

L.N. 51 of 2005**CONSULAR RELATIONS (ADDITIONAL PRIVILEGES AND IMMUNITIES) (UNITED KINGDOM) ORDER**

(Made by the Chief Executive in Council under section 4(1) of the Consular Relations Ordinance (Cap. 557))

1. Commencement

This Order shall come into operation on 11 July 2005.

2. Interpretation

In this Order—

“1984 Agreement” (《1984年協議》) means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the establishment of a British Consulate-General at Shanghai and a Chinese Consulate-General at Manchester signed at Beijing on 17 April 1984;

“1996 Agreement” (1996年協議) means the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China constituted by an exchange of Notes dated 26 September 1996 between the Embassy of the United Kingdom of Great Britain and Northern Ireland in China and the Ministry of Foreign Affairs of the People’s Republic of China;

“relevant provision of the 1996 Agreement” (1996年協議有關條文) means the provision of Article 3 of the 1996 Agreement as set out in Schedule 1;

“relevant provisions of the 1984 Agreement” (《1984年協議》有關條文) means the provisions of paragraphs (1) and (3) of Article 3 and paragraphs (1), (2), (3), (4) and (5) of Article 7 of the 1984 Agreement as set out in Schedule 2.

3. Additional privileges and immunities

It is declared that the additional privileges and immunities accorded to the consular post of the United Kingdom of Great Britain and Northern Ireland in Hong Kong, or to persons connected with the consular post, or to both, under—

(a) the relevant provision of the 1996 Agreement; and

(b) the relevant provisions of the 1984 Agreement, as read with the provision of paragraph (8) of Article 7 of that Agreement as set out in Schedule 2, all of which are applied as part of the 1996 Agreement by virtue of Article 4 of the 1996 Agreement, shall have the force of law in Hong Kong.

SCHEDULE 1

[s. 2]

PROVISION OF THE 1996 AGREEMENT REFERRED TO IN THIS ORDER

3. The like exemption from dues and taxes as shall be accorded to the premises of the Consulate-General shall be accorded to the residence of a consular officer of which the Government of the United Kingdom, or any person acting on its behalf, is the owner or lessee.

SCHEDULE 2

[ss. 2 & 3]

PROVISIONS OF THE 1984 AGREEMENT REFERRED TO IN THIS ORDER

ARTICLE 3

(1) The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consular post or the head of the diplomatic mission of the sending State, or a person designated by one of those persons.

.....

(3) The provisions of paragraph (1) of this Article shall likewise apply to the residences of consular officers.

ARTICLE 7

(1) Members of the consular post and members of their families shall be immune from the criminal jurisdiction of the receiving State and shall not be liable to arrest or detention pending trial.

(2) Members of the consular post shall be immune from the civil and administrative jurisdiction of the receiving State in respect of any act performed by them in the exercise of consular functions.

(3) The provisions of paragraph (2) of this Article shall not apply in respect of a civil action:

- (a) relating to private immovable property situated in the receiving State, unless the member of the consular post holds it on behalf of the sending State for the purposes of the consular post;
- (b) relating to succession in which the member of the consular post is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) relating to any professional or commercial activity exercised by the member of the consular post in the receiving State outside his official functions;
- (d) arising out of a contract concluded by the member of the consular post in which he did not contract, expressly or impliedly, on behalf of the sending State;
- (e) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

(4) No measures of execution shall be taken against any of the persons mentioned in this Article, except in the cases coming under subparagraphs (a), (b) and (c) of paragraph (3) of this Article and provided also that the measures concerned can be taken without infringing the inviolability of the person concerned or of his residence.

(5) Members of the consular post and members of their families may be called upon to attend as witnesses in the course of judicial or administrative proceedings. If a consular officer or a member of his family should decline to give evidence, no coercive measure or penalty shall be applied to that person. Consular employees and members of their families, as well as members of the service staff and members of their families, may not decline to give evidence except as provided in paragraph (6) of this Article.

.....

(8) Members of the consular post who are nationals or permanent residents of the receiving State and members of their families, as well as those members of the families of the members of the consular post who are themselves nationals or permanent residents of the receiving State, shall not enjoy the rights, facilities and immunities provided for in this Article, except the immunity provided for in paragraph (6) of this Article.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
12 April 2005

Explanatory Note

This Order declares that the additional privileges and immunities accorded to the consular post of the United Kingdom of Great Britain and Northern Ireland in Hong Kong, or to persons connected with the consular post, or to both, as specified in the Order, shall have the force of law in the Hong Kong Special Administrative Region.