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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

The European Union and European Atomic Energy  
Community (Immunities and Privileges) Order 2021

PART 3

Staff Members, Diplomatic Agents and their Family Members

**Immunity from jurisdiction**

**14.**—(1) Staff Members who discharge their functions in the United Kingdom shall enjoy immunity from criminal, civil and administrative jurisdiction in respect of the exercise of their functions within the scope of Official Activities during their appointment to the Delegation.

(2) The immunity provided for in paragraph (1) shall extend to words written and spoken.

**15.**—(1) Diplomatic Agents, and their Family Members, shall have immunity from criminal, civil and administrative jurisdiction including any measures of execution.

(2) The immunity provided for in paragraph (1) shall not apply in respect of—

- (a) a real action relating to private immovable property situated in the territory of the United Kingdom, unless held on behalf of the European Union for the purposes of the Delegation;
- (b) an action relating to succession in which the Diplomatic Agent or Family Member is involved as executor, administrator, heir or legatee as a private person and not on behalf of the European Union; or
- (c) an action relating to any professional or commercial activity exercised by the Diplomatic Agent or Family Member outside their Official Activities.

**16.** No immunity conferred on a person by this Order applies in relation to—

- (a) a road traffic offence, including an alleged road traffic offence; or
- (b) a civil action brought against the person by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated by or on behalf of, the person.

**The giving of evidence as a witness**

**17.**—(1) Diplomatic Agents and their Family Members shall not be obliged to give evidence as a witness.

(2) The right conferred by paragraph (1) shall not apply in relation to—

- (a) a road traffic offence, including an alleged road traffic offence; or
- (b) a civil action brought against the person by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated by or on behalf of, the person.

## **Inviolability**

**18.**—(1) Staff Members enjoy the like immunity from personal arrest or detention as is accorded to a diplomatic agent under the Diplomatic Privileges Act 1964(1);

(2) The inviolability conferred by paragraph (1) shall only apply to Staff Members in respect of the exercise of their functions within the scope of Official Activities.

(3) The inviolability conferred by paragraph (1) shall not apply in relation to—

- (a) a road traffic offence, including an alleged road traffic offence; or
- (b) a civil action brought against the person by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated by or on behalf of, the person.

**19.** Staff Members enjoy the like inviolability, in respect of papers and correspondence related to their Official Activities, as is accorded to a diplomatic agent under the Diplomatic Privileges Act 1964.

**20.** Diplomatic Agents enjoy the like inviolability of their residence as is accorded to a diplomatic agent under the Diplomatic Privileges Act 1964.

**21.**—(1) The personal baggage of Diplomatic Agents and their Family Members shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than those for their personal use or the official use of the Delegation, including articles intended for their establishment, or articles the import or export of which is prohibited by the law of the United Kingdom or controlled by its quarantine regulations.

(2) Such inspection shall be conducted only in the presence of the Diplomatic Agent or Family Member concerned, or their authorised representative.

## **Immigration**

**22.** Staff Members who discharge their functions in the United Kingdom, together with their Family Members, shall be exempt from any provision of the Immigration Act 1971(2) relating to those who are not patrial except any provision relating to deportation.

## **Relief from Duties**

**23.**—(1) At the time of taking up their appointment, a Staff Member shall have relief from customs duties on the importation of furniture and personal effects, including at least one motor vehicle, that such items are for the personal use of the Staff Member or their Family Members. They shall also have the right to export such furniture and personal effects on the terminations of the Staff Member's functions.

(2) The right to relief provided for in paragraph (1) is subject to the conditions governing the disposal of goods imported into the United Kingdom under relief and to general restrictions applied in the United Kingdom to imports and exports.

**24.** In addition to the relief granted in article 23 of this Order, Diplomatic Agents and their Family Members shall have relief from duties (whether of customs or excise) and taxes, and related charges other than charges for storage, cartage and similar services, on the importation of articles for his or her personal use, including articles intended for their establishment.

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(1) 1964 c. 81.

(2) 1971 c. 77.

### **Income Tax**

25. Provided that the persons concerned are liable to pay tax for the benefit of the European Union on their salaries and emoluments paid to them by the European Union, Staff Members shall be exempt from national taxation on salaries and emoluments paid by the European Union.

