Diplomatic Privileges Act 1964

1964 CHAPTER 81

An Act to amend the law on diplomatic privileges and immunities by giving effect to the Vienna Convention on Diplomatic Relations; and for purposes connected therewith. [31st July 1964]

Modifications etc. (not altering text)

C1 Act extended by State Immunity Act 1978 (c. 33), **s. 20** and Arms Control and Disarmament (Privileges and Immunities) Act 1988 (c. 2, SIF 68:1), **s. 1(1)**

1 Replacement of existing law.

The following provisions of this Act shall, with respect to the matters dealt with therein, have effect in substitution for any previous enactment or rule of law.

Modifications etc. (not altering text)

C2 S. 1 extended by S.I. 1985/1983, **arts. 3–7**, 10, 12

2 Application of Vienna Convention.

(1) Subject to section 3 of this Act, the Articles set out in Schedule 1 to this Act (being Articles of the Vienna Convention on Diplomatic Relations signed in 1961) shall have the force of law in the United Kingdom and shall for that purpose be construed in accordance with the following provisions of this section.

(2) In those Articles—

"agents of the receiving State" shall be construed as including any constable and any person exercising a power of entry to any premises under any enactment (including any enactment of the Parliament of Northern Ireland);

"national of the receiving State" shall be construed as meaning citizen of the United Kingdom and Colonies;

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"Ministry for Foreign Affairs or such other ministry as may be agreed" shall be construed as meaning the department of the Secretary of State concerned;

and, in the application of those Articles to Scotland, any reference to attachment or execution shall be construed as a reference to the execution of diligence, and any reference to the execution of a judgment as a reference to the enforcement of a decree by diligence.

(3) For the purposes of Article 32 a waiver by the head of the mission of any State or any person for the time being performing his functions shall be deemed to be a waiver by that State.

(4) The exemption granted by Article 33 with respect to any services shall be deemed to except those services from any class of employment **[**[F1]in respect of which contributions or premiums are payable under the enactments relating to . . . . . [F2] social security, including enactments in force in Northern Ireland, but not so as to render any person liable to any contribution or premium**]** which he would not be required to pay if those services were not so excepted.

(5) Articles 35, 36 and 40 shall be construed as granting any privilege or immunity which they require to be granted.

[[F3](5A) The reference in Article 36 to customs duties shall be construed as including a reference to excise duties chargeable on goods imported into the United Kingdom.**]**

(6) The references in Articles 37 and 38 to the extent to which any privileges and immunities are admitted by the receiving State and to additional privileges and immunities that may be granted by the receiving State shall be construed as referring respectively to the extent to which any privileges and immunities may be specified by Her Majesty by Order in Council and to any additional privileges and immunities that may be so specified.

Textual Amendments

F1 Words substituted (*prosp. as to words "or premiums" and "or premium"*) by Social Security Act 1973 (c. 38), **Sch. 27 para. 24**, S.I. 1974/164, art. 2(1), Sch. 1 and S.I. 1974/823, **art. 2(4)**(*a*)(*b*)(iii), Sch.

F2 Words repealed by Social Security (Consequential Provisions) Act 1975 (c. 18), **Sch. 1 Pt. I**

F3 S. 2(5A) inserted by Customs and Excise Management Act 1979 (c. 2, SIF 40:1), s. 177(1), **Sch. 4 para. 3**

3 Restriction of privileges and immunities.

(1) If it appears to Her Majesty that the privileges and immunities accorded to a mission of Her Majesty in the territory of any State, or to persons connected with that mission, are less than those conferred by this Act on the mission of that State or on persons connected with that mission, Her Majesty may by an Order in Council withdraw such of the privileges and immunities so conferred from the mission of that State or from such persons connected with it as appears to Her Majesty to be proper.

[[F4](2) An Order in Council under this section shall be disregarded for the purposes of section 50(4) of the British Nationality Act 1981 (circumstances in which certain persons entitled to exemption under section 8(3) of the [M1]Immigration Act 1971 are to be regarded for the purposes of section 1(1) of the said Act of 1981 as settled in the United Kingdom).**]**

Textual Amendments

F4 S. 3(2) substituted by British Nationality Act 1981 (c. 61, SIF 87), s. 52(6), **Sch. 7**

Modifications etc. (not altering text)

C3 S. 3(1) amended by Diplomatic and other Privileges Act 1971 (c. 64), **s. 1(3)**

Marginal Citations

M1 1971 c.77 (**62**).

