
STATUTORY INSTRUMENTS

1991 No. 757

**INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The European Bank for Reconstruction and
Development (Immunities and Privileges) Order 1991**

Made - - - - 20th March 1991

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 20th day of March 1991

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⁾ (hereinafter referred to as 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, Entry into Force and Revocation

1. –

(1) This Order may be cited as the European Bank for Reconstruction and Development (Immunities and Privileges) Order 1991 and shall come into force on the date on which the Headquarters Agreement between the Government of the United Kingdom of Great Britain and

⁽¹⁾ 1968 c. 48.

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

Northern Ireland and the European Bank for Reconstruction and Development⁽³⁾ enters into force. That date will be notified in the London, Edinburgh and Belfast Gazettes.

(2) The European Bank for Reconstruction and Development (Immunities and Privileges) Order 1990⁽⁴⁾ is revoked.

Interpretation

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⁽⁵⁾;
- (b) “Agreement Establishing the Bank” means the Agreement Establishing the European Bank for Reconstruction and Development signed in Paris on 29th May 1990⁽⁶⁾, and any amendments thereto;
- (c) “Bank” means the European Bank for Reconstruction and Development;
- (d) the terms “Member”, “President”, “Vice-President”, “Governor”, “Alternate Governor”, “Temporary Alternate Governor”, “Board of Governors”, “Director”, “Alternate Director” and “Temporary Alternate Director”, “Board of Directors”, have the same meaning as in the Agreement Establishing the Bank, its By-laws or Rules of Procedure;
- (e) “Premises of the Bank” means the land, buildings and parts of buildings, including access facilities, used for the Official Activities of the Bank;
- (f) “Representatives of Members” means heads of delegations of Members participating in meetings convened by the Bank other than meetings of the Board of Governors or the Board of Directors;
- (g) “Members of Delegations” means alternates, advisers, technical experts and secretaries of delegations of Representatives of Members;
- (h) “Officers” means the President, the Vice-President and other persons appointed by the President to be Officers of the Bank;
- (i) “Employees of the Bank” means the staff of the Bank excluding those staff both recruited locally and assigned to hourly rates of pay;
- (j) “Archives of the Bank” includes all records, correspondence, documents, manuscripts, still and moving pictures and films, sound recordings, computer programmes and written materials, video tapes or discs, and discs or tapes containing data belonging to, or held by, the Bank;
- (k) “Official Activities of the Bank” includes all activities undertaken pursuant to the Agreement Establishing the Bank, and all activities appropriate to fulfil its purpose and functions under Articles 1 and 2 of that Agreement, or undertaken in exercise of its powers under Article 20 of that Agreement including its administrative activities; and
- (l) “Persons Connected with the Bank” means Governors, Alternate Governors, Temporary Alternate Governors, Representatives of Members, Members of Delegations, Directors, Alternate Directors, Temporary Alternate Directors, the President, the Vice-Presidents, Officers and Employees of the Bank, and experts performing missions for the Bank.

⁽³⁾ The text of the draft Headquarters Agreement is published as Cm. 1440.

⁽⁴⁾ S.I.1990/2142.

⁽⁵⁾ 1964 c. 81.

⁽⁶⁾ Cm.1116.

PART II

THE BANK

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

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

5.—(1) Except to the extent that the Board of Directors of the Bank shall have waived immunity, the Bank shall have immunity from suit and legal process –

- (a) where the Bank has no office in the United Kingdom, nor has appointed an agent in the United Kingdom for the purpose of accepting service or notice of process, nor has issued or guaranteed securities in the United Kingdom; or
- (b) where actions are brought by any member of the Bank or by any person acting for or deriving claims from any member of the Bank; or
- (c) in respect of any form of seizure of, or restraint, attachment or execution on, the property or assets of the Bank, wheresoever located or by whomsoever held, before the delivery of final judgment against the Bank; or
- (d) in respect of the search, requisition, confiscation or expropriation of, or any other form of interference with, or taking of or foreclosure on, the property or assets of the Bank, wheresoever located and by whomsoever held.

(2) Without prejudice to paragraph (1), the Bank shall, within the scope of its Official Activities, have immunity from suit and legal process, except that the immunity of the Bank shall not apply–

- (a) to the extent that the Bank shall have expressly waived any such immunity in any particular case or in any written document;
- (b) in respect of a civil action arising out of the exercise of its powers to borrow money, to guarantee obligations and to buy or sell or underwrite the sale of any securities;
- (c) in respect of a civil action by a third party for damage arising from a road traffic accident caused by an Officer or an Employee of the Bank acting on behalf of the Bank;
- (d) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;
- (e) in respect of the enforcement of an arbitration award made against the Bank as a result of an express submission to arbitration by or on behalf of the Bank; or
- (f) in respect of any counter-claim directly connected with court proceedings initiated by the Bank.

6.—(1) The Premises of the Bank and the Archives of the Bank shall have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission, except that the Premises of the Bank may be entered with the consent of and under conditions approved by the President; such consent may be assumed in the case of fire or other disasters requiring prompt action.

