

Delegated Powers and Law Reform Committee

15th Meeting, 2023 (Session 6) Tuesday, 9 May 2023

Instrument Responses

International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2023 (SSI 2023/Draft)

On 27 April, the Committee asked the Scottish Government:

Paragraph 1(2) of new Schedule 20 (which is inserted into the principal Order by article 2(2) of the draft Order) provides that for the purposes of that schedule the term “Member Country” has the meaning it has in the Constitution of the Organisation. However, the term “Member Country” is not defined in, and does not appear in, the Constitution of the Organisation. Is this an error? We note that the term “Member Country” does appear in the Agreement referred to in article 1(2)(b) of the Order.

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 2 May 2023, the Scottish Government responded:

The drafting of paragraph 1(2) of schedule 20 was intentional, to follow closely the structure of the interpretative provision in Article 2.2 of the Host Agreement implemented by the Order. The Host Agreement seeks to pull through a number of terms from Interpol’s institutional/constitutional framework including, in addition to the term “Member Country”, the terms “General Assembly” and Executive Committee.

Article 2.2 defines the term “Member Countries” by reference to the Constitution of the Organisation, in the same terms as paragraph 1(2). Unlike the other terms, “Member Country” is unique in that the two words are not specifically used together as a single term in the text of the Constitution as originally drafted back in the 1950s but provision is made for the concept in Article 4. “Member Country” is the term used more generally within Interpol (see their website: <https://www.interpol.int/en/Who-we-are/Member-countries>, but also in the template treaty on which the Agreement was based), and in 2017 the INTERPOL General Assembly adopted a resolution clarifying the meaning of relevant provisions on membership within the Constitution, in particular, clarifying that the “Member” of Interpol is the relevant Member Country (also confirming that country in this context means ‘State’): see <https://www.interpol.int/en/content/download/5728/file/GA-2017-86-RES-01%20-%20The%20process%20for%20membership%20of%20INTERPOL.pdf>. The General Assembly made up of Member Countries has also approved the text of the Agreement which specifically ties the meaning of ‘Member Country’ to the Constitution as done in the Order.

We consider it is therefore clear from the terms of Article 2.2 and the Constitution that the reference to “Member Country” in the Order is to a country which has delegated a body in accordance with Article 4 of the Constitution.

Lastly, we would highlight that the aim is to implement the Host Agreement consistently across the UK¹.

¹ cf. the relative UK Order-

[The International Criminal Police Organisation \(Immunities and Privileges\) Order 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)