

BECHUANALAND PROTECTORATE.

No. 16 of 1948.

(Promulgated 9th April, 1948.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER
Entitled the Bechuanaland Protectorate Diplomatic
Immunities and Privileges Proclamation, 1948.

Whereas it is expedient to provide for and define the immunities and exemptions of diplomatic agents in the Bechuanaland Protectorate (hereinafter referred to as "the Territory") and to provide for the extension of such immunities and exemptions to certain international organizations and their representatives.

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. No diplomatic agent shall be subject to the civil or criminal jurisdiction of any court in the Territory and all legal process sued out against the person or property of any diplomatic agent shall be void: Provided that the preceding provisions of this section shall not apply to any such agent in connection with any transaction entered into by him in the exercise of any trade, profession or calling in the Territory other than the calling of a diplomatic agent.

Immunity of diplomatic agents from jurisdiction of courts.

2. The immunity of any diplomatic agent under section *one* shall extend also to—

Immunity of suite of diplomatic agents.

(a) his family;

(b) the members of his diplomatic staff and their families; and

(c) his servants, provided they are aliens.

3. No legal process shall be sued out or prosecuted by any person in any court in the Territory against the person or property of any person who is entitled to diplomatic immunity under sections *one* and *two*: Provided that the provisions of this Proclamation shall not be construed to prohibit the waiver by any diplomatic agent of the immunity secured by this Proclamation to himself or to any member of his suite.

Issue of legal process against persons or property of diplomatic agents and their suites prohibited.

Register of persons with diplomatic immunity.

4. (1) The Resident Commissioner shall cause a register to be kept in which at the request of any diplomatic agent there shall be registered all members of his suite who are entitled to diplomatic immunity under this Proclamation. Every such registration shall be cancelled upon the person concerned ceasing to be so entitled.

(2) Every registration or cancellation made under sub-section (1) shall be notified by publication in the *Gazette*.

(3) During the month of January in each calendar year a complete list of all persons on the register shall be published in the *Gazette*.

(4) A copy of such list shall be lodged with the Registrar of the High Court. The Registrar shall amend the list from time to time in accordance with any Notice under sub-section (2), and shall allow any person to inspect it free of charge during office hours.

Recognition of legation buildings and official residence.

5. The High Commissioner may, by Notice in the *Gazette*, recognize any building or premises described in the said Notice and occupied by or on behalf of a diplomatic agent for the purpose of his mission or office or in which he resides as a legation or as an official residence, respectively.

Scope of exemptions which may be granted by High Commissioner.

6. If satisfied that the same, similar or equivalent exemptions are accorded to any diplomatic agent of the United Kingdom by the authorities of the State to which he is accredited and to members of his suite, the High Commissioner may exempt—

(a) a diplomatic agent of such State, his family and the corresponding members of his diplomatic staff from all or any personal or direct taxes, payable by persons ordinarily resident;

(b) any State from the payment of transfer duty or any or all other taxes, duties, fees or charges payable to the Government in connection with the transfer of any immovable property acquired by such State for the purposes of a legation or an official residence for its diplomatic agent or the members of his suite;

(c) the recognized legation, official residence, and the residence of any member of the diplomatic staff of such diplomatic agent from all or any rates and taxes in so far as such rates and taxes would, but for

the provisions of this Proclamation, be payable by the said agent or a member of his diplomatic staff;

(d) any movable property used by such diplomatic agent, his family or a registered member of his diplomatic staff either generally or if used for the purposes of his mission or office from all or any taxes, licence fees, impositions or charges; and

(e) on such conditions as may be prescribed by regulation, reasonable quantities of goods imported by such diplomatic agent for his own use and consumption or that of his household, members of his diplomatic staff or for the purposes of his mission or office from all or any customs or other duties, taxes, imports or charges.

7. The loss of revenue caused to any local authority by reason of the provisions of this Proclamation exempting any person from the payment of any rates, taxes or charges levied in respect of water, light, sanitary or similar services rendered direct to such person or to premises occupied by him and not for the purposes of the general revenue of such local authority shall be made good to the local authority concerned out of the general revenue of the Territory.

Adjustment
of loss of
revenue to
local
authorities.

