



# DIPLOMATIC PRIVILEGES AND IMMUNITIES ACT 1971

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

## DISCLAIMER

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## Table of Amendments

Diplomatic Privileges and Immunities Act 1971 (No 26 of 1971) commenced on 13 May 1971, as amended by:

<b>Amending Legislation</b>	<b>Date of Commencement</b>
Diplomatic Privileges and Immunities (Amendment) Act 1971 (No 52 of 1971)	17 December 1971
Diplomatic Privileges and Immunities (Amendment) Act 1972 (No 32 of 1972)	22 December 1972
Law Revision (Miscellaneous Amendments) Act 1977 (No 13 of 1977)	1 July 1977
Public Service (Amendment) Act 2016 (No 2 of 2016)	16 February 2016
Stamp Duties (Repeal) Act 2020 (No 16 of 2020)	1 August 2020

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### [Section 1] Short title

This Act may be cited as the Diplomatic Privileges and Immunities Act 1971.

### [Section 2] Interpretation

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

<b>Convention</b>	means the Vienna Convention on Diplomatic Relations signed in 1961, a copy of the English text of which is set out in Schedule 1;
<b>mission</b>	means a diplomatic mission of any State;
<b>organisation</b>	means any organisation referred to in section 6; and
<b>State</b>	means a foreign state or any Commonwealth country.

(2) All expressions used in this Act and defined in Article 1 of the Convention have the same meanings as those given to them in the Convention.

### [Section 3] Certain articles of the Convention to have force of law

(1) Subject to the provisions of subsection (6), the provisions of Articles 1, 22 and 24 inclusive, and 27 to 40 inclusive, of the Convention shall have the force of law in Fiji.

(2) Without prejudice to the provisions of subsection (1), the Minister, with the concurrence of the Minister responsible for finance, may from time to time determine, either generally or in any case or class of case, the fiscal privileges which shall be accorded to any mission or persons connected with any mission, notwithstanding that the determination may extend treatment more favourable than that required by the provisions of the Convention, and may in like manner determine the terms and conditions on which those privileges may be enjoyed.

(3) For the purpose of giving effect to any custom or agreement by which Fiji and any other State extend to each other treatment more favourable than is required by the provisions of the Convention, the Minister may from time to time, by order, declare that a mission of that State and persons connected with that mission shall be accorded such immunity from jurisdiction and inviolability, as are specified in the order, provided that nothing in this subsection shall apply with respect to persons to whom section 4 applies.

(4) In subsections (2) and (3), the expression “treatment more favourable” includes the according of privileges or immunities, as the case may be, to persons who under the Convention may enjoy privileges and immunities only to the extent admitted by the receiving State.

(5) Where, by or by virtue of this Act, immunity from jurisdiction is accorded to persons who are not diplomatic agents or persons enjoying immunity under Article 37 of the Convention, the immunity accorded to those first mentioned persons may be waived in the manner and subject to the conditions specified in Article 32 of the Convention and the waiver shall have the same consequences as a waiver under that Article.

(6) For the purposes of the provisions of the Articles referred to in subsection (1) —

- a) a reference in those provisions to the receiving State shall be construed as a reference to Fiji;

- b) a reference in those provisions to a national of the receiving State shall be construed as a reference to a Fijian citizen;
- c) the reference in paragraph 1 of Article 22 to agents of the receiving State shall be construed as including a reference to any police officer and any person exercising a power of entry to premises;
- d) the reference in Article 32 to waiver by the sending State shall be construed as including a waiver by the head of the mission of the sending State or by a person for the time being performing the functions of the head of mission;
- e) Articles 35, 36 and 40 shall be construed as granting the privileges or immunities that those Articles require to be granted;
- f) the reference in paragraph 1 of Article 36 to such laws and regulations as the receiving State may adopt shall be construed as including a reference to any law in force in Fiji relating to the quarantine, or the prohibition or restriction of the importation into or the exportation from Fiji of animals, plants, or goods, provided that any immunity from jurisdiction that a person may possess or enjoy by virtue of subsection (1) shall not be prejudiced;
- g) the reference in paragraph 4 of Article 37 to the extent to which privileges and immunities are admitted by the receiving State, and the reference in paragraph 1 of Article 38 to any additional privileges and immunities that may be granted by the receiving State, shall, so far as they relate to privileges, be construed as references to such determinations as may be made by the Minister pursuant to subsection (2), and, so far as they relate to immunities, be construed as references to such immunities as may be conferred by an order under subsection (3);
- h) the reference in paragraph 2 of Article 38 to the extent to which privileges and immunities are admitted by the receiving State shall, so far as it relates to privileges, be construed as reference to such determinations as may be made by the Minister pursuant to subsection (2), and, so far as it relates to immunities, be construed, in relation to persons to whom section 4 applied, as a reference to immunities conferred by that section, and, in relation to other persons to whom that paragraph applies, as a reference to such immunities as may be conferred by an order under subsection (3).

