

ELIZABETH II



Territories of South Georgia
and the South Sandwich Islands

JUNE SANDRA TYLER-HAYWOOD,
Acting Commissioner.

Nuclear Safeguards Ordinance 2014

(No: 3 of 2014)

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NUCLEAR SAFEGUARDS ORDINANCE 2014

(No: 3 of 2014)

(enacted: 1 September 2014)

(published: 9 September 2014)

(commencement: on publication)

AN ORDINANCE

To make provision for giving effect to an International Agreement for the Application of Safeguards in South Georgia and South Sandwich Islands in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows—

1. Title

This is the Nuclear Safeguards Ordinance 2014.

2. Commencement

This Ordinance comes into force when it is published in the *Gazette*.

3. Ordinance to bind the Crown

This Ordinance binds the Crown.

4. Interpretation

In this Ordinance —

“Agency” means the International Atomic Energy Agency;

“Agency inspector” means any official of the Agency designated pursuant to Article 83 of the Agreement;

“Agreement” means the Agreement (of which Protocols 1 and 2 thereto form an integral part) between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the Agency for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America, and includes any further Protocol to the Agreement entered into in accordance with, and contemplated by, paragraph 1 of Protocol 2 to the Agreement;

“facility” has the same meaning as it has under Article 96(2)I of the Agreement;

“material balance area” has the same meaning as it has under Article 96(2)M of the Agreement;

“1961 Convention Articles” means the articles (being articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 of the United Kingdom; and

“the Territory” means the Territory of South Georgia and the South Sandwich Islands.

5. The powers of the Agency

(1) The powers of the Agency, and of any Agency inspector, under the subsequent provisions of this section are exercisable only in the cases specified in, and subject to the provisions of the Agreement and, in particular —

(a) are exercisable only in accordance with Articles 5, 9(c) and 85 and the provisions of the Protocol which forms part of the Agreement; and

(b) where Article 81 of the Agreement applies, are not exercisable unless any advance notice required by that Article has been given.

(2) For the purpose of —

(a) making any inspection permitted by Articles 68 to 82 of the Agreement; or

(b) verifying design information, as mentioned in Article 46 of the Agreement,

an Agency inspector may enter any facility or material balance area and make any inspection or do any other thing which may reasonably be required for that purpose.

6. Immunities and privileges of the Agency, its officers and their families and of the Agency’s inspectors and experts

The Schedule confers, to the extent and subject to the terms of it, immunities and privileges upon the Agency, its officers and their families and upon inspectors and experts of the Agency.

7. Offences

(1) A person commits an offence who —

- (a) intentionally obstructs an Agency inspector exercising a power conferred by section 5(2);
- (b) without reasonable excuse, refuses or fails to provide any information or to permit any inspection reasonably required by an Agency inspector in the exercise of such a power; or
- (c) in giving any information reasonably required by an Agency inspector in the exercise of such a power, makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is false in a material particular.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £5000.

8. Regulations for giving effect to certain provisions of the Agreement

(1) The Commissioner may make regulations to make such provision as appears to the Commissioner to be necessary —

- (a) for taking any action required in the Territory under Article 17 of the Agreement, or under any further Protocol to the Agreement coming into existence pursuant to paragraph I of Protocol 2 to the Agreement; or
- (b) for giving effect to any arrangements made under Article 74(d) of the Agreement, and any such provision may impose limitations on the scope or exercise of any power conferred by section 5(2).

(2) Regulations made under this section may provide that any person contravening or failing to comply with any provision of the regulations is liable on summary conviction to a fine not exceeding £2500.