(2) The Premises of the Bank may be entered in connection with fire prevention, sanitary regulations or emergencies without the prior consent of the Bank in such circumstances and in such a manner as may have been determined by any agreement for that purpose entered into between the Government and the Bank.

7. Within the scope of its Official Activities the Bank, its property, assets, income and profits shall have exemption from income tax, capital gains tax and corporation tax.

8. The Bank shall have the like relief from rates on the Premises of the Bank as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

9. The Bank shall have exemption from duties (whether of customs or excise) and taxes on the importation by it or on its behalf of goods necessary for the exercise of the Official Activities of the Bank and on the importation of any publications of the Bank imported by it or on its behalf, 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 Bank shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Bank and necessary for the exercise of its Official Activities and in the case of any publications of the Bank imported or exported by it.

11. The Bank 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 and is 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 Bank shall have relief, under arrangements made by Secretary of State, by way of refund of car tax and value added tax paid on any official vehicle and value added tax paid on the supply of any goods or services which are supplied for the Official Activities of the Bank, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

PERSON CONNECTED WITH THE BANK

13.—(1) A Person Connected with the Bank shall enjoy—

- (a) immunity from suit and legal process, even after the termination of his mission or service, in respect of acts performed by him in his official capacity including words written or spoken by him, except in respect of civil liability in the case of damage arising from a road traffic accident caused by him;
- (b) such immunity from suit and legal process as is necessary to ensure that all their official papers and documents have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of official archives of a diplomatic mission.

(2) In addition to the immunities set out in paragraph (1), Directors, Alternate Directors, Officers and Employees, and experts performing missions for the Bank under contract longer than 18 months shall, at the time of first taking up their post in the United Kingdom, be exempt from duties (whether of customs or excise) and taxes on the importation of articles (except payments for services) in respect of import of their furniture and personal effects (including one motor car each), and the furniture and personal effects of members of their family forming part of their household, which are in their ownership or possession or already ordered by them and intended for their personal use or for their establishment.

(3) In addition to the privileges and immunities set out in paragraph (1), Governors, Alternate Governors, and Representatives of Members shall enjoy—

- (i) the like exemption from duties (whether of customs or excise) and taxes on the importation of their personal baggage, and the like privilege as to the importation of such articles, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

- (ii) the like exemption 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;
- (iii) such immunity from suit and legal process as is necessary to ensure that their personal baggage cannot be seized;
- (iv) immunity from arrest or detention.

(4) In addition to the immunities set out in paragraph (1), the President and five Vice-Presidents, as nominated by the President, 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 their emoluments and duties and taxes on the importation of goods) as are accorded to or in respect of a diplomatic agent;
- (b) the like exemption or relief from being subject to a community charge, or being liable to pay anything in respect of a community charge or anything by way of contribution in respect of a collective community charge, as is accorded to or in respect of a diplomatic agent;
- (c) the like exemption from duties and taxes on the importation of articles imported for their personal use, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (d) the like exemption 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;
- (e) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of duty (whether of customs or excise) or value added tax paid on any hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979) which is bought in the United Kingdom by them or on their behalf and which is for their personal use or for that of members of their family forming part of their household, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

(5) Paragraphs (2), (3) and (4) of 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.

(6) 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 Members of Delegations, nor so as to confer any privilege or immunity on the family of any person to whom this Article applies.

(7) 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 representative of the United Kingdom or as a member of the delegation of such a representative.

(8) Any privilege or immunity conferred by the preceding paragraphs of this Article may be waived as follows:—

- (i) in the case of any privilege or immunity conferred on any officer or employee of the Bank (other than the President or a Vice-President), or on an expert performing a mission for the Bank, by the President;
- (ii) in the case of any privilege or immunity conferred on the President or a Vice-President, by the Board of Directors;
- (iii) in the case of any privilege or immunity conferred on a Representative of a Member or a member of his delegation, by the Member concerned.

14.—(1) As from the date on which an internal effective tax for the benefit of the Bank on the salaries and emoluments paid to him by the Bank is applied, any Director, Alternate, Officer and Employee of the Bank shall enjoy exemption from income tax in respect of such salaries and emoluments, provided that nothing in this 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.

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

15. As from the date on which the Bank establishes or joins a social security scheme, the Directors, Alternate Directors, Officers and Employees of the Bank shall enjoy exemptions whereby for the purposes of the enactments relating to social security, including enactments in force in Northern Ireland –

- (i) services rendered for the Bank 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.

G. I. de Deney
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities on the European Bank for Reconstruction and Development, its officers and employees, experts performing missions for the Bank and representatives of Members. These privileges and immunities are conferred in accordance with Chapter VIII of the Agreement Establishing the European Bank for Reconstruction and Development (Cm.1116) and a Headquarters Agreement which has been negotiated between Her Majesty's Government and the Bank (Cm. 1440). It will enable Her Majesty's Government to give effect to those Agreements, and will come into force on the date on which the Headquarters Agreement enters into force with respect to the United Kingdom.