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UNITED NATIONS JURIDICAL YEARBOOK

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Part One. Legal status of the United Nations and related intergovernmental organizations

Chapter I. Legislative texts concerning the legal status of the United Nations and related intergovernmental organizations



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Chapter I

LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERN- MENTAL ORGANIZATIONS

1. United Kingdom of Great Britain and Northern Ireland

(a) THE INTERNATIONAL SEA-BED AUTHORITY (IMMUNITIES AND PRIVILEGES)
ORDER 1996¹

Made 14 February 1996

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 14th day of February 1996

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 1968² ("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 Act³ 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. (1) This Order may be cited as the International Sea-Bed Authority (Immunities and Privileges) Order 1996.

(2) It shall, with the exception of article 13, come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the United Nations Convention on the Law of the Sea of 10 December 1982⁴ ("the Convention") enters into force in respect of the United Kingdom.

(3) Article 13 shall come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the Enterprise operates independently of the Secretariat of the Authority.

Interpretation

2. In this Order:

- (a) "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;⁵
- (b) "Authority" means the International Sea-Bed Authority established by the Convention;
- (c) "Enterprise" means the organ of the Authority referred to in article 158², and article 170 of the Convention;
- (d) "representative" means a representative of a member of the Authority attending meetings of the Assembly, the Council or organs of the Assembly or Council.

PART II

The Authority

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

4. The Authority (including the Enterprise) shall have the legal capacities of a body corporate.

5. The Authority, its property and assets shall enjoy immunity from suit and legal process, except to the extent that the Authority expressly waives this immunity in a particular case.

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

7. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by the Convention, shall have the exemption from income tax, capital gains tax and corporation tax.

8. The Authority 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.

9. The Authority shall have exemption from customs duties and taxes on the importation of goods for its official use in the United Kingdom.

10. The Authority shall have relief, under arrangements made by the Commissioners of Customs and Excise, by way of refund of customs duty paid on imported hydrocarbon oil (within the meaning of the Hydrocarbon Oil Duties Act 1979⁶ or value added tax paid on the importation of such oil which is bought in the United Kingdom and used for the official purposes of the Authority, such relief to be subject to the compliance with the conditions as may be imposed in accordance with the arrangements.

11. The Authority 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 motor vehicles of United Kingdom manufacture and of value added tax on the supply of any goods or services which are used for the official purposes of the Authority, such relief to be subject to compliance with the conditions as may be imposed in accordance with the arrangements.

PART III

The Enterprise

12. Articles 5 to 11 of this Order shall not apply to the Enterprise.

13. Except to the extent that the Enterprise shall have waived such immunity, the Enterprise shall have immunity from suit and legal process:

- (a) Where the Enterprise has no office in the United Kingdom, has not appointed any agent in the United Kingdom for the purpose of accepting service or notice of process, has not entered into a contract for goods or services in the United Kingdom, has not issued securities in the United Kingdom and has not otherwise engaged in commercial activity in the United Kingdom;
- (b) In respect of all forms of seizure, attachment or execution before the delivery of final judgement against the Enterprise; and
- (c) In respect of the requisition, confiscation, expropriation or any other form of seizure of property or assets of the Enterprise wherever located and by whomsoever held.

PART IV

Representatives

14. (1) Representatives shall enjoy immunity from suit and legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent expressly waives this immunity in a particular case.

(2) Part IV of schedule 1 to the Act shall not operate so as to confer any privilege or immunity or:

- (a) The official staff of a representative other than alternate representatives and advisers, or
- (b) The family of a representative.

(3) Neither the preceding paragraphs of the 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 of the United Kingdom or as a member of the official staff of such a representative or on any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas).

PART IV

Officials

15. (1) The Secretary-General and staff of the Authority shall enjoy immunity from suit and legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the Authority expressly waives this immunity in a particular case.

(2) The Secretary-General and staff of the Authority, who are not British citizens, British Dependent Territories citizens, British Overseas citizens or British Nationals (Overseas) shall enjoy exemption from income tax in respect of emoluments received by them from the Authority.

(3) 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 of an official to whom this article applies.

(4) Paragraph 2 of this article shall not apply to pensions and annuities paid by the Authority.

PART V

Experts Performing Missions

16. Experts performing missions for the Authority who are not British citizens, British Dependent Territories citizens, British Overseas citizens or British Nationals (Overseas) shall enjoy exemption from income tax in respect of emoluments received by them from the Authority.

N. H. NICHOLLS
Clerk of the Privy Council

Explanatory note

(This note is not part of the Order)

This Order confers privileges and immunities on the International Sea Bed Authority, its officials, representatives of its members and experts performing missions for it, and on the Enterprise, an organ of the Authority. These privileges and immunities are conferred in accordance with the United Nations Convention on the Law of the Sea (Cmnd. 8941). The Order will enable Her Majesty's Government to give effect to that Convention, and will come into force, with the exception of article 13, on the date on which the Convention enters into force in respect of the United Kingdom. Article 13 will come into force when the Enterprise operates independently of the Secretariat of the Authority.

(b) THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
(IMMUNITIES AND PRIVILEGES) ORDER 1996⁷

Made

14 February 1996

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 14th day of February 1996

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 1968⁸ ("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 5 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 International Tribunal for the Law of the Sea (Immunities and Privileges) Order 1996 and shall come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the United Nations Convention on the Law of the Sea of 10 December 1982⁹ enters into force in respect of the United Kingdom.

Interpretation

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;¹⁰

"the Tribunal" means the International Tribunal for the Law of the Sea established in accordance with annex VI of the United Nations Convention on the Law of the Sea.