#### **[Section 4] Fijian residents and citizens**

The members of the administrative and technical staff, and members of the service staff, of a mission who are Fijian citizens or are permanently resident in Fiji shall be accorded immunity from jurisdiction, and inviolability, only in respect of official acts performed in the exercise of their functions.

#### **[Section 5] Withdrawal of diplomatic privileges and immunities**

Where the Minister is satisfied that the privileges and immunities accorded in relation to a mission of Fiji in any State, or to persons connected with that mission, are less than those conferred by or by virtue of this Act in relation to the mission of that State, or to persons connected with that mission, he or she may, by order, withdraw, modify, or restrict, in relation to that mission or to persons connected with that mission, such of the privileges and immunities so conferred to such extent as appears to him or her to be proper.

#### **[Section 6] International organisations**

(1) This section shall apply to any organisation declared by the Minister, by order, to be an organisation of which 2 or more States or the Governments thereof are members.

- (2) The Minister may from time to time, by order—
- a) provide that any organisation to which this section applies shall, to such extent as may be specified in the order, have the privileges and immunities specified in Schedule 2, 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) of 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 may be specified in the order, the privileges and immunities specified in Schedule 3;
  - c) confer upon such other classes of officers and servants of the organisation as are specified in the order, to such extent as may be so specified, the privileges and immunities specified in Schedule 4,

and Schedule 5 shall have effect for the purpose of extending to the staff of such representatives and members as are mentioned in paragraph (b)(i) and to the members of the families forming part of the household of officers of the organisation any privileges and immunities conferred on the representatives, members, or officers under that paragraph, except in so far as the operation of Schedule 5 is excluded by the order conferring the privileges and immunities, provided that no order made under the provisions of this subsection shall confer any privilege or immunity upon any person as the representative of Her Majesty in right of Fiji or of the Government of the Republic of Fiji or as a member of the staff of such a representative.

### **[Section 7] Members of international organisations employed by Government**

(1) Whenever the services of any person are provided for appointment to the civil service of Fiji pursuant to an agreement between any of the international organisations specified in Schedule 6 and the Government of the Republic of Fiji, it shall be lawful for the Minister by order to confer upon any such person to such extent as may be specified therein the immunities and privileges set out in Schedule 7, or to which such person may be entitled by virtue of the appropriate treaty, convention or other arrangement to which Fiji is a party.

[subs (1) am Act 32 of 1972 s 2, effective 22 December 1972; Act 2 of 2016 s 20, effective 16 February 2016]

(2) Every order made under the provisions of subsection (1) shall state the date from which the immunities and privileges thereby conferred shall take effect.

(3) Whenever any person ceases to be entitled to the immunities and privileges conferred by any order made under this Act the Minister shall cause a notice to that effect to be published in the Gazette.

(4) The Minister may at any time by notice in the Gazette add to, vary or delete the whole or any part of Schedule 6 with effect from the date specified in such notice.

(5) The fact that any person is or was entitled or not entitled to any of the immunities or privileges set out in Schedule 7 may be conclusively proved by producing the Gazette containing the relevant order or notice, whichever is the case.

### **[Section 8] Persons employed on duties within Fiji**

(1) Whenever the services of any person are provided by a State, an organisation, or by an agency, by whatever name called, sponsored by a State or organisation, for duties within Fiji approved by the Minister and such person is not entitled to immunities and privileges under the provisions of either section 6 or section 7, the Minister may by order either—

- a) declare the members of any such organisation or agency specified in the order to be persons who shall be entitled to the immunities and privileges set out in Schedule 8; or
- b) confer upon any such person such of the immunities and privileges set out in Schedule 8 as may be specified in the order.

(2) Every order made under the provisions of subsection (1)(b) shall state the date from which immunities and privileges thereby conferred shall take effect.

(3) Whenever any person ceases to be entitled to the immunities and privileges conferred by any order made under the provisions of subsection (1)(b), the Minister shall cause a notice to that effect to be published in the Gazette.

(4) The fact that any person is or was entitled or not entitled to any of the immunities or privileges set out in Schedule 8 may be conclusively proved by producing the Gazette containing the relevant order or notice, whichever is the case.

[s 8 insrt Act 52 of 1971 s 2, effective 17 December 1971]

### **[Section 9] International Court of Justice**

The Minister may from time to time by order 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 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.

