



DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT

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DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT

An Act to consolidate and amend certain enactments relating to diplomatic immunities and privileges. [27th December, 1962] [Commencement.]

PART I

Diplomatic immunities and privileges

Immunities of foreign envoys and consular officers

1. Immunities of foreign envoys, etc.

- (1) Subject to the provisions of this Act, every foreign envoy and every foreign consular officer, the members of the families of those persons, the members of their official or domestic staff, and the members of the families of their official staff, shall be accorded immunity from suit and legal process and inviolability of residence and official archives to the extent to which they were respectively so entitled under the law in force in Nigeria immediately before the coming into operation of this Act.
- (2) Any writ or process sued forth or prosecuted before or after the coming into operation of this Act, whereby any foreign envoy or foreign consular officer authorised and received as such by the Government of Nigeria or any member of the official or domestic staff of such foreign envoy or foreign consular officer is liable to arrest or imprisonment, or his or their goods or chattels are liable to distress, seizure or attachment, shall be void.
- (3) Nothing in this section shall-
 - (a) authorise immunity from arrest of any member of the official or domestic staff of a foreign envoy or foreign consular officer unless the name of such person was, before the arrest, recorded with the Minister by the foreign envoy or foreign consular officer; or
 - (b) confer the benefits of this section on any merchant or other trader within the meaning of any Act relating to bankruptcy or insolvency, who is in the service of a foreign envoy or foreign consular officer.

2. Waiver of immunity of foreign envoys, etc.

A foreign envoy or foreign consular officer, with the consent of his Government, may waive any immunity or inviolability conferred by or under this Act on himself

and without the necessity for such consent may waive immunity or inviolability so conferred on a member of his official or domestic staff, or on a member of his family or of the family of a member of his official staff.

3. Immunities of chief representative of a Commonwealth country

Subject to the provisions of this Act, a chief representative of a Commonwealth country shall be entitled to the like immunity from suit and legal process, and the like inviolability of residence and official archives as are accorded to a foreign envoy.

4. Immunities of members of staff and families

Subject to the provisions of this Act, a person who is-

- (a) a member of the official or domestic staff of a chief representative of a Commonwealth country; or
- (b) a member of the family of a chief representative of a Commonwealth country; or
- (c) a member of the family of a member of the official staff of a chief representative of a Commonwealth country, shall be entitled to the like immunity from suit and legal process as would be accorded to him if the chief representative were a foreign envoy.

5. Consular immunity may be conferred by regulations

- (1) Without limiting the power to make regulations conferred by section 20 of this Act, regulations may from time to time be made under that section conferring on-
 - (a) persons in the service of the government of any other Commonwealth country; or
 - (b) persons in the service of the government of any territory for whose international relations the government of any such country is responsible, (other than persons

on whom immunity is conferred by the foregoing provisions of this Act), holding such offices or classes of offices as may be specified in that behalf in the regulations, the like immunity from suit and legal process and the like inviolability of residence and official archives as are accorded to foreign consular officers.

- (2) Any person may waive any immunity or inviolability conferred on him under regulations made for the purposes of subsection (1) of this section.

6. Immunities of Commonwealth representatives attending conferences

- (1) Where a conference is held in Nigeria and is attended by representatives of the government or governments of one or more Commonwealth countries, the Minister may compile a list of representatives of the Commonwealth government or governments attending the conference and members of their official staff, and cause that list to be published in the Federal Gazette; and every representative of a government of a Commonwealth country who is for the time being included in the list shall, for the purposes of this Act, be treated as if he were a foreign envoy and, subject to the provisions of this section, such of the members of his official staff as are for the time being included in the list shall be treated for the purpose aforesaid as if they were his retinue.
- (2) Whenever it appears to the Minister that any person ceases or begins to be qualified for inclusion in a list compiled under subsection (1) of this section, he may amend the list and cause a notice of the amendment or, if he thinks fit, an amended list to be published in the Federal Gazette.
- (3) Every list or notice published under this section in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect.
- (4) A person who is a member of the official staff of the representative of the government of a Commonwealth country and is a citizen of Nigeria and is not a citizen of another Commonwealth country shall not be entitled under the foregoing provisions of this section to any immunity, except in respect of things

done or omitted to be done in the course of the performance of his duties, and the name of the person whose immunity is limited by this subsection shall be entered in a separate part of any list compiled by the Minister under subsection (1) of this section.

