STATUTORY INSTRUMENTS

1970 No. 1933

CONSULAR RELATIONS

The Consular Relations (Privileges and Immunities) (Polish People's Republic) Order 1970

Laid before Parliament in draft
Made - - - - 17th December 1970
Coming into Operation On a date to be notified in the London, Edinburgh and Belfast Gazettes

At the Court at Buckingham Palace, the 17th day of December 1970

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before and approved by resolution of each House of Parliament in accordance with section 14(1) of the Consular Relations Act 1968(a) (hereinafter referred to as "the Act"):

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by section 3(1) of the Act or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Consular Relations (Privileges and Immunities) (Polish People's Republic) Order 1970 and shall come into operation on a date to be notified in the London, Edinburgh and Belfast Gazettes.

2. The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. The like exemption from dues and taxes as is accorded under Article 32 in Schedule 1 to the Act to the residence of the career head of a consular post shall be extended to the residence, of which the Polish People's Republic or any person acting on its behalf is the owner or lessee, of a member of any consular post of the Polish People's Republic, provided that he is not a citizen of the United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948(c) or the British Nationality Act 1965(d), or a British protected person within the meaning of the said Act of 1948.

(a) 1968 c. 18. (b) 1889 c. 63. (c) 1948 c. 56. (d) 1965 c. 34.

4. Paragraph 1 of Article 49 in Schedule 1 to the Act (exemption from taxation) shall be extended to members of the service staff of any consular post of the Polish People's Republic who satisfy the conditions set out in Article 6 of this Order.

5. Paragraph 2 of Article 50 in Schedule 1 to the Act (exemption from customs duties) shall be applied in regard to consular employees of the Polish People's Republic who satisfy the conditions set out in Article 6 of this Order as if the words " in respect of articles imported at the time of first installation " were omitted.

6. The conditions referred to in Articles 4 and 5 of this Order are that the person concerned—

(*a*) is not a citizen of the United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948, and

(*b*) does not carry on any private gainful occupation in the United Kingdom, and

(*c*) is a permanent official of the Polish People's Republic.

7.—(1) Subject to the provisions of paragraphs (2) and (3) of this Article—

(*a*) Article 29 in Schedule 1 to the Diplomatic Privileges Act 1964(**a**) (personal inviolability) shall be extended to the head of a consular post of the Polish People's Republic;

(*b*) the second sentence of Article 29 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from arrest or detention) shall be extended to members of the family of the head of a consular post of the Polish People's Republic forming part of his household;

(*c*) the second sentence of Article 29 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from arrest or detention) shall be extended to members of the families of consular officers of the Polish People's Republic forming part of their households to the extent that—

(i) they shall not be liable to arrest or detention pending trial, except in the case of a grave crime (as defined in section 1(2) of the Act) and pursuant to a decision by a competent judicial authority, and

(ii) except in the case specified in (i) above, they shall not be committed to prison or liable to any other form of restriction on their personal liberty save in execution of a judicial decision of final effect;

(*d*) paragraphs 1 and 3 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from jurisdiction) shall be extended to the head of a consular post of the Polish People's Republic in respect of acts performed otherwise than in the exercise of consular functions and to the members of his family forming part of his household, except that the immunity from civil jurisdiction shall not apply—

(i) to an action arising out of a contract which was not concluded, expressly or impliedly, on behalf of the Polish People's Republic,

(ii) to an action brought by a third party in respect of damage caused by a vehicle or vessel, or

(a) 1964 c. 81.

(iii) where the head of a consular post exercises the rights relating to the estate of a deceased person accorded under Articles 52 to 58 of the Consular Convention between the United Kingdom and the Polish People's Republic signed in London on 23rd February 1967(a);

(*e*) paragraphs 1 and 3 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from jurisdiction) shall be extended to members of the service staff of a consular post of the Polish People's Republic in respect of acts performed in the exercise of their functions, except that the immunity from civil jurisdiction shall not apply—

(i) to an action arising out of a contract which was not concluded, expressly or impliedly, on behalf of the Polish People's Republic, or

(ii) to an action brought by a third party in respect of damage caused by a vehicle or vessel;

(*f*) paragraph 2 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (exemption from obligation to give evidence) shall be extended to members of the families of consular officers of the Polish People's Republic forming part of their households.

(2) The provisions of paragraph (1)(*b*), (*c*), (*d*) and (*f*) of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948, and the provisions of paragraph (1)(*b*) and (*d*) of this Article shall not apply to a member of the family of the head of a consular post who is permanently resident in the United Kingdom.

(3) Any privilege or immunity conferred by the provisions of paragraph (1) of this Article may be waived by the Polish People's Republic. Waiver must always be express. A waiver shall be deemed to have been expressed by the Polish People's Republic if it has been expressed by the head, or any person for the time being performing the functions of head, of the diplomatic mission in the United Kingdom of the Polish People's Republic or, if there is no such mission, of the consular post concerned. Waiver of immunity in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of execution of the judgment for which separate waiver shall be required.

8. Article 22 in Schedule 1 to the Diplomatic Privileges Act 1964 (inviolability and protection of premises) shall be extended to any consular premises of the Polish People's Republic and paragraph 1 of Article 30 in that Schedule (inviolability of private residences) shall be extended to the residence of the head of a consular post of the Polish People's Republic, provided that any such premises or residence may be entered by the authorities of the United Kingdom with the consent of the head of the consular post or the head of the diplomatic mission in the United Kingdom of the Polish People's Republic or of a person nominated by either of them.

9. Article 27 in Schedule 1 to the Diplomatic Privileges Act 1964 (freedom of communications) shall be extended to the communications of any consular post of the Polish People's Republic.

W. G. Agnew.

(a) Cmnd. 3307.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which is made pursuant to the Consular Relations Act 1968, provides, with respect to consular posts of the Polish People's Republic and persons connected with them, for according privileges and immunities additional to those accorded by Schedule 1 to the Act, namely—

(i) relief from rates and taxes for the residences of certain members of a consular post ;

(ii) exemption from taxation for certain members of the service staff ;

(iii) exemption for certain consular employees from customs duties on articles for their personal use or that of members of their families forming part of their households, imported throughout the period of their appointment ;

(iv) additional immunities for the head of a consular post, for members of the families of consular officers forming part of their households and for members of the service staff ;

(v) diplomatic inviolability for consular premises and the residence of the head of a consular post ;

(vi) the same treatment in respect of consular communications as is accorded to communications of a diplomatic mission.

It gives effect to the relevant provisions of the Consular Convention between the United Kingdom and the Polish People's Republic which was signed at London on 23rd February 1967 (Cmnd. 3307).

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