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## **Justice Committee Comataidh a' Cheartais**

# **International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2017**



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# Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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[justicecommittee@parliament.scot](mailto:justicecommittee@parliament.scot)



0131 348 5047

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**Margaret Mitchell**  
Scottish Conservative  
and Unionist Party



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Scottish National Party



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and Unionist Party



**Stewart Stevenson**  
Scottish National Party

# International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2017

## Introduction

1. At its meeting on 18 April 2017 the Committee considered the following draft instrument:

[International Organisations \(Immunities and Privileges\) \(Scotland\) Amendment Order 2017 \[draft\]](#)

2. The instrument was referred to the Justice Committee as lead committee and was subject to affirmative resolution. The Minister for Community Safety and Legal Affairs, Annabelle Ewing, attended the meeting to give evidence on the instrument and also to move the relevant motion recommending approval of the instrument.
3. The instrument is made under section 1(2) of the International Organisations Act 1968. The Order amends certain legal privileges and immunities that apply to the European Organisation for Astronomical Research in the Southern Hemisphere, known as the European Southern Observatory (ESO), and on persons associated with that organisation, so far as this is within the devolved competence of the Scottish Parliament.
4. The privileges and immunities conferred by the instrument in respect of devolved matters reflect those that have been conferred, or are in the course of being conferred, in relation to the ESO by a related order that is subject to consideration by the UK Parliament as it relates to reserved matters as regards Scotland.<sup>i</sup>

## Scrutiny by the Delegated Powers and Law Reform Committee

5. The Delegated Powers and Law Reform Committee considered the draft instrument at its meeting on 7 March 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

## Justice Committee consideration

6. The Justice Committee considered the draft instrument at its meeting on 18 April 2017 when Annabelle Ewing, Minister for Community Safety and Legal Affairs, attended to give evidence on the instrument.
7. The Minister stated that the purpose of the instrument was to correct an error that was inadvertently made to the principal Order, the International Organisations (Immunities and Privileges) (Scotland) Order 2009, by an amending Order in 2010. Ms Ewing explained that the instrument would correct and limit the provision of immunities and privileges conferred on high officers of the ESO, specifically the Director General or a person acting in their stead, who might in future be a British

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<sup>i</sup> [The European Organization for Astronomical Research in the Southern Hemisphere \(Immunities and Privileges\) \(Amendment\) Order 2017 \[draft\]](#).

national. This would reflect the equivalent Order made at Westminster. The Minister confirmed that this discrepancy had not given rise to any practical issues as, since 2007, the Director General had been a Dutch national.

8. Ms Ewing told the Committee that high officers who are British nationals will be entitled to exemption from income tax and immunity from legal process in respect of the exercise of their functions and within the limits of their authority, except in the case of motor traffic offences. She undertook to provide further information in writing in relation to various exemptions set down in the Protocol,<sup>ii</sup> which came into effect in the UK in 2012, and in relation to the number and status of individuals that the instrument would apply to. Ms Ewing confirmed that exemption from the law related to both civil and criminal law.
9. The Minister then moved the motion in her name: S5M-04479 That the Justice Committee recommends that the International Organisations (Immunities and Privileges) (Scotland) Order 2017 [draft] be approved.
10. After debate, the motion was agreed to (by division: For 10, Against 1, Abstentions 0).

[Scottish Parliament Justice Committee. Official Report 18 April 2017](#)

11. Following the meeting, the Minister provided [further information in writing](#) as to the taxes which relevant persons may have an exemption under the instrument. She explained that the principal Order confers an exemption from local taxes in Scotland for high officers of the ESO. The new instrument ensures that this local tax exemption does not apply to any person who is a British citizen, British overseas territories citizen, British overseas citizen, British National (Overseas) or the permanent resident of the United Kingdom. The instrument therefore narrows rather than extends the existing tax exemption. Other exemptions from taxation for officials of the ESO are outwith the legislative competence of the Scottish Parliament and this is therefore a matter for the Westminster Order.
12. The Minister also confirmed that there are 20 full time equivalent staff at the Royal Observatory Edinburgh (around 40 to 50 staff in total) who may potentially be entitled to privileges and immunities under Westminster legislation because of their work for the ESO, but only in respect of that work. The only tax exemption that is specifically Scottish is the local tax exemption which would only be applicable to the Director General of the ESO. The present office-holder is not domiciled in Scotland.

13. The Justice Committee recommends to the Parliament that it approve the draft instrument.

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ii [The 1974 Protocol on the Privileges and Immunities of the European Organisation for Astronomical Research in the Southern Hemisphere.](#)

