



STATUTORY INSTRUMENTS.

S.I. No. 569 of 2015



INTERNATIONAL ORGANIZATION FOR MIGRATION (PRIVILEGES
AND IMMUNITIES) ORDER 2015

INTERNATIONAL ORGANIZATION FOR MIGRATION (PRIVILEGES
AND IMMUNITIES) ORDER 2015

WHEREAS it is enacted by section 42A (amended by section 4 of the Diplomatic Relations and Immunities (Amendment) Act 2006 (No. 10 of 2006)) of the Diplomatic Relations and Immunities Act 1967 (No. 8 of 1967) that the Government may by order make provision to enable—

(a) international organisations, communities or bodies, their institutions or organs and their property, and

(b) persons,

to have and enjoy in the State any inviolability, exemptions, facilities, immunities, privileges or rights (other than inviolability, exemptions, facilities, immunities, privileges or rights not conferred upon, or afforded in relation to, sending states or missions under the Vienna Convention) provided for in relation to them by an international agreement to which the State or the Government is or intends to become a party;

AND WHEREAS the International Organization for Migration is such an international organisation, community or body and the Cooperation Agreement made on 5 June 2015 between the Government of Ireland and the International Organization for Migration is such an agreement;

NOW, the Government, in exercise of the powers conferred on them by the said section 42A, hereby order as follows:

1. This Order may be cited as the International Organization for Migration (Privileges and Immunities) Order 2015.

2. The Cooperation Agreement (the text of which is, for convenience of reference, set out in the Schedule) shall apply for the purposes of section 42A (amended by section 4 of the Diplomatic Relations and Immunities (Amendment) Act 2006 (No. 10 of 2006)) of the Diplomatic Relations and Immunities Act 1967 (No. 8 of 1967).

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 25th December, 2015.*

SCHEDULE

COOPERATION AGREEMENT
BETWEEN THE GOVERNMENT OF IRELAND
AND THE INTERNATIONAL ORGANIZATION FOR MIGRATION

The GOVERNMENT OF IRELAND on the one hand, and the INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), hereinafter called the Organization, on the other hand,

RECALLING that Ireland has been a member of the Organization since 5 June 2002,

DESIROUS of further strengthening and developing the friendly relations and co-operation between the Government of Ireland and the Organization,

BEARING IN MIND that Article 22 of the Constitution of the Organization confers juridical personality on the Organization and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes, and that the Organization and its officials, and representatives of its member states should enjoy privileges and immunities as provided for in Article 23 of the Constitution,

CONSIDERING that the purpose and functions of the Organization and the activities carried out by the Organization and its officials warrant the granting in Ireland to the Organization and its officials of privileges and immunities substantially similar to those accorded to the specialized agencies of the United Nations and their officials,

RECOGNISING that the Organization has laid down rules and procedures regulating its relationship with its staff,

HAVE AGREED as follows:

Article 1

The Organization shall have legal personality in Ireland. It shall in particular have the capacity to contract, to acquire and dispose of moveable and immovable property and to institute legal proceedings.

Article 2

The Organization shall enjoy immunity from legal process and execution, except to the extent that the Organization shall have expressly waived any such immunity in a particular case.

Article 3

The premises and official archives of the Organization shall be inviolable.

Article 4

1. The property, income and assets of the Organization shall be exempt from all direct taxes. It is understood, however, that the Organization will not claim

exemption from taxes which are, in fact, no more than charges for public utility services.

2. The Organization shall have relief by way of refund of duty (whether customs or excise) paid on imported hydrocarbon oil or value added tax paid on the importation of such oil which is brought into or bought in Ireland by the Organization and is necessary for the exercise of its official use.

3. The Organization shall have relief by way of refund of value added tax paid on purchase of new vehicles which are necessary for the official use of the Organization and of value added tax paid on the supply of any other goods and services of substantial value that are necessary for the official use of the Organization.

Article 5

The Organization shall have exemption from customs duties and taxes on the importation of goods imported by the Organization for its official use. It is understood, however, that articles imported under such exemption will not be sold in Ireland except under conditions agreed to with the Office of the Revenue Commissioners.

Article 6

The Organization shall have exemption from prohibitions and restrictions on importation or exportation of goods by the Organization for its official use, except where the prohibitions and restrictions arise from European Union law. It is understood, however, that articles imported under such exemption will not be sold in Ireland except under conditions agreed to with the Office of the Revenue Commissioners.

