

1974 No. 1251

DIPLOMATIC AND INTERNATIONAL IMMUNITIES
AND PRIVILEGESThe Asian Development Bank (Immunities and Privileges) Order
1974*Laid before Parliament in draft*

Made - - - - 25th July 1974

Coming into Operation 1st August 1974

At the Court at Buckingham Palace, the 25th day of July 1974

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) (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 sections 1 and 12(6) of the 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 Asian Development Bank (Immunities and Privileges) Order 1974 and shall come into operation on 1st August 1974.

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(b).

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Order hereby revoked were Acts of Parliament.

3. The Asian Development Bank (Immunities and Privileges) Order 1966(d) is hereby revoked.

(a) 1968 c. 48. (b) 1964 c. 81. (c) 1889 c. 63. (d) S.I. 1966/1017 (1966 II, p. 2439).

PART II
THE BANK

4. The Asian Development Bank (hereinafter referred to as the Bank) is an organisation of which the United Kingdom and foreign sovereign Powers are members.

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

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

(a) to the extent that it shall have expressly waived such immunity in a particular case; and

(b) if the Bank has appointed an agent for the purpose of accepting service or notice of process or has issued or guaranteed securities in the United Kingdom, in respect of any proceedings (other than proceedings brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member) arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities.

(2) 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 Bank.

7. The Bank 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 Bank shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure.

8. The Bank 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.

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

10. The Bank shall have exemption from customs duties and taxes on the importation of goods imported by or on behalf of the Bank for its official use in the United Kingdom, 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.

11. The Bank shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Bank for its official use and in the case of any publications of the Bank imported or exported by it.

12. The Bank 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 Bank, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

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13. The Bank 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 Bank, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

OFFICERS AND EXPERTS

14. Except in so far as in any particular case any privilege or immunity is waived by the Bank, any Governor, Director, alternate, officer and employee of the Bank and any expert performing a mission for the Bank shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by him in his official capacity ; and
- (b) unless he is a citizen of the United Kingdom and Colonies, exemption from income tax in respect of emoluments received by him as an officer or employee of the Bank or as an expert performing a mission for the Bank.

N. E. Leigh.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order supersedes the Asian Development Bank (Immunities and Privileges) Order 1966, and confers privileges and immunities (including certain privileges previously accorded administratively) upon the Asian Development Bank, its officers, employees and experts performing missions on its behalf. These privileges and immunities are conferred in accordance with Chapter VIII of the Agreement establishing the Asian Development Bank (Cmnd. 3762) opened for signature at Manila on 4th December 1965.

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