

1978 No. 1105

DIPLOMATIC AND INTERNATIONAL IMMUNITIES
AND PRIVILEGESThe European Space Agency (Immunities and Privileges)
Order 1978*Laid before Parliament in draft**Made* - - - - 31st July 1978*Coming into Operation* *On a date to be notified in the
London, Edinburgh and Belfast
Gazettes.*

At the Court of Saint James, the 31st day of July 1978

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 21st day of July 1978, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And 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 Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by sections 1 and 10(3) of the Act and all other powers enabling Her Majesty, do hereby, by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

PART I

GENERAL

1. This Order may be cited as the European Space Agency (Immunities and Privileges) Order 1978 and shall come into operation on the date on which the Convention for the Establishment of a European Space Agency(b) (hereinafter referred to as "the Convention") enters into force. That date shall be notified in the London, Edinburgh and Belfast Gazettes.

(a) 1968 c. 48.

(b) Cmnd. 6272.

2.—(1) For the purposes of this Order, the official activities of the European Space Agency (hereinafter referred to as “the Agency”) shall include its administrative activities and those undertaken in the field of space research and technology and their space applications in pursuance of the purposes of the Agency as defined in the Convention.

(2) 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(a).

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

3. The European Space Research Organisation (Immunities and Privileges) Order 1974(c) and the European Launcher Development Organisation (Immunities and Privileges) Order 1965(d) are hereby revoked.

PART II THE ORGANISATION

4. The Agency is an organisation of which the United Kingdom and foreign sovereign Powers are members.

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

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

- (a) to the extent that the Agency shall have expressly waived such immunity in a particular case;
- (b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or operated on behalf of the Agency, or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of the enforcement of an arbitration award made under Article XXV or XXVI of Annex I to the Convention; and
- (d) in the event of the attachment, pursuant to the order of a court of law, of the salaries and emoluments owed by the Agency to a staff member of the Agency.

(2) Paragraph (1) of this Article shall not prevent the taking of such measures as may be permitted by law in relation to the property and assets of the Agency in so far as they may be temporarily necessary in connection with the prevention of and investigation into accidents involving motor vehicles belonging to or operated on behalf of the Agency.

7. The Agency shall have the like inviolability of official archives and premises as in accordance with the 1961 Convention Articles is accorded in respect of the official archives and premises of a diplomatic mission.

8. Within the scope of its official activities, the Agency 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. Within the scope of its official activities, the Agency 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.

(a) 1964 c. 81.

(b) 1889 c. 63.

(c) S.I. 1974/1255.

(d) S.I. 1965/1532.

10. The Agency shall have exemption from customs duties and taxes on the importation of goods imported by or on behalf of the Agency and strictly necessary for the exercise of its official activities 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 Agency shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by or on behalf of the Agency and strictly necessary for the exercise of its official activities and in the case of any publications of the Agency imported or exported by it.

12. The Agency shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on or value added tax paid on the importation of 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 Agency and which is strictly 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.

13. The Agency 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 or services which are of substantial value and which are used for the official purposes of the Agency and are strictly 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.

PART III REPRESENTATIVES

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member which they represent, representatives of members of the Agency shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the exercise of their functions, except in the case of a motor traffic offence committed by a representative or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) while exercising their functions and in the course of their journeys to and from the place of meeting, the like immunity from personal arrest or detention and the like inviolability for all their official papers and documents as are accorded to a diplomatic agent; and
- (c) while exercising their functions and in the course of their journeys to and from the place of meeting, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;

provided that this Article shall not apply to any person as the representative of Her Majesty's Government in the United Kingdom or to any person who is a citizen of the United Kingdom and Colonies or who, at the moment of taking up his duties in the United Kingdom, is a permanent resident of the United Kingdom.

(a) 1971 c. 12.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on any member of the family or any member of the official staff of a representative.

PART IV
OFFICERS

High Officers

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Council of the Agency, the Director General of the Agency and, when his office is vacant, the person appointed to act in his place in accordance with paragraph 1(c) of Article XII of the Convention shall enjoy:—

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from rates and taxes, other than income tax in respect of his emoluments and customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission;
- (b) the like exemption from customs duties and taxes on the importation of articles imported for his personal use or the use of members of his family forming part of his household, including articles intended for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (c) the like exemption and privileges in respect of his personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent; and
- (d) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on or value added tax paid on the importation of any hydrocarbon oil (within the meaning of the Hydrocarbon Oil (Customs and Excise) Act 1971) which is bought in the United Kingdom, by him or on his behalf, for his personal use or the use of members of his family forming part of his household, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or to any person who, at the time of taking up his duties in the United Kingdom, is a permanent resident of the United Kingdom.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the families of the officers to whom this Article applies.

All Officers

16. Except in so far as in any particular case any privilege or immunity is waived by the Director General of the Agency or, in the case of the Director General, by the Council, the Director General and the other permanent members of the staff of the Agency shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the exercise of their functions, except in the case of a motor traffic offence committed by a member of the staff of the Agency or in the case of damage caused by a motor vehicle belonging to or driven by a member of the staff;

- (b) exemption from income tax in respect of salaries and emoluments received by them as members of the staff of the Agency, provided that nothing in this sub-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; and
- (c) unless they are citizens of the United Kingdom and Colonies or, at the time of taking up their duties in the United Kingdom, permanent residents of the United Kingdom, the like exemption from customs duties and taxes on the importation of articles which:—
 - (i) at the time when they first enter the United Kingdom to take up their posts as members of the staff of the Agency are imported for their personal use or that of members of their families forming part of their households, including articles intended for their establishment, and
 - (ii) are articles which were in their ownership or possession or that of such members of their families, or which they or such members of their families 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.

PART V
EXPERTS

17. Except in so far as in any particular case any privilege or immunity is waived by the Director General of the Agency, an expert (other than a member of the staff of the Agency), in the exercise of his functions in connection with the Agency or in carrying out missions for the Agency, shall enjoy:—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by him in the exercise of his functions, except in the case of a motor traffic offence committed by him or in the case of damage caused by a motor vehicle belonging to or driven by him;
- (b) the like inviolability for all his official papers and documents as is accorded to a diplomatic agent, to the extent that this is necessary for the exercise of his functions, including during journeys made in carrying out his functions and in the course of his missions.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The European Space Agency having taken the place of the European Space Research Organisation and the European Launcher Development Organisation, this Order supersedes the European Space Research Organisation (Immunities and Privileges) Order 1974 and the European Launcher Development Organisation (Immunities and Privileges) Order 1965, and confers privileges and immunities upon the European Space Agency, representatives of its member States, its officers and experts. These privileges and immunities are conferred in accordance with Annex I to the Convention for the Establishment of a European Space Agency (Cmd. 6272) opened for signature in Paris on 30th May 1975.

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