



# Diplomatic and Consular Premises Act 1987

## 1987 CHAPTER 46

An Act to make provision as to what land is diplomatic or consular premises; to give the Secretary of State power to vest certain land in himself; to impose on him a duty to sell land vested in him in the exercise of that power; to give certain provisions of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations the force of law in the United Kingdom by amending Schedule 1 to the Diplomatic Privileges Act 1964 and Schedule 1 to the Consular Relations Act 1968; to amend section 9(2) of the Criminal Law Act 1977; and for connected purposes.

[15th May 1987]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### DIPLOMATIC AND CONSULAR PREMISES

##### **1 Acquisition and loss by land of diplomatic or consular status**

- (1) Subject to subsection (2) below, where a State desires that land shall be diplomatic or consular premises, it shall apply to the Secretary of State for his consent to the land being such premises.
- (2) A State need not make such an application in relation to land if the Secretary of State accepted it as diplomatic or consular premises immediately before the coming into force of this section.

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- (3) In no case is land to be regarded as a State's diplomatic or consular premises for the purposes of any enactment or rule of law unless it has been so accepted or the Secretary of State has given that State consent under this section in relation to it; and if—
  - (a) a State ceases to use land for the purposes of its mission or exclusively for the purposes of a consular post; or
  - (b) the Secretary of State withdraws his acceptance or consent in relation to land, it thereupon ceases to be diplomatic or consular premises for the purposes of all enactments and rules of law.
- (4) The Secretary of State shall only give or withdraw consent or withdraw acceptance if he is satisfied that to do so is permissible under international law.
- (5) In determining whether to do so he shall have regard to all material considerations, and in particular, but without prejudice to the generality of this subsection—
  - (a) to the safety of the public;
  - (b) to national security; and
  - (c) to town and country planning.
- (6) If a State intends to cease using land as premises of its mission or as consular premises, it shall give the Secretary of State notice of that intention, specifying the date on which it intends to cease so using them.
- (7) In any proceedings a certificate issued by or under the authority of the Secretary of State stating any fact relevant to the question whether or not land was at any time diplomatic or consular premises shall be conclusive of that fact.

## **2 Vesting of former diplomatic or consular premises**

- (1) Where—
  - (a) the Secretary of State formerly accepted land as diplomatic or consular premises but did not accept it as such premises immediately before the coming into force of this section; or
  - (b) land has ceased to be diplomatic or consular premises after the coming into force of this section but not less than 12 months before the exercise of the power conferred on the Secretary of State by this subsection,the Secretary of State may by order provide that this section shall apply to that land.
- (2) The Secretary of State shall only exercise the power conferred by subsection (1) above if he is satisfied that to do so is permissible under international law.
- (3) In determining whether to exercise it he shall have regard to all material considerations, and in particular, but without prejudice to the generality of this subsection, to any of the considerations mentioned in section 1(5) above that appears to him to be relevant.
- (4) An order under subsection (1) above shall be made by statutory instrument, and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The Secretary of State may by deed poll vest in himself such estate or interest in land to which this section applies as appears to him to be appropriate.

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- (6) A deed poll under this section may also comprise any portion of a building in which the former diplomatic or consular premises are situated.
- (7) In relation to land in Scotland this section shall have effect with the substitution of references to an order for references to a deed poll, and such an order shall take effect immediately it is made.
- (8) Subject to subsection (9) below, in a case falling within paragraph (a) of subsection (1) above the Secretary of State may only exercise the power conferred by that subsection before the end of the period of two months beginning with the date on which this section comes into force.
- (9) In such a case the power continues to be exercisable after the end of that period if the Secretary of State within that period—
- (a) certifies that he reserves the right to exercise it; and
  - (b) unless he considers it inappropriate or impracticable to do so, serves a copy of the certificate on the owner of any estate or interest in the land.
- (10) Where—
- (a) circumstances have arisen in consequence of which the power conferred by subsection (1) above is exercisable; but
  - (b) the Secretary of State serves on the owner of the land in relation to which it has become exercisable notice that he does not intend to exercise the power in relation to that land,
- it shall cease to be exercisable in relation to it in consequence of those circumstances.
- (11) If
- (a) the Secretary of State has exercised the power conferred by subsection (1) above in relation to land; but
  - (b) serves on the owner notice that he does not intend to execute a deed poll under this section, or if the land is in Scotland to make an order under it, relating to the land,
- the power to vest conferred by this section shall cease to be exercisable.

