



ANALYSIS

- Title
1. Short Title
2. Interpretation
- PART I**
DIPLOMATIC IMMUNITIES AND PRIVILEGES
- Immunities of Foreign Envoys and Consular Officers*
3. Immunities of foreign envoys and consular officers
- Immunities of Commonwealth Representatives*
4. Immunities of chief representatives
5. Immunities of members of staffs and of families
6. Consular immunity may be conferred by regulations
7. Immunities may be waived
- Reciprocal Withdrawal of Immunities*
8. Reciprocal withdrawal of personal immunities
- Diplomatic Privileges*
9. Power to grant exemptions from taxation to other Governments and to diplomatic and other representatives in New Zealand

- New Zealand Citizens and Residents*
10. Personal immunities and privileges of New Zealand citizens and residents

PART II**IMMUNITIES AND PRIVILEGES OF INTERNATIONAL ORGANISATIONS AND PERSONS CONNECTED THEREWITH**

11. Immunities, privileges, and capacities of certain international organisations and persons connected therewith
12. Immunities and privileges of Judges of, and suitors to, the International Court of Justice
13. Extent of privileges
14. Immunities and privileges of representatives attending international conferences
15. Reciprocal treatment

PART III**MISCELLANEOUS PROVISIONS**

16. Provisions as to exemptions from taxation
17. Certificate of Minister
18. Saving of legal proceedings
19. Regulations
20. Orders in Council and regulations to be laid before Parliament
21. Application of Act to island territories and to Western Samoa
22. Repeals and savings Schedules

1957, No. 21

**An Act to consolidate and amend certain enactments of the
General Assembly relating to diplomatic immunities and
privileges** [11 October 1957]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Diplomatic Immunities and Privileges Act 1957.

2. Interpretation—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, who is recognised by the Government of New Zealand as the chief representative in New Zealand of any other Commonwealth country:

“Chief representative of New Zealand” means any person, whether he is known by the title of High Commissioner or by another title, who is recognised by the Government of any other Commonwealth country as the chief representative of New Zealand in that other Commonwealth country:

“Commonwealth country” means a country that is a member of the British Commonwealth of Nations; and includes the Republic of Ireland as if that country were a member of the British Commonwealth of Nations:

“Foreign consular officer” means a consular officer of a foreign sovereign Power who is recognised by the Government of New Zealand:

“Foreign envoy” means an envoy of a foreign sovereign Power who is accredited to Her Majesty in right of New Zealand or to the Government of New Zealand:

“Member of the family”, in relation to any person to whom this Act applies, means the spouse or any dependent child of that person:

“Minister” means the Minister of External Affairs:

“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 inviolability of residence.

Cf. 1952, No. 72, ss. 2, 3

PART I

DIPLOMATIC IMMUNITIES AND PRIVILEGES

Immunities of Foreign Envoys and Consular Officers

3. Immunities of foreign envoys and consular officers—

(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 and of the domestic staff of the members of their official staff shall be accorded immunity from suit and legal process and inviolability of residence, official premises, and official archives to the extent to which they were respectively so entitled under the law of New Zealand immediately before the passing of this Act.

(2) For the purposes of this section, sections three and five of the Act of the Parliament of Great Britain intituled the Diplomatic Privileges Act 1708 shall be deemed to have formed part of the law of New Zealand immediately before the passing of this Act.

Immunities of Commonwealth Representatives

4. Immunities of chief representatives—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, official premises, and official archives, as are accorded to a foreign envoy.

Cf. 1952, No. 72, s. 4

5. Immunities of members of staffs and of 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.

Cf. 1952, No. 72, s. 5

6. Consular immunity may be conferred by regulations— Without limiting the power to make regulations conferred by section nineteen 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 official premises and official archives as are accorded to foreign consular officers.

Cf. 1952, No. 72, s. 6

7. Immunities may be waived—(1) A chief representative of a Commonwealth country may waive any immunity or inviolability conferred by or under this Act on himself or 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 any immunity or inviolability conferred on him by or under regulations made for the purposes of section six of this Act.

Cf. 1952, No. 72, s. 8

Reciprocal Withdrawal of Immunities

8. Reciprocal withdrawal of personal immunities—
(1) Where it appears to the Governor-General in Council that any personal immunities conferred by law on a foreign envoy or a chief representative of a Commonwealth country, the members of the families of those persons, members of their official or domestic staff, and the members of the families and of the domestic staff of members of their official staff, exceed in any respect those accorded in the territory of the foreign sovereign Power concerned to an envoy of Her Majesty in right of New Zealand or, as the case may be, in the Commonwealth country concerned to a chief representative of New Zealand, and to persons similarly connected with that envoy or that chief representative of New Zealand, the Governor-General may, by Order in Council, 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 appears to the Governor-General in Council to be proper.

