



STATUTORY INSTRUMENTS.

S.I. No. 428 of 2016

EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING
AND WORKING CONDITIONS (PRIVILEGES AND IMMUNITIES)
ORDER, 2016

EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING
AND WORKING CONDITIONS (PRIVILEGES AND IMMUNITIES)
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WHEREAS it is enacted by section 42A (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) that the Government may by order make provision to enable—

- (a) international organisations, communities or bodies, their institutions or organs and their property, and
- (b) persons,

to have and enjoy in the State any inviolability, exemptions, facilities, immunities, privileges or rights (other than inviolability, exemptions, facilities, immunities, privileges or rights not conferred upon, or afforded in relation to, sending states or missions under the Vienna Convention) provided for in relation to them by an international agreement to which the State or the Government is or intends to become a party;

AND WHEREAS the European Foundation for the Improvement of Living and Working Conditions is such an international organisation, community or body and the Seat Agreement made on 10 November 2015 between the Government of Ireland and the European Union (European Foundation for the Improvement of Living and Working Conditions) is such an agreement;

NOW, the Government, in exercise of the powers conferred on them by the said section 42A, hereby order as follows:

1. This Order may be cited as the European Foundation for the Improvement of Living and Working Conditions (Privileges and Immunities) Order 2016.
2. The Seat Agreement (the text of which is, for convenience of reference, set out in the Schedule) shall, with the exception of paragraphs 1 to 4 of Article 10, apply for the purposes of section 42A (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 22nd July, 2016.*

SCHEDULE

SEAT AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND
AND THE EUROPEAN UNION (EUROPEAN FOUNDATION FOR
THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS)

The Government of Ireland, hereinafter referred to as “the Government”, and the European Union (European Foundation for the Improvement of Living and Working Conditions), hereinafter referred to as “Eurofound” or “the Agency”:

HAVING REGARD to Regulation (EEC) N°1365/75 of the Council of 26 May 1975¹ on the creation of a European Foundation for the Improvement of Living and Working Conditions, hereinafter referred to as the “Founding Regulation”;

HAVING REGARD to the Protocol on the Privileges and Immunities of the European Union,² hereinafter referred to as “the Protocol”;

HAVING REGARD to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities (CEOS);

HAVING REGARD to the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies and its annexed Common Approach signed on 19 July 2012;

WHEREAS Article 4(2) of the Founding Regulation provides that Eurofound shall have its seat in Ireland;

WHEREAS Article 20 of the Founding Regulation specifies that the Protocol shall apply to Eurofound;

WHEREAS Article 17 of the Founding Regulation specifies that the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities (CEOS) shall be applicable to the staff of Eurofound, including the Director;

WHEREAS Point 9 of the Common Approach stipulates that all agencies should have headquarters agreements;

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Agreement and the application of the Protocol, insofar as the context may require, the following definitions shall apply:

¹OJ L 139, 30.5.1975, p.1

²OJ C 83, 30.3.2010, p. 266

- (a) All reference to the Union in the Protocol shall be understood as references to Eurofound;
- (b) All reference to the Officials and other servants of the Union shall be read as references to the statutory staff of Eurofound;
- (c) Statutory staff shall mean the personnel of the Agency subject to the Staff Regulations of Officials of the European Communities or to the Conditions of Employment of Other Servants (CEOS) of the European Communities, made up of the following categories:
 - Officials as defined in the Staff Regulations;
 - Temporary agents as defined in the CEOS;
 - Contract agents as defined in the CEOS.

Article 2

Legal capacity

- (1) Eurofound is a body of the European Union and has legal personality in accordance with Article 4(1) of its Founding Regulation. It shall enjoy the most extensive legal capacity accorded to legal persons under Irish law. It may, in particular, acquire and dispose of movable and immovable property and be a party of legal proceedings.
- (2) Eurofound is legally represented by its Director according to Article 9(1) of the Founding Regulation.

Article 3

Inviolability and immunity

- (1) The premises, buildings and archives of Eurofound, including all documents, data centres and data belonging to Eurofound shall, without prejudice to Article 21 of the Founding Regulation, be inviolable in accordance with Articles 1 and 2 of the Protocol. They shall be exempt from search, requisition, confiscation or expropriation.
- (2) In accordance with Article 1 of the Protocol, the property and assets of Eurofound shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice of the European Union.

Article 4

Seat of Eurofound

- (1) Eurofound shall have its seat in Dublin, Ireland.

- (2) The Government shall, as appropriate, accord full facilities for the performance of the functions of the Agency.
- (3) Eurofound shall respect the terms and conditions under which facilities are accorded to the Agency by the Government, including in respect of any lease agreement.
- (4) Eurofound may fly the flags of the Union, the flags of Ireland and its own flag on its premises.
- (5) Eurofound shall be exclusively entitled to display its emblem on the premises of Eurofound and on its means of transport.

