Status: *This version of this Instrument contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Unified Patent Court (Immunities and Privileges) Order 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2018 No. 184

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The Unified Patent Court (Immunities and Privileges) Order 2018

Made - - - - 8th February 2018

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 8th day of February 2018

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 1 and 5 of the International Organisations Act 1968 ("the Act") [F1].

A draft of this Order has been approved by resolution of each House of Parliament pursuant to section 10(1) of the Act [F2].

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to order as follows—

F1 1968 c.48. Section 1 was amended by section 1 of the International Organisations Act 1981 (c.9) and article 2 of the Civil Partnership Act 2004 (International Immunities and Privileges, Companies and Adoption) Order 2005 (S.I. 2005/3542).

F2 The function of approving a draft of an Order in Council under section 10 of the Act has been transferred from both Houses of Parliament to the Scottish Parliament under section 118 of the Scotland Act 1998 (c.46) (as amended by section 12 of the Scotland Act 2012 (c.11)) in so far as the function is exercisable within devolved competence.

PART 1

General

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Unified Patent Court (Immunities and Privileges) Order 2018 and comes into force on the date on which the Protocol enters into force in accordance with Article 18 of the Protocol [F3].

(2) The Order extends to the whole of the United Kingdom subject to paragraph (3).

(3) Article 9 extends to England and Wales and Northern Ireland only [F4].

(4) In Scotland—

(a) articles 5, 6, 7, 11, 16, 17 and 18 do not apply in so far as they would, if included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament;

(b) article 8 does not apply to devolved taxes or local taxes to fund local authority expenditure (within the meaning of the exceptions to Section A1 (fiscal, economic and monetary policy) of Part 2 of Schedule 5 to the Scotland Act 1998 [F5].

F3 The date on which the Protocol enters into force in the United Kingdom will be published on the relevant page on UK Treaties Online which can be found at this link: https://www.gov.uk/uk-treaties.

F4 The setting of non-domestic rates is within the legislative competence of the Scottish Parliament by exemption to Section A1 of Schedule 5 of the Scotland Act 1998 c.46. Section A1 was amended by section 23(5) of the Scotland Act 2012 (c.11).

F5 1998 c.46. Section A1 was amended by section 23(5) of the Scotland Act 2012 (c.11).

Interpretation

2. In this Order—

"the Agreement" means the Agreement on a Unified Patent Court done in Brussels on 19th February 2013 [F6];

"Committee" means any of the Administrative Committee, the Budget Committee and the Advisory Committee established under Article 11 of the Agreement;

"the Court" means the Unified Patent Court established under Article 1 of the Agreement;

"Deputy-Registrar" means the Deputy-Registrar appointed under Article 25 of the Statute;

"Judge" means a Judge of the Court;

"official activities" in relation to the Court means the activities that are necessary for the purposes and functions conferred upon it by the Agreement and the Statute;

"premises of the Court" means land and buildings made available to the Court by a State party to the Agreement in accordance with Article 37 of the Agreement and used for the official activities of the Court;

"the Presidium" means the Presidium referred to in Article 15 of the Statute;

"the Protocol" means the Protocol on Privileges and Immunities of the Unified Patent Court done in Brussels on 29th June 2016 [F7];

"Registrar" means the Registrar appointed under Article 22 of the Statute;

"Staff" means all personnel employed by the Court as officials and other servants of the Court except the Judges, Registrar and Deputy-Registrar;

"State Party" means a State party to the Protocol; and

"the Statute" means the Statute of the Court as set out in Annex I of the Agreement.

F6 Cm 8653.
F7 Cm 9405.

PART 2

The Court

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

4. The Court has the legal capacities of a body corporate.

PART 3

Immunities, privileges, reliefs and exemptions of the Court

5.—(1) Subject to paragraph (2), the Court has immunity from suit and legal process except to the extent that it expressly waives such immunity.

(2) The immunity of the Court under paragraph (1) does not apply in respect of—

(a) any civil action brought against it—

(i) with respect to contractual liability brought by persons other than the Judges, Registrar, Deputy-Registrar or the Staff of the Court;

(ii) with respect to non-contractual liability except where the claim is based on the performance of the Court's jurisprudence; and

(iii) by a third party for damages resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Court; or

(b) a motor traffic offence involving such a vehicle.

6. The official archives of the Court have the like inviolability as is accorded in respect of the official archives of a diplomatic mission in accordance with the 1961 Convention Articles.

7.—(1) Subject to paragraph (2), the premises of the Court have the like inviolability as is accorded in respect of the premises of a diplomatic mission in accordance with the 1961 Convention Articles.

(2) The inviolability of the premises of the Court does not apply to the extent that the Secretary of State is responsible for premises which have been made available to the Court by the Secretary of State.

8. Within the scope of its official activities, the Court is exempt from all direct taxation and enjoys the exemptions and reliefs set out in articles 9 to 14.

9. The Court has the like relief from non-domestic rates on the premises of the Court as, in accordance with Article 23 of the 1961 Convention Articles, is accorded in respect of the premises of a diplomatic mission.

10. The Court is exempt from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the Court for its official use in the United Kingdom.

11. The Court is exempt from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Court for its official use.

12. The Court has relief, under arrangements made by the Commissioners for Her Majesty's Revenue and Customs, 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 [F8]) or value added tax paid on the importation of such oil which is bought in the United Kingdom and is used for its official purposes.

F8 1979 c.5.

13. The Court has relief under arrangements made by the Secretary of State, by way of refund of car tax paid on any vehicle used for its official purposes and value added tax paid on the supply of any goods or services which are supplied for its official purposes.

14. The Court has relief by way of refund of insurance premium tax paid by the Court in exercise of its official activities.

15. The exemptions and relief granted in articles 10, 12 and 13 are to be subject to compliance with such conditions as the Commissioners for Her Majesty's Revenue and Customs may prescribe for the protection of the Revenue.

PART 4

Representatives

16.—(1) Except in so far as in any particular case any immunity is waived by the Presidium of the Court, representatives of a State Party shall enjoy immunity from suit and legal process in respect of all acts performed by them while attending a meeting of a Committee in their official capacity.

(2) This article does not apply to a person who is a British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas) or any person who at the time of taking up their functions with the Court is a permanent resident of the United Kingdom.