7. Waiver of immunity of Commonwealth representatives

- (1) A chief representative of a Commonwealth country with the consent of his government may waive any immunity or inviolability conferred by or under this Act on himself and without the necessity for such consent may waive immunity or inviolability so conferred on a member of his official or domestic staff, or on a member of his family or of the family of a member of his official staff.
- (2) Any person may waive immunity of inviolability conferred on him for the purpose of attending a Commonwealth conference in Nigeria by section 6 of this Act.

8. Reciprocal withdrawal of personal immunities

Where it appears to the minister that any personal immunities conferred by law on a foreign envoy or foreign consular officer or a chief representative of a Commonwealth country, the members of the families of those persons, members of their official or when the staff, and the members of the families of their official staff, or on persons coming under section 5 or section 6 of this Act, exceed in any respect those accorded in the territory of the foreign sovereign power concerned to an envoy or consular officer of the government or, as the case may be, in the Commonwealth country concerned to a chief representative of Nigeria or to Nigerian representatives attending a conference and to persons similarly connected with that envoy or that chief representative of Nigeria or those Nigerian representatives attending a conference the Minister may, by order withdraw those personal immunities in the case of that power or that Commonwealth country to such extent and in respect of such classes of persons as appear to the Minister to be proper.

9. Power to grant exemption from taxation to other governments, etc.
- (1) Notwithstanding anything to the contrary in any Act, the Minister of Finance may from time to time, wholly or partly exempt from any public tax, duty, rate, levy, or fee applicable to the Federation or the Federal territory as the case may be, any of the following governments or persons-
- (a) the government of any Commonwealth country or of any foreign country or the government of any territory for whose international relations the government of any Commonwealth country or foreign country is responsible;
 - (b) a foreign envoy;
 - (c) a chief representative of a Commonwealth country;
 - (d) a foreign consular officer;
 - (e) a person upon whom consular immunity is conferred by regulations made for the purposes of section 5 of this Act;
 - (j) a person attending a Commonwealth conference in Nigeria to whom section 6 of this Act applies;
 - (g) a representative or officer of the government of any country other than Nigeria or of any provisional government, national committee, or other authority recognised by the Government of Nigeria if he is temporarily resident in Nigeria in accordance with any arrangement made with the Government of Nigeria;
 - (h) a member of the official staff of any person to whom any of the foregoing paragraphs applies;
 - (i) a member of the domestic staff of any person to whom any of the foregoing paragraphs applies;

- (j) a member of the family of any person to whom any of the foregoing paragraphs applies.
- (2) The powers conferred on the Minister of Finance by subsection (1) of this section shall be deemed to include-
 - (a) power to exempt from stamp duty under the Stamp Duties Act and from the fee or duty (if any) chargeable under any other Act or any instrument or class of instruments to which any of the governments or persons referred to in that subsection is a party;
 - (b) power, on the death of any person referred to in that subsection-
 - (i) to exempt wholly or partly the estate of that person from duty chargeable under any Act; and
 - (ii) to exempt any instrument or document or class of instruments or documents made for or relating to the appointment of an executor or administrator in the estate of that person, or to the administration or distribution of the estate, from stamp duty under the Stamp Duties Act and from the fee or duty (if any) chargeable under any other Act;
 - (c) power to exempt any goods belonging to or acquired by any such government or person as aforesaid from any duty chargeable under the law relating to customs and excise.
- (3) Any exemption granted under this section may be granted either unconditionally or subject to such conditions as the Minister of Finance thinks fit, and that Federal Minister may at any time revoke any such exemption or revoke, vary or add to any such conditions.
- (4) Every exemption granted under this section shall come into force on such date as may be specified in that behalf by the Minister of Finance; and the date so specified may be before or after the date of the granting of exemption or before or after coming into operation of this Act.

(5) If any question arises as to the persons entitled to exemption or as to the extent of any exemption, it shall be determined by the Minister in consultation, if necessary, with the Minister of Finance or the Commissioner of Finance of the State; and the decision of the Minister, if taken in accordance with this subsection, shall be final.

10. Personal immunities, etc., of Nigerian citizens and residents

(1) Where a person who is a member of the official or domestic staff of-

- (a) a foreign envoy; or
 - (b) a foreign consular officer; or
 - (c) a chief representative of a Commonwealth country; or
 - (d) a person upon whom consular immunity is conferred by regulations made for the purposes of section 5 of this Act; or
 - (e) a person attending a Commonwealth conference in Nigeria to whom section 6 of this Act applies; or
 - (f) a person temporarily resident in Nigeria and to whom paragraph (g) of subsection (1) of section 9 of this Act applies, is a citizen of Nigeria and not a citizen of the country concerned, or is not resident in Nigeria solely for the purpose of performing his duties as such a member, that person shall not, and a member of the family of that person shall not by reason only of his being a member of that family, be entitled to the personal immunities (if any) which would otherwise be conferred on him by law, or to any exemption granted under section 9 of this Act.
- (2) For the removal of doubt, privileges accorded to honorary consuls or trade Commissioners before the coming into operation of this Act shall not be deemed to be restricted or abrogated by this section; and with the approval in writing of

the Minister the privileges may, after the commencement of this Act, continue to be enjoyed by any honorary consul or trade commissioner.