4 Evidence.

If in any proceedings any question arises whether or not any person is entitled to any privilege or immunity under this Act a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

5 Consequential amendments.

[F5](1) . . . . . .

[F6](2) . . . . . .

Textual Amendments

F5 S. 5(1) repealed by Immigration Act 1971 (c. 77), **Sch. 6**.

F6 S. 5(2) repealed by British Nationality Act 1981 (c. 61, SIF 87), s. 52(8), **Sch. 9**

6 Orders in Council.

(1) No recommendation shall be made to Her Majesty in Council to make an Order under section 2 of this Act unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament; and any statutory instrument containing an Order under section 3 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Any power to make an Order conferred by the foregoing provisions of this Act includes power to vary or revoke an Order by a subsequent Order.

7 Saving for certain bilateral arrangements.

(1) Where any special agreement or arrangement between the Government of any State and the Government of the United Kingdom in force at the commencement of this Act provides for extending—

(a) such immunity from jurisdiction and from arrest or detention, and such inviolablility of residence, as are conferred by this Act on a diplomatic agent; or

(b) such exemption from **[**[F7]duties (whether of customs or excise) chargeable on imported goods**]**, taxes and related charges as is conferred by this Act in respect of articles for the personal use of a diplomatic agent;

to any class of person, or to articles for the personal use of any class of person, connected with the mission of that State, that immunity and inviolability or exemption shall so extend, so long as that agreement or arrangement continues in force.

(2) The Secretary of State shall publish in the London, Edinburgh and Belfast Gazettes a notice specifying the States with which and the classes of person with respect to which such an agreement or arrangement as is mentioned in subsection (1) of this section is in force and whether its effect is as mentioned in paragraph (*a*) or paragraph (*b*) of that subsection, and shall whenever necessary amend the notice by a further such notice; and the notice shall be conclusive evidence of the agreement or arrangement and the classes of person with respect to which it is in force.

Textual Amendments

F7 Words substituted by Customs and Excise Management Act 1979 (c. 2, SIF 40:1), s. 177(1), **Sch. 4 para. 12**

8 Short title, interpretation, commencement, repeal and saving.

(1) This Act may be cited as the Diplomatic Privileges Act 1964.

(2) . . . . . [F8]

(3) This Act shall come into force on such day as Her Majesty may by Order in Council appoint.

(4) . . . . . [F9]

(5) Any Order in Council under the [M2]Diplomatic Immunities Restriction Act 1955 which is in force immediately before the commencement of this Act shall, so far as it could have been made under section 3 of this Act, have effect as if so made.

Textual Amendments

F8 S. 8(2) repealed by Zimbabwe Act 1979 (c. 60, SIF 26:39), s. 6(3), **Sch. 3**

F9 S. 8(4), Sch. 2 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**.

Modifications etc. (not altering text)

C4 1.10.1964 appointed under s. 8(3) by S.I. 1964/1400

Marginal Citations

M2 1955 c. 21.

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SCHEDULES

SCHEDULE 1

Section 2.

ARTICLES OF VIENNA CONVENTION HAVING THE FORCE OF LAW IN THE UNITED KINGDOM

Modifications etc. (not altering text)

C5 Sch. 1 extended by Hong Kong Act 1985 (c. 15, SIF 26:16A), s. 2(2), **Sch. para. 4** and Arms Control and Disarmament (Privileges and Immunities) Act 1988 (c. 2, SIF 68:1), **s. 1(1)**

C6 Sch. 1 applied (19.3.1997) by 1997 c. 28, **s. 28(2)(3)(7)**

C7 Sch. 1 applied (1.3.1999) by 1998 c. 33, **s. 15(5)** (with s. 28); S.I. 1999/448, **art. 2**

ARTICLE 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;

