

Right Hon. Mr. Fraser

DIPLOMATIC PRIVILEGES EXTENSION

ANALYSIS

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A BILL INTITULED

AN ACT to make Better Provision as to the Immunities, Privileges, and Capacities of International Organizations and of their Officers and other Persons. Title.

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

1. This Act may be cited as the Diplomatic Privileges Extension Act, 1947. Short Title.

10 2. In the application of this Act to the United Nations, any reference to the governing body or any committee or the organization shall be construed as referring to the General Assembly or any council or other organ of the United Nations. Interpretation.

Privileges,
immunities,
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3. (1) This section shall apply to any organization declared by the Governor-General by Order in Council to be an organization of which His Majesty's Government in New Zealand and the Government or Governments of one or more foreign sovereign Powers are members. 5

(2) The Governor-General may from time to time, by Order in Council,—

(a) Provide that any organization to which this section applies (hereinafter referred to as the organization) 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: 10 15

(b) Confer upon such persons or classes of persons as the Minister of External Affairs may from time to time determine who hold high offices in the organization, or who are employed on missions on behalf of the organization, or who are the representatives of their respective member Governments on the governing body or any committee of the organization— 20

(i) The immunities and privileges set out in Part I of the Second Schedule to this Act, to such extent as may be determined by the Minister of External Affairs; and 25

(ii) The immunities and privileges set out in Part II of the Second Schedule to this Act, to such extent as may be determined by the Minister of Finance: 30

(c) Confer upon such other officers and servants or classes of officers and servants of the organization as the Minister of External Affairs may from time to time determine— 35

(i) The immunities and privileges set out in Part I of the Third Schedule to this Act, to such extent as may be determined by the Minister of External Affairs; and 40

(ii) The immunities and privileges set out in Part II of the Third Schedule to this Act, to such extent as may be determined by the Minister of Finance:

(d) Confer upon the Judges and Registrars of the International Court, 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,—
5 and the Fourth Schedule to this Act shall have effect for the purpose of extending to the staffs of representatives of member Governments and to the families of officers of the organization any immunities and privileges conferred on the representatives or officers under paragraph (b) of this subsection, except in so far as the operation of the said Fourth Schedule is
10 excluded by the Order conferring the immunities and privileges:

Provided that no Order in Council under this subsection shall permit any exemption from taxes or rates to be conferred upon any person who is a British
20 subject and ~~whose usual place of abode is~~ who is domiciled and employed in New Zealand.

(3) The powers conferred by paragraphs (a) and (b) of the *last preceding* subsection in respect of any organization or person shall include power to exempt
25 any instrument or class of instruments to which that organization or person is a party from stamp duty under the Stamp Duties Act, 1923, and from any fee or duty under any other Act.

(4) Where immunities and privileges are conferred
30 on any person under the authority of an Order in Council made under subsection *two* of this section, the Minister of External Affairs—

(a) Shall compile a list of the persons or classes of persons entitled to immunities and privileges conferred under paragraph (b) of that subsection, and may compile a list of the persons or classes of persons entitled to immunities and privileges conferred under
35 paragraph (c) of that subsection:

(b) Shall cause any list compiled under this subsection to be published in the *Gazette*:

(c) Whenever any person or class of persons 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
45 list, to be published as aforesaid.

See Reprint
of Statutes,
Vol. VII, p. 402

(5) Every list or notice published under the *last preceding* subsection shall state the date from which the list or amendment takes or took effect; and the fact that any person or class of persons is or was included or not included at any time among the persons entitled to the immunities and privileges 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 that person or class of persons is or was at that time included or not included in the said list. 5 10

Provisions as to Orders in Council.

4. Every Order in Council made under subsection *one* or subsection *two* of the *last preceding* section shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, within twenty-eight days after the commencement of the next ensuing session. 15 20

Diplomatic immunities of representatives attending international conferences.

5. Where a conference is held in New Zealand and is attended by the representatives of His Majesty's Government in New Zealand and the Government or Governments of one or more other members of the British Commonwealth of Nations or of one or more foreign sovereign Powers, and it appears to the Minister of External Affairs that doubts may arise as to the extent to which the representatives of those Governments (other than His Majesty's Government in New Zealand) and members of their official staffs are entitled to diplomatic immunities, he may direct that every representative of any such Government (other than His Majesty's Government in New Zealand) shall, for the purpose of any enactment or rule of law or custom relating to the immunities of an envoy of a foreign Power accredited to His Majesty, and of the retinue of such an envoy, be treated as if he were such an envoy, and that such of the members of his official staff as the Minister of External Affairs may from time to time direct shall be treated for the purpose aforesaid as if they were his retinue. 25 30 35 40

Reciprocal treatment.

6. Nothing in the foregoing provisions of this Act shall be construed as precluding the Governor-General from declining to accord immunities or privileges to, or from withdrawing immunities or privileges from, 45

nationals or representatives of any Government on the ground that that Government is failing to accord corresponding immunities or privileges to New Zealand nationals or representatives.

5 7. (1) The Diplomatic Privileges Extension Act, 1945, is hereby repealed. Repeal and savings.
1945, No. 30

(2) All Orders in Council, lists, notices, immunities, and privileges, and generally all acts of authority that originated under the said Act, and are subsisting or in 10 force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under 15 the said Act, and pending or in progress at the commencement of this Act, may be continued and completed under this Act.

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 3
(2) (a)

IMMUNITIES AND PRIVILEGES OF THE ORGANIZATION

1. Immunity from suit and legal process.
 2. The like inviolability of official archives and premises occupied as offices as is accorded in New Zealand in respect of the official archives and premises of an envoy of a foreign sovereign Power accredited to His 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 organization for its official use in New Zealand or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Minister of Customs 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 the organization for its official use and in the case of any publications of the organization 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 New Zealand), of any reduced rates applicable for the corresponding service in the case of press telegrams.
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Section 3
(2) (b)

SECOND SCHEDULE

IMMUNITIES AND PRIVILEGES OF HIGH OFFICERS AND PERSONS ON MISSIONS AND GOVERNMENT REPRESENTATIVES

Part I

1. The like immunity from suit and legal process as is accorded in New Zealand 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.

Part II

3. The like exemption or relief from taxes and rates as is accorded to such an envoy.

Section 3
(2) (c)

THIRD SCHEDULE

IMMUNITIES AND PRIVILEGES OF OTHER OFFICERS AND SERVANTS

Part I

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.

Part II

2. Exemption from taxes in respect of emoluments received as an officer or servant of the organization.

Section 3 (2)

FOURTH SCHEDULE

IMMUNITIES AND PRIVILEGES OF REPRESENTATIVE'S STAFF AND OF HIGH OFFICER'S FAMILY

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 of a member Government, his official staff accompanying him as such a representative 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 is entitled in New Zealand 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 the Second Schedule to this Act as an officer of the organization, that person's wife or husband and children under the age of twenty-one shall also be entitled to those immunities and privileges to the same extent as the wife or husband or children of an envoy of a foreign sovereign Power accredited to His Majesty are entitled in New Zealand to the immunities and privileges accorded to the envoy.