



# **DIPLOMATIC MISSIONS AND INTERNATIONAL ORGANISATIONS ACT 2016**

*Revised up to 1<sup>st</sup> August 2022*

## **DISCLAIMER**

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## **Table of Amendments**

Diplomatic Missions and International Organisations Act 2016 (No 7 of 2016) commenced on 21 March 2016, as amended by:

<b>Amending Legislation</b>	<b>Date of Commencement</b>
Diplomatic Missions and International Organisations (Amendment) Act 2017 (No 16 of 2017)	3 May 2017
Fiji Revenue and Customs Authority (Budget Amendment) Act 2017 (No 38 of 2017)	1 August 2017

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### SUBSIDIARY LEGISLATION

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### SCHEDULES

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## [Section 1] Short title and commencement

- (1) This Act may be cited as the Diplomatic Missions and International Organisations Act 2016.
- (2) This Act comes into force on the date or dates appointed by the Prime Minister by notice published in the Gazette.

## [Section 2] Interpretation

In this Act, unless the context otherwise requires—

<b>exemption</b>	means an exemption under section 8 of the Immigration Act 2003 from the requirement to obtain a permit to— <ol style="list-style-type: none"><li>a) enter, reside or work in Fiji, for an individual employed or engaged by an organisation; and</li><li>b) enter and reside in Fiji, for a member of the family of an individual employed or engaged by an organisation;</li></ol>
<b>Government</b>	means the Government of the Republic of Fiji or the Republic of Fiji;
<b>international body</b>	means an international body established or provided for under a particular treaty or convention which the Government is a party to and has ratified;
<b>international organisation</b>	means— <ol style="list-style-type: none"><li>a) an organisation declared under section 6 of the Diplomatic Privileges and Immunities Act 1971; and</li><li>b) a person prescribed by regulations;</li></ol>
<b>member of the family</b>	includes an individual listed by a State, international organisation or international body in a statutory declaration made pursuant to section 5;
<b>members of a mission</b>	means the head of the mission and the members of the staff of the mission as provided for under the Vienna Convention on Diplomatic Relations of 1961;
<b>Minister for Immigration</b>	means the Minister responsible for immigration;
<b>mission organisation</b>	means the diplomatic mission of a State; means— <ol style="list-style-type: none"><li>a) a mission;</li><li>b) an international organisation; and</li><li>c) an international body;</li></ol>
<b>Prime Minister Service</b>	means the head of the Government of the Republic of Fiji; means the Fiji Revenue and Customs Service established under section 3 of the Fiji Revenue and Customs Service Act 1998; and

[def am Act 38 of 2017 s 7, effective 1 August 2017]

**State** means a foreign State or country.

### **[Section 3] Exemption for an organisation from taxes**

(1) Notwithstanding any written law, subject to subsection (2) the following may be exempt from any tax, tariff, fee, levy or duty imposed by the Service—

- a) a mission, to the extent specified under the Diplomatic Privileges and Immunities Act 1971;
- b) an international organisation, to the extent specified in an agreement approved by Cabinet between the international organisation and the Government; and
- c) an international body, to the extent specified under the treaty or convention to which the Government is a party to and has ratified.

[subs (1) am Act 38 of 2017 s 7, effective 1 August 2017]

(2) The Prime Minister must, in accordance with the relevant conventions, treaties or agreements, by written notice to the Service, issue a list of—

- a) the organisations which are eligible for an exemption under subsection (1); and
- b) the specific types of tax, tariff, fees, levies or duties imposed by the Service that the relevant organisations are exempt from.

[subs (2) am Act 38 of 2017 s 7, effective 1 August 2017]

### **[Section 3A] Exemption from paying contributions to the Fiji National Provident Fund**

(1) In this section—

**employee** means an individual who is a resident or citizen of Fiji, employed or engaged by an international organisation or international body; and

**paying contributions to the Fund** means paying contributions to the Fiji National Provident Fund under and in accordance with the Fiji National Provident Fund Act 2011.