### **3 Duty of sale**

- (1) Where an estate or interest in land has vested in the Secretary of State under section 2 above, it shall be his duty to sell it as soon as it is reasonably practicable to do so, taking all reasonable steps to ensure that the price is the best that can reasonably be obtained.
- (2) The Secretary of State shall apply the purchase money—
- (a) firstly in payment of expenses properly incurred by him as incidental to the sale or any attempted sale;
  - (b) secondly in discharge of prior incumbrances to which the sale is not made subject or in the making of any payments to mortgagees required by Schedule 1 to this Act;
  - (c) thirdly in payment of expenses relating to the land reasonably incurred by him on repairs or security;
  - (d) fourthly in discharge of such liabilities to pay rates or sums in lieu of rates on the land or on any other land as the Secretary of State thinks fit;
  - (e) fifthly in discharge of such judgment debts arising out of matters relating to the land or to any other land as he thinks fit,

and, subject to subsection (3) below, shall pay any residue to the person divested of the estate or interest.

- (3) Where a State was divested but there is no person with whom Her Majesty's Government of the United Kingdom has dealings as the Government of that State, the Secretary of State shall hold the residue until there is such a person and then pay it.
- (4) A sum held by the Secretary of State under subsection (3) above shall be placed in a bank account bearing interest at such rate as the Treasury may approve.

#### **4 Provisions supplementary to sections 2 and 3**

Part I of Schedule 1 to this Act shall have effect to supplement sections 2 and 3 above in England and Wales, Part II shall have effect to supplement them in Scotland and Part III shall have effect to supplement them in Northern Ireland.

#### **5 Interpretation of Part I**

In this Part of this Act—

"consular post" and "consular premises" have the meanings given by the definitions in paragraph 1(a) and (j) of Article 1 of the 1963 Convention as that Article has effect in the United Kingdom by virtue of section 1 of and Schedule 1 to the Consular Relations Act 1968;

"diplomatic premises" means premises of the mission of a State;

"mortgage" includes a charge or lien for securing money or money's worth, and references to mortgagees shall be construed accordingly;

"premises of the mission" has the meaning given by the definition in Article 1(i) of the 1961 Convention as that Article has effect in the United Kingdom by virtue of section 2 of and Schedule 1 to the Diplomatic Privileges Act 1964;

"the 1961 Convention" means the Vienna Convention on Diplomatic Relations signed in 1961; and

"the 1963 Convention" means the Vienna Convention on Consular Relations signed in 1963.

### **PART II**

#### **AMENDMENTS OF DIPLOMATIC PRIVILEGES ACT 1964, CONSULAR RELATIONS ACT 1968, AND CRIMINAL LAW ACT 1977**

#### **6 Amendments of 1964 and 1968 Acts**

Schedule 2 to this Act shall have effect for the purpose of making amendments in Schedule 1 to the Diplomatic Privileges Act 1964 and Schedule 1 to the Consular Relations Act 1968 (provisions of 1961 and 1963 Conventions having force of law in the United Kingdom).

#### **7 Amendments of 1977 Act**

- (1) In section 9(2) of the Criminal Law Act 1977—
  - (a) the following paragraph shall be inserted after paragraph (a)—

- “(aa) the premises of a closed diplomatic mission;”and
- (b) the following paragraph shall be inserted after paragraph (b)—
- “(bb) the premises of a closed consular post;”.
- (2) The following subsection shall be inserted after that subsection—
- “(2A) In subsection (2) above—
- “the premises of a closed diplomatic mission” means premises which fall within Article 45 of the Convention mentioned in subsection (2)(a) above (as that Article has effect in the United Kingdom by virtue of the section and Schedule mentioned in that paragraph); and
- “the premises of a closed consular post” means premises which fall within Article 27 of the Convention mentioned in subsection (2)(b) above (as that Article has effect in the United Kingdom by virtue of the section and Schedule mentioned in that paragraph);”.