(b) the "members of the mission" are the head of the mission and the members of the staff of the mission;

(c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;

(d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;

(e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;

(f) the "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;

(g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;

(h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;

(i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

ARTICLE 22

Modifications etc. (not altering text)
C8 Power to extend art. 22 conferred by Consular Relations Act 1968 (c. 18), **Sch. 2 para. 5**

1 The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2 The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3 The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

ARTICLE 23

1 The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2 The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

ARTICLE 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

ARTICLE 27

Modifications etc. (not altering text)
C9 Power to extend art. 27 conferred by Consular Relations Act 1968 (c. 18), **Sch. 2 para. 6**

1 The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2 The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3 The diplomatic bag shall not be opened or detained.

4 The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5 The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6 The sending State or the mission may designate diplomatic couriers*ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7 A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

ARTICLE 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

ARTICLE 29

Modifications etc. (not altering text)

C10 Power to extend art. 29 conferred by Consular Relations Act 1968 (c. 18), **Sch. 2 para. 4**

C11 Art. 29 extended with modifications by S.I. 1984/1978, **art. 2(1)**(*a*)(*b*)(2)

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

ARTICLE 30

Modifications etc. (not altering text)

C12 Power to extend art. 30 para. 1 conferred by Consular Relations Act 1968 (c. 18), **Sch. 2 para. 5**

C13 Sch. 1 art. 30(1)(2) applied (*prosp*) by 1998 c. 7, **ss. 8(1)(b)**, 15(1) (with s. 14)

1 The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

Modifications etc. (not altering text)

C14 Art. 30 para. 1 extended by S.I. 1984/1978, **art. 6(2)**

2 His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolablility.

ARTICLE 31

Modifications etc. (not altering text)

C15 Power to extend art. 31 conferred by Consular Relations Act 1968 (c. 18), **Sch. 2 para. 4**

C16 Sch. 1 art. 31(1)-(3) applied (*prosp*) by 1998 c. 7, **ss. 8(1)(c)**, 15(1) (with s. 14)

1 A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

Modifications etc. (not altering text)

C17 Art. 31 para. 1 extended with modifications by S.I. 1984/1978, **art. 2(1)**(*c*)(*d*)(2)

2 A diplomatic agent is not obliged to give evidence as a witness.

Modifications etc. (not altering text)

C18 Art. 31 paras. 2, 3 extended with modifications by S.I. 1984/1978, **art. 2(1)**(*e*)(*f*)(2).

3 No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (*a*), (b) and (*c*) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

Modifications etc. (not altering text)

C19 Art. 31 paras. 2, 3 extended with modifications by S.I. 1984/1978, **art. 2(1)**(*e*)(*f*)(2).

4 The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

ARTICLE 32

1 The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

2 The waiver must always be express.

3 The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4 Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

ARTICLE 33

1 Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2 The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3 A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4 The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5 The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

ARTICLE 34

Modifications etc. (not altering text)

C20 Sch. 1 art. 34 applied (*prosp.*) by 1998 c. 7, **ss. 8(1)(d)**, 15(1) (with s. 14)

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;

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(d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

ARTICLE 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

ARTICLE 36

Modifications etc. (not altering text)

C21 Sch. 1 art. 36(1)(b) applied (with modifications) (*prosp*) by 1998 c. 7, **ss. 8(2)**, 15(1) (with s. 14)

1 The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the mission;

(b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2 The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorised representative.

ARTICLE 37

1 The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2 Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3 Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in

the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4 Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

ARTICLE 38

Modifications etc. (not altering text)
C22 Art. 38 modified by S.I. 1964/2043.

1 Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2 Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

ARTICLE 39

1 Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2 When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3 In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4 In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in

the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

ARTICLE 40

1 If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2 In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3 Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4 The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to*force majeure.*

[F10 ARTICLE 45

Textual Amendments

F10 Art. 45 inserted by Diplomatic and Consular Premises Act 1987 (c. 46, SIF 68:1), s. 6, **Sch. 2 para. 1**

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

(a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;

(b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.**]**

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[F11][F11]SCHEDULE 2

Textual Amendments

F11 S. 8(4), Sch. 2 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**.

. . . . . [F11]

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