

STATES OF JERSEY



DRAFT ASIAN INFRASTRUCTURE INVESTMENT BANK (IMMUNITIES AND PRIVILEGES) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 21st July 2017
by the Minister for External Relations**

STATES GREFFE



Jersey

DRAFT ASIAN INFRASTRUCTURE INVESTMENT BANK (IMMUNITIES AND PRIVILEGES) (JERSEY) REGULATIONS 201-

REPORT

1. Background

The Asian Infrastructure Investment Bank (AIIB) is a multilateral institution established to support access to finance for infrastructure projects across Asia, using a variety of tools (including loans, equity investments and guarantees). The AIIB complements and co-operates with the existing multinational development banks to address the many infrastructure needs in Asia.

The United Kingdom Government joined the AIIB as a founding member in March 2015 and was the first major western economy and first member of the G7 to apply to join. The UK signed the founding Articles of Agreement for the AIIB at a signing ceremony in Beijing at the end of June 2015 and completed its ratification process to become a member in December 2015.

China, France, Germany, India, and the United Arab Emirates are also founding members. The 57 founder member nations have contributed \$100 billion in capital to the AIIB, 30% of which was provided by China. The AIIB commenced operation in January 2016.

It is only possible for sovereign states to join the AIIB, however Jersey can be included in the UK's membership by having the UK's ratification of the AIIB's Articles of Agreement extended. By way of precedent, Jersey is currently included in the UK's membership of the European Bank for Reconstruction and Development.

2. Benefits of Jersey's membership of the AIIB

Potential benefits of Jersey's membership include:

- Jersey has developed a political relationship with the Chinese government, and wishes to underpin the commitment to cultural and educational links by broadening economic relations with China.
- Chinese companies are active in their use of Jersey in support of investments in Europe and this would be further encouraged.
- Jersey wishes to build on its economic relationship with the Asia region more generally, to promote new business opportunities and market access.
- Membership of the AIIB would provide further evidence of Jersey's engagement with the international community in fostering sustainable economic development in line with UN development goals.

3. Obligations

The Articles of Association of the AIIB include the following requirements –

3.1 Subscription of shares –

Jersey would be subsumed within the UK capital subscription and Her Majesty's Treasury has confirmed that no financial contribution is required. The Island would be a non-shareholder and as such would not have voting rights in the conduct of the AIIB's affairs.

3.2 Status, immunities, privileges and exemptions –

In accordance with Articles 44–52 of the Articles of Agreement, the AIIB must be granted certain status, immunities, privileges and exemptions.

Such provisions may be made by the States Assembly by Regulations under Article 12 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998. To enable extension of the UK's ratification of the Articles of Agreement to Jersey, the Draft Asian Infrastructure Investment Bank (Immunities and Privileges) (Jersey) Regulations 201- have been lodged for debate.

The draft Regulations contain a provision to come into force on the date that the UK's ratification of the Articles of Agreement are extended to Jersey.

4. Extension

Subject to the draft Regulations being passed by the States Assembly, the Government of Jersey will formally request extension of the UK's ratification of the AIIB's Articles of Agreement.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Re-issue Note

This Project is re-issued because the departmental report included within the original publication was not the correct version.

Explanatory Note

These Regulations confer legal capacity and grant immunities and privileges on the Asian Infrastructure Investment Bank, (“Bank”) including its officers, employees, experts and other persons engaged in missions for the Bank.

Regulation 1 defines terms used in the Regulations. In particular it defines “Agreement” to mean the Articles of Agreement of the Bank which were signed in Beijing on 29th June 2015.

Regulation 2 specifies the Bank as an organization to which the provisions in Part 5 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998 apply. Part 5 allows the States by Regulations to confer legal capacity and privileges and immunities upon an organization so specified. *Regulation 2* also confers the legal capacities of a body corporate on the Bank.

Regulation 3 confers on the Bank immunity from suit and legal process subject to waiver by the Bank. If the bank has an office or carries out certain activities in Jersey, immunity does not apply in connection with its normal banking activities.

Regulation 4 confers the same protection to the official archives and premises of the Bank as if they were archives and premises of a diplomatic mission.

Regulation 5 exempts the Bank from taxes and duties including income tax, rates, customs duties and goods and services tax in connection with the performance of its official activities.

Regulation 6 confers immunity from suit and legal process on persons connected with the Bank in the course of performing official duties for the Bank. A “Person connected with the Bank” is defined in *Regulation 1* to mean a Governor, Alternate Governor, Director, Alternate Director, President, Vice-President (all terms referred to in the Agreement) or other officer or employee of the Bank, or expert or person engaged on a mission for the Bank. *Regulation 6* also provides that tax is not payable on emoluments paid to such a person except if the person is a British citizen (or otherwise has British status as specified in the Regulation) or is a Governor or Alternate Governor of the Bank.

Regulation 7 sets out the title of these Regulations and provides that they will come into force on the date that there comes into force the extension to Jersey by the United Kingdom of the United Kingdom’s ratification of the Agreement.



