



STATUTORY INSTRUMENTS

S.I. No. 328 of 2009

EUROPEAN CENTRE FOR MEDIUM-RANGE WEATHER
FORECASTS (PRIVILEGES AND IMMUNITIES) ORDER 2009

(Prn. A9/1160)

EUROPEAN CENTRE FOR MEDIUM-RANGE WEATHER
FORECASTS (PRIVILEGES AND IMMUNITIES) ORDER 2009

WHEREAS under section 40(1) of the Diplomatic Relations and Immunities Act 1967 (No. 8 of 1967), the Government may by order designate an organisation to which the State is or intends to become a party to be an organisation to which Part VIII of that Act applies;

AND WHEREAS the Government by order entitled the European Centre for Medium-Range Weather Forecasts (Designation) Order 1974 (S.I. No. 381 of 1974) designated the European Centre for Medium-Range Weather Forecasts to be such an organisation;

AND WHEREAS the Government wishing to define the privileges and immunities which the European Centre for Medium-Range Weather Forecasts shall have and enjoy pursuant to section 42A (as amended by section 4 of the Diplomatic Relations and Immunities (Amendment) Act 2006 (No. 10 of 2006)) of the Diplomatic Relations and Immunities Act 1967 (No. 8 of 1967), ratified the Protocol on the Privileges and Immunities of the European Centre for Medium-Range Weather Forecasts, adopted at Brussels on 11 October 1973, on 5 February 1975;

AND WHEREAS the Protocol on the Privileges and Immunities of the European Centre for Medium-Range Weather Forecasts, as adopted at Brussels on 11 October 1973, has been amended by the Amending Protocol adopted on 22 April 2005 in accordance with Article 18(1) of the Convention Establishing the European Centre for Medium-Range Weather Forecasts;

AND WHEREAS Ireland intends to ratify the Amending Protocol which was adopted on 22 April 2005;

NOW, the Government, in exercise of the powers conferred on them by the said section 42A of the Diplomatic Relations and Immunities Act 1967 hereby order as follows:

1. This Order may be cited as the European Centre for Medium-Range Weather Forecasts (Privileges and Immunities) Order 2009.
2. The Protocol on the Privileges and Immunities of the European Centre for Medium-Range Weather Forecasts, adopted at Brussels on 11 October 1973, as amended by the Amending Protocol adopted on 22 April 2005, shall apply for the purposes of section 42A (as amended by section 4 of the Diplomatic Relations and Immunities (Amendment) Act 2006 (No. 10 of 2006)) of the Diplomatic Relations and Immunities Act 1967 (No. 8 of 1967).

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th August, 2009.*

3. The text in the English language of the Protocol (as amended by the Amending Protocol) referred to in Article 2 is set out for convenience of reference in the Schedule.

SCHEDULE

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN CENTRE FOR MEDIUM-RANGE WEATHER FORECASTS,

**done at Brussels on 11 October 1973, as amended by the Amending Protocol
adopted on 22 April 2005**

The States parties to the Convention establishing the European Centre for Medium-Range Weather Forecasts,

WISHING to define the privileges and immunities necessary for the proper functioning of this Centre,

HAVE AGREED AS FOLLOWS

ARTICLE 1

1. Subject to the provisions of this Protocol, the premises of the Centre shall be inviolable.

2. The authorities of the State in which the headquarters of the Centre are located may not enter the premises of the Centre except with the consent of the Director-General or person nominated by him. In case of fire or other disaster requiring prompt preventive action, the consent of the Director-General may be assumed.

3. The Centre shall prevent its premises from becoming a refuge for persons seeking to avoid arrest or service of legal papers.

ARTICLE 2

The archives of the Centre shall be inviolable.

