

**DRAFT EUROPEAN BANK FOR RECONSTRUCTION AND  
DEVELOPMENT (IMMUNITIES AND PRIVILEGES)  
(JERSEY) REGULATIONS 199**

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**Lodged au Greffe on 7th September 1999  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

## Report

These Regulations have been made under Article 12 of the Privileges and Immunities (Diplomatic, Consular etc.) (Jersey) Law 1998. This Law gives effect in Jersey to the Vienna Convention on Diplomatic and Consular Relations, and makes provision for certain privileges, immunities and facilities to be accorded to certain international organisations, and their representatives, to which organisations the Island is a party.

Article 12 of the principal Law makes provision amongst other things -

- (a) to confer on the organisation the legal capacities of the body corporate;
- (b) that the organisation have certain privileges and immunities;
- (c) to confer certain privileges and immunities on representatives of certain Organisations, Committees or other subordinate bodies;
- (d) to confer certain privileges and immunities on classes of officers and servants of Organisations.

Regulations made under Article 12 of the principal Law must be so framed as to secure that -

- (a) the Organisation is one in respect of which an Order in Council is made pursuant to section 1 or 4 of the International Organisations Act 1968 of the United Kingdom;
- (b) the privileges and immunities conferred are not greater in extent than those required to be conferred in the United Kingdom;
- (c) no privilege or immunity is conferred on any person as the representative of the States of Jersey, or as a member of the staff of such a representative.

The Insular Authorities have indicated that they wish to be a party to the agreement setting up the European Bank for Reconstruction and Development, but this cannot be achieved until these Regulations are made. The European Bank for Reconstruction and Development was set up to aid the development of central and eastern Europe.

### **Explanatory Note**

These Regulations confer privileges and immunities on the European Bank for Reconstruction and Development, its officers and employees, experts performing missions for the Bank and representatives of Members. These privileges and immunities are conferred in accordance with Chapter VIII of the Agreement Establishing the European Bank for Reconstruction and Development (Cm.1116) and a Headquarters Agreement which has been negotiated between Her Majesty's Government of the United Kingdom and the Bank (Cm.1440).

EUROPEAN BANK FOR RECONSTRUCTION AND  
DEVELOPMENT (IMMUNITIES AND PRIVILEGES)  
(JERSEY) REGULATIONS 199

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(Promulgated on the      day of      199 )

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**STATES OF JERSEY**

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The      day of      199

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**THE STATES**, in exercise of the powers conferred on them by Article 12 of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998,<sup>1</sup> have made the following Regulations -

*PART I*

INTERPRETATION

1. In these Regulations -

“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 the First Schedule to the Law;<sup>2</sup>

“Agreement Establishing the Bank” means the Agreement Establishing the European Bank for Reconstruction and Development signed in Paris on 29th May 1990, and any amendments thereto;

“the Bank” means the European Bank for Reconstruction and Development;

<sup>1</sup> Recueil des Lois, Volume 1998, page 29.

<sup>2</sup> Recueil des Lois, Volume 1998, page 34.

“the Law” means the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 199 ;<sup>3</sup>

the terms “Member”, “President”, “Vice-President”, “Governor”, “Alternate Governor”, “Temporary Alternate Governor”, “Board of Governors”, “Director”, “Alternate Director”, “Temporary Alternate Director” and “Board of Directors”, have the same meaning as in the Agreement Establishing the Bank, its By-laws or Rules of Procedure;

“Premises of the Bank” means the land, buildings and parts of buildings, including access facilities, used for the Official Activities of the Bank;

“Representatives of Members” means heads of delegations of Members participating in meetings convened by the Bank other than meetings of the Board of Governors or the Board of Directors;

“Members of Delegations” means alternates, advisers, technical experts and secretaries of delegations of Representatives of Members;

“Officers” means the President, the Vice-President and other persons appointed by the President to be Officers of the Bank;

“Employees of the Bank” means the staff of the Bank excluding those staff both recruited locally and assigned to hourly rates of pay;

“Archives of the Bank” includes all records, correspondence, documents, manuscripts, still and moving pictures and films, sound recordings, computer programmes and written materials, video tapes or discs, and discs or tapes containing data belonging to, or held by, the Bank;

<sup>3</sup> Recueil des Lois, Volume 1998, page 19.

“Official Activities of the Bank” includes all activities undertaken pursuant to the Agreement Establishing the Bank, and all activities appropriate to fulfill its purpose and functions under Articles 1 and 2 of that Agreement, or undertaken in exercise of its powers under Article 20 of that Agreement including its administrative activities; and

“Persons Connected with the Bank” means Governors, Alternate Governors, Temporary Alternate Governors, Representatives of Members, Members of Delegations, Directors, Alternate Directors, Temporary Alternate Directors, the President, the Vice-Presidents, Officers and Employees of the Bank, and experts performing missions for the Bank.