PART II - Immunities and privileges of international organisations and persons connected therewith

11. Immunities, etc., of certain international organisations, etc.

- (1) This section shall apply to any organisation declared by the Minister by Order to be an organisation the members of which are sovereign powers (whether foreign sovereign powers or Commonwealth countries) or the government or governments thereof.
- (2) The Minister may, from time to time, by Order in the Federal Gazette-
 - (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 the First Schedule to this Act, and shall also have the legal capacities of a body corporate;
[First Schedule.]
 - (b) confer upon-
 - (i) any persons who are representatives (whether of governments or not) of any organ of the organisation or at any conference convened by the organisation or of any organ thereof;
 - (ii) such officers or classes of officers of the organisation as are specified in the Order, being the holders of such high offices in the organisation as are so specified;
 - (iii) such persons employed on missions on behalf of the organisation as are specified in the Order, to such extent as are specified in the Order, the immunities and privileges specified in the Second Schedule to this Act;

(c) confer upon such other classes of officers and servants of the organisation as specified in the Order, the immunities and privileges specified in the Third Schedule to this Act to such extent as are so specified,

and the Fourth Schedule to this Act shall have effect for the purpose of extending to the staff of such representatives and members as are mentioned in subparagraph (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 Fourth Schedule is excluded by the Order conferring the immunities and privileges.

(3) Nothing in this section shall authorise the making of any Order to confer immunity or privilege upon any person as the representative of the Government of Nigeria or as a member of the staff of such a representative.

(4) This section shall also extend to the international organisations known as "National Liberation Movements"

(hereinafter referred to as "the movements") and accordingly it shall have effect as if-

(a) the reference in subsection (1) to an organisation in respect of which the Minister may make an order includes a reference to the movements; and

(b) the persons described in subsection (2) (b) (iii) thereof includes persons, classes or groups of persons connected with the movements and specified by name or otherwise or described by reference to their professions or undertakings.

(5) For the avoidance of doubt, the Notices and Orders in Council in the Fifth Schedule to this Act made or issued under the authority of any Act repealed by this Act shall, with all necessary modifications, be deemed to have been made by the Minister as Orders under this section; and such Notices and Orders in Council

shall have effect accordingly but may at any time be amended, revoked or replaced by the Minister.

12. Power to confer immunity on certain persons

The Minister may from time to time, by Order in the Federal Gazette confer on the judges and registrars of the International Court of Justice established by the Charter of the United Nations, 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.

13. Extent of privileges

The powers conferred on the minister by sections 11 and 12 of this Act to grant certain immunities shall be deemed to include the power to exempt-

- (a) from stamp duty under the Stamp Duties Act and from the fee or duty (if any) chargeable under any other Act, any instrument or class of instruments to which any organisation or person to which or to whom either of those sections applies is a party;
- (b) from any duty chargeable under the law relating to customs or excise any goods belonging to or acquired by any such organisation or person.

14. Immunities and privileges of representative attending international conferences Where-

- (a) a conference is held in Nigeria and is attended by representatives of the government or governments of one or more foreign sovereign powers; and
- (b) it appears to the Minister that doubts may arise as to the extent to which the representatives of those governments (other than the Federal or any State Government of Nigeria) and members of their official

staffs are entitled to immunities and privileges, the Minister may, by notice in the Federal Gazette, direct that every representative of any such government (other than the Federal or any State Government of Nigeria) shall, for the purpose of any enactment or rule of law or custom relating to the immunities and privileges of a foreign envoy, be treated as if he were a foreign envoy, and that such of the members of his official staff as the Minister may from time to time direct shall be treated for the purpose aforesaid as if they were members of the official staff of a foreign envoy.

15. Organisations and persons may waive immunity

Any organisation or person may waive any immunity, inviolability or privileges conferred on it or him under this Part of this Act.

16. Reciprocal treatment

Nothing in this Part of this Act shall be construed to preclude the Minister from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from nationals or representatives of any government or sovereign power on the ground that, that government or power is failing to accord corresponding immunities or privileges to Nigerian nationals or representatives.

