



Tuvalu

DIPLOMATIC PRIVILEGES ACT

2022 Revised Edition

CAP. 36.15



Tuvalu

DIPLOMATIC PRIVILEGES ACT

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Tuvalu

DIPLOMATIC PRIVILEGES ACT

AN ACT AS TO THE IMMUNITIES, PRIVILEGES AND CAPACITIES OF CERTAIN INTERNATIONAL ORGANISATIONS AND THEIR STAFFS; AND AS TO THE IMMUNITIES AND PRIVILEGES OF THE REPRESENTATIVES OF FOREIGN POWERS¹

Commencement [14th October 1947]

1 Short title

This Act may be cited as the Diplomatic Privileges Act.

2 Privileges, immunities and capacities of certain international organisations and their staff

- (1) This section shall apply to any organisation of which the Government of Tuvalu and the Government or Governments of one or more sovereign powers are members.
- (2) The Minister 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 immunities and privileges set out in Part I of the Schedule, and shall also have the legal capacities of a body corporate²;
 - (b) confer upon —
 - (i) any persons who are representatives (whether of government or not) on any organ of the organisation or are members of any committee of the organisation or of an organ 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 missions on behalf of the organisation as may be so specified;
- to such extent as may be specified in the order, the immunities and privileges set out in Part II of the Schedule;³
- (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 immunities and privileges set out in Part III of the Schedule;

and Part IV of the Schedule shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in paragraph (b) (i) 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 Part IV is excluded by the order conferring the immunities and privileges:

Provided that the order shall be so framed as to secure that there are not conferred on any person any immunities or privileges 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 immunities and privileges are conferred on any persons by an order made under subsection (2), the Minister —
 - (a) may compile a list of the persons entitled to immunities and privileges conferred under paragraphs (b) and (c) of that subsection;
 - (b) may 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 immunities and privileges 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 at any time among the persons entitled to immunities or privileges in question may be conclusively proved by producing a certificate to that effect signed by the Minister, or, if a list of those persons has been so published, 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.

3 Diplomatic immunities of representatives attending international conferences

- (1) Where a conference is held in Tuvalu and is attended by the representatives of the government or governments of one or more foreign sovereign Powers, and it appears to the Minister 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 Minister that any person ceases or begins to be entitled to such immunities, amend the list and cause a notice of amendment or if he thinks fit, an amended list, to be published as aforesaid;

and every representative of a foreign Power who is for the time being included in the list shall be accorded the like immunities and privileges as are accorded to the envoy of a foreign Power accredited to His Majesty in the United Kingdom and such members of her official staff as are for the time being included in the list shall be accorded the like immunities and privileges as would be accorded to the retinue of such envoy.

- (2) Every list or notice published under the last foregoing subsection 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 be conclusively proved by producing a certificate to that effect signed by the Minister, or, if a list of those persons has been so published, 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.

4 Reciprocal treatment

Nothing in the foregoing provisions of this Act shall be construed as precluding the Minister from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any Power on the ground that the Power is failing to accord corresponding immunities or privileges to citizens of Tuvalu or representatives.

5 Law relating to privileges of sovereigns and others assimilated to the law of England

Notwithstanding any provisions to the contrary contained in the law applicable to Tuvalu, the law and custom relating to the immunities and privileges as to person, property or servants of sovereigns, diplomatic agents, or the representatives of foreign powers for the time being in force in England shall, in so far as the same is applicable *mutatis mutandis*, have effect and be enforced in Tuvalu.

6 Application to United Nations

In this Act —

- (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 2 (2) shall include power by order to confer on the judges and registrars of the International Court, and on suitors to the 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.

SCHEDULE

(Section 2)

PART I - IMMUNITIES AND PRIVILEGES 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 the United Kingdom in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to His Majesty.
3. The like exemption of relief from taxes and rates other than taxes on the importation of goods, as is accorded in the United Kingdom to a foreign sovereign Power.
4. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Tuvalu 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 Minister 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 it.
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 despatched from places outside Tuvalu), of any reduced rates applicable for the corresponding service in the case of press telegrams.

PART II - IMMUNITIES AND PRIVILEGES OF REPRESENTATIVES, MEMBERS OF COMMITTEES, HIGH OFFICERS AND PERSONS ON MISSIONS

1. The like immunity from suit and legal process as is accorded in the United Kingdom to an envoy of a foreign sovereign Power accredited to His 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 III - 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 income tax in respect of emoluments received as an officer or servant of the organisation.

PART IV - IMMUNITIES AND PRIVILEGES OF OFFICIAL STAFFS AND OF HIGH OFFICERS' FAMILIES

1. Where any person is entitled to any such immunities and privileges as are mentioned in Part II 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 immunities and privileges to the same extent as the retinue of an envoy of a foreign sovereign Power accredited to His Majesty in the United Kingdom is entitled to the immunities and privileges accorded to the envoy.
2. Where any person is entitled to any such immunities and privileges as are mentioned in Part II as an officer of the organisation, that person's wife or husband and children under the age of 21 years shall also be entitled to those immunities and privileges to the same extent as the wife or husband and children of an envoy of a foreign sovereign Power accredited to His Majesty in the United Kingdom are entitled to the immunities and privileges accorded to the envoy.

ENDNOTES

¹ 1990 Revised Edition, Cap. 17 – Acts 9 of 1947, 4 of 1948, 1 of 1951, 2 of 1966, LN 16/1972

² L.N. 11/85 L.N. 5/87 (Note: Orders made before 1983 are omitted) —

Organisations

1. The following Organisations shall be accorded the immunities and privileges set out in Part I of the Schedule to the Act, and shall also have the legal capacities of a body corporate —
 - (a) South Pacific Commission
 - (b) South Pacific Bureau for Economic Co-operation
 - (c) United Nations Organisation (and affiliated organisations)
 - (d) European Economic Community
 - (e) Committee for Coordinating of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas
 - (f) Tuvalu Trust Fund

³ L.N. 11/85 L.N. 5/87 (Note: Orders made before 1983 are omitted) —

Representative

2. Persons for the time being holding the following appointments shall be accorded the immunities and privileges set out in Part II of the Schedule to the Act —
- (a) Ambassadors or High Commissioners (or like title) accredited to Tuvalu
 - (b) First or Second Secretaries (or like title) to Ambassadors or High Commissioners accredited to Tuvalu
 - (c) Secretary General of the South Pacific Commission and his deputy
 - (d) Director of the South Pacific Bureau for Economic Co-operation and his deputy
 - (e) Directors of the Board of Directors and Members of the Advisory Committee of the Tuvalu Trust Fund.