ARTICLE 3

1. Within the scope of its official activities, the Centre shall have immunity from jurisdiction and execution except:

- (a) to the extent that, by decision of the Council, the Centre waives it in a particular case. However, the Centre shall be deemed to have waived this immunity if, upon receiving a request to waive immunity submitted by the national authority before which the case is brought or by the opposing party, it has not given notice, within fifteen days after receipt of the request, that it does not waive such immunity;

- (b) in respect of a civil action by a third party for damage arising from an accident caused by a vehicle belonging to or operated on behalf of the Centre or in respect of a traffic offence;
- (c) in respect of an enforcement of an arbitration award made either under Article 23 of this Protocol or Article 17 of the Convention establishing the Centre, hereinafter referred to as “the Convention”;
- (d) in the event of the attachment, pursuant to a decision by the administrative or judicial authorities, of the salaries, wages and emoluments owed by the Centre to a member of its staff.

2. In any dispute involving a staff member or an expert of the Centre for whom immunity from jurisdiction is claimed under Article 13 or Article 14, the responsibility of the Centre shall be substituted for that of the staff member or expert concerned.

3. Subject to paragraph 1, the Centre’s property and assets wherever situated shall be immune from any form of administrative or provisional judicial constraint such as requisition, confiscation, expropriation or attachment, except in so far as may be temporarily necessary in connection with the prevention of and investigation into accidents involving vehicles belonging to or operated on behalf of the Centre.

ARTICLE 4

1. Within the scope of its official activities, the Centre and its property and income shall be exempt from all direct taxes.

2. When the Centre makes purchases of substantial value or uses services of substantial value which are strictly necessary for the exercise of its official activities and when the price of such purchases or services includes duties or taxes, the Member State which has levied the duties and taxes shall take appropriate measures to remit or reimburse the amount of the identifiable duties and taxes.

3. No exemption shall be accorded in respect of duties and taxes which are no more than payments for public utility services.

ARTICLE 5

Goods imported or exported by the Centre and strictly necessary for the exercise of its official activities shall be exempt from all customs duties, taxes and all customs charges except those charges which are no more than payments for services. Such goods shall also be exempt from all prohibitions and restrictions on import and export. The Member States shall take all appropriate steps within their respective powers to effect customs clearance with the minimum of delay for such goods.

ARTICLE 6

No exemption shall be accorded under Article 4 or Article 5 in respect of goods purchased and imported for the personal needs of the staff members of the Centre or of experts within the meaning of Article 14.

ARTICLE 7

Goods acquired under Article 4 or imported under Article 5 may not be sold, given away or hired out except in accordance with the conditions laid down by the regulations of the State which has granted the exemptions.

ARTICLE 8

1. The Centre may receive and hold any kind of funds or currency. It may dispose of them freely for the exercise of its official activities and may hold accounts in any currency to the extent required to meet its obligations.

2. Within the scope of its official activities and without prejudice to paragraph 1, the Centre may also receive, hold and dispose of securities, subject to any provisions concerning exchange regulations which are applicable to other inter-governmental organisations in the Member State concerned.

ARTICLE 9

The circulation of publications and other information material sent by or to the Centre within the scope of its official activities shall not be restricted in any way.

ARTICLE 10

1. With regard to the transmission of data within the scope of its official activities, the Centre shall enjoy in the territory of each Member State, treatment as favourable as that accorded by that State to its national meteorological service, taking into account the international obligations of that State in respect of telecommunications.

2. With regard to its official communications and the transfer of all its documents, the Centre shall enjoy treatment as favourable as that accorded by each Member State to other international organisations, taking into account the international obligations of that State in respect of telecommunications.

3. No censorship shall be applied to official communications of the Centre by whatever means of communication.

ARTICLE 11

Member States shall take all appropriate measures to facilitate the entry, stay and departure of representatives of Member States, staff members of the Centre and experts within the meaning of Article 14.