Article 7

1. The Chief of Mission of the Organization in Ireland shall:

- (a) be immune from legal process in respect of words spoken or written and all acts performed by him or her in his or her official capacity;
- (b) have the right to import free of duty his or her furniture and effects at the time of first taking up his or her post in Ireland;
- (c) be exempt from taxation on the salaries and emoluments paid to him or her by the Organization; and
- (d) have relief by way of refund of duty (whether customs or excise) paid on imported hydrocarbon oil or value added tax paid on the importation of such oil which is brought into or bought in Ireland, such relief to be subject to compliance with such conditions as may be imposed in accordance with such arrangements as may be agreed with the Office of the Revenue Commissioners.

2. Paragraph 1, subparagraphs (b) and (d) of this Article shall not apply to any person who is a national or long term resident of Ireland unless that person

is, at the time of his/her appointment to serve in Ireland, already an employee of the Organization outside the State.

Article 8

The officials of the Organization shall:

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be exempt from taxation in respect of salaries and emoluments paid by the Organization from the date on which they are subject to an effective internal tax by the Organization. This exemption shall not apply to annuities and pensions paid by the Organization;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (d) have exemption from customs duties and taxes on the importation of articles which, subject to compliance with such conditions as set down by the Office of the Revenue Commissioners at or about the time they first enter Ireland to take up their appointment with the Organization, are imported for their household use or that of members of their families forming part of their households, including articles intended for their establishment. This sub-paragraph shall not apply to any person who is a national or long term resident of Ireland; and
- (e) be exempt from pay related social insurance in respect of services rendered for the Organization from the date on which they are subject to an internal social insurance arrangement of the Organization. The Organization shall be liable to make employer pay related social insurance contributions in respect of officials not covered by the exemption in this sub-paragraph.

Article 9

1. The representatives of Member States of the Organization shall enjoy, in the exercise of their functions and in the course of journeys to and from the place of meetings of the Organization, the following privileges and immunities:

- (a) the immunity from personal arrest and detention;
- (b) the immunity from seizure of their personal baggage and inviolability for all papers and documents; and
- (c) immunity from legal process in respect of words spoken or written, and all acts done by them in their official capacity.

2. This Article shall not apply to any person who is a national or long term resident of Ireland.

Article 10

1. In accordance with the relevant decisions of its Governing Bodies and subject to the approval of the Government of Ireland and to the availability of funds, the Organization shall implement in Ireland migration programmes such as migration information, advisory services and technical cooperation on migration issues, counter-trafficking, migration and health, international migration law, return of qualified human resources, assisted voluntary return and reintegration activities, migration of nationals and aliens, assistance to internally and externally displaced persons and other persons in need.

2. In order to implement its activities, the Organization is authorised to open offices in Ireland.

Article 11

1. The privileges and immunities provided for in Articles 7, 8 and 9 of this Agreement are granted solely to ensure the unimpeded functioning of the Organization and the complete independence of the persons to whom they are accorded. They are not granted for the personal benefit of the individuals concerned. The Organization shall have the right and the duty to waive the immunity of any official (including the Chief of Mission of the Organization in Ireland) in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization;

2. Such immunities may be waived:

(a) in the case of the Chief of Mission and other officials in Ireland, by the Director General of the Organization; and

(b) in the case of representatives of Member States, by the Member State concerned.

3. The Organization shall co-operate at all times with the appropriate authorities of Ireland to facilitate the proper administration of justice, secure the observance of Irish law and prevent the occurrence of any abuses in connection with the privileges, immunities and facilities mentioned in this Article.

Article 12

Any dispute between the Government of Ireland and the Organization concerning the interpretation or application of this Agreement which is not settled by negotiation, shall be referred for final decision to a tribunal of three arbitrators: one to be appointed by the Minister for Justice and Equality of Ireland, one to be appointed by the Director General, and the third, who shall be the chairperson of the tribunal, to be appointed by the first two arbitrators.

Article 13

The provisions of this Agreement can be modified or revised at any time by mutual consent of the Parties.

Article 14

This Agreement shall enter into force on the date on which the Government of Ireland gives to the Organization notification of the completion of the procedures required by law for the entry into force of the Agreement.

Article 15

This Agreement shall cease to be in force twelve months after either of the Parties shall have given notice in writing to the other of its decision to terminate the Agreement.

IN WITNESS WHEREOF the undersigned representatives, duly authorised for that purpose, have signed this Agreement.

DONE in duplicate at Geneva on the 5th day of June 2015.

For the Government of Ireland

For the International Organization
for Migration:

Patricia O'Brien

William Lacy Swing



GIVEN under the Official Seal of the Government,
15 December 2015.

ENDA KENNY,
Taoiseach.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This order provides that privileges and immunities are afforded to the International Organization for Migration in accordance with the Cooperation Agreement made on 5 June 2015 between the Government of Ireland and the International Organization for Migration.

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