(2) Every Order in Council under subsection one of this section shall be disregarded for the purposes of paragraph (a) of the proviso to section six of the British Nationality and New Zealand Citizenship Act 1948 (which relates to the citizenship of the children of certain persons possessing immunity from suit and legal process).

Cf. 1952, No. 72, s. 3

Diplomatic Privileges

9. Power to grant exemptions from taxation to other Governments and to diplomatic and other representatives in New Zealand—(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 or local tax, duty, rate, levy, or fee 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 in respect of whom any regulations have been made for the purposes of section six of this Act:
- (f) A representative or officer of the Government of any country other than New Zealand, or of any provisional Government, national committee, or other authority recognised by Her Majesty in right of New Zealand, if he is temporarily resident in New Zealand in accordance with any arrangement made with the Government of New Zealand:
- (g) A member of the official staff of any person to whom any of the foregoing paragraphs applies:
- (h) A member of the domestic staff of any person to whom any of the foregoing paragraphs applies:
- (i) 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 one of this section shall be deemed to include—

- (a) Power to exempt from stamp duty under the Stamp Duties Act 1954 and from any fee or duty under any other Act 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 estate duty under the Estate and Gift Duties Act 1955; 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 1954 and from any fee or duty under any other Act.
- (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 the Minister of Finance may at any time revoke any such exemption or revoke, vary, or add to any such conditions.
- (4) Every such exemption shall come into force on such date as may be specified in that behalf by the Minister of Finance. The date so specified may be before or after the date of the granting of the exemption or before or after the passing of this Act.
- (5) If any question arises as to the persons entitled to any such exemption or as to the extent of any such exemption, it shall be determined by the Minister of Finance, and his decision shall be final.

Cf. 1943, No. 9, s. 7 (1), (1A), (1B), (2)–(4), (10); 1943, No. 15, s. 10; 1946, No. 16, ss. 14, 17; 1956, No. 51, s. 4

New Zealand Citizens and Residents

10. Personal immunities and privileges of New Zealand citizens and residents—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 in respect of whom regulations have been made for the purposes of section six of this Act; or

(e) A person to whom paragraph (f) of section nine of this Act applies—
is a New Zealand citizen and not a citizen of the country concerned, or is not resident in New Zealand 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 nine of this Act.

Cf. 1943, No. 9, s. 7 (1) ; 1952, No. 72, s. 5

PART II

IMMUNITIES AND PRIVILEGES OF INTERNATIONAL ORGANISATIONS AND PERSONS CONNECTED THEREWITH

11. Immunities, privileges, and capacities of certain international organisations and persons connected therewith—

(1) This section shall apply to any organisation declared by the Governor-General, by Order in Council, 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 Governor-General may from time to time, by Order in Council,—

(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:

(b) Confer upon—

(i) Any persons who are representatives (whether of Governments or not) on any organ of the organisation or at any conference convened by the organisation or are members of any committee of 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 are specified in the order, to such extent as are so specified, the immunities and privileges specified in the Third Schedule to this Act,—

and the Fourth Schedule to this Act 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) 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:

Provided that no Order in Council under this subsection shall confer any immunity or privilege upon any person as the representative of Her Majesty in right of New Zealand or of the Government of New Zealand or as a member of the staff of such a representative.

Cf. 1947, No. 39, ss. 2, 3 (1) (2)

12. Immunities and privileges of Judges of, and suitors to, the International Court of Justice—The Governor-General may from time to time, by Order in Council, 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.

Cf. 1947, No. 39, s. 3 (2) (d)

13. Extent of privileges—The powers conferred on the Governor-General in Council by sections eleven and twelve of this Act shall be deemed to include power to exempt from stamp duty under the Stamp Duties Act 1954 and from any fee or duty 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.

Cf. 1947, No. 39, s. 3 (3)

14. Immunities and privileges of representatives attending international conferences—Where—

- (a) A conference is held in New Zealand and is attended by representatives of the Government of New Zealand and the Government or Governments of one or more other Commonwealth countries or of one or more foreign sovereign Powers or of any of the territories for whose international relations any of those Governments is responsible; 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 Government of New Zealand) and members of their official staffs are entitled to immunities and privileges,—

the Minister may, by notice in the *Gazette*, direct that every representative of any such Government (other than the Government of New Zealand) shall, for the purpose of any enactment or rule of law or custom relating to the immunities and privileges of a foreign envoy, and of the members of the official staff 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.

Cf. 1947, No. 39, s. 5

15. Reciprocal treatment—Nothing in the foregoing provisions of this Part of this Act shall be construed as precluding the Governor-General in Council from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, nationals or representatives of any Government or sovereign Power (whether a foreign sovereign Power or a Commonwealth country) on the ground that that Government or Power is failing to accord corresponding immunities or privileges to New Zealand nationals or representatives.

Cf. 1947, No. 39, s. 6

PART III

MISCELLANEOUS PROVISIONS

16. Provisions as to exemptions from taxation—(1) The Minister of Finance may direct that such refunds or payments be made from any public fund or account or from the money of any local authority, public body, or person as

may in the opinion of the Minister be necessary to give effect to any exemption granted under section nine or section eleven or section twelve or section fourteen of this Act.

