

STATUTORY INSTRUMENTS

1978 No. 179

**DIPLOMATIC AND INTERNATIONAL
IMMUNITIES AND PRIVILEGES****The European Patent Organisation (Immunities and
Privileges) Order 1978***Laid before Parliament in draft**Made - - - - 9th February 1978**Coming into Operation 10th February 1978*

At the Court at Buckingham Palace, the 9th day of February 1978

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(1) 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 section 1 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***Citation and Entry into Force*

1. This Order may be cited as the European Patent Organisation (Immunities and Privileges) Order 1978 and shall come into operation on 10th February 1978.

Interpretation

2.—(1) For the purposes of this Order, the official activities of the European Patent Organisation (hereinafter referred to as the Organisation) shall be such as are strictly necessary for its administrative and technical operation as specified in the Convention on the Grant of European Patents (hereinafter referred to as the Convention) signed by the United Kingdom at Munich on 5th October 1973(b).

(a) 1968 c. 48.

(b) Cmnd. 5656.

(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.

PART II

THE ORGANISATION

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

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

5.—(1) Within the scope of its official activities, the Organisation shall have immunity from suit and legal process except:

- (a) to the extent that such immunity in a particular case has been expressly waived by the Organisation ;
- (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 Organisation, or in respect of a motor traffic offence involving such a vehicle ; and
- (c) in respect of the enforcement of an arbitration award made under Article 23 of the Protocol on Privileges and Immunities annexed to the Convention.

(2) The provisions of the preceding paragraph shall not prevent the taking of such measures as may be permitted by law in relation to the property and assets of the Organisation in so far as they may be temporarily necessary in connection with the prevention of and investigation into accidents involving vehicles belonging to or operated on behalf of the Organisation.

6.—(1) The Organisation 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.

(2) The Organisation shall have the like inviolability of premises as, in accordance with the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission, provided that nothing in this paragraph shall preclude service of legal process by post.

7. Within the scope of its official activities, the Organisation 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 Organisation 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 Organisation shall have exemption from customs duties and taxes on the importation of goods imported by the Organisation and necessary for

(a) 1964 c. 81.

(b) 1889 c. 63.

the exercise of its official activities, or on the importation of any publications of the Organisation imported by it, 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 Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation and necessary for the exercise of its official activities and in the case of any publications of the Organisation imported or exported by it.

11. The Organisation 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 and Excise) Act 1971(a)) which is bought in the United Kingdom and necessary for the exercise of the official activities of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Organisation 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 and services which are necessary for the exercise of the official activities of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART III

REPRESENTATIVES

13.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Member State whom they represent, representatives of Member States of the Organisation, when attending meetings of its Administrative Council or of any subordinate body established by it, 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 during their journeys to and from the place of meetings, the like immunity from personal arrest or detention and from seizure of their personal baggage as is accorded to a diplomatic agent, provided that a representative shall not enjoy such immunity if there are reasonable grounds for suspecting that he is in the course of committing, attempting to commit, or has just committed an offence;

(c) while exercising their functions and during their journeys to and from the place of meetings, the like inviolability for all their official papers and documents as is accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives, other than alternate representatives, advisers and experts.

(3) Neither the provisions of the preceding paragraphs of this Article, nor those of Part IV of Schedule 1 to the Act, shall operate so as to confer any privilege or immunity on any persons as the representatives or alternate

representatives, or their advisers and experts, of Her Majesty's Government in the United Kingdom or on any person who is a citizen of the United Kingdom and Colonies or who, at the time of taking up his functions in respect of the Organisation, is a permanent resident of the United Kingdom.

(4) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives, alternate representatives, advisers or experts.

PART IV
OFFICERS

High Officer

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Administrative Council of the Organisation, the President of the European Patent Office shall enjoy :—

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes (other than income tax in respect of his emoluments and customs duties and taxes on the importation of goods) and rates as are accorded to or in respect of a diplomatic agent, provided that he shall enjoy no immunity from suit and legal process 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 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 ;

provided that this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or who, at the time of taking up his functions with the Organisation, 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 family of an officer to whom this Article applies.

All Officers

15. Except in so far as in any particular case any privilege or immunity is waived by the President of the European Patent Office or (in the case of the President) by the Administrative Council of the Organisation, all officers of the European Patent Office shall enjoy :—

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their official duties, except in the case of a motor traffic offence committed by an officer or in the case of damage caused by a motor vehicle belonging to or driven by him ;
- (b) as from the date on which the emoluments received by them as officers of the European Patent Office become subject to taxation by the Organisation for its benefit, exemption from income tax in respect of such emoluments, provided that nothing in this sub-paragraph shall be interpreted as precluding such emoluments from being taken into account for the purpose of assessing the amount of taxation to be applied to income from other sources ;

(c) unless they are citizens of the United Kingdom and Colonies or, at the time of taking up their functions with the Organisation, are permanently resident in the United Kingdom, 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, for the purpose of taking up post as officers of the European Patent Office for a period of at least one year, 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 ;

provided that this Article shall not apply, in whole or in part, to those categories of officers to which the Administrative Council has decided by regulation that it shall not apply, in whole or in part.

PART V

EXPERTS

16. Except in so far as in any particular case any privilege or immunity is waived by the President of the European Patent Office, an expert (other than a member of the staff of a representative or an officer of the European Patent Office) serving on any committee of the Organisation or employed on missions on its behalf shall, so far as is necessary for the carrying out of his functions, including during journeys made in carrying out his functions and in the course of such missions, 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) while he is employed by the Organisation, the like inviolability for all his official papers and documents as is accorded to a diplomatic agent.

N. E. Leigh,

Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order confers privileges and immunities on the European Patent Organisation, representatives of its members, officers of the European Patent Office and experts. These privileges and immunities are conferred in accordance with the Convention on the Grant of European Patents, and the Protocol on Privileges and Immunities annexed to it (Cmnd. 5656) signed by the United Kingdom on 5th October 1973.

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