### **[Section 10] International conferences**

Where—

- a) a conference is held in Fiji and is attended by representatives of the Government of the Republic of Fiji and the Government or Governments of one or more States 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 the Republic of Fiji) and members of their official staff are entitled to privileges and immunities,

the Minister may, by notice in the Gazette, direct that every representative of any such Government (other than the Government of the Republic of Fiji) shall be accorded such of the privileges and immunities conferred by or by virtue of sections 3 and 4 on a diplomatic agent as the Minister specifies, and that such of the members of his or her official staff as the Minister may direct shall be accorded such of the privileges and immunities conferred by or by virtue of sections 3 and 4 on members of the diplomatic staff or the administrative and technical staff of a diplomatic mission as the Minister specifies.

### **[Section 11] Reciprocal treatment**

Nothing in this Act shall be construed as precluding the Minister from declining to accord privileges or immunities to, or from withdrawing, modifying, or restricting privileges or immunities in relation to, nationals or representatives of any State, or the Government thereof, on the ground that that State, or the Government thereof, is failing to accord corresponding privileges or immunities to Fiji.

### **[Section 12] Exemption from taxation**

(1) Notwithstanding anything to the contrary in any Act, the Minister, with the concurrence of the Minister responsible for 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 State or the Government of any territory for whose international relations the Government of any such State is responsible or any office or organisation forming part of, or sponsored by, any such Government;
- b) a representative or officer of the Government of any country other than Fiji or of any provisional Government, national committee, international organisation or other authority recognized by the State in right of Fiji, if he or she is temporarily resident in Fiji in accordance with any arrangement made with the Government of the Republic of Fiji;
- c) a member of the official or domestic staff, or a spouse or dependent child, of any person to whom paragraph (b) applies.

[subs (1) am Act 32 of 1972 s 3, effective 22 December 1972]

(2) Subject to the provisions of any international convention, treaty or arrangement to which Fiji is a party, where a person who is a member of the official or domestic staff of a person to whom subsection (1)(b) applies is a Fijian citizen and not a citizen of the country concerned, or is not resident in Fiji solely for the purpose of performing his or her duties as such a member, that person shall not, and the spouse and dependent children of that person shall not by reason only of their being a member of his or her family, be entitled to any exemption granted under subsection (1).

[subs (2) am Act 32 of 1972 s 3, effective 22 December 1972]

### **[Section 13] General exemptions**

(1) The powers conferred on the Minister by sections 6, 7 and 12 of this Act shall be deemed to include power to exempt from any fee or duty under any Act any instrument or class of instruments to which any organisation, government, or person, as the case maybe, to which or to whom the order or exemption applies is a party.

[subs (1) am Act 16 of 2020 s 4 and Sch, effective 1 August 2020]

(2) The powers conferred on the Minister by section 12 shall be deemed to include power on the death of any person referred to in paragraph (b) or paragraph (c) of subsection (1) of section 12—

- a) to exempt wholly or partly the estate of that person from estate duty under the Estate and Gift Duties Act 1966; and
- b) 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 any fee or duty under any Act.

[subs (2) am Act 16 of 2020 s 4 and Sch, effective 1 August 2020]

(3) Any exemption granted by the Minister under section 12 may be granted either unconditionally or subject to such conditions as the Minister thinks fit, and the Minister may at any time revoke any such exemption or revoke, vary, or add to any such conditions.

(4) Every exemption referred to in subsection (3) shall come into force on such date as may be specified in that behalf by the Minister. The date so specified may be before or after the date of the granting of the exemption or before or after the commencement of this Act.

(5) Notwithstanding the provisions of any exemption referred to in subsection (3), any question arising as to the nature or extent of any such exemption, or to the governments or persons entitled to any such exemption, shall be referred to and be determined by the Minister. The decision of the Minister shall not be liable to be challenged, reviewed, quashed or called in question in any court.

#### **[Section 14] Refunds of payments**

(1) The Minister responsible for 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 that Minister be necessary to give effect to any fiscal privilege accorded pursuant to section 3 or to any exemption granted under sections 6, 8, 9 or 10.

(2) Where any loss is suffered by any local authority, public body, or person by reason of the conferring of any such privilege or the granting of any such exemption or by the making of any refund or payment directed under this section, the Minister responsible for 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.

#### **[Section 15] Certificate of Minister**

If in any proceedings any question arises whether or not any person or any organisation is or was at any time or in respect of any period accorded any privilege or immunity under or by virtue of this Act, a certificate issued by the Minister stating any fact relevant to that question shall be conclusive evidence of that fact.

#### **[Section 16] Saving**

This Act shall not affect any legal proceedings begun before the commencement of this Act.

