

## STATUTORY INSTRUMENTS

1984 No. 1978

## CONSULAR RELATIONS

**The Consular Relations (Privileges and Immunities)  
(People's Republic of China) Order 1984***Laid before Parliament in draft**Made - - - 19th December 1984**Coming into Operation On a date to be notified  
in the London, Edinburgh  
and Belfast Gazettes*

At the Court at Buckingham Palace, the 19th day of December 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 14(1) of the Consular Relations Act 1968(a) (hereinafter referred to as "the Act of 1968") and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 1(11) and 3(1) of the Act of 1968, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:—

*Citation, commencement and interpretation*

1.—(1) This Order may be cited as the Consular Relations (Privileges and Immunities) (People's Republic of China) Order 1984, and shall come into operation on a date to be notified in the London, Edinburgh and Belfast Gazettes.

(2) In this Order, "the Act of 1964" means the Diplomatic Privileges Act 1964(b).

*Members of a Consular Post and their Families*

2.—(1) Subject to the provisions of paragraph (2) of this Article and of Article 5—

- (a) the second sentence of Article 29 in Schedule 1 to the Act of 1964 (exemption from liability to arrest or detention) shall be extended to members of a consular post of the People's Republic of China and to members of their families forming part of their households, except that

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(a) 1968 c.18.

(b) 1964 c.81.

in the said second sentence the words “any form of arrest or detention” shall be deleted, and the words “arrest or detention pending trial” shall be substituted therefor;

- (b) the third sentence of Article 29 in Schedule 1 to the Act of 1964 (protection) shall be extended to consular officers of the People’s Republic of China;
  - (c) the first sentence of paragraph 1 of Article 31 in Schedule 1 to the Act of 1964 (immunity from criminal jurisdiction) shall be extended to members of a consular post of the People’s Republic of China and to members of their families forming part of their households;
  - (d) the second sentence of paragraph 1 (including sub-paragraphs (a), (b) and (c)) of Article 31 in Schedule 1 to the Act of 1964 (immunity from civil and administrative jurisdiction), with the omission of the word “real” in sub-paragraph (a), shall be extended to members of the service staff of a consular post of the People’s Republic of China, except that the immunity from jurisdiction:—
    - (i) shall apply only in respect of any act performed by them in the exercise of consular functions; and
    - (ii) shall not apply to a civil action either:
      - (A) arising out of a contract concluded by the member of the service staff in which he did not contract, expressly or impliedly, on behalf of the People’s Republic of China; or
      - (B) by a third party for damage arising from an accident in the United Kingdom caused by a vehicle, vessel or aircraft;
  - (e) paragraph 2 of Article 31 in Schedule 1 to the Act of 1964 (exemption from duty to give evidence) shall be extended to members of the families of consular officers of the People’s Republic of China forming part of their households;
  - (f) paragraph 3 of Article 31 in Schedule 1 to the Act of 1964 (exemption from liability to measures of execution) shall be extended to members of a consular post of the People’s Republic of China and to members of their families forming part of their households, except that the reference in the said paragraph 3 to sub-paragraph (a) of paragraph 1 of Article 31 shall be taken to be a reference to that sub-paragraph as if the word “real” had been omitted therefrom.
- (2) The provisions of paragraph (1) of this Article shall not apply to any person who satisfies the conditions referred to in Article 4 below.
3. Subject to the provisions of Article 5, consular employees of the People’s Republic of China and members of the service staff of a consular post of the People’s Republic of China, even if they satisfy the conditions referred to in Article 4, shall nevertheless enjoy the immunity provided for in paragraph 3 of Article 44 in Schedule 1 to the Act of 1968 (exemption from liability to give certain evidence).
4. The conditions referred to in Articles 2 and 3 are that the person in question is:—
- (a) permanently resident in the United Kingdom; or

- (b) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a person who under the British Nationality Act 1981<sup>(a)</sup> is a British subject, or a British protected person (within the meaning of the said Act of 1981).

5.—(1) Any privilege or immunity conferred by the provisions of Article 2 or 3 may be waived by the People's Republic of China. Waiver must always be express. A waiver shall be deemed to have been expressed by the People's Republic of China if it has been expressed by the head, or any person for the time being performing the functions of head, of the diplomatic mission in the United Kingdom of the People's Republic of China or, if there is no such mission, of the consular post concerned. Waiver of immunity in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of execution of the judgment, for which separate waiver shall be required.

(2) Nothing in the provisions of Article 2 or 3 shall be construed as in any way prejudicing the question whether, and in what circumstances, immunity from jurisdiction can be claimed by or on behalf of the People's Republic of China.

*Premises and Residences*

6.—(1) Subject to the provisions of paragraph (3) of this Article, paragraphs 1 and 2 of Article 22 in Schedule 1 to the Act of 1964 (inviolability and protection of premises) shall be extended to any consular premises of the People's Republic of China.

(2) Subject to the provisions of paragraph (3) of this Article, paragraph 1 of Article 30 in Schedule 1 to the Act of 1964 (inviolability of private residence), with the omission of the words "and protection", shall be extended to the residences of consular officers of the People's Republic of China.

(3) The premises referred to in paragraph (1) and the residences referred to in paragraph (2) may be entered by the authorities of the United Kingdom with the consent of the head of the consular post or the head of the diplomatic mission in the United Kingdom of the People's Republic of China or of a person designated by either of them.

*G. I. de Deney,*  
Clerk of the Privy Council.

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<sup>(a)</sup> 1981 c.61.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which is made pursuant to the Consular Relations Act 1968, provides, with respect to consular posts of the People's Republic of China and persons connected with them, for according privileges and immunities additional to those accorded by Schedule 1 to the Act, namely —

- (i) diplomatic protection for consular officers;
- (ii) exemption from liability to arrest pending trial, diplomatic immunity from criminal jurisdiction and exemption from liability to measures of execution for certain members of a consular post and members of their families forming part of their households;
- (iii) immunity from civil and administrative jurisdiction in respect of acts performed in the exercise of consular functions for certain members of the service staff of a consular post;
- (iv) an exemption from the duty to give evidence for certain members of the families of consular officers, and an exemption from the duty to give certain types of evidence for certain persons who would otherwise not be entitled to it on account of their nationality of, or permanent residence in, the United Kingdom;
- (v) diplomatic inviolability for consular premises and residences of consular officers.

It gives effect to the relevant provisions of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Establishment of a British Consulate-General at Shanghai and a Chinese Consulate-General at Manchester (Cmnd. 9247).

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