

This draft Statutory Instrument supersedes the draft of the same title, which was laid before Parliament and published on 7th July 2021 (ISBN 978-0-34-822562-4). It is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Order in Council laid before Parliament under section 10(1) of the International Organisations Act 1968, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No. 0000

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Conference of the Parties to the United Nations Framework Convention on Climate Change (Immunities and Privileges) Order 2021

Made - - - - *****

Coming into force in accordance with article 1

At the Court at Windsor Castle, the ***** day of ***** 2021

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 10(1) of the International Organisations Act 1968(1), a draft of this Order was laid before, and approved by a resolution of, each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred on Her by sections 1 and 5A of that Act, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Conference of the Parties to the United Nations Framework Convention on Climate Change (Immunities and Privileges) Order 2021.

(2) This Order comes into force on—

(a) the day after the day on which it is made; or

(1) 1968 c. 48. Section 5A was inserted by section 3 of the International Organisations Act 1981 (c. 9). Section 6 was amended by section 1(3) of that Act.

- (b) if later, the day after the day on which the Host Country Agreement⁽²⁾ between the United Kingdom of Great Britain and Northern Ireland and the UNFCCC secretariat enters into force for the United Kingdom.
- (3) This Order extends to England and Wales, Scotland and Northern Ireland.
- (4) This Order applies in relation to the whole of the United Kingdom, subject to paragraphs (5) and (6).
- (5) This Order applies only to the extent that the privileges and immunities conferred by it are not conferred by any other enactment.
- (6) In Scotland, articles 4 to 10 do not apply in so far as they would, if included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament.

Interpretation

2.—(1) In this Order, “the Conference” means the conference convened by the COP comprising—

- (a) the 26th session of the COP;
- (b) the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;
- (c) the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement; and
- (d) all related pre-sessional meetings, sessions of subsidiary bodies and additional meetings, convened in the United Kingdom.

(2) In this Order—

“the COP” is to be construed in accordance with article 3;

“the Kyoto Protocol” means the protocol to the UNFCCC signed in Kyoto on 11th December 1997⁽³⁾;

“the Paris Agreement” means the agreement adopted at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change, signed in Paris on 12th December 2015⁽⁴⁾;

“the UNFCCC” means the United Nations Framework Convention on Climate Change, adopted in New York on 9th May 1992⁽⁵⁾;

“the UNFCCC secretariat” means the secretariat of the UNFCCC, the Kyoto Protocol and the Paris Agreement established under Article 8 of the UNFCCC.

The Conference of the Parties to the United Nations Framework Convention on Climate Change

3. The Conference of the Parties to the UNFCCC (“the COP”) is an organisation of which the United Kingdom and another sovereign Power are members.

(2) The text of the draft Host Country Agreement is published as CP 454.

(3) Cm. 6485.

(4) Cm. 9338.

(5) Cm. 2833.

Immunities and privileges for representatives of parties to the UNFCCC, Kyoto Protocol and Paris Agreement

4.—(1) Except in so far as in any particular case any privilege or immunity is expressly waived by the respective party, representatives of parties to the UNFCCC, parties to the Kyoto Protocol and parties to the Paris Agreement who are, or are to be, representatives at the Conference enjoy—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them while exercising their official functions in connection with the Conference;
- (b) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, the like inviolability of any private residence used by the representative, the like immunity from personal arrest or detention and the like exemption or relief from taxes (other than customs and excise duties, car tax and value added tax) and rates as are accorded to the head of a diplomatic mission;
- (c) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, 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; and
- (d) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, exemptions whereby, for the purposes of the requirements of any enactment relating to social security, including enactments in force in Northern Ireland or Scotland—
 - (i) services rendered for the party by the representative are deemed excepted from any class of employment in respect of which contributions or premiums under those enactments are payable; but
 - (ii) the representative may not be rendered liable to pay any contribution or premium which the person would not be required to pay if those services were not deemed to be so excepted.