PART III - Miscellaneous and supplemental

17. Provisions as to exemption from taxation

- (1) The Minister charged with responsibility for finance (in this section referred to as "the said Minister") may direct any refund or payment from the Consolidated Revenue Fund or any other fund of the Government or other public body, whose finances are subject to control by the said Minister, necessary in the opinion of the said Minister to give effect to any exemption granted under the Act.

- (2) Where any loss is suffered by any public fund or account of the Federation other than the Consolidated Revenue Fund by the granting of any such exemption or by the making of any refund or payment directed under this section, the said Minister may direct that such payments be made from the Consolidated Revenue Fund to that other fund or account as may be necessary in the opinion of the said Minister to reimburse that loss.
- (3) Where any loss is suffered by any public body within the meaning of subsection (1) of this section by the granting of any such exemption or by the making of any refund or payment directed under this section, the said Minister may direct that such payments be made from the Consolidated Revenue Fund to that public body as may be necessary in the opinion of the said Minister to reimburse that loss.
- (4) All refunds or payments directed under this section to be made from the Consolidated Revenue Fund or any other Fund of the Federal Government or other public body shall be made without further appropriation than this section.

18. Certificate of Minister

If in any proceedings any question arises whether or not any organisation or any person is entitled to immunity from suit and legal process under any provision of this Act or of any regulations made under this Act, a certificate issued by the Minister stating any fact relevant to that question shall be conclusive evidence of that fact.

19. Power of Minister to add to or vary list of Commonwealth countries

The Minister may by order in the Federal Gazette add to or vary the list of Commonwealth countries for the purposes of this Act.

20. Regulations

The President may from time to time make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such

other Regulations as he thinks necessary or expedient for the purpose of giving effect to the provisions of this Act and for the due administration thereof.

21. Orders, etc. to be laid before the National Assembly

All Orders and regulations made under this Act shall be laid before the National Assembly within fourteen days after the date of the making thereof if the National Assembly is then in session, and, if not, shall be laid before the National Assembly within three sitting days after the date of the commencement of the next ensuing session. If any Order or regulation is not so laid, or either House of the National Assembly passes a resolution disallowing the Order or regulation within seven sitting days after the laying, the Order or regulations shall thenceforth be void without prejudice to the validity of anything previously done there under.

22. Interpretation

(1) In this Act, unless the context otherwise requires-

"Chief Representative of a Commonwealth country" means a person, whether he is known by the title of High Commissioner or by another title, which is recognised by the Government as the chief representative in Nigeria of any other Commonwealth country;

"Foreign consular officer" means a consular officer of a foreign sovereign power who is recognised by the Government of Nigeria;

"Foreign envoy" means an envoy of a foreign sovereign power who is accredited to the Government of Nigeria;

"Government" or "the Government of Nigeria" means the Federal Government of Nigeria;

"Member of the family" in relation to any person to whom this Act applies, means the spouse or any child of that person;

"Minister" means the minister charged with responsibility for foreign affairs and Commonwealth relations;

"Personal immunities" means immunity from suit or legal process (except in respect of things done or omitted to be done in the course of the performance of official duties) and includes inviolability of residence and appearance before any court or other tribunal as a witness;

"Residence" in relation to the property of the government to which a person accorded personal immunities under Part I of this Act owes allegiance or to any property owned or rented by that person, means any house or other premises whatsoever used or occupied for diplomatic purposes by the head of a mission or by a member of the diplomatic staff thereof; and in relation to any person accorded personal immunities under Part II of this Act, means any house or other premises for the time being occupied by that person, and however acquired.

(2) Reference in this Act to "Commonwealth country" or to "Commonwealth countries" shall be read as references to all or any of the following countries, that is to say, the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Zimbabwe, Malawi, Sri Lanka, Ghana, Malaysia, the State of Singapore, Cyprus, Sierra Leone, Tanzania, Uganda, Jamaica and such other countries as the Minister may by order in the Federal Gazette declare for the purposes of this Act, and includes the Republic of Ireland.

23. Short title, application, repeals and savings

- (1) This Act may be cited as the Diplomatic Immunities and Privileges Act, and shall apply throughout the Federation.
- (2) The enactments mentioned in the Sixth Schedule to this Act are hereby repealed.
- (3) Without limiting the provisions of the Interpretation Act, it is hereby declared that the repeal of any provisions by this Act shall not affect any document made or thing done under the provision so repealed, and every such document made or

thing done so far as it is subsisting or in force at the time of the repeal or could have been made or done under this Act shall continue and have effect as if it has been made or done under the corresponding provision of this Act, and as if that provision has been in force when the document was made or thing was done.

