

2001 No. 3921

INTERNATIONAL IMMUNITIES AND PRIVILEGES

**The Organisation for the Prohibition of Chemical Weapons
(Immunities and Privileges) Order 2001**

Made - - - - 11th December 2001

Coming into force in accordance with Article 1

At the Court at Buckingham Palace the 11th day of December 2001

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) ("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(b) 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 Organisation for the Prohibition of Chemical Weapons (Immunities and Privileges) Order 2001. It shall come into force on the date on which the Agreement between the Organisation for the Prohibition of Chemical Weapons and the Government of the United Kingdom of Great Britain and Northern Ireland on the Privileges and Immunities of the OPCW(c) enters into force. This date shall be notified in the London, Edinburgh and Belfast Gazettes.

2. In this Order:

- (a) "the Organisation" means the Organisation for the Prohibition of Chemical Weapons established under Article VIII, paragraph 1, of the Convention;
- (b) "Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction done at Paris on 13th January 1993(d);

(a) 1968 c. 48.

(b) As amended by section 1 of the International Organisations Act 1981 (c. 9).

(c) Cm. 5099.

(d) Cm. 3727.

- (c) “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);
- (d) “Member” means a member of the Organisation; and
- (e) “representatives of Members” means representatives, alternates, advisers, technical experts and secretaries of delegations of Members.

PART II

THE ORGANISATION

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

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

5. The Organisation and its property shall enjoy immunity from suit and legal process, except in so far as the Organisation has expressly waived such immunity in any particular case.

6. The Organisation 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.

7. Within the scope of its official activities the Organisation, its property and income shall have exemption from taxes on income and capital gains.

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 duties (whether of customs or excise) and taxes on the importation of goods imported by the Organisation for its official use, 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 of goods 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 duty (whether of customs or excise) paid on imported hydrocarbon oil within the meaning of the Hydrocarbon Oil Duties Act 1979(b) or value added tax paid on the importation of such oil which is bought in the United Kingdom by the Organisation and 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.

12. The Organisation shall have relief, under arrangements made by the Secretary of State, by way of refund of value added tax paid on the purchase of new vehicles which are necessary for the official activities of the Organisation, and of value added tax paid on the supply of any other goods and services of substantial value which are necessary for 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.

(a) 1964 c. 81.

(b) 1979 c. 5.

PART III

REPRESENTATIVES

13.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Member which they represent, representatives of Members at the meetings of the Organisation shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting:—

- (a) the like immunity from personal arrest or detention and from seizure of their personal baggage as is accorded to a diplomatic agent;
- (b) immunity from suit and legal process, even after the termination of their mission, in respect of acts, including words spoken or written, performed by them in their official capacity; and
- (c) the like inviolability for all papers, documents and official material as is accorded to a diplomatic agent.

(2) Where the incidence of any form of taxation depends upon residence, a representative shall not be deemed to be resident in the United Kingdom during any period when he is present in the United Kingdom for the discharge of his duties.

(3) 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 alternates, advisers, technical experts and secretaries of their delegations.

(4) Neither the provisions of the preceding paragraphs of this Article nor Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative, alternate, technical adviser or secretary of the delegation of the United Kingdom or on any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British National (Overseas).

(5) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives of Members.

PART IV

OFFICIALS

High officials

14.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, the Director-General of the Organisation and his spouse, or any senior official acting on his behalf during his absence from duty, shall enjoy:—

- (a) the like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates, other than 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;
- (d) relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of duty (whether of customs or excise) paid on any 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 him or on his behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and

- (e) exemptions whereby, for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland,—
 - (i) services rendered for the Organisation by the officer shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but
 - (ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted.

(2) This Article shall not apply to any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British National (Overseas) or who is a permanent resident of the United Kingdom.

All officials

15.—(1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, in respect of activities related to the object and purpose of the Convention officials of the Organisation, other than those who are locally recruited and assigned to hourly rates of pay, shall enjoy:—

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) immunity from suit and legal process even after they have left the service of the Organisation, in respect of acts, including words spoken or written, performed by them in their official capacity; this immunity shall not apply, however, in the case of damage caused by a motor vehicle belonging to or driven by an official;
- (c) exemption from income tax in respect of salaries and emoluments paid to them by the Organisation, provided that an internal effective tax for the benefit of the Organisation on such salaries and emoluments is applied.

(2) Paragraph 1 of this Article shall not apply in respect of activities relating to the conduct of inspections within the meaning of section 24 of the Chemical Weapons Act 1996^(a).

(3) Paragraph (1) of this Article shall not apply to pensions or annuities paid by the Organisation.

PART V

EXPERTS

16. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, experts (other than officials of the Organisation) shall, so far as is necessary for the effective exercise of their functions, including during journeys made in carrying out their functions and in the course of their missions for the Organisation, enjoy:—

- (a) the like immunity from personal arrest or detention and from seizure of their personal baggage as is accorded to a diplomatic agent;
- (b) immunity from suit and legal process (even after the termination of their mission) in respect of acts done by them in the course of the performance of their official functions, including words spoken or written; and
- (c) the like inviolability for all papers, documents and official material as is accorded to a diplomatic agent.

A.K. Galloway
Clerk of the Privy Council

^(a) 1996 c. 6.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers privileges and immunities upon the Organisation for the Prohibition of Chemical Weapons, on representatives of its Members, its officials and experts. These privileges and immunities are conferred in accordance with the Agreement of 26 October 2000 between the Organisation for the Prohibition of Chemical Weapons and the Government of the United Kingdom of Great Britain and Northern Ireland on the Privileges and Immunities of the OPCW (Cm. 5099). The Order will enable Her Majesty's Government to give effect to that Convention and will come into force on the date on which that Convention enters into force.

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