

ANGUILLA

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CHAPTER N20

NUCLEAR SAFEGUARDS ACT

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NUCLEAR SAFEGUARDS ACT

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SCHEDULE: Immunities and Privileges

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NUCLEAR SAFEGUARDS ACT

Interpretation

1. In this Act—

"Agency" means the International Atomic Energy Agency and for the purposes of this definition "The International Atomic Energy Agency" has the same meaning as it has under the Statute of the International Atomic Energy Agency;

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

"Agreement" (of which Protocols 1 and 2 thereto form an integral part) means the Agreement 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 I 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 certain articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 (UK).

Powers of the Agency

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

(a) shall be exercisable only in accordance with Articles 5, 9(c) and 85 of, and Protocol 1 to, the Agreement; and

(b) where Article 81 of the Agreement applies, shall not be 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 or part thereof and there make any inspection or do any other thing which may be reasonably required for that purpose.

Immunities and privileges of Agency, its officers, their families and Agency experts

3. The Schedule to this Act shall have effect so as to confer, to the extent and subject to the terms thereof, immunities and privileges upon the Agency, its officers and their families and upon experts of the Agency.

Offences

4. (1) A person commits an offence who—

(a) intentionally obstructs an Agency inspector exercising a power conferred by section 2(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 he 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 of $20,000.

Regulations

5. (1) The Governor may by regulation make such provision as appears to him to be necessary—

(a) for taking any action required in Anguilla 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;

(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 2(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 of $10,000.

Offences by bodies corporate

6. (1) Where an offence under section 4 or under regulations made under section 5 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, he, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

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

Act to bind Crown

7. This Act shall bind the Crown.

Citation

8. This Act may be cited as the Nuclear Safeguards Act, Revised Statutes of Anguilla, Chapter N20.

SCHEDULE

(Section 3)

IMMUNITIES AND PRIVILEGES

PART 1

IMMUNITIES AND PRIVILEGES OF THE AGENCY

Membership of Agency

1. The Agency is an organisation of which the United Kingdom and foreign sovereign Powers are members.

Legal capacity

2. The Agency shall have the legal capacities of a body corporate.

Extent of immunity

3. Except in so far as in any particular case it has expressly waived its immunity, the Agency shall be deemed to extend to any measure of execution.

Archives and premises

4. The Agency 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.

Extent of exemption

5. The Agency 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.

Rates

6. The Agency 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.

Exemptions regarding importation of goods and publications

7. The Agency shall have exemption from customs duties and taxes on the importation of goods imported by the Agency for its official use in Anguilla and on the importation of publications of the Agency imported by it, such exemption to be subject to compliance with such conditions as the Governor may prescribe for the protection of the revenues of Anguilla.

Exemptions regarding importation and exportation of goods

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

Relief from duties on hydrocarbon oil

9. The Agency shall have relief, under arrangements made by the Governor, by way of refund of customs duty 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) which is brought into Anguilla 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.

Relief from car tax, etc.

10. The Agency shall have relief, under arrangements made by the Governor, by way of refund of car tax paid on any vehicles and value added tax paid on the supply of any goods 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 2

IMMUNITIES AND PRIVILEGES OF OFFICERS OF THE AGENCY

High Officers

11. (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) of this Article, the Director General of the Agency, including any officer acting on his behalf during his absence from duty, and any Deputy Director General or officer of equivalent rank 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 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 Governor by way of refund of customs duty paid on any hydrocarbon oil (within the meaning of that expression under the Hydrocarbon Oil Duties Act 1979 of the United Kingdom) in Anguilla by him on his 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 shall 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 Article shall 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 Anguilla.

All Officers

12. 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) 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 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 Anguilla 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 Anguilla,

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

PART 3

IMMUNITIES AND PRIVILEGES OF EXPERTS OF THE AGENCY

Experts

13. 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 thereof shall 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 4

IMMUNITIES AND PRIVILEGES OF FAMILIES OF OFFICERS

Spouse and minor children of officers

14. Persons who are spouses or minor children of an officer of the Agency who form part of his household in Anguilla shall be entitled to the immunities and privileges set out in Part 2 of this Schedule to the same extent as the officer is entitled to them.

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