Article 5

Communications

In accordance with Article 5 of the Protocol, Eurofound, for its official communications and the transmission of all its documents, shall enjoy the same treatment accorded to diplomatic missions in Ireland.

Article 6

Diplomatic bags

Documents and articles for official use of the Agency may be imported, exported or transferred in line with the established procedures for diplomatic bags of diplomatic missions in Ireland.

Article 7

Security

The competent authorities in Ireland shall take all appropriate steps to protect the premises used by Eurofound against any intrusion or damage and to prevent any disturbance of the peace of the premises or impairment of its dignity.

Article 8

Visitors to the Agency

- (1) With regard to representatives of Member States and other EU Institutions, their advisers and experts and any other persons invited by Eurofound to contribute to, or participate in its activities, the authorities in Ireland shall take appropriate measures to facilitate their entry into its territory, their stay and their departure, in accordance with the treatment accorded in respect of visitors to diplomatic missions in Ireland.
- (2) Representatives of Member States and other EU Institutions taking part in the work of Eurofound, their advisers and technical experts, as well as the members of the bodies of the Agency shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy

privileges, immunities and facilities as applicable under the Protocol and the terms of this Agreement.

Article 9

Exemption from taxes

With reference to Article 3 and 4 of the Protocol:

- (a) Eurofound, its assets, revenues and other property shall be exempt from all direct taxes, including in respect to the premises it owns or rents.
- (b) The Government shall, subject to any conditions, restrictions or limitations it deems appropriate, refund the amount of indirect taxes or sales taxes included in the price of purchases of substantial value for the Agency's official use, including vehicles, fuel for said vehicles, and the supply of electricity, gas and telecommunication services.
- (c) The Director of the Agency shall, if he or she is not a national or permanent resident of Ireland, be entitled to relief from value-added tax on the same basis and subject to the same conditions, restrictions and limitations as the head of a diplomatic mission.
- (d) Eurofound is exempt from any customs duties, prohibitions and any import restrictions in respect of articles, including vehicles intended for its official use. Articles so imported shall not be disposed of in Ireland, whether or not in return for payment, except under conditions approved by the Government.
- (e) Eurofound shall be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.
- (f) No exemption shall be granted to Eurofound in respect of taxes and dues which amount merely to charges for public utility services.
- (g) The Government reserves the right to transfer from the method of direct tax exemption to reimbursement of tax paid, or vice versa, without any amendment to this Agreement.

Article 10

Vehicles

- (1) Vehicles may, subject to any conditions, restrictions or limitations prescribed by the Government, be registered without payment of vehicle registration tax if the vehicles are:
 - (a) for official use by the Agency; or

- (b) for the personal use of a member of the statutory staff of Eurofound who transfers his or her residence to Ireland to take up a position there with the Agency.
- (2) The relief under paragraph (1)(a) shall be granted for not more than one vehicle for the official use of the Agency during such period as may be determined by the Government, save that relief may be granted in respect of additional vehicles in a particular case justified by the circumstances.
 - (3) The relief under paragraph (1)(b) shall be granted for not more than two vehicles which are either brought into or acquired in the State where the member of statutory staff is accompanied by his or her spouse or registered partner, or one vehicle where the member of statutory staff is unaccompanied by his or her spouse or registered partner.
 - (4) A vehicle in respect of which relief has been granted from vehicle registration tax shall not be sold or otherwise disposed of, hired out, lent or given as security in Ireland during the period of two years following its registration unless the vehicle registration tax is paid, except with the prior permission of the Government, where it is satisfied that there are circumstances justifying its non-payment.
 - (5) A motor vehicle which qualifies for relief from vehicle registration tax shall also qualify for relief from value-added tax provided that where it is intended to dispose of such motor vehicle by sale or otherwise within two years of the date of purchase, the Government shall be informed of such intention, and, where so instructed by the Government, the Revenue Commissioners shall be refunded by the person in respect of whom relief was granted an amount determined by the Revenue Commissioners deemed to be the amount of tax included in the open market selling price of the vehicle at the time of such determination. This relief from value-added tax shall not be available to nationals or permanent residents of Ireland.
 - (6) A member of the statutory staff shall, if he or she is not a national or permanent resident of Ireland, be entitled to relief from value-added tax in respect of the supply of a bicycle, subject to conditions considered to be necessary by the Government.

Article 11

Social security

- (1) Eurofound shall be exempt from all compulsory contributions to social security schemes in Ireland in respect of the staff of the Agency.
- (2) Eurofound shall organise social security coverage according to the Regulations and Rules applicable to officials and other servants of the European Union.