ARTICLE 12

Representatives of Member States taking part in the work of the organs and committees of the Centre shall enjoy, while performing their duties and in the course of their journeys to and from the place of meeting, the following privileges, immunities and facilities:

- (a) immunity from arrest and detention and from seizure of their personal luggage, except when found committing, attempting to commit, or just having committed an offence;
- (b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken or written, performed by them in their official capacity and within the limits of their authority; this immunity shall not apply in the case of a traffic offence committed by a representative of a Member State nor in the case of damage caused by a vehicle belonging to or driven by such a person;
- (c) inviolability for all their official papers and documents;
- (d) exemption from all measures restricting aliens' entry and from aliens' registration formalities;
- (e) the same customs facilities as regards their personal luggage and the same privileges in respect of currency and exchange regulations as are accorded to the representatives of foreign Governments on temporary official missions.

ARTICLE 13

The staff members of the Centre shall enjoy, within the limits provided for in this Protocol, the following privileges, immunities and facilities:

- (a) immunity from jurisdiction, even after they have left the service of the Centre, in respect of acts, including words spoken or written, performed by them in their official capacity and within the limits of their authority; this immunity shall not apply in the case of a traffic offence committed by a staff member, nor in the case of damage caused by a vehicle belonging to or driven by such a person;
- (b) exemption from all obligations in respect of military service;
- (c) inviolability for all their official papers and documents;
- (d) together with members of their families forming part of their households, the same exceptions regarding measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organisations;

- (e) the same privileges in respect of monetary and exchange regulations as are normally accorded to staff members of international organisations;
- (f) together with members of their families forming part of their households, the same facilities as regards repatriation in time of international crisis as are normally accorded to staff members of international organisations;
- (g) the right to import free of duty furniture and personal effects at the time of taking up a post for a period of at least one year in the State concerned and the right on the termination of their functions in the said State to export free of duty furniture and personal effects, subject in both cases to the conditions considered necessary by the Government of the State in whose territory the right is exercised and with the exception of property acquired in that State and subject to an export prohibition therein.

ARTICLE 14

Experts who are not staff members and who perform duties at the Centre or who carry out missions on its behalf, shall enjoy, while performing their duties or while on missions and during journeys made in the course of such duties or missions, the following privileges, immunities and facilities to the extent that they are necessary for the performance of their duties or for the accomplishment of their missions

- (a) immunity from jurisdiction, even after they have left the service of the Centre, in respect of acts, including words spoken and written, performed by them in their capacity as experts and within the limits of their authority; this immunity shall not apply in the case of a traffic offence committed by an expert nor in the case of damage caused by a vehicle belonging to or driven by such a person;
- (b) inviolability for all their official papers and documents;
- (c) the same customs facilities as regards their personal luggage and the same privileges in respect of currency and exchange regulations as are accorded to persons sent by foreign Governments on temporary official missions.

ARTICLE 15

1. Subject to the conditions and following the procedure laid down by the Council acting in accordance with the procedure laid down in Article 6(2) of the Convention within a period of one year after the Convention's entry into force, the staff members of the Centre shall, within the limits provided for in this Protocol, be subject to a tax for the benefit of the Centre on salaries, wages and emoluments paid by the Centre. From the date on which this tax is applied such salaries, wages and emoluments shall be exempt from national income tax,

the Member States retaining the right to take such salaries, wages and emoluments into account when assessing the amount of taxation to be applied to income from other sources.

2. Paragraph 1 shall not apply to pensions and similar payments paid by the Centre.

ARTICLE 16

No Member State shall be obliged to accord the privileges, immunities and facilities referred to in Article 12, Article 13(b), (e), (f), and (g) and Article 14(c) to its representatives, its nationals or persons who, at the time of taking up their duties at the Centre, are permanent residents of that State.

ARTICLE 17

The Council, acting in accordance with the procedure laid down in Article 6(3)(o) of the Convention, shall determine the categories of staff members to which Articles 13 and 15 shall apply in whole or in part and the categories of experts to which Article 14 shall apply. The names, titles and addresses of persons included in such categories shall be communicated periodically to the Member States.

