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STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1240.

6 Mei 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 56 van 1992: Wysigingswet op Diplomatieke Immunitette en Voorregte, 1992.

No. 1240.

6 May 1992

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 56 of 1992: Diplomatic Immunities and Privileges Amendment Act, 1992.

ALGEMENE VERDUIDELIKENDE NOTA:

_____ Woorde met 'n volstreep daaronder, dui invoegings in
bestaande verordenings aan.

WET

Tot wysiging van die Wet op Diplomatieke Immuniteite en Voorregte, 1989, ten einde die bepaling wat die vrystelling van die beperkings op die verkryging of okkupasie van onroerende eiendom reël, te skrap; voorsiening te maak vir die vestiging van afdelings van diplomatieke missies elders as in Pretoria en Kaapstad; en die toepassing van immuniteite en voorregte op en die verlening daarvan aan Suid-Afrikaanse burgers of ander persone wat permanent in die Republiek woonagtig is, verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 26 April 1992.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Herroeping van artikel 13 van Wet 74 van 1989

1. Artikel 13 van die Wet op Diplomatieke Immuniteite en Voorregte, 1989 (hieronder die Hoofwet genoem), word hierby herroep. 5

Wysiging van artikel 14 van Wet 74 van 1989

2. Artikel 14 van die Hoofwet word hierby gewysig deur die volgende voorbehoudsbepaling by subartikel (4) te voeg:

“Met dien verstande dat 'n afdeling van 'n diplomatieke missie met die goedkeuring van die Minister elders gevestig kan word.” 10

Wysiging van artikel 16 van Wet 74 van 1989

3. Artikel 16 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die immuniteite en voorregte waarvoor in hierdie Wet en in die Konvensies voorsiening gemaak word, word nie toegepas op of verleen aan enige Suid-Afrikaanse burger of ander persoon wat permanent in die Republiek woonagtig is nie tensy die Minister die toepassing van sodanige immuniteite en voorregte op of die verlening daarvan aan 'n Suid-Afrikaanse burger of ander persoon wat permanent in die Republiek woonagtig is, in die mate wat hy bepaal, magtig.” 15
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Wysiging van Bylae 1 by Wet 74 van 1989

4. Bylae 1 by die Hoofwet word hierby gewysig deur na artikel 37 die volgende artikel in te voeg:

DIPLOMATIC IMMUNITIES AND PRIVILEGES
AMENDMENT ACT, 1992

Act No. 56, 1992

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Diplomatic Immunities and Privileges Act, 1989, so as to delete the provision that regulates the exemption from the restrictions on the acquisition or occupation of immovable property; to provide for the location of sections of diplomatic missions elsewhere than in Pretoria and Cape Town; and to further regulate the application of immunities and privileges to and the conferment thereof upon South African citizens or other persons permanently resident in the Republic; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 26 April 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Repeal of section 13 of Act 74 of 1989

1. Section 13 of the Diplomatic Immunities and Privileges Act, 1989 (hereinafter referred to as the principal Act), is hereby repealed.

Amendment of section 14 of Act 74 of 1989

2. Section 14 of the principal Act is hereby amended by the addition to subsection (4) of the following proviso:

“Provided that a section of a diplomatic mission may, with the approval of the Minister, be located elsewhere.”

Amendment of section 16 of Act 74 of 1989

3. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The immunities and privileges provided for in this Act and in the Conventions shall not apply to or be conferred upon any South African citizen or other person permanently resident in the Republic unless the Minister, to the extent that he may determine, authorizes the application of such immunities and privileges to or the conferment thereof upon a South African citizen or other person permanently resident in the Republic.”

Amendment of Schedule 1 to Act 74 of 1989

4. Schedule 1 to the principal Act is hereby amended by the insertion after article 37 of the following article:

“Artikel 38

1. Behalwe in soverre die Ontvangerstaat bykomende voorregte en immuniteite mag toeken, geniet 'n diplomatieke agent wat 'n burger is van of permanent woonagtig is in daardie Staat, immuniteit teen jurisdiksie en onskendbaarheid slegs ten opsigte van amptelike handeling verrig in die uitvoering van sy funksies.

2. Ander lede van die personeel van die missie en private bediendes wat burgers is van of permanent woonagtig is in die Ontvangerstaat, geniet voorregte en immuniteite slegs in die mate waarin dit deur die Ontvangerstaat toegelaat word. Die Ontvangerstaat moet egter sy jurisdiksie oor daardie persone op so 'n wyse uitoefen dat daar nie oormatig met die uitvoering van die funksies van die missie ingemeng word nie.”.

Wysiging van Bylae 2 by Wet 74 van 1989

5. Bylae 2 by die Hoofwet word hierby gewysig deur die volgende artikel by te voeg:

“Artikel 71

Burgers van of persone permanent woonagtig in die Ontvangerstaat

1. Behalwe in soverre die Ontvangerstaat bykomende fasiliteite, voorregte en immuniteite mag toeken, geniet konsulêre beamptes wat burgers is van of permanent woonagtig is in die Ontvangerstaat, immuniteit teen jurisdiksie en persoonlike onskendbaarheid slegs ten opsigte van amptelike handeling verrig in die uitvoering van hulle funksies, en die voorreg waarvoor voorsiening gemaak word in paragraaf 3 van Artikel 44 . . . Indien kriminele verrigtinge ingestel word teen so 'n konsulêre beampte word die verrigtinge, behalwe wanneer hy in arres of aanhouding is, gevoer op 'n wyse wat die uitvoering van konsulêre funksies so min as moontlik sal belemmer.

2. Ander lede van die konsulêre pos wat burgers is van of permanent woonagtig is in die Ontvangerstaat en lede van hulle families, sowel as lede van die families van konsulêre beamptes waarna in paragraaf 1 van hierdie Artikel verwys word, geniet fasiliteite, voorregte en immuniteite slegs in soverre dit aan hulle toegestaan word deur die Ontvangerstaat. Daardie lede van die families van lede van die konsulêre pos en daardie lede van die private personeel wat self burgers is van of woonagtig is in die Ontvangerstaat geniet eweneens fasiliteite, voorregte en immuniteite slegs in soverre dit aan hulle toegestaan word deur die Ontvangerstaat. Die Ontvangerstaat moet egter sy jurisdiksie oor daardie persone op so 'n wyse uitoefen dat daar nie oormatig met die uitvoering van die funksies van die konsulêre pos ingemeng word nie.”.

Kort titel en inwerkingtreding

6. Hierdie Wet heet die Wysigingswet op Diplomatieke Immunitate en Voorregte, 1992, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

DIPLOMATIC IMMUNITIES AND PRIVILEGES
AMENDMENT ACT, 1992

Act No. 56, 1992

“Article 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy immunity from jurisdiction and inviolability, only in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.”.

Amendment of Schedule 2 to Act 74 of 1989

5. Schedule 2 to the principal Act is hereby amended by the addition of the following article:

“Article 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy immunity from jurisdiction and personal inviolability only in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44 If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.”.

40 Short title and commencement

6. This Act shall be called the Diplomatic Immunities and Privileges Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