### **Compulsory contributions**

26.—(1) Staff Members shall be exempt with respect to their employment with the Delegation from all compulsory contributions to domestic social security bodies.

(2) Staff Members shall not be entitled to any benefits paid by domestic social security bodies from the date of their appointment to the Delegation.

### **Capital Gains Tax**

27. Diplomatic Agents and their Family Members shall be exempt from capital gains tax, except in respect of such tax imposed in respect of—

- (a) immovable property not occupied by them as a principal residence; and
- (b) investments in commercial undertakings in the United Kingdom.

### **Council Tax**

28. Staff Members who discharge their functions in the United Kingdom shall be accorded the same relief from council tax, as is accorded to or in respect of the head of a diplomatic mission under the Diplomatic Privileges Act 1964.

### **Motor vehicles**

29. Diplomatic Agents and their Family Members shall have relief from motor vehicle tax and Value Added Tax in respect of the purchase of new motor vehicles, under arrangements made by the Commissioners for Her Majesty's Revenue and Customs.

### **Relief in respect of oil**

30. Diplomatic Agents and their Family Members shall have relief under arrangements made by the Commissioners for Her Majesty's Revenue and Customs by way of refund of duty (whether customs or excise) paid on imported 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 or on behalf of the Diplomatic Agent or their Family Member.

### **Relief from VAT for the Head of Delegation**

31. Unless they are a British nationals or permanent residents of the United Kingdom, the Head of Delegation will have relief from value added tax on the supply of fine quality goods of United Kingdom manufacture purchased on a substantial scale for the furnishing of their principal residence as is accorded by the United Kingdom to or in respect of the head of a diplomatic mission.

### **British Nationals and Permanent Residents**

32.—(1) The privileges and immunities referred to in article 22 of this Order shall not apply to any Staff Member or Family Member if they are a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or a permanent resident of the United Kingdom.

(2) The privileges and immunities referred to in articles 23, 25, 26 and 28 of this Order shall not apply to any Staff Member or Family Member if they are—

- (a) a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas), unless there are also a national of a European Union state and not resident in the United Kingdom at the time of notification in accordance with Article 24 of the Agreement; or
- (b) a permanent resident of the United Kingdom.

(3) The privileges and immunities referred to in articles 15 and 17 of this Order shall not apply to any Diplomatic Agent or Family Member if they are a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or permanent resident of the United Kingdom.

(4) The privileges and immunities referred to in articles 20, 21, 24, 27, 29 and 30 of this Order shall not apply to any Diplomatic Agent or Family Member if they are—

- (a) a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas), unless they are also a national of a European Union state and not resident in the UK at the time of notification in accordance with Article 24 of the Agreement; or
- (b) a permanent resident of the United Kingdom.

### **Commencement and termination of functions**

**33.**—(1) Every person notified to the Foreign, Commonwealth and Development Office in accordance with Article 24 of the Agreement and who is entitled to privileges and immunities pursuant to this Order shall enjoy such privileges and immunities from the moment they enter the territory of the United Kingdom for the purpose of taking up of functions, or if already in its territory, from the moment when they are so notified.

(2) In respect of Family Members who become entitled to privileges and immunities under this Order under paragraph (1), they shall enjoy such privileges and immunities from the time the Staff Member, to whose household they belong, becomes entitled to privileges and immunities under paragraph (1).

(3) Subject to paragraph (4), when the functions of a person enjoying privileges and immunities under this Order have come to an end, privileges and immunities shall cease—

- (a) at the moment when they leave the United Kingdom; or
- (b) on expiry of a reasonable period in which to do so, and shall subsist until that time, even in case of armed conflict.

(4) Family Members cease to be entitled to privileges and immunities when the privileges and immunities of the Staff Member, to whose household they belong, cease pursuant to paragraph (3).

(5) In case of the death of a Staff Member, Family Members shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the United Kingdom.

(6) Subject to article 16 of this Order, a person will continue to enjoy immunity with respect to acts performed by such a person in the exercise of their official functions within the scope of Official Activities.