

**DRAFT ORGANISATION FOR ECONOMIC CO-OPERATION
AND DEVELOPMENT (IMMUNITIES AND PRIVILEGES)
(JERSEY) REGULATIONS 199**

**Lodged au Greffe on 7th September 1999
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

Report

These Regulations have been made under Article 12 of the Privileges and Immunities (Diplomatic, Consular etc.) (Jersey) Law 1998. This Law gives effect in Jersey to the Vienna Convention on Diplomatic and Consular Relations, and makes provision for certain privileges, immunities and facilities to be accorded to certain international organisations, and their representatives, to which organisations the Island is a party.

Article 12 of the principal Law makes provision amongst other things -

- (a) to confer on the organisation the legal capacities of the body corporate;
- (b) that the organisation have certain privileges and immunities;
- (c) to confer certain privileges and immunities on representatives of certain Organisations, Committees or other subordinate bodies;
- (d) to confer certain privileges and immunities and classes of officers and servants of Organisations.

Regulations made under Article 12 of the principal Law must be so framed as to secure that -

- (a) the Organisation is one in respect of which an Order in Council is made pursuant to section 1 or 4 of the International Organisations Act 1968 of the United Kingdom;
- (b) the privileges and immunities conferred are not greater in extent than those required to be conferred in the United Kingdom;
- (c) no privilege or immunity is conferred on any person as a representative for the States of Jersey, or as a member of the staff of such a representative.

The Organisation for Economic Co-operation and Development was set up in 1960, and now has 29 member countries. The aims of the Organisation are to promote policies designed -

- (a) to achieve the highest sustainable growth and employment and a rising standard of living in member countries, while maintaining financial stability, and thus to contribute to the development of the world economy;
- (b) to contribute to sound economic expansion in member as well as non-member countries in the process of economic development; and on a multi-lateral, non-discriminatory basis in accordance with international obligations.

Jersey is a party to the OECD through the United Kingdom's membership.

Explanatory Note

These Regulations confer privileges and immunities upon the Organisation for Economic Co-operation and Development, its officers and experts, representatives of its members, and certain persons connected with the Tribunal established by the Convention on the Establishment of a Security Control in the field of Nuclear Energy.

ORGANISATION FOR ECONOMIC CO-OPERATION AND
DEVELOPMENT (IMMUNITIES AND PRIVILEGES)
(JERSEY) REGULATIONS 199

(Promulgated on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, in exercise of the powers conferred on them by Article 12 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998,¹ have made the following Regulations -

PART I

INTERPRETATION

1. In these Regulations -

“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 the First Schedule to the Law;²

“expert” means a person who is not an officer of the Organisation, but is appointed as an expert by it to perform a mission for it;

“a High Officer” of the Organisation means the Secretary-General of the Organisation and any Deputy Secretary-General of the Organisation;

¹ Recueil des Lois, Volume 1998, page 29.

² Recueil des Lois, Volume 1998, page 34.

“the Law” means the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 199 ;³

“officer” in relation to the Organisation includes its High Officers, as well as any Assistant Secretary-General and any established member of its staff;

“official premises” means all buildings, parts of buildings and land ancillary to them, which (irrespective of ownership) are used for the purposes of the Organisation, including the residence of any officer appointed by the Organisation to be in charge of its operations in the Island;

“the Organisation” means the Organisation for Economic Co-operation and Development established by a Convention done at Paris on 14th December 1990;

a “Representative” to the Organisation means a person appointed by a member State, other than the United Kingdom, as its representative to principal and subsidiary organs.

PART II

THE ORGANISATION

2. The Organisation is one to which Part V of the Law⁴ applies.
3. The Organisation has the legal capacities of a body corporate.
4. Except in so far as in any particular case it has expressly waived its immunity, the Organisation shall have immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution.

³ Recueil des Lois, Volume 1998, page 19.

⁴ Recueil des Lois, Volume 1998, page 29.

5. The Organisation 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 Organisation shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

7. The Organisation shall have the like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

8. The Organisation shall have exemption from customs duties and taxes on the importation of goods imported by the Organisation for its official use in the Island and on the importation of publications of the Organisation imported by it, such exemption to be subject to compliance with such conditions as the Agent of the Impôts may impose for the protection of the Revenue.

9. The Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation for its official use and in the case of any publications of the Organisation imported or exported by it.

10. The Organisation shall have relief, under arrangements made by the Agent of the Impôts by way of refund of duty paid on any "huiles et essences" within the meaning of the "Loi (1940) autorisant la perception d'un impôt sur certaines huiles et essences"⁵ which is bought in the Island and used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

⁵ Recueil des Lois, Tome VII, page 320. Volume 1979-1981, page 185. Volume 1996-1997, page 658 and Volume 1999, page 395.

PART III

REPRESENTATIVES

11.-(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member which he represents, any representative of a member to the principal and subsidiary organs of the Organisation shall, while exercising his functions and during his journeys to and from the place of meeting, enjoy -

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, and rates as are accorded to or in respect of a diplomatic agent;
- (b) the like exemption from customs duties and taxes on the importation of articles imported for his personal use or the use of members of his family forming part of his household, including articles intended for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (c) the like exemption and privileges in respect of his personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;
- (d) relief, under arrangements made by the Agent of the Impôts, by way of refund of customs duty paid on any "huiles et essences" within the meaning of the "Loi (1940) autorisant la perception d'un impôt sur certaines huiles et essences"⁶ which is bought in the Island by him or on his behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and

⁶ Recueil des Lois, Tome VII, page 320, Volume 1979-1981, page 185, Volume 1996-1997, page 658 and Volume 1999, page 395.