8. A certificate under the hand of the Government Secretary stating that the High Commissioner has granted any exemption mentioned in section *six* or that any person is—

Proof of
exemptions
and of
diplomatic
status.

(a) a diplomatic agent;

(b) the member of the family of any diplomatic agent;

(c) a registered member of any diplomatic staff or the wife or child of such member;

(d) the alien servant of any diplomatic agent;

(e) the representative of a foreign Government or a career consular officer;

(f) a member of the family or the staff of any such representative or consular officer;
or

(g) the alien servant of any such representative or consular officer,

shall be conclusive proof thereof in any court of law.

Offences.

9. (1) Any person who wilfully or without the exercise of reasonable care sues out, obtains or prosecutes any legal process in contravention of the provisions of this Proclamation, whether as party, as attorney, or as an officer concerned in issuing or executing such process, shall be guilty of an offence.

(2) Any person who contravenes sub-section (1) or who commits an offence which infringes the inviolability of a diplomatic agent, a member of his family, a registered member of his diplomatic staff or of a recognized legation or official residence shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment: Provided that where any law provides a greater or other penalty for any offence, such greater or other penalty may be imposed.

Extension
of immuni-
ties and
exemptions
to inter-
national
organiza-
tions.

10. (1) The High Commissioner may, by Notice in the *Gazette*, provide that sections *one, three, four, five, eight, nine* and *ten* of this Proclamation shall apply *mutatis mutandis* to and in connection with—

(a) any public international organization mentioned in that Notice of which the United Kingdom is a member;

(b) such officers, agents or representatives of any such organization as are mentioned in that Notice; and

(c) the spouses and minor children of persons referred to in paragraph (b).

(2) An organization referred to in sub-section (1) shall, to the extent consistent with the instrument creating it, have the legal capacity of a body corporate.

(3) The High Commissioner may, subject to the provisions of sub-section (5), exempt any organization referred to in sub-section (1) and any officer, agent or representative of that organization from any duties, fees, charges, rates or other taxes, whether levied by the Government or by a local authority.

(4) The exemption provided for in sub-section (3) may be granted also in relation to taxes referred to therein in respect of property acquired or to be acquired by an organization or person referred to therein, whether such taxes are levied on the property itself or in connection with any dealings therewith.

(5) The High Commissioner shall not grant any exemption in terms of sub-section (3) or sub-section (4) to an extent greater than that provided for by agreement between the United Kingdom and the public international organization concerned.

11. In this Proclamation, unless the context ^{Inter-}otherwise requires— _{pretation.}

“servant” means any person not being a member of a diplomatic staff who is exclusively and bona fide in the employ of a diplomatic agent;

“diplomatic staff” means the official personnel who take part in the diplomatic work of a legation and includes counsellors, secretaries, attachés, archivists, stenographers, typists, porters, medical attendants and chaplains, provided such persons are attached to and employed exclusively for the purposes of any legation;

“recognized legation” means premises recognized as a legation and described by Notice in the *Gazette* in accordance with the provisions of section *five*, and “recognized official residence” bears a corresponding meaning;

“family” in relation to any person means his wife and minor children residing with him;

“diplomatic agent” means the public minister of any other sovereign or state authorised and received as such by the High Commissioner on behalf of His Majesty and who is the chief or in charge of the mission or legation of such sovereign or state in the Territory, or any member of his diplomatic staff acting, during his absence, in his stead;

“suite” in relation to any diplomatic agent means his family, his diplomatic staff and his alien servants;

“career consular officer” means any career consular officer received as such by the Government of the Bechuanaland Protectorate.

“United Kingdom” means the Government of the United Kingdom of Great Britain and Northern Ireland;

“local authority” means any council board or other body constituted under any law and vested with powers of levying

rates and taxes and administering the municipal affairs or local Government of the area within its jurisdiction;

“representative of a foreign Government” means any representative in the Territory of a foreign Government other than a diplomatic agent or consular officer.

Short title. 12. This Proclamation may be cited as the Bechuanaland Protectorate Diplomatic Immunities and Privileges Proclamation, 1948.

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town this Thirty-first day of March, One thousand Nine hundred and Forty-eight.

E. BARING,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.