



Tonga

DIPLOMATIC PRIVILEGES ACT

1988 Revised Edition



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DIPLOMATIC PRIVILEGES ACT

Acts Nos. 7 of 1948, 6 of 1949, 8 of 1951

AN ACT TO PROVIDE FOR IMMUNITIES AND PRIVILEGES IN REGARD TO CERTAIN INTERNATIONAL ORGANISATIONS AND REPRESENTATIVES OF FOREIGN POWERS ATTENDING CERTAIN CONFERENCES AND IN REGARD TO THE UNITED NATIONS AND FOR PURPOSES CONNECTED THEREWITH

Commencement [10th September, 1948]

1 Short title.

This Act may be cited as the Diplomatic Privileges Act.

2 Privileges, immunities and capacities of certain international organisations and their staff.

- (1) This section shall apply to any organisation declared by an order made by His Majesty in Council to be an organisation of which Her Britannic Majesty's Government in the United Kingdom and the Government or Governments of one or more sovereign Powers are members.
- (2) His Majesty in Council may, by order —
 - (a) provide that any organisation to which this section applies (hereinafter referred to as the “organisation”) shall, to such extent as may be specified in the order, have the immunities and privileges

set out in Part I of the Schedule to this Act, and shall also have the legal capacities of a body corporate;

- (b) confer upon —
- (i) any persons who are representatives (whether of governments or not) on any organ of the organisation or are members of any committee of the organisation or of an organ thereof,
 - (ii) such number of officers of the organisation as may be specified in the order, being the holders of such high offices in the organisation as may be so specified, and
 - (iii) such persons employed on missions on behalf of the organisation as may be so specified,

to such extent as may be specified in the order, the immunities and privileges set out in Part II of the Schedule to this Act;

- (c) confer upon such other classes of officers and servants of the organisation as may be specified in the order, to such extent as may be so specified, the immunities and privileges set out in Part III of the Schedule to this Act;

and Part IV of the Schedule to this Act shall have effect for the purposes of extending to the staff of such representatives and members as are mentioned in sub-paragraph (i) of paragraph (b) of this subsection and to the families of officers of the organisation any immunities and privileges conferred on the representatives, members or officers under that paragraph, except in so far as the operation of the said Part IV is excluded by the order conferring the immunities and privileges:

Provided that the order shall be so framed as to secure that there are not conferred on any person any immunities or privileges greater in extent than those which, at the time of the making of the order, are required to be conferred on that person in order to give effect to any international agreement in that behalf. (*Substituted by Act 8 of 1951.*)

- (3) Where immunities and privileges are conferred on any persons by an order made under subsection (2) hereof, the Prime Minister —
- (a) may compile a list of the persons entitled to immunities and privileges conferred under paragraphs (b) and (c) of that subsection;
 - (b) may cause any list compiled under this subsection to be published; and
 - (c) whenever any person ceases or begins to be entitled to the immunities and privileges to which any such list relates, shall amend the list and cause a notice of the amendment, or, if he thinks fit, an amended list, to be published as aforesaid.

- (4) Every list or notice published under subsection (3) hereof shall state the date from which the list or amendment takes or took effect; and the fact that any person is or was included at any time among the persons entitled to the immunities or privileges in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list, or, as the case may be the last list taking effect before that time, together with the Gazettes, if any, containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

3 Diplomatic immunities of representatives attending international conferences.

- (1) Where a conference is held in the Kingdom of Tonga and is attended by the representatives of Her Britannic Majesty's Government in the United Kingdom and the government or governments of one or more foreign sovereign Powers, and it appears to the Prime Minister that doubts may arise as to the extent to which the representatives of such foreign Powers and members of their official staffs are entitled to diplomatic immunities, he may —
 - (a) compile a list of the persons aforesaid who are entitled to such immunities, and cause that list to be published in the Gazette; and
 - (b) whenever it appears to the Prime Minister that any person ceases or begins to be entitled to such immunities, amend the list and cause a notice of amendment or, if he thinks fit, an amended list, to be published as aforesaid;

and every representative of a foreign Power who is for the time being included in the list shall be accorded the like immunities and privileges as are accorded to the envoy of a foreign Power accredited to Her Britannic Majesty in the United Kingdom and such members of his official staff as are for the time being included in the list shall be accorded the like immunities and privileges as would be accorded to the retinue of such envoy.

- (2) Every list or notice published under subsection (1) hereof in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to diplomatic immunities as representatives attending the conference or as members of the official staff of any such representative may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazettes, if any, containing

notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

4 Reciprocal treatment.

Nothing in the foregoing provisions of this Act shall be construed as precluding His Majesty in Council from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any Power on the ground that that Power is failing to accord corresponding immunities or privileges to Tongan nationals or representatives.

5 Interpretation.

In this Act —

- (a) any reference to the governing body or any committee of the organisation shall be construed as referring to the General Assembly or any council or other organ of the United Nations; and
- (b) the powers conferred by section 2(2) of this Act shall include power by order to confer on the judges and registrars of the International Court, and on suitors to that Court, and their agents counsel and advocates, such immunities, privileges and facilities as may be required to give effect to any resolution of or convention approved by the General Assembly of the United Nations.

SCHEDULE

PART I - IMMUNITIES AND PRIVILEGES OF THE ORGANISATION

1. Immunity from suit and legal process.
2. The like inviolability of official archives and premises occupied as offices as is accorded in the United Kingdom in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to Her Britannic Majesty.
3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded in the United Kingdom to a foreign sovereign Power.
4. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Tonga or for exportation, or on the importation of any publications of the organisation directly imported by it, such exemption to be subject to compliance with such conditions as the Comptroller of Customs may prescribe for the protection of the revenue.
5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organisation for its official use and in the case of any publications of the organisation directly imported or exported by it.
6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside the Kingdom), of any reduced rates applicable for the corresponding service in the case of press telegrams.

PART II.--IMMUNITIES AND PRIVILEGES OF REPRESENTATIVES, MEMBERS OF COMMITTEES, HIGH OFFICERS AND PERSONS ON MISSIONS

1. The like immunity from suit and legal process as is accorded in the United Kingdom to an envoy of a foreign sovereign Power accredited to Her Britannic Majesty.
2. The like inviolability of residence as is accorded to such an envoy.
3. The like exemption or relief from taxes as is accorded to a consul in Tonga in the service of a foreign Power.

PART III. - IMMUNITIES AND PRIVILEGES OF OTHER OFFICERS AND SERVANTS

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.
2. Exemption from income tax in respect of emoluments received as an officer or servant of the organisation.

PART IV.--IMMUNITIES AND PRIVILEGES OF OFFICIAL STAFFS AND OF HIGH OFFICERS' FAMILIES

1. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as a representative on any organ of the organisation or a member of any committee of the organisation or of an organ thereof, his official staff accompanying him as such representative or member shall also be entitled to those immunities and privileges to the same extent as the retinue of an envoy of a foreign sovereign Power accredited to Her Britannic Majesty in the United Kingdom is entitled to the immunities and privileges accorded to the envoy. (*Substituted by Act 8 of 1951.*)
2. Where any person is entitled to any such immunities and privileges as are mentioned in Part II of this Schedule as an officer of the organisation, that person's wife or husband and children under the age of 21 years shall also be entitled to those immunities and privileges to the same extent as the wife or husband and children of an envoy of a foreign sovereign Power accredited to Her Britannic Majesty in the United Kingdom are entitled to the immunities and privileges accorded to the envoy.