## *PART II*

### THE BANK

3. The Bank is an organisation to which Part V of the Law<sup>4</sup> applies.

4. The Bank has the legal capacities of a body corporate.

5.-(1) Except to the extent that the Board of Directors of the Bank shall have waived immunity, the Bank shall have immunity from suit and legal process -

- (a) where the Bank has no office in the Island, nor has appointed an agent in the Island for the purpose of accepting service or notice of process, nor has issued or guaranteed securities in the Island; or
- (b) where actions are brought by any member of the Bank or by any person acting for or deriving claims from any member of the Bank; or
- (c) in respect of any form of seizure of, or restraint, attachment or execution on, the property or assets of the Bank,

<sup>4</sup> Recueil des Lois, Volume 1998, page 29.

wheresoever located or by whomsoever held, before the delivery of final judgment against the Bank; or

- (d) in respect of the search, requisition, confiscation or expropriation of, or any other form of interference with, or taking of or foreclosure on, the property or assets of the Bank, wheresoever located and by whomsoever held.

(2) Without prejudice to paragraph (1), the Bank shall, within the scope of its Official Activities, have immunity from suit and legal process, except that the immunity of the Bank shall not apply -

- (a) to the extent that the Bank shall have expressly waived any such immunity in any particular case or in any written document;
- (b) in respect of a civil action arising out of the exercise of its powers to borrow money, to guarantee obligations and to buy or sell or underwrite the sale of any securities;
- (c) in respect of a civil action by a third party for damage arising from a road traffic accident caused by an Officer or an Employee of the Bank acting on behalf of the Bank;
- (d) in respect of a civil action relating to death or personal injury caused by an act or omission in the Island;
- (e) in respect of the enforcement of an arbitration award made against the Bank as a result of an express submission to arbitration by or on behalf of the Bank; or
- (f) in respect of any counter-claim directly connected with court proceedings initiated by the Bank.

**6.-(1)** The Premises of the Bank and the Archives of the Bank shall have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission, except that the Premises of the Bank may be entered with the consent of and conditions approved by the President; such consent may be assumed in the case of fire or other disasters requiring prompt action.



(2) The Premises of the Bank may be entered in connection with fire prevention, sanitary regulations or emergencies without the prior consent of the Bank in such circumstances and in such a manner as may have been determined by any agreement for that purpose entered into between the States of Jersey and the Bank.

7. Within the scope of its Official Activities the Bank, its property, assets, income and profits are exempt from income tax.

8.-(1) The Bank is not liable in respect of its official premises to pay any -

- (a) foncier's rate;
- (b) occupier's rate; or
- (c) other taxes or dues, except such as represent payment for specific services rendered.

(2) For the avoidance of doubt, paragraph (1) does not apply to sums payable under any rule of law or enactment from time to time in force by people contracting with the Bank.

(3) For the purposes of this Regulation, "official premises" of the Bank are all buildings, parts of buildings and land ancillary to them, which, irrespective of ownership, are used for the purposes of the Bank, including the residence of any person appointed by the Bank to be in charge of its operations in the Island.

9.-(1) Subject to compliance with such conditions as the Agent of the Impôts may impose for the protection of the Revenue, the Bank is exempt from duties and taxes on the importation by it or on its behalf of goods and publications necessary for the exercise of its official activities.

(2) The Bank shall be entitled to relief by way of refund of duty paid on any "huiles et essences" within the meaning of the "Loi (1940) autorisant la perception d'un impôt sur certaines huiles et

essences”<sup>5</sup> necessary for its official activities, under and subject to arrangements made by the Agent of the Impôts.

### *PART III*

#### PERSONS CONNECTED WITH THE BANK

10.-(1) A Person Connected with the Bank shall enjoy -

- (a) immunity from suit and legal process, even after the termination of his mission or service, in respect of acts performed by him in his official capacity including words written or spoken by him, except in respect of civil liability in the case of damage arising from a road traffic accident caused by him;
- (b) such immunity from suit and legal process as is necessary to ensure that all their official papers and documents have the like inviolability as, in accordance with the 1961 Convention Articles, is accorded in respect of official archives of a diplomatic mission.

(2) In addition to the immunities set out in paragraph (1), Directors, Alternate Directors, Officers and Employees, and experts performing missions for the Bank under contract longer than eighteen months shall, at the time of first taking up their post in the Island, be exempt from duties, whether of customs or excise, and taxes on the importation of articles (except payments for services) in respect of import of their furniture and personal effects (including one motor car each), and the furniture and personal effects of members of their family forming part of their household, which are in their ownership or possession or already ordered by them and intended for their personal use or for their establishment.

