

EXPLANATORY MEMORANDUM TO

THE INTERNATIONAL ORGANIZATION FOR MIGRATION (PRIVILEGES AND IMMUNITIES) ORDER 2008

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The United Kingdom signed a Co-operation Agreement ('the Agreement') published as Miscellaneous No.4 (2008) (Cm 7443) with the International Organization for Migration ('the Organization'). The Agreement was signed on 6 July 2006. The Agreement obliges the United Kingdom to confer legal personality and certain privileges and immunities on the Organization, and to confer certain privileges and immunities on specified categories of individuals connected with the Organization:-

- (i) representatives of State Parties of the Organization;
- (ii) the Head of the London Office of the Organization; and
- (iii) officials of the Organization.

2.2 The draft Order confers the legal capacities of a body corporate and privileges and immunities on the Organisation; and also confers privileges and immunities on the categories of individuals referred to in paragraph 2.1.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 It is proposed that the above Order should be made under section 1 of the International Organisations Act 1968 ('the 1968 Act'). Section 10 of the 1968 Act provides that no recommendation shall be made to Her Majesty in Council to make an Order under any provision (other than section 6), unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

4.2 The table attached to this explanatory memorandum sets out, in relation to each Article of the draft Order, the relevant provisions in the Protocol, as well as the power in the 1968 Act which provides for the making of that particular provision in the draft Order.

4.3 The privileges and immunities conferred by the draft Order are no greater in extent than those required by the Agreement to enable the Organization and specified individuals connected with the Organization to function effectively.

4.5 Article 1 of the draft Order provides that it will come into force on the day after the day on which it is made.

5. Territorial Extent and Application

5.1 The provisions of this Order extend to the United Kingdom. In their extent to Scotland they apply only so far as they relate to a reserved matter within the meaning of section 29(2)(b) of the Scotland Act 1998.

6. European Convention of Human Rights

A Minister will make the following statement regarding Human Rights:

‘In my view the provisions of the International Organization for Migration (Immunities and Privileges) Order 2008 are compatible with the Convention rights.’

7. Policy Background

7.1 The Organization was established in 1951 as an intergovernmental organisation to resettle European displaced persons, refugees and migrants. The Organization currently has 125 member states, with a further 16 states and 74 international and non-governmental organisations holding observer status.

7.2 The United Kingdom became a member of the Organization, under its then title of Intergovernmental Committee for European Migration from 11 May 1961 until 1 January 1969, when we withdrew our membership. The United Kingdom rejoined the Organization on 7 June 2001 in order to have executive influence over an organisation through which we buy services and execute projects, and to participate in a world debate on migration policy which has developed among member States of the Organization.

7.3 The Organization is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. The Organization aims to ensure the orderly and humane management of migration, to promote international co-operation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, whether they are refugees, displaced persons or other uprooted people. The Organization’s Constitution gives explicit recognition to the link between migration and economic, social and cultural development, as well as to the right of freedom of movement of persons.

7.4 While not part of the United Nations System, the Organization maintains close working relationships with UN bodies and operational

agencies. It also works closely with governmental, intergovernmental and non-governmental partners.

7.5 The Organization's core budget (i.e. the admin budget) is set in Swiss Francs, and the UK's contribution for 2008 is CHF 2,711,465 (which is about £1.35 million depending on the exchange rate). This contribution is paid 50% by DFID and 50% by UKBA. In the past UKBA paid its share in GBPs, but this has always caused some problems with exchange rate fluctuations leading to slight under- or over-payments each year.

7.6 The Organization has offices and operations on every continent, with 5,600 staff members serving in more than 400 field locations in over 100 countries. In the UK, it has offices in Birmingham, Bristol, Glasgow, Leeds, Liverpool, London and Manchester.

7.7 UK implementation of the Protocol is unlikely to be controversial. Little public or media interest is envisaged.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has little or no impact on business, charities or voluntary bodies.

9. Contact

Manjula Jayakody at the Foreign and Commonwealth Office [Tel: 020 7008 0397 or e-mail: Manjula.Jayakody@fco.gov.uk] can answer any queries regarding the instrument.

ARTICLE IN DRAFT ORDER	ARTICLE AGREEMENT IN	INTERNATIONAL ORGANISATIONS ACT 1968
Article 3	N/A	Section 1(1)
Article 4	Articles 1 & 2	Section 1(2)(a) and Section 1(2)(b); Schedule 1, Part I, para.1
Article 5	Article 3	Section 1(2)(b); Schedule 1, Part I, para.2
Article 6	Article 4(1)	Section 1(2)(b); Schedule 1, Part I, para.3(1)
Article 7(1)(a)	Article 4(2)	Section 1(2)(b); Schedule 1, Part I, para.6
Article 7(1)(b)	Article 4(3)	Section 1(2)(b); Schedule 1, Part I, para.7
Article 7(1)(c)	Article 5	Section 1(2)(b); Schedule 1, Part I, para.4
Article 7(1)(d)	Article 6	Section 1(2)(b); Schedule 1, Part I, para.5
Article 8(1)(a) & (c)	Article 9(1)(a) & (c)	Section 1(2)(c) & 1(3)(a); Schedule 1, Part II, para.9
Article 8(1)(b)	Article 9(1)(c)	Section 1(2)(c) & 1(3)(a); Schedule 1, Part II, para.11
Article 9(1)(a)	Article 7(1)(a) & (b) & (d)	Section 1(2)(c) & 1(3)(b); Schedule 1, Part II, para.9
Article 9(1)(b)	Article 7(1)(c)	Section 1(2)(c) & 1(3)(b); Schedule 1, Part II, para.10
Article 9(1)(c)	Article 7(1)(e)	Section 1(2)(c) & 1(3)(b); Schedule 1, Part II, para.11
Article 9(1)(d)	Article 7(1)(f)	Section 1(2)(c) & 1(3)(b); Schedule 1, Part II, para.12

Article 10(1)(a)	Articles 8(a)	Section 1(2)(d); Schedule 1, Part III, para.14
Article 10(1)(b)	Articles 8(b)	Section 1(3)(d); Schedule 1, Part III, para.15
Article 10(1)(c)	Article 8(c)	Section 1(3)(d); Schedule 1, Part III, para.16