9. Offences by bodies corporate

(1) Where an offence under section 7 or under regulations made under section 8 which has been committed by a body corporate is proved to have been committed with the consent of or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

SCHEDULE

PART I

Immunities and privileges of the Agency

1. The Agency has the legal capacities of a body corporate.
2. Except in so far as in any particular case it has expressly waived its immunity, the Agency is immune from suit and legal process and immunity is deemed to extend to any measure of execution.
3. The Agency has the like inviolability of official archives and premises as in accordance with the 1961 Convention Articles is accorded to the official archives and premises of a diplomatic mission.
4. The Agency has the like exemption or relief from taxes, other than duties (whether of customs or excise) and taxes on the importation of goods, as is accorded to a foreign sovereign Power.
5. The Agency has the like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded to the premises of a diplomatic mission.
6. The Agency is exempt from customs duties and taxes on the importation of goods imported by or on behalf of the Agency for its official use in the Territory and on the importation of publications of the Agency imported by or on behalf of it, such exemption to be subject to compliance with such conditions as the Commissioner may prescribe for the protection of the revenues of the Territory.
7. The Agency is exempt from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by or on behalf of the Agency for its official use and in the case of any publications of the Agency imported or exported by it.
8. The Agency is entitled to relief, under arrangements made by the Commissioner by way of refund of duties (whether of customs or excise) paid on any hydrocarbon oil (which expression has the same meaning as it has under the Hydrocarbon Oil Duties Act 1979 of the United Kingdom) and value added tax paid on the importation of oil which is bought in the Territory and used for the official purposes of the Agency, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.
9. The Agency is entitled to relief, under arrangements made by the Commissioner, by way of refund of car tax paid on any vehicles and value added tax paid on the supply of any goods or services which are used for the official purposes of the Agency, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART II

Immunities and privileges of officers of the Agency

High officers

10. (1) Except in so far as in any particular case any privilege or immunity is waived by the Agency, and subject to the provisions of paragraph (2), the Director General of the Agency, including any officer acting on the Director General's behalf during the Director General's absence from duty, and any Deputy Director General or officer of equivalent rank enjoys —

(a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, other than duties (whether of customs or excise) 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 duties (whether of customs or excise) and taxes on the importation of articles imported for the officer's personal use or the use of members of family forming part of the officer's household, including articles intended for the officer's establishment and the like privilege as to the importation of such articles, 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 the officer's 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 Government by way of refund of duty (whether of customs or excise) paid on any hydrocarbon oil (within the meaning of that expression under the Hydrocarbons Oil Duties Act 1979 of the United Kingdom) bought in the Territory by the officer or on the officer's 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 enactments relating to social security (presently those relating to old age pensions and medical services), no person will be rendered liable to pay any contribution, premium or levy the requirement (but for these exemptions) to pay which is referable only to employment by the Agency.

(2) This paragraph does not apply to any person who is a British citizen, a British Dependent Territories citizen, a British National (overseas), a British Overseas citizen or a permanent resident of the Territory.

All Officers

11. Except in so far as in any particular case any privilege or immunity is waived by the Agency, Officers of the Agency, (other than those who are locally recruited and assigned to hourly rates of pay) will 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 Agency; 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 Territory to take up their posts as officers of the Agency are imported for their personal use or that of members of their families forming part of their households, including articles intended 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 Territory,

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

PART III

Immunities and privileges of experts of the Agency

12. Except in so far as in any particular case any immunity or privilege is waived by the Agency, experts (other than officers of the Agency) serving on committees of the Agency or performing missions for the Agency, including missions as inspectors under Article XII of the Statute of the Agency, or as project examiners under Article XI, will enjoy —

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the performance of their official functions;
- (b) while exercising their functions and during their journeys in connection with service on such committees or missions, the like immunity from personal arrest or detention and from seizure of their personal baggage and the like inviolability for all papers and documents as is accorded to a diplomatic agent; and
- (c) while exercising their functions and during their journeys in connection with service on such committees or missions, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

PART IV

Immunities and privileges of families of officers

13. Persons who are spouses or minor children of an officer of the Agency who form part of the officer's household in the Territory are entitled to the immunities and privileges set out in Part II of this Schedule to the same extent as the officer is entitled to them.

Enacted 1st September 2014

J. S. Tyler-Haywood,
Acting Commissioner.