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*Number 33 of 2017*

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**Diplomatic Relations (Miscellaneous Provisions) Act 2017**

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ACTS REFERRED TO

Aviation (Peclearance) Act 2009 (No. 16)

Diplomatic Relations and Immunities (Amendment) Act 2006 (No. 10)

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Immigration Act 2004 (No. 1)

Irish Nationality and Citizenship Act 1956 (No. 26)

Irish Nationality and Citizenship Act 2001 (No. 15)

Irish Nationality and Citizenship Act 2004 (No. 38)



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*Number 33 of 2017*

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## **DIPLOMATIC RELATIONS (MISCELLANEOUS PROVISIONS) ACT 2017**

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An Act to amend the Diplomatic Relations and Immunities Act 1967, the Irish Nationality and Citizenship Act 1956, the Immigration Act 2004 and the Employment Permits Act 2003; and to provide for related matters. [13th December, 2017]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title**

1. This Act may be cited as the Diplomatic Relations (Miscellaneous Provisions) Act 2017.

##### **Definition**

2. In this Act “Act of 1967” means the Diplomatic Relations and Immunities Act 1967.

##### **Repeal**

3. Section 49 of the Act of 1967 is repealed.

### PART 2

#### AMENDMENT OF ACT OF 1967

##### **Amendment of section 39 of Act of 1967**

4. Section 39 (amended by section 2 of the Diplomatic Relations and Immunities (Amendment) Act 2006) of the Act of 1967 is amended by the insertion of the following definitions:

“ ‘Convention on the Privileges and Immunities of the United Nations’ means the General Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on the 13th day of February, 1946, as set out in the Third Schedule to this Act;

‘Convention on the Privileges and Immunities of the Specialised Agencies’ means the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations adopted by the General Assembly of the United Nations on the 21st day of November, 1947, and the Annexes thereto, as set out in the Fourth Schedule to this Act and any annex thereto standing specified in an order under section 17 of this Act;”.

**Amendment of section 40 of Act of 1967**

5. Section 40 of the Act of 1967 is amended, in subsection (1) (amended by section 3 of the Diplomatic Relations and Immunities (Amendment) Act 2006), by the substitution of “equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions or international organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act,” for “(other than inviolability, exemptions, facilities, immunities, privileges or rights not conferred upon, or afforded in relation to, sending states or missions under the Vienna Convention)” and the said subsection (1) as so amended is set out in the Table to this section.

TABLE

- (1) The Government may by order designate an international organisation, community or body of which the State or the Government is or intends to become a member to be an organisation to which this Part of this Act applies and may, by the order, make provision for the purposes of section 42 of this Act, as respects inviolability, exemptions, facilities, immunities, privileges and rights equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions or international organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act, in relation to the organisation.

**Amendment of section 42A of Act of 1967**

6. Section 42A (amended by the Diplomatic Relations and Immunities (Amendment) Act 2006) of the Act of 1967 is amended—
- (a) in subsection (1) by—
- (i) the substitution of “equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions or international

organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act,” for “(other than an inviolability, exemptions, facilities, immunities, privileges or rights not conferred upon, or afforded in relation to, sending states or missions under the Vienna Convention)”, and

- (ii) by the insertion of “or arrangement” after “international agreement”, and the said subsection (1) as so amended is set out in the Table to this section,

and

- (b) the insertion of the following subsection after subsection (1):

“(1A) Where the Government by order under subsection (1) makes provision to enable the International Committee of the Red Cross to enjoy in the State inviolability, exemptions, facilities, immunities, privileges or rights provided for in relation to the International Committee of the Red Cross by an arrangement into which the State or the Government has entered or intends to enter, such an order may include provision for the confidentiality of communications to and from the International Committee of the Red Cross.”.

#### TABLE

- (1) The Government may by order make provision to enable—

- (a) international organisations, communities or bodies, their institutions or organs and their property, and
- (b) persons,

to have and enjoy in the State any inviolability, exemptions, facilities, immunities, privileges or rights equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions or international organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act provided for in relation to them by an international agreement or arrangement to which the State or the Government is or intends to become a party.

#### **Amendment of section 43 of Act of 1967**

7. Section 43 of the Act of 1967 is amended, in subsection (1) (amended by section 5 of the Diplomatic Relations and Immunities (Amendment) Act 2006), by the substitution of “equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions, or international organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act” for “(other than inviolability, exemptions, facilities,

immunities, privileges or rights not conferred upon, or afforded in relation to, sending states or missions under the Vienna Convention”, and the said subsection (1) as so amended is set out in the Table to this section.