#### **[Section 17] Regulations**



The Minister may make regulations for such matters as are contemplated by or necessary for giving full effect to this Act and for the due administration thereof.

**SCHEDULES**  
**SCHEDULE 1**  
**THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS**

[https://legal.un.org/ilc/texts/instruments/english/conventions/9\\_1\\_1961.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf)

## **SCHEDULE 2**

### **PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANISATIONS**

1. Immunity from suit and legal process.
2. The like inviolability of official premises and archives as is accorded in respect of the official premises and archives of a diplomatic mission.
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 state.
5. Exemption from taxes on the importation of goods directly imported by the organisation for its official use in Fiji 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 responsible for finance may determine 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 responsible for finance may determine 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 despatched from places outside Fiji), of any reduced rates applicable for the corresponding service in the case of press telegrams.

**SCHEDULE 3**  
**PRIVILEGES AND IMMUNITIES 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 diplomatic agent.
2. The like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent.
3. The like exemption from taxes and rates as is accorded to a diplomatic agent.

## **SCHEDULE 4**

### **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 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 Fiji, that exemption to be subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.

## **SCHEDULE 5**

### **PRIVILEGES AND IMMUNITIES OF OFFICIAL STAFF AND OF HIGH OFFICERS' FAMILIES**

1. Where any person is accorded any such immunities and privileges as are mentioned in Schedule 3 as the representative of any organ of the organisation or a member of any committee of the organisation or of an organ thereof, the members of his or her official staff accompanying him or her as such a representative or member shall also be accorded those immunities and privileges to the same extent as the members of the staff of a mission are accorded the immunities and privileges accorded to a diplomatic agent.
2. Where any person is accorded any such privileges and immunities as are mentioned in Schedule 3 as an officer of the organisation, the members of the family of that person who form part of his or her household shall also be accorded those privileges and immunities to the same extent as the members of the family of a diplomatic agent who form part of his or her household are accorded the privileges and immunities accorded to that diplomatic agent.

## **SCHEDULE 6**

### **INTERNATIONAL ORGANISATIONS**

[Sch 6 am LN 55 of 1972, effective 14 July 1972; LN 30 of 1973, effective 30 March 1973; LN 181 of 1976, effective 31 December 1976; LN 2 of 1982, effective 8 January 1982; LN 46 of 2010, effective 24 April 2010; LN 64 of 2013, effective 26 August 2013; LN 42 of 2015, effective 15 March 2006; LN 47 of 2015, effective 29 May 2015]

The United Nations.  
The International Labour Organization.  
The Food and Agriculture Organization of the United Nations.  
The United Nations Educational, Scientific and Cultural Organization.  
The International Civil Aviation Organization.  
The World Health Organization.  
The International Telecommunications Union.  
The World Meteorological Organization.  
The International Atomic Energy Agency.  
The Universal Postal Union.  
The United Nations Industrial Development Organization.  
The United Nations Conference on Trade and Development.  
The Inter-Governmental Maritime Consultative Organization.  
The International Monetary Fund.  
The International Bank for Reconstruction and Development.  
The International Refugee Organization.  
The International Finance Corporation.  
The Asian Development Bank.  
The Commonwealth Secretariat.  
The International Court of Justice.  
The Secretariat of the Pacific Community.  
The United Nations Development Programme.  
The International Development Association.  
The Commission of the European Communities.  
The South Pacific Board for Educational Assessment.  
The Oceania Customs Organisation Secretariat.  
The Centre of the Development of Enterprise (CDE) Pacific Regional Office.  
The Pacific Islands Development Forum.  
The International Trade Centre.  
The Pacific Islands Tax Administrators Association.  
The Pacific Power Association.  
The Secretariat of the Pacific Regional Environment Programme.

**SCHEDULE 7**  
**IMMUNITIES AND PRIVILEGES**

1. Immunity from suit and legal process in respect of words spoken or written and all acts performed in his or her official capacity.
2. Exemption from taxation on all stipend, emoluments and allowances paid to him or her by the international organisation.



**SCHEDULE 8**  
**PRIVILEGES AND IMMUNITIES OF A PERSON REFERRED TO IN SECTION 8 AND HIS OR HER**  
**FAMILY**

[Sch 8 insrt Act 52 of 1971 s 3, effective 17 December 1971; am Act 13 of 1977 s 18, effective 1 July 1977]

1. Exemption from taxation on all stipends, emoluments and allowances paid to such person in connection with his or her duties in Fiji.
2. Exemption from taxes on the importation of professional and technical equipment used by such person in connection with his or her duties in Fiji and on the importation of furniture and effects, including one motor vehicle, of such person and his or her family imported within 6 months from the time of first taking up post in Fiji, that exemption to be subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.