(2) The Prime Minister may, subject to this section, exempt an international organisation or international body from paying contributions to the Fund for its employees.

(3) An international organisation or international body may apply, in writing, to the Prime Minister for the international organisation or international body to be exempt from paying contributions to the Fund for its employees.

(4) The application must be accompanied by information that substantiates that the international organisation or international body—

- a) pays contributions for its employees to a superannuation, pension or retirement scheme, or a social security scheme under which the employees are entitled to benefits that are similar to those provided for by the Fiji National Provident Fund Act 2011; and

- b) will pay contributions for its employees to the superannuation, pension or retirement scheme, or social security scheme referred to in paragraph (a).

(5) On receiving and considering the application, the Prime Minister must, in writing—

- a) if satisfied that the international organisation or international body pays contributions for its employees to a superannuation, pension or retirement scheme, or a social security scheme under which the employees are entitled to benefits that are similar to those provided for by the Fiji National Provident Fund Act 2011 and that the international organisation or international body will pay contributions to such a scheme for its employees, grant the exemption; or
- b) if not satisfied that the international organisation or international body pays contributions for its employees to a superannuation, pension or retirement scheme, or a social security scheme under which the employees are entitled to benefits that are similar to those provided for by the Fiji National Provident Fund Act 2011 and that the international organisation or international body will pay contributions to such a scheme for its employees, refuse to grant the exemption.

(6) An international organisation or international body which is granted an exemption under this section is, while the exemption has effect, exempt from any requirement and relieved of any obligation for paying contributions to the Fund for an employee and is not and cannot be held liable to do so.

[s 3A insrt Act 16 of 2017 s 2, effective 3 May 2017]

#### **[Section 4] Right to enter and reside in Fiji**

(1) Notwithstanding any written law, for the purposes of entering and residing in Fiji, individuals employed or engaged by an organisation and members of the family of that individual, may be granted an exemption.

(2) An exemption issued to an individual or a member of the family of an individual under this section, will only be valid for the duration of the engagement or employment of that individual by an organisation.

#### **[Section 5] Application for an exemption**

(1) An application for an exemption for the purposes of section 4 must be made to the Prime Minister in a statutory declaration by—

- a) the State, for an individual who is a member of a mission and the members of the individual's family;
- b) the relevant international organisation, for an individual employed or engaged by an international organisation and the members of the individual's family; or
- c) the international body, for an individual employed or engaged by an international body and the members of the individual's family.

(2) A statutory declaration made under subsection (1) must—

- a) be made in the form prescribed by regulations;
- b) be made for each individual employed or engaged by an organisation;
- c) include the names and details of the members of the family, for each individual employed or engaged by that organisation; and
- d) include other documentary information required by the Prime Minister to determine the application.

(3) A statutory declaration made under this section may be submitted to the Prime Minister by electronic means.

(4) The State, international organisation or international body which has submitted a statutory declaration under subsection (2), must submit a new statutory declaration whenever the name, status or details of an individual listed in a previously submitted statutory declaration changes.

### **[Section 6] Processing of application for an exemption**

(1) The Prime Minister may, upon receiving a statutory declaration made in accordance with section 5 —

- a) forward the statutory declaration to the Minister for Immigration, if the Prime Minister is satisfied that the requirements in this Act have been complied with; or
- b) decline the issuance of an exemption and inform the organisation accordingly, if the Prime Minister is not satisfied that the requirements under section 5(2) have been complied with.

(2) The Prime Minister when forwarding a statutory declaration to the Minister for Immigration in accordance with subsection (1)(a), must include the following details—

- a) the period within which the exemption must be issued;
- b) any terms and conditions to be attached to the exemption; and
- c) any further information necessary for the proper facilitation of the exemption.

### **[Section 7] Issuance of an exemption**

The Minister for Immigration, following receipt of a statutory declaration under section 6(2), must immediately issue an exemption under section 8 of the Immigration Act 2003.

### **[Section 8] Revocation of an exemption**

(1) Upon the issuance of an exemption under section 8 of the Immigration Act 2003, where the Prime Minister has reason to believe that a statutory declaration contains information that is either out-dated or false, the Prime Minister must immediately authorise an inquiry into the matter.