### PART III

#### SUPPLEMENTARY

#### **8 Financial provision**

There shall be paid out of money provided by Parliament any expenses of the Secretary of State under this Act.

#### **9 Short title, commencement and extent**

- (1) This Act may be cited as the Diplomatic and Consular Premises Act 1987.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed in pursuance of this section for different provisions or different purposes of the same provision.
- (3) This Act extends to Northern Ireland.

## SCHEDULES

### SCHEDULE 1

Section 4.

#### PROVISIONS SUPPLEMENTARY TO SECTIONS 2 AND 3

#### PART I

#### ENGLAND AND WALES

##### *Interpretation*

- 1        In this Part of this Schedule—
- "the registrar" means the Chief Land Registrar;
- "the registry" means Her Majesty's Land Registry;
- "the searches rules" means the Land Registration (Official Searches) Rules 1986 and any rules amending or replacing them; and expressions defined in section 3 of the Land Registration Act 1925 have the meanings assigned to them by that section.

##### *General*

- 2        (1) If the Secretary of State gives notice to the registrar that he has reason to believe that any register or document in the custody of the registrar may contain information relating to any person or property specified in the notice which would be of assistance to him in connection with the exercise of the power conferred on him by section 2 above, the registrar shall permit him to inspect and make copies of and extracts from any such register or document so far as it relates to any such person or property.
- (2) The following paragraph shall be inserted after subsection (1)(a) of section 112 of the Land Registration Act 1925 (inspection of register and other documents at Land Registry)—
- “(aa) to paragraph 2(1) of Schedule 1 to the Diplomatic and Consular Premises Act 1987 (power of Secretary of State to inspect register in connection with exercise of power to vest in himself former diplomatic or consular premises);”.
- 3        A deed poll under section 2 above shall have effect to vest in the Secretary of State the benefit of any covenant touching and concerning the land to which the deed relates but not annexed to it if, immediately before the vesting of the estate to which the deed relates, the covenant was enforceable by the person divested of that estate.
- 4        Where—
- (a) a term of years has vested in the Secretary of State under section 2 above; and
- (b) assignment of the term is absolutely prohibited,

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the prohibition shall be treated, in relation to an assignment on sale under section 3 above, as if it were a provision to the effect that the term may not be assigned without the consent of the landlord and that such consent shall not be unreasonably withheld.

*Registered land*

- 5 (1) If an estate which the Secretary of State proposes to vest in himself is registered land—
- (a) he shall be treated for the purposes of the searches rules as a purchaser within the meaning of those rules; and
  - (b) the deed vesting the registered land in him shall be treated for the purposes of those rules as the instrument effecting the purchase.
- (2) If after vesting registered land in himself the Secretary of State lodges the vesting deed at the registry the registrar shall register him as the proprietor of the land.

*Unregistered land*

- 6 A conveyance by the Secretary of State under this Act shall have effect if the estate conveyed is not registered land—
- (a) to vest the estate conveyed in the purchaser free from any mortgage to which the sale is not made subject; and
  - (b) to extinguish any other person's title to the estate conveyed.
- 7 (1) Where by virtue of paragraph 6 above land is discharged from a mortgage, the mortgagee shall be entitled, subject to the following provisions of this paragraph and to the claims of any prior mortgagee, to have the proceeds of sale applied in payment of the sums secured by the mortgage.
- (2) The Secretary of State may by publishing such notice or notices as he thinks appropriate require any person who claims to be entitled to a payment under subparagraph (1) above to send particulars of his claim to the Secretary of State within the time, not being less than two months, fixed in the notice or, where more than one is published, in the last of them.
- (3) At the end of the time fixed by the notice or, where more than one is published, the last of them, the Secretary of State shall not be liable to any person of whose claim he has not then received particulars.
- 8 Where, after land has become vested in the Secretary of State under section 2 above, a person retains possession of any document relating to the title to the land, he shall be deemed to have given the Secretary of State an acknowledgment in writing of the Secretary of State's right to production of that document and to delivery of copies thereof and (except where he retains possession of the document as mortgagee of trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof; and section 64 of the Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment and undertaking did not contain any such expression of contrary intention as is mentioned in that section.

