

Subsidiary Legislation made under s.2.

Eutelsat (Immunities and Privileges) Order 2001

LN.2001/080

Commencement **13.2.1987**

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PART 1 GENERAL

Citation and commencement.

1. This Order may be cited as the Eutelsat (Immunities and Privileges) Order 2001.

(2) This Order shall come into force on the date on which the Protocol on the Privileges and Immunities of the European Telecommunications Satellite Organisation (EUTELSAT) opened for signature at Paris on 13th February 1987 (hereinafter referred to as the Protocol) enters into force in respect of Gibraltar. That date shall be notified in the Gibraltar Gazette.

Interpretation.

2.(1) For the purposes of this Order, the official activities of the European Telecommunications Satellite Organisation (hereinafter referred to as the Organisation) means the activities carried out by the Organisation within the framework of its objectives as defined in the Convention on the European Telecommunications Satellite Organisation “EUTELSAT”, opened for signature at Paris on 15th July 1982 (hereinafter referred to as the Convention).

(2) In this Order and unless the context otherwise provides—

“United Kingdom national” means a person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas);

“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;

“staff member” means the Director General and any other staff member recruited by the Organisation who is employed exclusively by it, paid by it, and is subject to its Staff Regulations;

“Party” means a State for which the Convention is in force or has been provisionally applied;

“Signatory” means the telecommunications entity or the Party that has signed the Operating Agreement relating to the European Telecommunications Satellite Organisation “EUTELSAT”, opened for signature at Paris on 15th July 1982 (hereinafter referred

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to as the Operating Agreement), and for which the Operating Agreement is in force or has been provisionally applied;

“archives” means all records belonging to or held by the Organisation such as documents, correspondence, manuscripts, photographs, computer programs, films and recordings;

“EUTELSAT space segment” has the meaning assigned to it in Article 1(h) of the Convention.

PART II THE ORGANISATION

Membership of the organisation.

3. The Organisation is an organisation of which the United Kingdom on behalf of Gibraltar as well as other sovereign Powers are members.

Legal status and capacity of the organisation.

4.(1) The Organisation shall have the legal capacities of a body corporate.

(2) The Organisation shall, in the exercise of its official activities, have immunity from suit and legal process except in the following cases—

- (a) to the extent that the Director General shall have expressly waived such immunity in a particular case;
- (b) where a civil action is brought by a third party for damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or operated on behalf of the Organisation, or in respect of a traffic offence involving such a vehicle or means of transport;
- (c) in the event of the attachment pursuant to a final order of a court of law, of the salaries and emoluments including pensions, owed by the Organisation to a staff member or a former staff member;
- (d) in respect of a counter-claim directly connected with judicial proceedings instituted by the Organisation;

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- (e) for the enforcement of an arbitration award made under Article XX of the Convention or Article 20 of the Operating Agreement.

(3) Notwithstanding paragraph (2), the Organisation shall have immunity from suit and legal process in respect of actions brought by Parties or Signatories or persons acting for or deriving claims from any of them, relating to rights or obligations under the Convention or Operating Agreement.

(4) The Organisation shall have immunity from all forms of search, restraint, requisition, seizure, confiscation, expropriation, sequestration or execution, in relation to—

- (a) the EUTELSAT space segment, wherever located and by whomsoever held; and
- (b) all other property of the Organisation, wherever located and by whomsoever held, except in respect of:
 - (i) attachment or execution in order to satisfy a final judgment or order of a court of law that relates to any proceedings brought against the Organisation pursuant to sub-paragraph (2);
 - (ii) any action permitted by law in so far as it is temporarily necessary in connection with the prevention of or investigation into accidents involving motor vehicles or other means of transport belonging to, or operated on behalf of, the Organisation;
 - (iii) expropriation in respect of real or, in Scotland, heritable, property for public purposes and subject to prompt payment of fair compensation, provided that such expropriation does not prejudice the functions and operations of the Organisation.

(5) The Assembly of Parties of the Organisation may waive any of the privileges and immunities accorded to the Organisation under this Part.

Inviolability of archives.

5. The Organisation shall have the like inviolability in respect of its archives as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives of a diplomatic mission.

Taxes and other dues.

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6.(1) Within the scope of its official activities, the Organisation shall have exemption from taxes on income.

(2). The Organisation 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.

Imports and exports.

7. The Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation and acquired by it, or on its behalf, within the scope of its official activities and in the case of official publications of the Organisation imported or exported by it.

PART III REPRESENTATIVES

Privileges of representatives.

