

Diplomatic Privilege and Immunities of the Foreign States and Representatives Act, 2027 (1970)

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Act No 4 of 2027

An Act made to provide for Privilege and Immunities for the Foreign State and their Diplomatic Representative (Agent)

Preamble: Whereas, it is expedient to provide for provision on diplomatic privileges and immunities to the foreign state, their representatives and officials in accordance with International Law and Usages (Practice),

Be it enacted by His Majesty King Mahendra Bir Bikram Shahdev with the advise and consent of the Rastriya Panchayat.

1. **Short Title, Extent and Commencement:** (1) This Act may be called the "Diplomatic Privilege and Immunities of Foreign States and Representatives Act, 2027 (1970)".

(2) This Act shall extend to the whole of Nepal,

(3) This Act shall come into force immediately.

2. **Definitions:** In this Act, unless the subject or context otherwise requires,-

(a) "Foreign State" means a foreign state which has diplomatic relation with Nepal.

(b) "Mission: means a mission stationed by a foreign state to conduct (perform) diplomatic activities in Nepal.

(c) "Head of the Mission" means a person deputed by a foreign state to function as a Head of the Mission upon receiving the approval of the Head of the State or the Government of Nepal.

(d) "Diplomatic Staff" means any staff deputed in any diplomatic position of the Mission.

- (e) "Diplomatic Agent" means Chief of the Mission or any Diplomatic Staff of the Mission.
- (f) "Administrative and Technical Staff" means a staff who is deputed in the Mission to perform administrative and technical functions.
- (g) "Service Staff" means a staff of the Mission who is engaged in the internal activities of the Mission.
- (h) "Family" in relation to the diplomatic representative means any member of the family who is accompanied by or living with the Chief or Staff of the Mission as a part of his/her house holding.
- (i) "Building or premise of the Mission" means the building or any part thereof including the land ancillary thereto irrespective of ownership, used for the purpose of the Mission including the residence of the Head of the Mission.
- (j) "Private Help (Servant)" means the Private Help who is in the domestic service of a member of the Mission and who is not an employee of the sending state.

3. **Building and premises of a Mission to be inviolable:** (1) The building and premises of the Mission shall be inviolable. The official or an agent of the Government of Nepal shall not enter into them, except with the consent of the Head of the Mission.

(2) It shall be the duty of the Government of Nepal to protect the building and premises of the Mission against any intrusion or damage and to prevent any disturbance of the peace of the Mission or impairment of its dignity.

(3) The building, premises of the Mission, their furnishings and other property thereon and means of transport or the Mission shall be immune from search, requisition, confiscation, attachment or execution.

4. **Archives of the Mission to be inviolable:** The archives and documents of the Mission shall be inviolable at any time and wherever they may be.

5. **Official correspondence of the Mission to be inviolable:** (1) The official correspondence of the Mission shall be inviolable and diplomatic bag (mail) shall not be opened or detained.

Provided that, the packages constituting the diplomatic bag must bear visible external mark of their charter (i.e. Diplomatic) and may not contain other than diplomatic documents or articles intended for official use.

(2) The diplomatic courier shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. **Exemption of Tax regarding building and premises of the Mission:** (1) The Foreign State and the Head of the Mission shall be exempt from national or municipal dues and taxes in respect of the buildings and premises of the Mission

Provided that, the party to a contract concluded with the Foreign State, shall not be exempted from any tax or dues to be paid pursuant to the (Prevailing) Nepal laws.

7. **Personal Inviolability of the Diplomatic Agent:** A diplomatic agent shall enjoy personal inviolability and he/she shall not be arrested or detained.

Provided that, the concerned employee of the Government of Nepal may inquire with the diplomatic agent with decorum and due respect to collect information regarding any criminal charge.

8. **Inviolability of a private residence of the Diplomatic Agent:** The private residence of a Diplomatic Agent shall enjoy the same inviolability and protection as the building and premises of the Mission and except otherwise provided in this Act his/her papers correspondence and property shall likewise enjoy inviolability.

9. **Other Exemptions to the Diplomatic Agent:** (1) A Diplomatic Agent shall be exempt from social security provisions which may be in force in Nepal.

(2) A Diplomatic Agent shall be exempted from all kinds of personal service, any kinds of public service and military obligation by the Government of Nepal.

10. Immunity from Criminal, Civil and Administrative Jurisdictions of Nepal to

the Diplomatic Agent: (1) Except in the cases provided hereunder, a Diplomatic Agent shall enjoy immunity from all criminal civil and administrative jurisdictions:

- (a) A real action relating to private immovable property situated in the territory of the Foreign State for the purpose of the Mission.
- (b) An action relating to succession in which the diplomatic agent is involved as a private person and not on behalf of the Foreign State.
- (c) An action relating to any professional or commercial activity exercised by the Diplomatic Agent outside his/her official functions.

