items 6 and 7
Second Reading/remaining stages	7 April 2005	Vol 432, Cols 1632 - 1641
Royal Assent	7 April 2005	House of Lords Hansard Vol 671, Col 949
		House of Commons Hansard Vol 432, Col 1641