Jersey

DRAFT ASIAN INFRASTRUCTURE INVESTMENT BANK (IMMUNITIES AND PRIVILEGES) (JERSEY) REGULATIONS 201-

Arrangement

Regulation

1	Interpretation	9
2	The Bank	10
3	Immunities and Privileges	10
4	Archives and Premises	11
5	Taxes, rates and duties	11
6	Persons connected with the Bank	11
7	Citation and commencement	12



Jersey

DRAFT ASIAN INFRASTRUCTURE INVESTMENT BANK (IMMUNITIES AND PRIVILEGES) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 12 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998¹, have made the following Regulations –

1 Interpretation

- (1) In these Regulations –
- “1961 Convention Articles” has the same meaning as in paragraph 1 of Schedule 3 to the Law;
- “Agreement” means the Articles of Agreement of the Asian Infrastructure Investment Bank done in Beijing on 29th June 2015;
- “Bank” means the Asian Infrastructure Investment Bank established by the Agreement;
- “Law” means the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998²;
- “member of the Bank” means a member of the Bank in accordance with Article 3 or Article 58 of the Agreement;
- “official activities” means activities of the Bank undertaken pursuant to the Agreement, including administrative activities;
- “Order in Council” means the Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015 of the United Kingdom (S.I. 2015/1884) as in force on the date that these Regulations come into force;
- “person connected with the Bank” means –
- (a) (within the meaning of the Agreement) –
- (i) a Governor,
 - (ii) an Alternate Governor,
 - (iii) a Director,

-
- (iv) an Alternate Director,
 - (v) a President,
 - (vi) a Vice-President;
 - (b) another officer or employee of the Bank; or
 - (c) an expert or person engaged on a mission for the Bank;
- “premises of the Bank” means the land, buildings and parts of buildings used by the Bank for its official activities.
- (2) In these Regulations, in respect of the Bank, references to –
 - (a) “official purposes” are to its official purposes pursuant to the Agreement;
 - (b) “official use” are to its official use pursuant to the Agreement.
 - (3) Nothing in these Regulations is to be construed as –
 - (a) conferring privileges, immunities and facilities which are greater in extent than those which, at the time these Regulations come into force, are conferred by the Order in Council; or
 - (b) conferring any privilege or immunity on any person as the representative of the States of Jersey, or as a member of the staff of such a representative.

2 The Bank

- (1) The Bank is an organisation to which Part 5 of the Law applies.
- (2) The Bank has the legal capacities of a body corporate.

3 Immunities and Privileges

- (1) Subject to paragraph (2), the Bank shall have immunity from suit and legal process except to the extent that it expressly waives such immunity.
- (2) The immunity of the Bank under paragraph (1) does not apply in respect of any civil action arising out of, or in connection with, the exercise of its powers to raise funds, borrow money, guarantee obligations or buy, sell or underwrite the sale of securities if the Bank has done any of the following in Jersey –
 - (a) established an office;
 - (b) appointed an agent for the purpose of accepting service of process; or
 - (c) issued or guaranteed securities.
- (3) Nothing in paragraph (2) permits any action against the Bank by any member of the Bank or by a person acting on behalf of any member of the Bank.
- (4) The property and assets of the Bank, wherever they may be located and by whomsoever they may be held, shall be immune from suit and legal process in respect of –

-
- (a) all forms of seizure, attachment or execution before final judgment against the Bank; and
 - (b) search, requisition, confiscation, expropriation, or any other form of taking, interference or foreclosure,
- except to the extent that the Bank waives such immunity.

4 Archives and Premises

The official archives and premises of the Bank shall have the like inviolability as, in accordance with Articles 22 and 24 of the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

5 Taxes, rates and duties

- (1) Within the scope of its official activities, the Bank shall be exempt from income tax.
- (2) The Bank is not liable in respect of its premises to pay –
 - (a) rates under the Rates (Jersey) Law 2005³;
 - (b) other taxes or dues, except any that represent payment for specific services rendered.
- (3) For the avoidance of doubt paragraph (2) does not apply to sums payable under any rule of law or enactment from time to time in force by people contracting with the Bank.
- (4) Subject to compliance with such conditions as the Agent of the Impôts may impose, the Bank is exempt from duties and taxes on the importation or exportation by it, or on its behalf, of goods and publications for its official use in Jersey.
- (5) Subject to compliance with such conditions as the Agent of the Impôts may impose, the Bank is entitled to relief by way of refund of customs duty paid on any imported hydrocarbon oil within the meaning of the Customs and Excise (Jersey) Law 1999⁴ or goods and services tax on the importation of such oil which is bought in Jersey and used for its official purposes.
- (6) Subject to compliance with such conditions as the Comptroller of Taxes may determine, the Bank is exempt from any goods and services tax otherwise payable under the Goods and Services Tax (Jersey) Law 2007⁵ on the supply of goods and services for its official purposes.

6 Persons connected with the Bank

- (1) A person connected with the Bank shall enjoy immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of the person's official duties for the Bank, except to the extent that the Bank waives such immunity.

-
- (2) No tax of any kind shall be levied on, or in respect of, emoluments paid by the Bank to a person connected with the Bank.
 - (3) Paragraph (2) does not apply to a person who is –
 - (a) a British citizen, British overseas territories citizen, a British overseas citizen, a British subject, a British National (Overseas) or a British protected person; or
 - (b) a Governor or an Alternate Governor (within the meaning of the Agreement) of the Bank.

7 Citation and commencement

- (1) These Regulations may be cited as the Asian Infrastructure Investment Bank (Immunities and Privileges) (Jersey) Regulations 201-.
- (2) These Regulations shall come into force on the date that there comes into force the extension to Jersey of the United Kingdom's ratification of the Agreement.

-
- 1 *chapter 21.805*
 - 2 *chapter 21.805*
 - 3 *chapter 24.950*
 - 4 *chapter 24.660*
 - 5 *chapter 24.700*