PART II

The Tribunal

3. Except in so far as in any particular case any privilege or immunity is waived by the Tribunal, the members of the Tribunal shall enjoy, when engaged on the business of the Tribunal, the like privileges and immunities as, in accordance with the 1961 Convention Articles, are accorded to the head of a diplomatic mission.

4. The members of the Tribunal and the Registrar of the Tribunal shall have exemption from income tax in respect of emoluments received by them as members or as the Registrar.

N. H. NICHOLLS
Clerk of the Privy Council

Explanatory note

(This note is not part of the Order)

This Order confers privileges and immunities on the members of the International Tribunal for the Law of the Sea. These privileges and immunities are conferred in accordance with annex VI of the United Nations Convention on the Law of the Sea (Cmd. 8941). The Order will enable Her Majesty's Government to give effect to that Convention and will come into force on the date on which the Convention enters into force in respect of the United Kingdom.

(c) MERCHANT SHIPPING AND MARITIME SECURITY ACT 1997¹¹

Maritime security, etc.

25. Schedule 4 (amendments of part III of the Aviation and Maritime Security Act 1990, which relates to the protection of ships and harbour areas against acts of violence) shall have effect.

26. (1) For the avoidance of doubt it is hereby declared that for the purposes of any proceedings before a court in the United Kingdom in respect of piracy, the provisions of the United Nations Convention on the Law of the Sea 1982 that are set out in schedule 5 shall be treated as constituting part of the law of nations.

(2) For the purposes of those provisions the high seas shall (in accordance with paragraph 2 of article 58 of that Convention) be taken to include all waters beyond the territorial sea of the United Kingdom or of any other state.

(3) The Tokyo Convention Act 1967 (so far as unrepealed) shall cease to have effect.

(4) Her Majesty may by Order in Council direct that subsections (1) to (3) and schedule 5 shall extend to the Isle of Man, any of the Channel Islands or any colony with such modifications, if any, as appear to Her to be appropriate.

(5) In section 39 of the Aviation Security Act 1982 (extension of 1982 Act outside United Kingdom), for subsection (2) (application of power in 1967 Act to section 5 of 1982 Act) there is substituted:

“(2) Subsection (4) of section 26 of the Merchant Shipping and Maritime Security Act 1997 (power to extend provisions about piracy to Isle of Man, Channel Islands and colonies) shall apply to section 5 of this Act as it applies to the provisions mentioned in that subsection.”

(6) Nothing in this section affects the operation of any Order in Council made under section 8 of the Tokyo Convention Act 1967; but any such Order may be revoked as if made under subsection (4).

International bodies concerned with maritime matters

27. (1) In this section “the 1971 Fund” means the International Oil Pollution Compensation Fund established by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18 December 1971.

(2) The termination of the membership of Her Majesty’s Government in the United Kingdom of the 1971 Fund shall not affect the application to that Fund of section 1 of the International Organisations Act 1968.

28. (1) In this section “the Tribunal” means the International Tribunal” means the International Tribunal for the Law of the Sea established in accordance with annex VI of the United Nations Convention on the Law of the Sea.

(2) Except in so far as in any particular case any privilege or immunity is waived by the Tribunal, the members of the Tribunal shall enjoy, when engaged on the business of the Tribunal, the like privileges and immunities as, in accordance with the 1961 Convention Articles, are accorded to the head of a diplomatic mission.

(3) In subsection (2):

“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;

“head of a diplomatic mission” shall be construed in accordance with those Articles.

(4) The members of the Tribunal and the Registrar of the Tribunal shall have exemption from income tax in respect of emoluments received by them as members or as the Registrar.

(5) Subsection (4) shall be taken to have come into force on 15 September 1996.

(6) If in any proceedings a question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

(7) Subsections (1) to (5) shall cease to have effect on the coming into force of the International Tribunal for the Law of the Sea (Immunities and Privileges) Order 1996 (which makes provision corresponding to subsections (1) to (4) but does not come into force until the United Nations Convention on the Law of the Sea enters into force in respect of the United Kingdom).

Supplementary

29. (1) Schedule 6 (minor and consequential amendments) shall have effect.
- (2) Schedule 7 (repeals and revocations) shall have effect.
30. (1) This Act, except section 4, extends to Northern Ireland.
- (2) The provisions capable of being:
- (a) Extended to the Isle of Man, any of the Channel Islands or any colony under section 315 of the 1995 Act, or
- (b) Applied in relation to any of those places under section 141 or under or by virtue of any other provision of the 1995 Act, include the amendments of that Act made by this Act.
- (3) The provisions capable of being extended to the Isle of Man, any of the Channel Islands or any colony under section 51 of the Aviation and Maritime Security Act 1990 include the amendments of that Act made by this Act.
- (4) Her majesty may by Order in Council direct that section 24 shall with such exceptions, adaptations and modifications (if any) as may be specified in the Order, extend to the Isle of Man, any of the Channel Islands or any colony.
31. (1) This Act may be cited as the Merchant Shipping and Maritime Security Act 1997.
- (2) In this Act "the 1995 Act" means the Merchant Shipping Act 1995.

NOTES

¹United Kingdom Statutory Instruments, 1996, No. 270.

²1968 c. 48.

³As amended by section 1 of the International Organisations Act 1981 (c. 9).

⁴Cmnd. 8941.

⁵1964 c. 81.

⁶1979 c. 5.

⁷United Kingdom Statutory Instruments, 1996, No. 272.

⁸1968 c. 48.

⁹Cmnd. 8941.

¹⁰1964 c. 81.

¹¹Ibid.