

1973 No. 958

**DIPLOMATIC AND INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The African Development Fund (Immunities and Privileges)
Order 1973**

Laid before Parliament in draft

Made - - - - - 24th May 1973

*Coming into Operation On a date to be notified
in the London,
Edinburgh, and
Belfast Gazettes*

At the Court at Buckingham Palace, the 24th day of May 1973

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(a) 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 said Act 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

1. This Order may be cited as the African Development Fund (Immunities and Privileges) Order 1973. It shall come into operation on the date on which the Agreement establishing the African Development Fund(b), signed at Abidjan on 29th November 1972, enters into force in respect of the United Kingdom. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

2.—(1) In this Order “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(c).

(2) The Interpretation Act 1889(d) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1968 c. 48.

(b) Cmnd. 5230.

(c) 1964 c. 81.

(d) 1889 c. 63.

PART II

THE FUND

3. The African Development Fund (hereinafter referred to as the Fund) is an organisation of which the United Kingdom and foreign sovereign powers are members.

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

5.—(1) The Fund shall have immunity from suit and legal process except:

(a) to the extent that the Board of Directors of the Fund shall have expressly waived such immunity in a particular case;

(b) in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Fund or operated on its behalf or to a traffic offence committed by the driver of such a vehicle; and

(c) if the Fund has appointed an agent for the purpose of accepting service or notice of process, in respect of any proceedings (other than proceedings brought against the Fund by any participant or by any agency or instrumentality of a participant, or by any entity or person directly or indirectly acting for or deriving claims from a participant or from any agency or instrumentality of a participant) arising out of or in connection with the exercise of its powers to receive loans.

(2) The provisions of paragraph (1) of this Article shall not prevent the taking of such measures as may be permitted by law in relation to the execution of judgment against the Fund.

6. The Fund shall have the like inviolability of official archives as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives of a diplomatic mission. Premises of the Fund shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure.

7. The Fund shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign power.

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

9. The Fund shall have exemption from customs duties and taxes on the importation of goods imported by or on behalf of the Fund for its official use in the United Kingdom, or on the importation of any publications of the Fund 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 Fund shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Fund for its official use and in the case of any publications of the Fund imported or exported by it.

11. The Fund shall have 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 (Customs

& Excise) Act 1971(a) which is bought in the United Kingdom and used for the official purposes of the Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Fund shall have relief, under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicles and value added tax paid on the supply of any goods which are used for the official purposes of the Fund, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

OFFICERS, SERVANTS AND EXPERTS

13. Except in so far as in any particular case any privilege or immunity is waived by the Board of Directors or the President of the Fund, any governor, director, alternate, officer and servant of the Fund and any expert performing a mission for the Fund shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by him in the course of the performance of his official duties, except in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Fund or operated on its behalf or to a traffic offence committed by him when driving such a vehicle ; and
- (b) unless he is a citizen of the United Kingdom and Colonies or resident in the United Kingdom, exemption from income tax in respect of emoluments received by him as an officer or servant of the Fund or as an expert performing a mission for the Fund.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order confers privileges and immunities upon the African Development Fund, its officers, servants and experts performing missions on its behalf. It will enable the United Kingdom to give effect to Chapter VIII of the Agreement establishing the Fund (Cmnd. 5230) signed at Abidjan on 29th November 1972, as limited by the declarations permitted by Article 58 which will accompany the instrument of ratification. It will come into operation on the date on which the Agreement enters into force with respect to the United Kingdom.

(a) 1971 c. 12.

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