(2) Where the incidence of any form of taxation depends upon residence, a representative referred to in paragraph (1) is deemed not to be resident in the United Kingdom during any period when the representative is present in the United Kingdom for the exercise of their official functions in connection with the Conference.

Immunities and privileges for representatives of observer states

5.—(1) Except in so far as in any particular case any privilege or immunity is expressly waived by the respective observer state, representatives of observer states, who are, or are to be, representatives at the Conference, enjoy—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them while exercising their official functions in connection with the Conference;
- (b) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, the like inviolability of any private residence used by the representative, the like immunity from personal arrest or detention and the like exemption or relief from taxes (other than customs and excise duties, car tax and value added tax) and rates as are accorded to the head of a diplomatic mission;
- (c) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, 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; and
- (d) while exercising their official functions in connection with the Conference and during their journeys to and from the Conference, exemptions whereby, for the purposes of the

requirements of any enactment relating to social security, including enactments in force in Northern Ireland or Scotland—

- (i) services rendered for the observer state by the representative are deemed excepted from any class of employment in respect of which contributions or premiums under those enactments are payable; but
- (ii) the representative may not be rendered liable to pay any contribution or premium which the person would not be required to pay if those services were not deemed to be so excepted.

(2) Where the incidence of any form of taxation depends upon residence, a representative referred to in paragraph (1) is deemed not to be resident in the United Kingdom during any period when the representative is present in the United Kingdom for the exercise of their official functions in connection with the Conference.

(3) In this article, “observer states” means the observer states referred to in—

- (a) paragraph 6 of Article 7 of the UNFCCC;
- (b) paragraph 8 of Article 13 of the Kyoto Protocol; or
- (c) paragraph 8 of Article 16 of the Paris Agreement.

Immunity from suit and legal process for representatives of the Executive Board of the Clean Development Mechanism

6. Except in so far as in any particular case such immunity is expressly waived by the Secretary General of the United Nations, representatives of the Executive Board of the Clean Development Mechanism, who are, or are to be, representatives at a meeting hosted by the Executive Board forming part of the Conference, enjoy immunity from suit and legal process in respect of things done or omitted to be done by them while exercising their official functions in connection with the meeting.

Immunities and privileges for officials of the specialized agencies of the United Nations

7.—(1) Except in so far as in any particular case any privilege or immunity is waived by or on behalf of the specialized agency concerned, the executive heads of the specialized agencies of the United Nations, who are, or are to be, representatives at the Conference and are participating in or performing functions in relation to the Conference enjoy in connection with the Conference—

- (a) the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;
- (b) the like inviolability of any private residence used by the executive head and the like exemption or relief from taxes (other than customs duties and taxes on the importation of goods) and rates as are accorded to the head of a diplomatic mission;
- (c) the like exemption from customs 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 customs duty paid on any hydrocarbon oil (within the meaning of the

Hydrocarbon Oil Duties Act 1979(6)) bought in the United Kingdom by, or on behalf of, the executive head of the specialized agency, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and

- (f) exemptions whereby, for the purposes of the requirements of any enactment relating to social security, including enactments in force in Northern Ireland or Scotland—
 - (i) services rendered for the specialized agency by the executive head in connection with the Conference are deemed excepted from any class of employment in respect of which contributions or premiums under those enactments are payable; but
 - (ii) the executive head may not be rendered liable to pay any contribution or premium which they would not be required to pay if those services were not deemed to be so excepted.

(2) Except in so far as in any particular case any privilege or immunity is expressly waived by or on behalf of the specialized agency concerned, officers of the specialized agencies of the United Nations (other than those who are locally recruited and assigned to hourly rates of pay) and experts performing missions for a specialized agency, who are, or are to be, representatives at the Conference and are participating in or performing official functions in connection with the Conference, enjoy—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in their official capacity;
- (b) exemption from income tax in respect of emoluments received by them as officers of a specialized agency or experts performing missions for a specialized agency; and
- (c) the like exemption from customs duties and taxes on the importation of articles which—
 - (i) at or about the time when they first enter the United Kingdom in connection with the Conference are imported for their personal use, including articles intended for their establishment; and
 - (ii) are articles which 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.