- (e) exemptions whereby, for the purposes of the Social Security (Jersey) Law 1974,⁷ as amended⁸ -
- (i) services rendered for the Organisation by the representative shall be deemed to be excepted from any class of employment in respect of which contributions under that Law are payable, but
 - (ii) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.
- (2) Part IV of the Third Schedule to the Law⁹ shall not operate so as to confer any privilege or immunity on -
- (a) the official staff of a representative other than delegates, alternates, advisers, technical experts and secretaries of delegations; or
 - (b) the family of a representative or of a member of the official staff of a representative.
- (3) Neither this Regulation nor Part IV of the Third Schedule to the Law⁹ shall operate so as to confer any privilege or immunity on any person as the representative of the United Kingdom or of the Island or as a member of the official staff of such a representative or on any person who is a citizen of the United Kingdom and Colonies.

PART IV

OFFICERS

12.-(1) Except in so far as in any particular case any privilege or immunity is waived by the Council of the Organisation, and subject to the

⁷ Recueil des Lois, Volume 1973-1974, page 319.

⁸ Recueil des Lois, Volume 1982-1983, pages 51 and 53, Volume 1986-1987, pages 149, 151 and 227, Volume 1990-1991, page 467, Volume 1992-1993, pages 3, 433 and 437, Volume 1994-1995, page 423, Volume 1998, page 722, Volume 1999, page 419 and Nos. 7640, 7666, 8602 and 9112.

⁹ Recueil des Lois, Volume 1998, page 72.

provisions of paragraph (2) of this Regulation the Secretary-General of the Organisation and any Deputy Secretary-General shall enjoy -

- (a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, and rates as are accorded to or in respect of the head of a diplomatic mission;
- (b) the like exemption from customs duties and taxes on the importation of articles imported for their personal use or the use of members of their families forming part of their households, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
- (c) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;
- (d) relief, under arrangements made by the Agent of the Impôts, by way of refund of customs duty paid on any “huiles et essences” within the meaning of the “Loi (1940) autorisant la perception d’un impôt sur certaines huiles et essences”¹⁰ which is bought in the Island by them or on their behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements; and
- (e) exemptions whereby, for the purposes of the Social Security (Jersey) Law 1974,¹¹ as amended¹² -

¹⁰ Recueil des Lois, Tome VII, page 320, Volume 1979-1981, page 185, Volume 1996-1997, page 658 and Volume 1999, page 395.

¹¹ Recueil des Lois, Volume 1973-1974, page 319.

¹² Recueil des Lois, Volume 1982-1983, pages 51 and 53, Volume 1986-1987, pages 149, 151 and 227, Volume 1990-1991, page 467, Volume 1992-1993, pages 3, 433 and 437, Volume 1994-1995, page 423, Volume 1998, page 722, Volume 1999, page 419 and Nos. 7640, 7666, 8602 and 9112.

- (i) services rendered by them for the Organisation shall be deemed to be excepted from any class of employment in respect of which contributions under that Law are payable, but
- (ii) no person shall be rendered liable to pay any contribution or premium which he would not be required to pay if those services were not deemed to be so excepted.

(2) This Regulation shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom or the Island.

(3) Part IV of the Third Schedule to the Law¹³ shall not operate so as to confer any privilege or immunity on any member of the family of the Secretary-General other than his spouse and children under the age of twenty-one or on any member of the family of any Deputy Secretary-General.

13. Except in so far as any particular case any privilege or immunity is waived by the Secretary-General, Assistant Secretaries-General and established members of the staff of the Organisation shall enjoy -

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in their official capacity;
- (b) exemption from income tax in respect of emoluments received by them as officers of the Organisation; and
- (c) the like exemption from customs duties and taxes on the importation of articles which -
 - (i) at or about the time when they first enter the Island to take up their posts as officers of the Organisation are imported for their personal use or that of members of their families forming part of their household.

¹³ Recueil des Lois, Volume 1998, page 72.

including articles rendered for their establishment, and

- (ii) are articles which were in their ownership or possession or that of such members of their families, or which they or such members of their families were under contract to purchase, immediately before they so entered the Island,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

PART V

EXPERTS

14. Except in so far as in any particular case any privilege or immunity is waived by the Secretary-General, experts (other than officers of the Organisation) performing missions for the Organisation shall enjoy -

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their missions;
- (b) during the period of their missions, including the time spent on journeys in connection with their missions, the like immunity from personal arrest or detention and from seizure of their baggage and the like inviolability for all papers and documents as is accorded to a diplomatic agent.

PART VI

THE TRIBUNAL

15.-(1) In this Regulation "the Tribunal" means the Tribunal established by the Convention on the Establishment of a Security Control in the field of Nuclear Energy.

(2) Except in so far as in any particular case any immunity is waived by the Tribunal, the judges of the Tribunal shall enjoy immunity

from suit and legal process in respect of things done or omitted to be done by them in their judicial capacity.

(3) Except in so far as in any particular case any immunity is waived by the Tribunal, the representatives, counsel and advocates appearing before the Tribunal shall enjoy -

- (a) immunity from suit and legal process in regard to statements made and writings produced by them in connection with the performance of their duties as representatives, counsel or advocates before the Tribunal; and
- (b) inviolability for their documents.

PART VII

GENERAL

14. These Regulations may be cited as the Organisation for Economic Co-operation and Development (Immunities and Privileges) (Jersey) Regulations 199 .

CORRIGENDUM

**P.124/99 Draft Organisation for Economic Co-operation and
Development (Immunities and Privileges) (Jersey)
Regulations 199**

Page 13, final Regulation -

For the number "14." substitute the number "16."