(2) Where any loss is suffered by any public fund or account other than the Consolidated Fund by the granting of any such exemption or by the making of any refund or payment directed under this section, the Minister of Finance may direct that such payments be made from the Consolidated Fund to that other fund or account as may be necessary in the opinion of that Minister to reimburse that loss.

(3) Where any loss is suffered by any local authority, public body, or person by the granting of any such exemption or by the making of any refund or payment directed under this section, the Minister of Finance may direct that such payments be made from the Consolidated Fund to that local authority, public body, or person as may be necessary in the opinion of that Minister to reimburse that loss.

(4) All refunds or payments directed under this section to be made from any public fund or account shall be made without further appropriation than this section.

Cf. 1943, No. 9, s. 7 (5)–(8)

17. 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.

Cf. 1947, No. 39, s. 3 (4), (5); 1952, No. 72, s. 7

18. Saving of legal proceedings—This Act shall not affect any legal proceedings begun before the passing of this Act.

Cf. 1952, No. 72, s. 9

19. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and 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.

Cf. 1952, No. 72, s. 10

20. Orders in Council and regulations to be laid before Parliament—All Orders in Council and regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

Cf. 1947, No. 39, s. 4

21. Application of Act to island territories and to Western Samoa—(1) This Act shall be in force in the Cook Islands, the Tokelau Islands, and Western Samoa.

(2) In the application of this Act to the Cook Islands, unless the context otherwise requires,—

(a) Every reference to New Zealand (when used as a territorial description) shall be construed as including a reference to the Cook Islands:

(b) The references in section three to the law of New Zealand shall be construed as references to the law of the Cook Islands:

(c) Every reference to the Minister of Finance shall, in relation to the Cook Islands other than Niue, be construed as a reference to the Resident Commissioner of Rarotonga:

(d) Every reference to the Consolidated Fund shall be construed as a reference to the Cook Islands Treasury.

(3) In the application of this Act to the Tokelau Islands, unless the context otherwise requires,—

(a) Every reference to New Zealand (when used as a territorial description) shall be construed as including a reference to the Tokelau Islands:

(b) The references in section three to the law of New Zealand shall be construed as references to the law of the Tokelau Islands.

(4) In the application of this Act to Western Samoa, unless the context otherwise requires,—

(a) Every reference to New Zealand (when used as a territorial description) shall be construed as including a reference to Western Samoa:

(b) The references in section three to the law of New Zealand shall be construed as references to the law of Western Samoa:

- (c) Every reference to the Minister of Finance or to the Minister of Customs shall be construed as a reference to the High Commissioner of Western Samoa:
- (d) Every reference to the Consolidated Fund shall be construed as a reference to the Samoan Treasury:
- (e) Every reference to a New Zealand citizen or to a New Zealand national shall be construed as a reference to a person who is a New Zealand protected person by reason of his connection with Western Samoa.

(5) In the application of this Act to the Cook Islands, the Tokelau Islands, or Western Samoa, every reference to stamp duty under the Stamp Duties Act 1954 or to estate duty under the Estate and Gift Duties Act 1955 shall be construed as a reference to the corresponding duty under the law in force in that territory.

Cf. 1952, No. 72, s. 11

22. Repeals and savings—(1) The enactments specified in the Fifth Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act, and as if that provision had been in force when the document was made or the thing was done.

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 official premises and official archives as is accorded in respect of the official premises and official archives of a foreign envoy.
 3. Immunity in relation to its property and assets, wherever located and by whomsoever held, from search, requisition, confiscation, expropriation, or any other form of interference.
 4. 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.
 5. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in New Zealand 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 Minister of Customs may prescribe for the protection of the revenue.
 6. 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 directly imported or exported by it, subject to compliance with such conditions as the Minister of Customs may prescribe for the protection of the public health, the prevention of diseases in plants and animals, and otherwise in the public interest.
 7. 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 New Zealand), 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, HIGH 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, official premises, 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.

Section 11 (2) (c) **THIRD SCHEDULE**

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 New Zealand, that exemption to be subject to compliance with such conditions as the Minister of Customs may prescribe for the protection of the revenue.

Section 11 (2) **FOURTH SCHEDULE**

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 the Second Schedule to this Act as the 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 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.

Section 22 (1) **FIFTH SCHEDULE**

ENACTMENTS REPEALED

- 1943, No. 9—The Finance Act (No. 2) 1943: Section 7.
 1943, No. 15—The Finance Act (No. 3) 1943: Section 10.
 1946, No. 16—The Finance Act 1946: Sections 14 and 17.
 1947, No. 39—The Diplomatic Privileges Extension Act 1947.
 1952, No. 72—The Diplomatic Immunities Act 1952.
 1956, No. 51—The Finance Act 1956: Section 4.
-