

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE ASIAN INFRASTRUCTURE INVESTMENT BANK (PRIVILEGES AND IMMUNITIES)  
(BAILIWICK OF GUERNSEY) ORDINANCE, 2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Asian Infrastructure Investment Bank (Privileges and Immunities) (Bailiwick of Guernsey) Ordinance, 2019", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**EXPLANATORY MEMORANDUM**

This Ordinance specifies the Asian Infrastructure Investment Bank as an international organisation under section 1 of the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004. It also confers certain privileges and immunities to be enjoyed by the Bank and its personnel under Bailiwick law by providing that Chapter IX of the Articles of Agreement of the Bank shall have force of law in the Bailiwick.

A formal request for extension to the Bailiwick of the United Kingdom's ratification of the Articles of Agreement of the Bank has been submitted. This Ordinance will come into force on the same date that that extension to the Bailiwick comes into force.



# **The Asian Infrastructure Investment Bank (Privileges and Immunities) (Bailiwick of Guernsey) Ordinance, 2019**

**THE STATES**, in pursuance of their Resolution of the 28<sup>th</sup> February 2019<sup>a</sup>, and in exercise of the powers conferred on them by sections 1 and 3 of the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004<sup>b</sup>, hereby order:-

## **Asian Infrastructure Investment Bank – privileges and immunities.**

1. The Asian Infrastructure Investment Bank (the "**Bank**")<sup>c</sup> is specified for the purpose of section 1(a) of the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004, and the agreement specified in section 2 has force of law in the Bailiwick for the purpose of conferring the privileges and immunities to be enjoyed by -

- (a) the Bank, and
- (b) any Governor, Director, Alternate Governor, Alternate Director, President, Vice-President, officer or employee of the Bank, and any expert or consultant performing missions or services for the Bank.

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<sup>a</sup> Article VII of Billet d'État No. III of 2019.

<sup>b</sup> Order in Council No. XII of 2005.

<sup>c</sup> An international organisation of which the United Kingdom and other sovereign powers are members.

**Agreement to have force of law in the Bailiwick.**

2. The agreement referred to in section 1 is Chapter IX of the Articles of Agreement of the Bank<sup>d</sup> (reproduced at the schedule to this Ordinance).

**Interpretation.**

3. References in this Ordinance to the agreement specified in section 2 are references to it as from time to time amended, but only if the amendment has been ratified by, or otherwise has effect in the law of, the United Kingdom.

**Extent.**

4. This Ordinance has effect throughout the Bailiwick.

**Citation.**

5. This Ordinance may be cited as the Asian Infrastructure Investment Bank (Privileges and Immunities) (Bailiwick of Guernsey) Ordinance, 2019.

**Commencement.**

6. This Ordinance shall come into force on the date that there comes into force the extension to the Bailiwick of the United Kingdom's ratification of the Articles of Agreement of the Bank.

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<sup>d</sup> Signed at Beijing on the 29<sup>th</sup> June 2015 and entering into force for the United Kingdom on 25<sup>th</sup> December 2015.

## SCHEDULE

Section 2

### CHAPTER IX OF THE ARTICLES OF AGREEMENT OF THE ASIAN INFRASTRUCTURE INVESTMENT BANK

#### "CHAPTER IX – STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS

##### **Article 44 - Purposes of Chapter**

1. To enable the Bank to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, privileges and exemptions set forth in this Chapter shall be accorded to the Bank in the territory of each member.
2. Each member shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken.

##### **Article 45 - Status of the Bank**

The Bank shall possess full juridical personality and, in particular, the full legal capacity:

- (i) to contract;
- (ii) to acquire, and dispose of, immovable and movable property;
- (iii) to institute and respond to legal proceedings; and
- (iv) to take such other action as may be necessary or useful for its purpose and activities.

##### **Article 46 - Immunity from Judicial Proceedings**

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to raise funds, through borrowings or other means, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank only in a court of competent jurisdiction in the territory of a country in which the Bank has an office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in the contracts entered into with the Bank.

3. Property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

#### **Article 47 - Immunity of Assets and Archives**

1. Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

2. The archives of the Bank, and, in general, all documents belonging to it, or held by it, shall be inviolable, wheresoever located and by whomsoever held.

#### **Article 48 - Freedom of Assets from Restrictions**

To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

#### **Article 49 - Privilege for Communications**

Official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of any other member.

#### **Article 50 - Immunities and Privileges of Officers and Employees**

All Governors, Directors, Alternates, the President, Vice-Presidents and other officers and employees of the Bank, including experts and consultants performing missions or services for the Bank:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity and shall enjoy inviolability of all their official papers, documents and records;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members; and

- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

#### **Article 51 - Exemption from Taxation**

1. The Bank, its assets, property, income and its operations and transactions pursuant to this Agreement, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax of any kind shall be levied on or in respect of salaries, emoluments and expenses, as the case may be, paid by the Bank to Directors, Alternate Directors, the President, Vice-Presidents and other officers or employees of the Bank, including experts and consultants performing missions or services for the Bank, except where a member deposits with its instrument of ratification, acceptance, or approval a declaration that such member retains for itself and its political subdivisions the right to tax salaries, and emoluments, as the case may be, paid by the Bank to citizens or nationals of such member.

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

#### **Article 52 - Waivers**

1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank."