

CAYMAN ISLANDS



DIPLOMATIC PRIVILEGES AND IMMUNITIES LAW

(1997 Revision)

Supplement No. 3 published with Gazette No. 12 of 9th June, 1997.

PUBLISHING DETAILS

Originally entitled the Diplomatic Agent (Immunity from Legal Process) Law, 1964.

Consolidated with Law 23 of 1965 and with the Diplomatic Immunities (Commonwealth Countries and the Republic of Ireland) Law (Cap. 38), the Diplomatic Privileges (Extension) Law (Cap. 39) and the Commonwealth Secretariat (Visiting Officers Privileges and Immunities) Law, 1966 (36 of 1966).

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted-

Law 11 of 1965-17th December, 1964 (sic)

Law 23 of 1965-1st April, 1965

Cap. 38-1st January, 1964

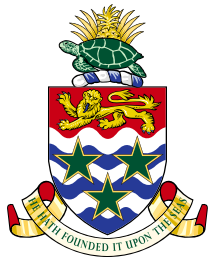
Cap. 39-1st January, 1964

Law 36 of 1966-31st October, 1966.

Consolidated and revised this 6th day of May, 1997.



CAYMAN ISLANDS



DIPLOMATIC PRIVILEGES AND IMMUNITIES
LAW
(1997 Revision)

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CAYMAN ISLANDS



DIPLOMATIC PRIVILEGES AND IMMUNITIES LAW

(1997 Revision)

ENACTED by the Legislature of the Cayman Islands.

PART I - Introductory

Short title

1. This Law may be cited as the *Diplomatic Privileges and Immunities Law (1997 Revision)*.

Definitions

2. (1) In Part II —

“**diplomatic agent**” means the head of a mission or a member of the diplomatic staff of a mission.

- (2) In Part III —

“**Commissioner**” means, in relation to a scheduled country, the person for the time being recognised by the Governor as Commissioner or agent of such country in the Islands;

“**official premises**” means any building or part of a building which is exclusively occupied for the purpose of the official business of a person in the service of the Government of any scheduled country holding the office of Commissioner as defined in this Part; and

“**scheduled country**” means any country for the time being specified in the First Schedule.

(3) In Part V —

“**Commonwealth Secretariat**” means the Commonwealth Secretariat established at the Commonwealth Prime Ministers Meeting of June, 1965; and
“**senior officer**”, in relation to the Commonwealth Secretariat, means an officer of the Secretariat recognised by the Secretary of State as being a senior officer of the Secretariat.

PART II - Diplomatic Agents

Immunity from legal process

3. When a diplomatic agent is passing through, either to take up or return to his post, or is otherwise temporarily resident in any of the Islands, he shall be accorded such immunity from legal process or other restraint upon his person prescribed by law as shall ensure his transit or return unhindered.

Immunity to extend to family of diplomatic agent

4. Section 3 applies equally to the members of the family of the diplomatic agent who are accompanying him or travelling separately either to join him or to return to their own country.

Law of the Islands relating to privilege of sovereigns and others assimilated to the Law of England

5. Notwithstanding anything to the contrary in the law applicable to the Islands, the law and custom relating to the privileges and immunities as to the person, property or servants of sovereigns, diplomatic agents, or representatives of foreign powers for the time being in force in England are, insofar as they are applicable, fully effective, *mutatis mutandis*, in the Islands.

PART III - Commonwealth Countries and Republic of Ireland

Restrictions on powers of entry in relation to official premises

6. No official premises shall be entered by a constable or other person acting in the execution of any warrant or other legal process or in the exercise of powers conferred by or under any enactment or otherwise, except with the consent of the Commissioner in charge thereof, or, if that consent is withheld or cannot be obtained, with the consent of the Governor:

Provided that this shall not apply in relation to any entry effected —



- (a) for the purpose of extinguishing or preventing the spread of fire;
- (b) by a constable having reasonable cause to believe that a crime involving violence has been, is being or is about to be committed in such official premises; or
- (c) by a person entitled to enter by virtue of any easement, contract or other private right.

Immunities of Commissioners of scheduled countries and certain other persons

7. (1) The Governor may, by order, confer upon the Commissioner and other persons in the service of the Government of any scheduled country holding such offices or classes of offices as may be specified in the order, being offices or classes of offices appearing to him to involve the performance of duties substantially corresponding to those which, in the case of a foreign sovereign power, would be performed by a consular officer, the like immunity from suit and legal process and the like inviolability of official archives as are accorded to consular officers of a foreign sovereign power:

Provided that a person who is a British citizen, a British Dependant Territories citizen or a British Overseas citizen and is not a citizen of any of the scheduled countries shall not be entitled under this subsection to immunity from suit and legal process, except in respect of things done or omitted to be done in the course of the performance of his duties.

- (2) If, in any proceedings, any question arises whether or not any person is entitled to immunity from suit and legal process under this section or any order made thereunder, a certificate issued by or under the authority of the Governor stating any fact relevant to that question shall be conclusive evidence of that fact.
- (3) The Governor shall compile a list of the persons appearing to him entitled to immunity from suit and legal process under subsection (1), except persons whose immunity is limited by the proviso to that subsection; and the Governor shall, from time to time, amend the list and cause the list and any amendment of the list or any amended list to be gazetted.
- (4) Notwithstanding anything in subsections (1) to (3), the Commissioner of any scheduled country in the Islands may waive any immunity conferred by or under this section on himself or any member of his staff.

Amendment of First Schedule

8. (1) The Governor may, by order, vary the First Schedule by adding thereto any country specified in the order, being a country within the Commonwealth.
- (2) The Governor may, by order, provide that this Part shall cease to apply to, or shall be modified in its application to, any scheduled country on the ground



that that country is not being accorded corresponding treatment by Her Majesty's Government in the United Kingdom.

Power to revoke or vary orders

9. Any power conferred by this Part to make an order shall be construed as including a power to revoke or vary the order by a subsequent order.

PART IV - United Nations

Application to United Nations

10. In the application of this Part to the United Nations —

- (a) any reference to the governing body or any committee of the organisation shall be construed as referring to the General Assembly or any council or other organ of the United Nations; and
- (b) the powers conferred by section 11(2) shall include power by order to confer on the judges and registrars of the International Court, and on suitors to that Court and their agents, counsel and advocates, such privileges, immunities and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations.

Privileges, immunities and capacities of certain international organisations and their staffs

11. (1) This section shall apply to any organisation declared by the Governor in Council to be an organisation of which Her Majesty's Government in the United Kingdom and the government or governments of one or more foreign powers are members.
- (2) The Governor in Council may, by order —
- (a) provide that any organisation to which this section applies (hereinafter referred to as "the organisation") shall, to such extent as may be specified in the order, have the privileges and immunities set out in Part 1 of the Second Schedule, and shall also have the legal capacities of a body corporate;
 - (b) confer upon —
 - (i) any persons who are representatives (whether of governments or not) on any organ of the organisation or are members of any committee of the organisation or of any organisation thereof;
 - (ii) such number of officers of the organisation as may be specified in the order, being the holders of such high offices in the organisation as may be so specified; and



- (iii) such persons employed on commissions on behalf of the organisation as may be so specified,

to such extent as may be specified in the order, the privileges and immunities set out in Part 2 of the Second Schedule; and

- (c) confer upon such other classes of officers and servants of the organisation as may be specified in the order, to such extent as may be so specified, the privileges and immunities set out in Part 3 of the Second Schedule, and

and Part 4 of the Second Schedule shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in subparagraph (i) of paragraph (b) and to the families of officers of the organisation any privileges and immunities conferred on the representatives, members or officers under that paragraph, except insofar as the operation of the said Part 4 is excluded by the order conferring the privileges and immunities:

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

- (3) Where privileges and immunities are conferred on any persons by an order made under subsection (2), the Governor —
 - (a) shall compile a list of the persons entitled to privileges and immunities conferred under paragraph (b) of that subsection, and may compile a list of the persons entitled to privileges and immunities conferred under paragraph (c) of that subsection;
 - (b) shall cause any list compiled under this subsection to be published in the Gazette; and
 - (c) whenever any person ceases or begins to be entitled to the privileges and immunities to which any such list relates, shall amend the list and cause a notice of the amendment, or, if he thinks fit, an amended list, to be published as aforesaid.
- (4) Every list or notice published under subsection (3) shall state the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to the privileges and immunities in question may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list, or, as the case may be, the last list taking effect before that time, together with the Gazettes, if any, containing notices of the amendments taking effect before that time, and by showing that the name of that person is or was at that time included or not included in the said list.

Provisions as to orders

- 12.** (1) Every order made under section 11(1) or (2) shall be laid as soon as may be before the Legislative Assembly, and if an address is presented to the Governor by the Legislative Assembly within the period of forty days beginning with the day on which any such order is laid before it, praying that the order be annulled, the Governor in Council may annul the order and it shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the making of a new order.
- (2) In reckoning the said period of forty days, no account shall be taken of any time during which the Legislative Assembly is dissolved or prorogued, or during which the Legislative Assembly is adjourned for more than four days.