## PART II

### SCOTLAND

- 9           In this Part of this Schedule "order" means an order under section 2(5) above.
- 10           An order shall contain a particular description of the lands affected or a description  
 by reference of those lands in the manner provided by section 61 of the  
 Conveyancing (Scotland) Act 1874.
- 11           On the date on which an order is made, the land specified in the order, together with  
 the right to enter upon and take possession of it, shall vest in the Secretary of State.
- 12           (1) Where the Secretary of State has effected a sale of the premises or any part thereof  
 and grants to the purchaser or his nominee a disposition of the subjects sold, which  
 bears to be in implement of the sale and which does not bear to be subject to a  
 prior security, then, on that disposition being duly recorded or (as the case may be)  
 registered, those subjects shall be discharged of any heritable security or diligence  
 affecting the subjects.
- (2) Where on a sale as aforesaid the premises remain subject to a prior security, the  
 recording of a disposition under sub-paragraph (1) above shall not affect the rights  
 of the creditor in that security, but the Secretary of State shall have the like right as  
 the debtor to redeem the security.
- 13           Where a lease has vested in the Secretary of State by virtue of an order and that  
 lease prohibits assignation absolutely, that prohibition shall be treated as if it were  
 a prohibition to the extent only that the lease shall not be assigned without the  
 consent of the landlord, such consent not to be unreasonably nor unfairly withheld  
 nor delayed.
- 14           Where, after land has become vested in the Secretary of State under section 2.  
 above, a person retains possession of any document relating to the title to the land,  
 he shall be deemed to have given to the Secretary of State an acknowledgment  
 in writing of the right of the Secretary of State to production of that document  
 and to delivery of copies thereof and (except where he retains possession of the  
 document as heritable creditor or as trustee or otherwise in a fiduciary capacity) an  
 undertaking for safe custody thereof.
- 15           After an order has been made it may be recorded in the General Register of Sasines  
 or (as the case may be) in the Land Register of Scotland.

## PART III

### NORTHERN IRELAND

#### *Interpretation*

- 16           In this Part of this Schedule—
- "estate" includes interest;
- "registered land" means land the title to which is registered under the Land  
 Registration Act (Northern Ireland) 1970;
- "unregistered land" means land the title to which is not registered under  
 the Land Registration Act (Northern Ireland) 1970.



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### *General*

- 17 (1) Where—
- (a) a tenancy has vested in the Secretary of State under section 2 above; and
  - (b) assignment of the tenancy is absolutely prohibited,
- the prohibition shall be treated in relation to an assignment on sale under section 3. above, as if it were a provision to the effect that the tenancy may not be assigned without the consent of the landlord and that such consent shall not be unreasonably withheld.
- (2) In this paragraph "tenancy" includes a fee farm grant.
- 18 A deed poll under section 2 above shall have effect to vest in the Secretary of State the benefit of any covenant touching and concerning the land to which the deed relates but not annexed to it if, immediately before the vesting of the estate to which the deed relates, the covenant was enforceable by the person divested of that estate.