## TABLE

- (1) The Government may, as respects an international judicial body or a semi-judicial body established under an agreement to which the State or the Government is or intends to become a party or an arbitration or conciliation board established by or on behalf of or for the purposes of an international organisation to which this Part applies, by order make provision as respects inviolability and exemptions, facilities, immunities, privileges and rights equivalent or having like effect to those conferred upon, or afforded in relation to, sending states, missions, or international organisations under the Vienna Convention, the Convention on the Privileges and Immunities of the United Nations, or the Convention on the Privileges and Immunities of the Specialised Agencies or any other international agreement scheduled to this Act in relation to judges and registrars of the body, persons engaged in appearing as advocates or witnesses before the body or board or in performing duties assigned to them by the body or board and persons who are parties to a suit before the body or board or apply to the body or board in relation to the commencement of a suit or other proceedings before the body or board and their advisers.

**Amendment of section 50 of Act of 1967**

8. Section 50 of the Act of 1967 (amended by section 6 of the Diplomatic Relations and Immunities (Amendment) Act 2006) is amended by substituting the following subsection for subsection (1):

“(1) Every order under this Part in force immediately before the passing of the *Diplomatic Relations (Miscellaneous Provisions) Act 2017* shall have statutory effect as if it were an Act of the Oireachtas.”.

## PART 3

## CITIZENSHIP, IMMIGRATION AND EMPLOYMENT MATTERS

**Amendment of Irish Nationality and Citizenship Act 1956**

9. The Irish Nationality and Citizenship Act 1956 is amended—
- (a) in section 6, in subsection (6)(b) (inserted by section 3(d) of the Irish Nationality and Citizenship Act 2004), by the substitution of “a person referred to in section 2(1) or section 2(1A) of the Immigration Act 2004” for “entitled to diplomatic immunity in the State”,
  - (b) in section 6A (inserted by section 4 of the Irish Nationality and Citizenship Act 2004), in paragraph (e)(ii) of subsection (2), by the substitution of “a person

referred to in section 2(1) or section 2(1A) of the Immigration Act 2004” for “entitled to diplomatic immunity in the State”,

- (c) in section 7 (amended by section 3 of the Irish Nationality and Citizenship Act 2001) by the insertion of the following after subsection (3):

“(3A) A person to whom paragraph (b) of subsection (3) applies shall be deemed to have been born on the island of Ireland for the purposes of that subsection.”,

and

- (d) in section 16A, by the insertion of the following subsection after subsection (3):

“(4) Where a person referred to in section 2(1) or 2(1A) of the Immigration Act 2004 is resident in the State, such residence shall not be reckonable as a period of residence in the State for the purposes of granting a certificate of naturalisation.”.

#### **Amendment of Immigration Act 2004**

- 10.** Section 2 of the Immigration Act 2004 is amended by the insertion of the following subsection after subsection (1):

“(1A) Without prejudice to the generality of subsection (1), this Act shall not apply to the following persons:

- (a) a member of the mission as defined in Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,
- (b) a private servant as defined in Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of a private servant,
- (c) a member of the consular post where that post is headed by a career consular officer, as defined in Article 1 of the Vienna Convention on Consular Relations done at Vienna on the 24th day of April, 1963, as set out in the Second Schedule to the Diplomatic Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,
- (d) a member of the private staff as defined in Article 1 of the Vienna Convention on Consular Relations done at Vienna on the 24th day of April, 1963, as set out in the Second Schedule to the Diplomatic

Relations and Immunities Act 1967, and a person who is a member of the family and forms part of the household of such a member,

- (e) a preclearance officer as defined in section 1 of the Aviation (Preclearance) Act 2009 and a dependant of a preclearance officer, and
- (f) an official of an international organisation, community or body assigned to official duty in the State and a person who is a member of the family and forms part of the household of such an official,

where that person has been duly notified to, and that notification has not been objected to by, the Minister for Foreign Affairs and Trade.”.

### **Amendment of Employment Permits Act 2003**

**11.** Section 2 of the Employment Permits Act 2003 is amended—

- (a) in subsection (10B) (amended by section 3(f) of the Employment Permits (Amendment) Act 2014)—

- (i) in paragraph (b), by substituting “in the State, or” for “in the State.”, and
  - (ii) by the insertion of the following paragraph after paragraph (b):

“(c) where the Minister for Foreign Affairs and Trade has certified in writing that the foreign national referred to in paragraph (a) is a member of the family of an assigned person forming part of his or her household, and that the assigned person is a national of another Member State, a Member State of the E.E.A. or the Swiss Confederation.”,

- (b) in subsection (15) (amended by section 3(g) of the Employment Permits (Amendment) Act 2014) by inserting the following definition:

“ ‘Member State of the E.E.A.’ means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being;”.