8.(1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Party which they represent, representatives of Parties shall enjoy, while performing their official functions and in the course of their journeys to and from the place of performance of those functions—

- (a) immunity from any form of arrest or detention and from seizure of their personal luggage, except in the case of a grave crime, or when they are found committing, attempting to commit or just having committed a criminal offence;
- (b) immunity from suit and legal process (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the performance of their official functions, except in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by a representative or in respect of a traffic offence involving such a vehicle and committed by him; and
- (c) the like inviolability for all official papers and documents that are related to the official activities of the Organisation as is accorded to diplomatic agents.

(2) Except in so far as in any particular case any privilege or immunity is waived by the Government of the Party whose Signatory they represent, representatives of Signatories shall enjoy, while performing their official functions in relation to the work of the Organisation and

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in the course of their journeys to and from their place of work, the like immunity as is described in sub-paragraph (1)(b) and the like inviolability for all official papers and documents that are related to the official activities of the Organisation as is described in sub-paragraph (1)(c).

(3) This Order shall not operate so as to confer any privilege or immunity on the official staff of representatives, other than alternate representatives and advisers.

(4) This Order shall not operate so as to confer any privilege or immunity on any member of the family of a representative, alternate representative or adviser.

(5) The provisions of the preceding sub-paragraphs shall operate so as to confer—

- (a) any privilege or immunity on any person as the representative of the United Kingdom, or as the representative of the Signatory designated by the United Kingdom, or as the alternate representative or the adviser of such a person, or as a member of his staff; or
- (b) any entitlement to the immunity described in sub-paragraph 1(a) on any person who is a United Kingdom national and or a permanent resident of the United Kingdom.

PART IV STAFF MEMBERS

Director General.

9.(1) Except in so far as in any particular case any privilege or immunity is waived by the Board of Signatories of the Organisation, the Director General shall enjoy—

- (a) immunity from arrest or detention except when found committing, attempting to commit or just having committed a criminal offence;
- (b) the like immunity from suit and legal process as is accorded to a diplomatic agent, except in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by him, or in respect of a traffic offence involving such a vehicle and committed by him, subject to sub-paragraph (a) above; and
- (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

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accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 10(b) of this Order,

provided that this paragraph shall not apply to any person who is a United Kingdom national or who is a permanent resident of Gibraltar.

(2) This Order shall not operate so as to confer any privilege or immunity on any member of the family of a staff member to whom this paragraph applies.

Staff Members.

10. Except in so far as in any particular case any privilege or immunity is waived by the Director General of the Organisation or, in the case of the Director General, by the Board of Signatories of the Organisation, all staff members shall enjoy—

- (a) immunity from suit and legal process (even after they have left the service of the Organisation) in respect of acts, including words written or spoken, done by them in the performance of their official functions, except in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by a staff member, or in respect of a traffic offence involving such a vehicle and committed by him;
- (b) unless they are United Kingdom nationals or permanently resident in Gibraltar, the like exemption from duties (whether of customs or excise) and taxes on the importation of furniture and personal effects (including one motor car each) which—
 - (i) at or about the time when they first enter Gibraltar to take up their posts as officers of the Organisation are imported for their personal use, and
 - (ii) are articles which were in their ownership and possession or which they were under contract to purchase, immediately before they so entered Gibraltar,

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

- (c) as from the date on which the salaries and emoluments paid by the Organisation to staff members of the Organisation become subject to taxation by the Organisation for its benefit, exemption from income tax in respect of such salaries and emoluments, provided that nothing in this sub-paragraph shall be interpreted as

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precluding such salaries and emoluments from being taken into account for the purpose of assessing the amount of taxation to be applied to income from other sources; and

- (d) provided that the Organisation has established a social security scheme, which the Secretary of State considers to provide adequate benefits, exemptions whereby for the purposes of the enactments relating to social security—
 - (i) services rendered for the Organisation by them shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments 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.

PART V EXPERTS

Privileges of experts.

11. Except in so far as in any particular case any immunity or privilege is waived by the Director General, experts (other than staff members of the Organisation) appointed to carry out a specific task for or on behalf of the Organisation and at its expense shall, while performing their functions in relation to the work of the Organisation and in the course of their journeys to and from the place of their mission, enjoy—

- (a) immunity from suit and legal process (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the performance of their official functions, except in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle or other means of transport belonging to or driven by an expert or in respect of a traffic offence involving such a vehicle and committed by him; and
- (b) the like inviolability in respect of all official papers and documents that are related to the official activities of the Organisation as is accorded to a diplomatic agent.