Draft Order laid before Parliament under section 10 of the International Organisations Act 1968, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

INTERNATIONAL IMMUNITIES AND PRIVILEGES

The International Tribunal for the Law of the Sea (Immunities and Privileges) Order 2005

Made - - - - 19th July 2005

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the 19th day of July 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968 (**1**) ("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 sections 1 and 5 of the Act and section 8 of the International Organisations Act 2005 (**2**) 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 1

GENERAL

1. This Order may be cited as the International Tribunal for the Law of the Sea (Immunities and Privileges) Order 2005, and shall come into force on the date, specified in the London, Edinburgh and Belfast Gazettes, on which the Agreement on the Privileges and Immunities of the International

(**1**) 1981 c. 9.
(**2**) 2005 c. 20.

Tribunal for the Law of the Sea done at New York on 1st July 1997 (**3**) enters into force in respect of the United Kingdom.

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 (**4**);

"Convention" means the United Nations Convention on the Law of the Sea done at Montego Bay on 10th December 1982 (**5**);

"member of the Tribunal" means an elected member of the Tribunal or a person chosen under article 17 of the Statute for the purpose of a particular case;

"officials of the Tribunal" means the Registrar and other officers of the Tribunal;

"Registrar" means the Registrar of the Tribunal and includes any official of the Tribunal acting as Registrar;

"Statute" means the Statute of the International Tribunal for the Law of the Sea in annex VI to the Convention;

"Tribunal" means the International Tribunal for the Law of the Sea.

PART 2

THE TRIBUNAL

3. The Tribunal shall have the legal capacities of a body corporate.

4. The Tribunal shall enjoy immunity from suit and legal process, including in respect of its property, assets and funds, except in so far as the Tribunal has expressly waived such immunity in any particular case.

5. The Tribunal 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.

6. The Tribunal, its assets, income and other property shall have exemption from income tax, capital gains tax and corporation tax.

7. The Tribunal 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.

8. The Tribunal shall have exemption from duties (whether of customs or excise) and taxes on the importation of goods and publications of the Tribunal imported by the Tribunal for its official use, such exemption 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.

9. The Tribunal shall have exemption from prohibitions and restrictions, except where the prohibitions or restrictions arise from European Community law, on importation or exportation of goods by the Tribunal for its official use and in the case of any publications of the Tribunal imported or exported by it.

(**3**) Cm. 4526.
(**4**) 1964 c. 81; as amended by section 2(2) of, and paragraph 4 of the Schedule to, the Hong Kong Act 1985 (c. 15) and by section 1(1) of the Arms Control and Disarmament (Privileges and Immunities) Act 1988 (c. 2).
(**5**) Cm. 4524.

10. The Tribunal shall have 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 (**6**)) or value added tax paid on the importation of such oil which is bought in the United Kingdom by the Tribunal 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.

11. The Tribunal 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 necessary for the official purposes of the Tribunal, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

12. The Tribunal shall have relief, under arrangements made by the Secretary of State, by way of refund of Insurance Premium Tax and Air Passenger Duty paid by the Tribunal in the exercise of its official activities.

PART 3

MEMBERS OF THE TRIBUNAL

13.—(1) Except in so far as in any particular case any privilege or immunity is waived as set out in paragraph (8), members of the Tribunal shall enjoy—

(a) when engaged on the business of the Tribunal;

(b) when residing in the United Kingdom for the purpose of holding themselves at the disposal of the Tribunal;

(c) when on journeys in or through the United Kingdom in connection with the exercise of their functions,

the privileges and immunities set out in paragraph (2).

(2) The privileges and immunities referred to in paragraph (1) are—

(a) the like immunity from suit and legal process, the like inviolability of residence, the like immunity from personal arrest, detention and seizure of personal baggage, and the like exemption or relief from taxes and rates, other than duties (whether of customs or excise) 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 or relief from being liable to pay anything in respect of council tax, as is accorded to or in respect of the head of a diplomatic mission;

(c) the like exemption or relief from duties (whether customs or excise) and taxes on the importation of articles imported for the personal use of a member of the Tribunal or of members of his family forming part of his household, including articles intended for his establishment and the like privilege as to the importation of such articles, as in accordance with paragraph 1of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

(d) the like exemption and privileges in respect of personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;

(e) 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

(**6**) 1979 c. 5.

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 or on behalf of a member of the Tribunal and is for his personal use or for that 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.

(3) The provisions of paragraphs (1) and (2) shall not operate so as to confer any privilege or immunity on any person who is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British national (Overseas) or permanently resident in the United Kingdom; but any such person who is a member of the Tribunal shall enjoy—

(a) immunity from suit and legal process (even after he has ceased to exercise his functions) in respect of acts, including words written or spoken, done by him in the course of discharging his functions in connection with the Tribunal; and

(b) exemption from income tax in respect of salaries and emoluments (excluding pensions and annuities) received by him from the Tribunal as a member of the Tribunal,

except in so far as in any particular case any privilege or immunity is waived as set out in paragraph (8).

(4) Where the incidence of any form of taxation depends on residence, any period during which members of the Tribunal are present in the United Kingdom for the discharge of their functions shall not be considered a period of residence in the United Kingdom.

(5) Paragraph (2) (a) shall not apply to pensions or annuities paid by the Tribunal.

(6) Members of the family forming part of the household of a member of the Tribunal—

(a) during any period in which he is resident in the United Kingdom for the purpose of holding himself at the disposal of the Tribunal; or

(b) when he is on journeys in or through the United Kingdom in connection with the exercise of his functions,

shall enjoy the privileges and immunities provided for in paragraph (2) during the period of that residence or when on such journeys.

(7) Except in so far as in any particular case any privilege or immunity is waived as set out in paragraph (8), members of the Tribunal after the expiry of their terms of office shall enjoy immunity from suit and legal process in respect of acts, including words written or spoken, done by them in the course of discharging their functions in connection with the Tribunal.

(8) Privileges and immunities accorded by this article may be waived by the Tribunal.

PART 4

REGISTRAR

14.—(1) Except in so far as in any particular case any privilege or immunity is waived as set out in paragraph (5), the Registrar, when engaged on the business of the Tribunal, shall enjoy—

(a) the like immunity from suit and legal process, the like inviolability of residence, the like immunity from personal arrest, detention and seizure of personal baggage, and the like exemption or relief from taxes and rates as are accorded to or in respect of a diplomatic agent;

(b) the like exemption from duties and taxes on the importation of articles imported for his personal use, including articles imported for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;