ARTICLE 18

If the Centre establishes its own social security scheme or joins that of another international organisation under the conditions laid down in the Staff Regulations, the Centre and its staff members shall be exempt from all compulsory contributions to national social security schemes, subject to agreements to be concluded to that end with the Member States concerned under the conditions laid down in Article 22.

ARTICLE 19

1. The privileges, immunities and facilities provided for in this Protocol are granted solely in the interests of the Centre and of the Member States, and not for the personal advantage of those enjoying them.

2. The competent authorities have not only the right but also the duty to waive an immunity where such immunity is impeding the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

3. The competent authorities referred to in paragraph 2 are

- the Member States, in the case of their representatives,
- the Council, in case of the Director-General,
- the Director-General, in the case of the other staff members and experts within the meaning of Article 14.

ARTICLE 20

The Centre shall co-operate at all times with the competent authorities of the Member States in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health and labour inspection and similar legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

The co-operation procedures may be defined in the supplementary agreements provided for in Article 22.

ARTICLE 21

The provisions of this Protocol shall not prejudice the right of each Member State to take all precautionary measures necessary in the interests of its security.

ARTICLE 22

The Centre may, on decision by the Council acting unanimously, conclude supplementary agreements with any Member State to implement this Protocol and may make any other arrangements to ensure the smooth running of the Centre and the safeguarding of its interests.

ARTICLE 23

1. The Centre shall be obliged in all written contracts — other than those concluded in accordance with the Staff Regulations into which it enters and relating to matters in which it enjoys immunity from jurisdiction, to include an arbitration clause whereby any dispute arising out of the interpretation or execution of the contract shall, at the request of either party, be submitted to arbitration.

2. The Centre shall be obliged to submit to arbitration, at the request of the injured party, by means of a compromise any other dispute arising out of loss or damage caused by the Centre to persons or property.

3. The arbitration clause or the compromise shall specify the method of appointing the arbitrators and the third arbitrator, the law applicable and the country where the arbitrators shall sit. The procedure of the arbitration shall be that of that country.

4. The enforcement of the arbitration award shall be governed by the rules in force in the State in which the award is to be enforced.

ARTICLE 24

1. Any Member State may submit to the arbitration tribunal provided for in Article 17 of the Convention any dispute

— arising out of damage caused by the Centre;

— involving any other non-contractual liability of the Centre; or

— involving a staff member or an expert of the Centre and in which the person concerned can claim immunity from jurisdiction under Article 13 or Article 14, if this immunity is not waived in accordance with Article 19.

2. If a Member State intends to submit a dispute to arbitration it shall notify the Director-General who shall forthwith inform each Member State of such notification.

3. The procedure laid down in paragraph 1 shall not apply to disputes between the Centre and staff members in respect of their conditions of service.

4. No appeal shall lie against the award of the arbitration tribunal, which shall be final; it shall be binding on the parties. In case of dispute concerning the import or scope of the award, it shall be incumbent upon the arbitration tribunal to interpret it at the request of either party.

ARTICLE 25

For the purposes of this Protocol

- (a) “official activities of the Centre” shall include its administration and its activities carried out in pursuance of its objectives as defined in Article 2 of the Convention;
- (b) “staff members” shall include the Director-General of the Centre.

ARTICLE 26

This Protocol shall be interpreted in the light of its primary objective of enabling the Centre fully and efficiently to fulfil its objectives and carry out the functions assigned to it by the Convention.



GIVEN under the Official Seal of the Government,
12 June 2009.

BRIAN COWEN,
Taoiseach.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This order provides that privileges, immunities and facilities are afforded to the European Centre for Medium-Range Weather Forecasts in accordance with the Protocol on the Privileges and Immunities of the European Centre for Medium-Range Weather Forecasts, done at Brussels on 11 October 1973, as amended by the Amending Protocol adopted on 22 April 2005.

BAILE ÁTHA CLIATH
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