- (4) For the avoidance of doubt, sections 4, 5 and 6 of the Consular Conventions Act shall, to the extent to which they are inconsistent with this Act, be read and construed subject to the provisions of this Act.

SCHEDULES

FIRST SCHEDULE

[section 11 (2) (a).]

Immunities and privileges of international organisations

1. Immunity from suit and legal process.
2. The like inviolability of residence and official archives as is accorded in respect of the residence and official archives of a foreign envoy.
3. The like exemption from taxes and rates, other than taxes on the importation of goods, as is accorded to the Government of any foreign country.
4. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Nigeria or for exportation, or on the importation of any publications of the organisation directly imported by it, subject to compliance with such conditions as the Federal Minister charged with responsibility for finance 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 for its official use and in

the case of any publications of the organisation directly imported or exported by it, subject to compliance with such conditions as the Federal Minister charged with responsibility for health may prescribe for the protection of the public health, the prevention of diseases in plants and animals, and otherwise in the public interest.

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 dispatched from places outside Nigeria), of any reduced rates applicable for the corresponding service in the case of press telegrams.

SECOND SCHEDULE

[Section 11 (2) (b).]

Immunities and privileges of representatives, members of committees, senior officers, and persons on missions

1. The like immunity from suit and legal process as is accorded to a foreign envoy.
2. The like inviolability of residence and official archives as is accorded to a foreign envoy.
3. The like exemption from taxes and rates as is accorded to a foreign envoy.

THIRD SCHEDULE

[Section 11 (2) (c).]

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 taxes in respect of emoluments received as an officer or servant of the organisation.
3. Exemption from taxes on the importation of furniture and effects imported at the time of first taking up post in Nigeria, that exemption to be subject to compliance with such conditions as the Federal

Minister of Finance may prescribe for the protection of the Revenue.

FOURTH SCHEDULE

[Section 11 (2) (c).]

Immunities and privileges of official staff and of senior officers' families

1. Where any person is entitled to any such immunities and privileges as are mentioned in the Second Schedule to this Act as the representative on any organ of the organisation or a member of any committee of the organisation of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those immunities and privileges to the same extent as the members of the official staff of a foreign envoy are entitled to the immunities and privileges accorded to that envoy.
2. Where any person is entitled to any such immunities and privileges as are mentioned in the Second Schedule to this Act as an officer of the organisation, the members of the family of that person shall also be entitled to those immunities and privileges to the same extent as the members of the family of a foreign envoy are entitled to the immunities and privileges accorded to that envoy.

FIFTH SCHEDULE

[Section 11 (4).]

Notice and orders in council continued in operation

- (a) the Diplomatic Privileges (United Nations) Declaration of Application Notice published as Public Notice 122 of 1948;
- (b) the Diplomatic Privileges (Specialised Agencies) Declaration of Application Notice published as Public Notice 150 of 1949;
- (c) the Diplomatic Privileges (UNICEF) Declaration of Application Notice published as L.N. 122 of 1955;
- (d) the Diplomatic Privileges (United Nations and International Court of Justice) Order published as Order in Council 27 of 1948;
- (e) the Diplomatic Privileges (Food and Agriculture Organisation) Order published as Order in Council 31 of 1949;
- (f) the Diplomatic Privileges (United Nations Educational, Scientific, and Cultural Organisation) Order published as Order in Council 32 of 1949;
- (g) the Diplomatic Privileges (International Refugee Organisation) Order published as Order in Council 33 of 1949;
- (h) the Diplomatic Privileges (World Health Organisation) Order published as Order in Council 34 of 1949 and thereafter amended by L.N. 71 of 1956;
- (i) the Diplomatic Privileges (International Civil Aviation Organisation) Order published as Order in Council 35 of 1949 and thereafter amended by L.N. 72 of 1956;
- (j) the Diplomatic Privileges (International Labour Organisation) Order published as Order in Council 36 of 1949;

- (k) the Diplomatic Privileges (World Meteorological Organisation) Order published as L.N. 68 of 1956;
- (l) the Diplomatic Privileges (Universal Postal Union) Order published as L.N. 69 of 1956;
- (m) the Diplomatic Privileges (International Telecommunications Union) published as L.N. 70 of 1956.

SIXTH SCHEDULE

[Section 23 (2).]

Enactments repealed Short Title

- 52 The Diplomatic Immunities and Privileges (Commonwealth Countries Republic of Ireland) Act.
- 53 The Diplomatic Privileges (Extension) Act.

DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT

LAWYARD[®]