(2) A Diplomatic Agent is not obliged to give evidence as a witness.

(3) No measures of execution may be taken in respect of a Diplomatic Agent except in the cases coming under Sub-section (a), (b) and (c) and provided that the measures concerned can be taken without infringing the inviolability of his/her person or of this/her residence.

(4) Notwithstanding anything contained in this Section, the initiation of the proceedings by a Diplomatic Agent shall preclude him/her from invoking immunity from jurisdiction in respect of any counter claim connected with the principal claim.

11. Tax exemption to the Diplomatic Agent: A Diplomatic Agent shall be exempt from all taxes and dues, personal or real, national, local or municipal except,

- (a) Indirect taxes of a kind which are normally incorporated in the price of goods or services.
- (b) Taxes and dues on private immovable property, situated within the territory of Nepal, unless he/she holds it on behalf of the Foreign State for the purpose of the Mission.

- (c) Estate (property), succession or inheritance tax (duty) levied to the Diplomatic Agent.

Provided that, in the event of the death of a member of a mission, no tax shall be levied on a movable property of the deceased, except which is prohibited at the time of his/her death, the presence of which was due solely to the presence there of the deceased as a member of the Mission or as a member of the family of a member of the Mission.

- (d) Tax on private income to the Diplomatic Agent having its source in Nepal,
- (e) Capital tax on the investments made by the Diplomatic Agent in commercial under takings in Nepal.
- (f) Taxes or charges (Fees) levied for specific service rendered,
- (g) Court fee, Registration fee, Stamp duty and Record (to get duplicate copy) fee with respect to the immovable property.

12. Exemption from Custom Duty: (1) Government of Nepal shall, in accordance with such Nepal laws as it may adopt, permit entry of and grant exemption from all customs duties taxes and related charges other than the charges for storage, cartage and similar service; on:

- (a) Articles for the official use of the Mission,
- (b) Articles for the personal use of a Diplomatic Agent or members of his/her family forming part of his/her household.

(2) The personal baggage of a Diplomatic Agent shall be exempt from inspection or search, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in Sub-section (1) or articles import or export of which is prohibited by law or controlled by a quarantine regulations of Nepal. Such inspection or search may be conducted only in the presence of the Diplomatic Agent or of his/her authorized representative.

13. Privileges and Immunities to the members of the Family of the Diplomatic Agent: The members of the Family of a Diplomatic Agent forming part of his/her

household shall, if they are not the citizens of Nepal, enjoying the privileges and immunities as good as the Diplomatic Agent receive in the private capacity pursuant to this Act.

14. **Privileges and Immunities to the Administrative and Technical Staffs and their Family Members:** Members of the administrative and technical staffs, together with members of their families forming part of their respective households, shall, if they are not the citizen of Nepal or permanently resident in Nepal, enjoy only the privileges and immunities specified in from Section 7 to Section 11 except the immunities and privilege specified in Sub-section (1) of the Section 10 to acts performed outside the course of their duties. They shall also enjoy the privilege, specified in Clause (b) of Sub-section (1) of Section 12 in respect of articles imported at the time of first installation.
15. **Privileges and immunities to the Service Staff:** Members of the Service Staff of the Mission who are not citizen or permanently resident of Nepal shall enjoy immunity in respect of acts performed in the course of their duties, exemption from tax and dues on the emoluments they receive by reason of their employment.
16. **Tax exemption to the Private Help (Servant):** Private Help (Servant) of members of the Mission, who are not citizens of or permanently resident of Nepal, be exempt from taxes and dues on the emoluments they receive by reason of their employment.
17. **Privileges and immunities to the Diplomatic Agents who are citizens or permanent residents:** Except in so far as additional privileges and immunities so granted by the Government of Nepal, a Diplomatic Agent who is a citizen of or permanently resident of Nepal shall enjoy only immunity from jurisdiction, inviolability, in respect of official acts performed in the exercise of his/ her functions.
18. **Other Provisions regarding Diplomatic privileges and immunities:** (1) Government of Nepal may, if considers it appropriate, provide additional

privileges or immunities other than as specified in this Act, to be implemented generally or specifically by a notification in the Nepal Gazette.

(2) Government of Nepal may, by a notification in the Nepal Gazette, provide all the privileges and immunities specified in this Act to a Foreign Citizen or International Organization or Institution, or employee thereof or a consular.

(3) Government of Nepal shall, as far as possible provide privileges and immunities mentioned in this Act on the basis of the reciprocity.

19. **Authority Power to Frame Rules:** Government of Nepal may frame Rules to meet the objectives of this Act.
20. **Repeal:** Diplomatic privileges and immunities of the Foreign Nations and Representatives Act, 2019 (1962) is hereby, repealed.