(3) In addition to the privileges and immunities set out in paragraph (1) of this Regulation, Governors, Alternate Governors and Representatives of Members shall enjoy -

<sup>5</sup> Recueil des Lois, Tome VII, page 320. Volume 1979-1981, page 185. Volume 1996-1997, page 658 and Volume 1999, page 395.

- (a) the like exemption from duties and taxes on the importation of their personal baggage, 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;
  - (b) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;
  - (c) such immunity from suit and legal process as is necessary to ensure that their personal baggage cannot be seized;
  - (d) immunity from arrest or detention.
- (4) In addition to the immunities set out in paragraph (1) of this Regulation, the President and five Vice-Presidents, as nominated by the President, 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 income tax in respect of their emoluments and duties and taxes on the importation of goods) as are accorded to or in respect of a diplomatic agent;
  - (b) the like exemption or relief from being subject to a foncier's rate or occupier's rate, or being liable to pay anything in respect of a rate or anything by way of contribution in respect of a collective rate, as is accorded to or in respect of a diplomatic agent;
  - (c) the like exemption from duties and taxes on the importation of articles imported for their personal use, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;
  - (d) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of

Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent;

- (e) relief, under arrangements made by the Agent of the Impôts, by way of refund of duty on any "huiles et essences" within the meaning of the "Loi (1940) autorisant la perception d'un impôt sur certaines huiles et essences"<sup>6</sup> which is bought in the Island by them or on their behalf and which is for their personal use or for that of members of their family forming part of their household, under and subject to arrangements made by the Agent of the Impôts.

(5) Paragraphs (2), (3) and (4) of this Regulation shall not apply to any person who is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British National (Overseas), or who is a permanent resident of the United Kingdom or of the Island.

(6) Part IV of the Third Schedule to the Law<sup>7</sup> shall not operate so as to confer any privilege or immunity on the official staff of representatives other than Members of Delegations, nor so as to confer any privilege or immunity on the family of any person to whom this Regulation applies.

(7) Neither the provisions of the preceding paragraphs of this Regulation, nor those of Part IV of the Third Schedule to the Law,<sup>7</sup> shall operate so as to confer any privilege or immunity on any persons as the representative of the United Kingdom or of the Island or as a member of the delegation of such a representative.

(8) Any privilege or immunity conferred by the preceding paragraphs of this Regulation may be waived as follows -

- (a) in the case of any privilege or immunity conferred on any officer or employee of the Bank (other than the President or a Vice-President), or on an expert performing a mission for the Bank, by the President;

<sup>6</sup> Recueil des Lois, Tome VII, page 320, Volume 1979-1981, page 185. Volume 1996-1997, page 658 and Volume 1999, page 395.

<sup>7</sup> Recueil des Lois, Volume 1998, page 72.

- (b) in the case of any privilege or immunity conferred on the President or a Vice-President, by the Board of Directors;
- (c) in the case of any privilege or immunity conferred on a Representative of a Member or a member of his delegation, by the Member concerned.

**11.**-(1) As from the date on which an internal effective tax for the benefit of the Bank on the salaries and emoluments paid to him by the Bank is applied, any Director, Alternate, Officer and Employee of the Bank shall enjoy exemption from income tax in respect of such salaries and emoluments, provided that nothing in this paragraph shall be interpreted as 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.

(2) Paragraph (1) of this Regulation shall not apply to pensions or annuities paid by the Bank.

**12.** As from the date on which the Bank establishes or joins a social security scheme, the Directors, Alternate Directors, Officers and Employees of the Bank shall enjoy exemptions whereby for the purposes of the Social Security (Jersey) Law 1974,<sup>8</sup> as amended<sup>9</sup> -

- (a) services rendered for the Bank by them shall be deemed to be excepted from any class of employment in respect of which contributions under that Law are payable; but
- (b) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

<sup>8</sup> Recueil des Lois, Volume 1973-1974, page 319.

<sup>9</sup> Recueil des Lois, Volume 1982-1983, pages 51 and 53, Volume 1986-1987, pages 149, 151 and 227, Volume 1990-1991, page 467, Volume 1992-1993, pages 3, 433 and 437, Volume 1994-1995, page 423, Volume 1998, page 722, Volume 1999, page 419 and Nos. 7640, 7666, 8602 and 9112.

*PART IV*

GENERAL

**13.** These Regulations may be cited as the European Bank for Reconstruction and Development (Immunities and Privileges) (Jersey) Regulations 199 and shall come into force on