(2) The Prime Minister may, following an inquiry under subsection (1) —

- a) direct the Minister for Immigration to revoke the relevant exemption; or
- b) inform the relevant State, international organisation or international body to update their statutory declaration accordingly.

(3) Where an exemption is revoked in accordance with this section, the revocation takes effect immediately or at a later time approved by the Prime Minister in consultation with the Minister for Immigration.

(4) Where the revocation of an exemption is in force, the relevant individual and the members of the family of that individual will be treated as individuals whose presence in Fiji is unlawful.

### **[Section 9] Consequential amendment**

The Immigration Act 2003 is amended in section 8 by inserting the following new subsection after subsection (2) —

“(2A) Notwithstanding the provisions of this Act, for the purposes of subsection (2) in relation to subsection (1)(d) and (e), a “member of the family” has the same meaning as defined under the Diplomatic Missions and International Organisations Act 2016.”

### **[Section 10] Act to prevail**

This Act has effect notwithstanding any provision of any other written law, and accordingly to the extent that there is any inconsistency between this Act and any other written law, this Act prevails.

### **[Section 11] Regulations**

The Prime Minister may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

# DIPLOMATIC MISSIONS AND INTERNATIONAL ORGANISATIONS (STATUTORY DECLARATION) REGULATIONS 2016

## Table of Amendments

Diplomatic Missions and International Organisations (Statutory Declaration) Regulations 2016 (LN 26 of 2016) commenced on 21 March 2016, as amended by:

<b>Amending Legislation</b>	<b>Date of Commencement</b>
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**[Regulation 1] Short title and commencement**

(1) These Regulations may be cited as the Diplomatic Missions and International Organisations (Statutory Declaration) Regulations 2016.

(2) These Regulations come into force on the date the Act comes into force.

**[Regulation 2] Interpretation**

(1) For the purposes of these Regulations “Act” means the Diplomatic Missions and International Organisations Act 2016.

(2) In these Regulations, words and phrases have the same meaning as under the Act, unless the context otherwise requires.

**[Regulation 3] Statutory declaration**

For the purposes of making an application under section 5 of the Act, a statutory declaration must be—

- a) made in the form prescribed in the Schedule to these Regulations;
- b) made before a person listed under section 3 of the Statutory Declaration Act 1970; and
- c) accompanied by a copy of the passport of each individual listed in the statutory declaration intending to enter, reside or work in Fiji.

**SCHEDULE  
(Regulation 3)**

**STATUTORY DECLARATION**

Diplomatic Missions and International Organisations Act 2016

I ..... (declarant) of .....  
(address of declarant) solemnly and sincerely declare that—

(a) I hold the position of ..... (declarant's designation) (at/of) ..... (name of organisation/ State) ("organisation"/"State") and I am authorised to make this declaration on behalf of the (organisation/State);

(b) ..... (full name of individual) ("individual") is (employed/engaged) by the (organisation/State);

(c) the individual's details are as follows—

- (i) date of birth: .. /.. /..;
- (ii) citizenship:.....; and
- (iii) passport number:.....;

(d) the individual will be based at ..... (location of organisation's office), Fiji from .. /.. / .. to .. / .. / .. as ..... (individual's designation in Fiji);

(e) the individual should be entitled to—

- (i) enter, reside and work in Fiji; and
- (ii) certain immunities and privileges whilst in Fiji; and

(f) the dependent members of the family of the individual are as follows—

(1) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(2) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(3) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(4) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(5) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(6) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(7) Name: .....

Relationship:.....

Date of birth:.....

Citizenship:.....

Passport number :.....

(Attach additional sheet if more than 7 members)

Declared at .....

this .....day of .....20.....

before me and I certify that the declaration was

.....

read over in the language to the declarant who

(Signature of declarant)

appeared to fully understand the meaning thereof.

.....

(Name, designation and signature of person listed under section 3 of the Statutory Declaration Act 1970)