

1978 No. 1028

CONSULAR RELATIONS
**The Consular Relations (Privileges and Immunities)
(Polish People's Republic) Order 1978**
*Laid before Parliament in draft**Made - - - 25th July 1978*

Coming into Operation *On a date to be
notified in the
London, Edinburgh
and Belfast Gazettes*

At the Court at Buckingham Palace, the 25th day of July 1978

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 3(1) and 14(3) 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.—(1) This Order may be cited as the Consular Relations (Privileges and Immunities) (Polish People's Republic) Order 1978 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 and as if this Order and the Order hereby revoked were Acts of Parliament.

2. The Consular Relations (Privileges and Immunities) (Polish People's Republic) Order 1970(c) is hereby revoked.

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

(a) 1968 c. 18.

(b) 1889 c. 63.

(c) S.I. 1970/1933.

United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948(a) or the British Nationality Act 1965(b), or a British protected person within the meaning of the said Act of 1948.

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 members of consular posts of the Polish People's Republic who satisfy the conditions set out in Article 6 of this Order and members of their families forming part of their households who satisfy the conditions set out in Article 6(a) and (b) of this Order as if the reference to consular employees included members of the service staff and also such members of the families of consular employees or of members of the service staff as form part of their households, and 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) (in the case of a member of the consular post) 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(c) (personal inviolability) shall be extended to consular officers of the Polish People's Republic;
- (b) Article 29 in Schedule 1 to the Diplomatic Privileges Act 1964 (personal inviolability) shall be extended to members of the families of consular officers of the Polish People's Republic forming part of their households;
- (c) paragraphs 1 and 3 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from jurisdiction) shall be extended to consular officers of the Polish People's Republic, except that the immunity from civil jurisdiction shall apply as if the word "real" in paragraph 1(a) of Article 31 were deleted, and 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 arising from an accident in the United Kingdom caused by a vehicle, vessel or aircraft, or
 - (iii) where a consular officer 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

(a) 1948 c. 56.

(b) 1965 c. 34.

(c) 1964 c. 81.

Polish People's Republic signed at London on the 23rd February 1967(a), as amended by the Protocol signed at London on the 16th December 1976(b);

- (d) 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 families of consular officers of the Polish People's Republic forming part of their households, subject to the exceptions set out in paragraph (1)(c) of this Article;
- (e) paragraphs 1 and 3 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from jurisdiction) shall be extended to consular employees of the Polish People's Republic, except that the immunity from civil jurisdiction shall not extend to acts performed outside the course of their duties, and 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 arising from an accident in the United Kingdom caused by a vehicle, vessel or aircraft;
- (f) the first sentence of paragraph 1 of Article 31 in Schedule 1 to the Diplomatic Privileges Act 1964 (immunity from jurisdiction) shall be extended to members of the families of consular employees of the Polish People's Republic forming part of their households;
- (g) 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 their official capacity, 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 arising from an accident in the United Kingdom caused by a vehicle, vessel or aircraft;
- (h) 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), (d), (e), (f), (g) and (h) 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), (d), (e), (f) and (g) shall not apply to any person 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

(a) Cmnd. 4790.

(b) Cmnd. 6740.

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.

(4) Nothing in the provisions of this Article shall be construed as in any way prejudicing the question whether, and in what circumstances, immunity from jurisdiction can be claimed by or on behalf of the Polish People's Republic.

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 residence) shall be extended to the residences of consular officers of the Polish People's Republic, provided that any such premises or residences 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.

N. E. Leigh,
Clerk of the Privy Council.

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 and for members of their families forming part of their households from customs duties on articles for their personal use;
- (iv) diplomatic inviolability and immunity from jurisdiction for certain members of a consular post and members of their families forming part of their households;
- (v) diplomatic inviolability for consular premises and residences of consular officers;
- (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 signed at London on the 23rd February 1967 (Cmnd. 4790), as amended by the Protocol signed at London on the 16th December 1976 (Cmnd. 6740).

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