Diplomatic immunities of representatives attending international conferences

- 13.** (1) Where a conference is held in the Islands and is attended by the representatives of Her Majesty's Government in the United Kingdom and the government or governments of one or more foreign sovereign powers, and it appears to the Governor that doubts may arise as to the extent to which the representatives of such foreign powers and members of their official staffs are entitled to diplomatic immunities, he may —
- (a) compile a list of the persons aforesaid who are entitled to such immunities, and cause that list to be published in the Gazette; and
 - (b) whenever it appears to the Governor that any person ceases or begins to be entitled to such immunities, amend the list and cause a notice of amendment, or an amended list, to be published,
- and every representative of a foreign power who is for the time being included in the list shall, for the purpose of any enactment and rule of law or custom relating to the immunities of an envoy of a foreign power accredited to Her Majesty, and of the retinue of such an envoy, be treated as if he were such an envoy, and 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) Every list or notice published under subsection (1) in relation to any conference shall include a statement of the date from which the list or amendment takes or took effect; and the fact that any person is or was included or not included at any time among the persons entitled to diplomatic immunities as representatives attending the conference or as members of the official staff of any such representative may, if a list of those persons has been so published, be conclusively proved by producing the Gazette containing the list or, as the case may be, the last list taking effect before that time, together with the Gazettes, if any, containing notices of the amendments taking effect



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

Reciprocal treatment

- 14.** Nothing in this Part shall be construed as precluding the Governor in Council from declining to accord privileges or immunities to, or from withdrawing privileges or immunities from, nationals or representatives of any power on the ground that that power is failing to accord corresponding privileges or immunities to British nationals or representatives.

PART V - Commonwealth Secretariat

Privileges and immunities of visiting officers

- 15.** Officers and servants of the Commonwealth Secretariat and members of their families, visiting the Islands in the course of their duties, shall have and enjoy for the duration of the visit the privileges and immunities set forth in the Third Schedule.

FIRST SCHEDULE

(Sections 2(2) and 8)

Scheduled Commonwealth, etc., Countries

Australia
Canada
Republic of Ireland

SECOND SCHEDULE

United Nations: Privileges and Immunities

(Section 11)

PART 1-Privileges and Immunities of the Organisation

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

PART 2-Privileges and Immunities of High Officers and Representatives

1. The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Her Majesty.



2. The like inviolability of residence as is accorded to such an envoy.
3. The like exemption or relief from taxes as is accorded to such an envoy.

PART 3-Privileges and Immunities of Other Officers and Servants

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

PART 4-Privileges and Immunities of Official Staff and of High Officer's Family

1. Where any person is entitled to any such privileges and immunities as are mentioned in Part 2 of this Schedule as a representative on any organ of the organisation or a member of any committee of the organisation or of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those privileges and immunities to the same extent as the retinue of an envoy of a foreign sovereign power accredited to Her Majesty is entitled to the privileges and immunities accorded to the envoy.
2. Where any person is entitled to any such privileges and immunities as are mentioned in Part 2 of this Schedule as an officer of the organisation, that person's wife or husband and children under the age of twenty-one shall also be entitled to those privileges and immunities to the same extent as the wife or husband and children of an envoy of a foreign sovereign power accredited to Her Majesty are entitled to the privileges and immunities accorded to the envoy.



THIRD SCHEDULE

Commonwealth Secretariat: Visiting Officers

1. Every senior officer of the Commonwealth Secretariat, who is a citizen of a country mentioned in Schedule 3 to the *British Nationality Act 1981* [U.K. Act 1981 c. 61], and any member of his family forming part of his household, other than a member who is a British Citizen, a British Dependant Territory Citizen or a British Overseas Citizen only shall, if permanently resident outside the United Kingdom, have the like privileges and immunities as are accorded, by law to a diplomatic agent and the members of his family forming part of his household except that any such person shall not be exempt from liability for income tax in respect of any salary or emoluments payable to him by the Secretariat.
2. Every officer and servant of the Commonwealth Secretariat not falling within paragraph 1 of this Schedule shall have -
 - (a) immunity from suit and legal process in respect of acts or omissions of his in the course of the performance of official duties, except immunity from suit and legal process in respect of a civil action for damage alleged to have been caused by a motor vehicle belonging to or driven by him, or in respect of a motor traffic offence involving such a vehicle; and
 - (b) the like inviolability for all his official papers and documents as is accorded by law to the diplomatic agent of a sending state.

**Publication in consolidated and revised form authorised by the Governor in Council
this 6th day of May, 1997.**

Carmena H. Parsons
Clerk of Executive Council