### *Registered land*

- 19 (1) If an estate which the Secretary of State proposes to vest in himself under section 2 above is registered land—
- (a) he shall have a right, in accordance with the prescribed procedure, to inspect and make copies of the whole or any part of any register or document in the custody of the registrar relating to that estate; and
  - (b) he shall be treated for the purposes of the priority search provisions as if he were a person who has entered into a contract to purchase that estate, and any reference in those provisions to purchase shall be construed accordingly.
- (2) If after vesting registered land in himself the Secretary of State lodges the vesting deed at the registry, the registrar—
- (a) shall register him as the owner of the estate specified in the deed poll; and
  - (b) shall issue him a certificate showing the title to the estate.
- (3) The registrar may, if he thinks fit, register the title of the Secretary of State to an estate under sub-paragraph (2) above notwithstanding that the Secretary of State has not produced to him the land certificate relating to the land in which the estate subsists and, where the registrar does so, he shall enter a note to that effect in the register.
- (4) In this paragraph—
- "the priority search provisions" means section 81(3) and (4) of the Land Registration Act (Northern Ireland) 1970 and the provisions of the Land Registration (Northern Ireland) Rules 1977 relating to priority searches and any rules amending or replacing those provisions;
  - "the registrar" means the Registrar of Titles in Northern Ireland;
  - "the registry" means the Land Registry in Northern Ireland;
- and expressions defined in section 94 of the Land Registration Act (Northern Ireland) 1970 have the meanings assigned to them by that section.

### *Unregistered land*

- 20 A conveyance by the Secretary of State under this Act of unregistered land shall have effect—

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- (a) to vest the estate conveyed in the purchaser free from any mortgage to which the sale is not made subject; and
  - (b) to extinguish any other person's title to the estate conveyed.
- 21 Where, after land has become vested in the Secretary of State under section 2 above, a person retains possession of any document relating to the title of the land, he shall be deemed to have given the Secretary of State an acknowledgement in writing of the Secretary of State's right to production of that document and to delivery of copies thereof and (except where he retains possession of the document as mortgagee or trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof; and section 19 of the Conveyancing Act 1881 shall have effect accordingly, and on the basis that the acknowledgement and undertaking did not contain any such expression of contrary intention as is mentioned in that section.
- 22 (1) Where by virtue of paragraph 20 above land is discharged from a mortgage, the mortgagee shall be entitled, subject to the following provisions of this paragraph and to the claims of any prior mortgagee, to have the proceeds of sale applied in payment of the sums secured by the mortgage.
- (2) The Secretary of State may, by publishing such notice or notices as he thinks appropriate, require any person who claims to be entitled to a payment under subparagraph (1) above to send particulars of his claim to the Secretary of State within the time, not being less than two months, fixed in the notice or, where more than one notice is published, in the last of them.
- (3) At the end of the time fixed by the notice or, where more than one is published, the last of them, the Secretary of State shall not be liable to any person of whose claim he has not then received particulars.
- (4) If after executing a deed poll under section 2 above with respect to unregistered land, the Secretary of State lodges it at the registry of deeds, the registrar shall register it.

## SCHEDULE 2

Section 6.

### AMENDMENTS OF 1964 AND 1968 ACTS

- 1 The following shall be inserted at the end of Schedule 1 to the 1964 Act—  
 “ARTICLE 45
- 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.”
- 2 Schedule 1 to the 1968 Act shall have effect subject to the following amendments.
- 3 The following shall be inserted after the heading "CHAPTER 1. -CONSULAR RELATIONS IN GENERAL"—

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“SECTION I - ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS”.

4 The following shall be inserted after Article 17—

*“SECTION II - END OF CONSULAR FUNCTIONS*

ARTICLE 27Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1 In the event of the severance of consular relations between two States:

- (a) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together "with the property of the consular post and the consular archives;
- (b) the sending State may entrust the custody of the consular premises, together with the property contained therein and the consular 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.

2 In the event of the temporary or permanent closure of a consular post, the provisions of sub-paragraph (a) of paragraph 1 of this Article shall apply. In addition,

- (a) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or
- (b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (b) and (c) of paragraph 1 of this Article shall apply.”.

5 The following paragraph shall be inserted after paragraph 2 of Article 31—

“3 Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.”.

6 The following shall be inserted after Article 58—

“ARTICLE 59Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.”.