(3) In paragraph (1), references to an executive head of a specialized agency includes an official acting on behalf of an executive head during an absence from duty.

(4) In this article, “specialized agencies of the United Nations” means—

- (a) the Food and Agriculture Organization;
- (b) the International Civil Aviation Organization;
- (c) the International Fund for Agricultural Development;
- (d) the International Labour Organization;
- (e) the International Monetary Fund;
- (f) the International Maritime Organization;
- (g) the International Telecommunications Union;
- (h) the United Nations Educational, Scientific and Cultural Organization;
- (i) the United Nations Industrial Development Organization;
- (j) the Universal Postal Union;
- (k) the World Bank, comprising—
 - (i) the International Bank for Reconstruction and Development;

- (ii) the International Development Association;
- (iii) the International Finance Corporation;
- (iv) the International Centre for Settlement of Investment Disputes; and
- (v) the Multilateral Investment Guarantee Agency;
- (l) the World Health Organization;
- (m) the World Intellectual Property Organization;
- (n) the World Meteorological Organization;
- (o) the World Tourism Organization.

Immunity from suit and legal process for other representatives

8.—(1) Except in so far as in any particular case such immunity is expressly waived by the Secretary General of the United Nations, core officials of the Adaptation Fund, the Green Climate Fund or the Global Environment Facility who are, or are to be, representatives at the Conference, enjoy immunity from suit and legal process in respect of things done or omitted to be done by them while exercising their official functions in connection with the Conference.

(2) In this article a “core official” is an official who is essential to the participation of their organisation in the Conference in order to enable their organisation to discharge, and report on, its mandate to—

- (a) the 26th session of the COP;
- (b) the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol; or
- (c) the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

Disapplication in respect of members of the official staffs and families of persons referred to in articles 4 to 8

9. Part 4 of Schedule 1 to the International Organisations Act 1968 does not operate so as to confer any privilege or immunity on—

- (a) a member of the official staff of any person referred to in articles 4 to 8;
- (b) the family of any person referred to in articles 4 to 8; or
- (c) the family of a member of the official staff of any person referred to in articles 4 to 8.

Disapplication in respect of representatives of the United Kingdom, members of official staff and citizens and permanent residents of the United Kingdom

10. Neither this Order nor Part 4 of Schedule 1 to the International Organisations Act 1968 operate so as to confer any privilege or immunity—

- (a) on any person as the representative of the United Kingdom or as a member of the official staff of such a representative; or
- (b) on any person referred to in article 4 (representatives of parties to the UNFCCC, Kyoto Protocol and Paris Agreement), 5 (representatives of observer states) or 8 (other representatives) who is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or a permanent resident of the United Kingdom.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Conference of the Parties to the United Nations Framework Convention on Climate Change (Immunities and Privileges) Order 2021 No. 1090

Name
Deputy Clerk of the Privy Council

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Conference of the Parties to the United Nations Framework Convention on Climate Change (Immunities and Privileges) Order 2021 No. 1090*

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers immunities and privileges in relation to the Conference of the Parties to the United Nations Framework Convention on Climate Change (“the COP”). Privileges and immunities are conferred on representatives of its members and other representatives in attendance at the 26th Conference of the Parties to the United Nations Framework Convention on Climate Change to be held in Glasgow between 31st October and 12th November 2021. This includes the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, and all pre-sessional and other additional meetings convened in the United Kingdom in connection with the Conference. These privileges and immunities are conferred in accordance with a Host Country Agreement (CP 454), which has been negotiated between Her Majesty’s Government and the UNFCCC secretariat (as defined in article 2). This Order will give effect to that agreement.