Article 12

Statutory staff of Eurofound

- (1) Without prejudice to the provisions of Chapter V of the Protocol, it has been agreed in particular that the statutory staff of the Agency:
 - (a) Enjoy immunity from jurisdiction as regards acts carried out by them in their official capacity, including their spoken and written statements. This immunity shall continue after cessation of their functions.
 - (b) Are exempt from national taxes on earnings, salaries and respective supplements paid by Eurofound.
 - (c) Are exempt from any compulsory national social security system without prejudice to the provisions laid down in the Conditions of Employment of other servants of the European Union (CEOS).
 - (d) Are not subject, and nor are their spouses, registered partners and dependent family members, to regulations restricting immigration and formalities for the registration of foreigners.
 - (e) Enjoy the facilities usually granted to officials of international organisations as regards exchange regulations.
 - (f) Have the right, as do their spouses, registered partners and dependent family members, to the same repatriation facilities as are granted to diplomatic representatives in case of crisis. This provision does not apply to nationals of Ireland.
 - (g) Be entitled, if moving to Ireland for the purpose of taking up their appointment with the Agency for the first time, to relief from value-added tax on household goods for the first 24 months of their assignment, subject to conditions considered to be necessary by the Government.
 - (h) At the time of moving to Ireland for the purpose of taking up their appointment with the Agency for the first time, have the right to import from their last country of residence or from the country of which they are nationals, free of duty and without prohibitions or restrictions, furniture and personal effects, including vehicles for personal use, subject to conditions considered to be necessary by the Government.
 - (i) Have the right to export, on termination of their functions at the Agency, free of duty and without prohibitions or restrictions, furniture and personal effects, including vehicles for personal use, subject to conditions considered to be necessary by the Government.
- (2) Paragraph (1)(g) shall not apply to nationals or permanent residents of Ireland. Paragraphs (1)(h) and (1)(i) shall apply irrespective of the

nationality or country of permanent residence of the staff member moving to Ireland.

Article 13

Purpose of privileges and immunities

- (1) The privileges and immunities under this Agreement are granted in the interest of Eurofound and the Union, not for the personal benefit of the individuals themselves.
- (2) Without prejudice to the privileges and immunities granted in accordance with the Protocol and this Agreement, the staff of Eurofound shall observe the laws and regulations of Ireland.
- (3) The Director of the Agency shall waive the immunity accorded to an official or other servant of the Agency wherever it considers that the waiver of such immunity is not contrary to the interests of the European Union. The Governing Board of the Agency shall waive the immunity accorded to the Director wherever it considers that the waiver of such immunity is not contrary to the interests of the European Union.

Article 14

Notification of appointments

Eurofound shall inform the Department of Foreign Affairs and Trade of the arrival and final departure of staff members to whom the Protocol applies (the name and grade of the staff member will be transmitted).

Article 15

Supplemental instruments

It is acknowledged that the Irish Government and Eurofound may conclude further instruments, by way of Memorandum of Understanding or otherwise, in connection with the implementation of this Agreement and/or arrangements between the Government and the Agency more generally.

Article 16

Settlement of disputes

- (1) All disputes between Eurofound and the Irish Government relating to the application of this Agreement shall be settled amicably by direct negotiations. In the event of failure to settle a dispute amicably, the dispute shall be referred at the request of Eurofound or the Irish Government to the Court of Justice of the European Union.
- (2) The Director of Eurofound possesses all necessary rights to represent Eurofound and any member of its staff in a dispute with the authorities in

Ireland. He is entitled to delegate these rights to a member of Eurofound's management.

Article 17

Amendments to this Agreement

This Agreement may be amended by mutual consent of the Government and Eurofound.

Article 18

Final provisions

- (1) This Agreement shall enter into force on the date on which the Government of Ireland gives to Eurofound notification of the completion of the procedures required for the entry into force of the Agreement.
- (2) Either contracting party can denounce this Agreement at any time with twelve months' notice by means of written notification via registered mail to the other contracting party.

IN WITNESS WHEREOF the undersigned representatives, duly authorised for that purpose, have signed this Agreement.

DONE in duplicate at Dublin on this 10th day of November, 2015.

For the Government of Ireland

For the European Union (European
Foundation for the Improvement of
Living and Working Conditions)



GIVEN under the Official Seal of the Government,
13 July 2016.

ENDA KENNY,
Taoiseach.

EXPLANATORY NOTE

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

This order provides that certain privileges and immunities are afforded to the European Foundation for the Improvement of Living and Working Conditions in accordance with the Seat Agreement made on 10 November 2015 between the Government of Ireland and the European Union (European Foundation for the Improvement of Living and Working Conditions).

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