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THE PRESIDENCY

No. 1284

27 November 2008

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

No. 35 of 2008: Diplomatic Immunities and Privileges Amendment Act, 2008.



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Act No. 35, 2008

DIPLOMATIC IMMUNITIES AND
PRIVILEGES AMENDMENT ACT, 2008

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 25 November 2008.)

ACT

To amend the Diplomatic Immunities and Privileges Act, 2001, so as to amend the definition of “member of a family”; to provide that the Minister must make the list of all the names on the register of persons entitled to immunities or privileges publicly available; and to provide that a certificate by the Director-General stating a fact relating to any question as to whether or not a person enjoys immunity or privilege in terms of the said Act is *prima facie* evidence of that fact; and to provide for matters connected therewith.

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

Amendment of section 2 of Act 37 of 2001

1. Section 2 of the Diplomatic Immunities and Privileges Act, 2001 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph: 5

“(b) ‘member of a family’ means—

- (i) the spouse;
- (ii) any **[unmarried]** dependant child under the age of **[21]** 18 years;
- (iii) any **[unmarried child between the ages of 21 and 23 years who is undertaking full-time studies at an educational institution]** other dependant family member, officially recognised as such by the sending State or the United Nations, a specialised agency or an international organisation; and 10
- (iv) **[any other unmarried child or other family member officially recognised as a dependant member of the family by the government of the sending State, the United Nations, a specialised agency or organisation]** the life partner, officially recognised as such by the sending State or the United Nations, a specialised agency or an international organisation, 15

and **[who is issued with a diplomatic or official passport]**, if applicable, ‘spouses and relatives dependant’ has the same meaning.”. 20

Act No. 35, 2008

DIPLOMATIC IMMUNITIES AND
PRIVILEGES AMENDMENT ACT, 2008**Amendment of section 9 of Act 37 of 2001**

2. Section 9 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) The Minister must cause a complete list of all persons on the register to be published **[at least once a year in the *Gazette*]** on the Website of the Department of Foreign Affairs, and must cause the list to be updated as frequently as may be necessary, and made publicly available. 5

(3) If **[in any proceedings in a court of law]** any question arises as to whether or not any person enjoys any immunity or privilege under this Act or the Conventions, a certificate under the hand or issued under the authority of the Director-General stating any fact relating to that question, is *prima facie* evidence of that fact.”. 10

Short title and commencement

3. This Act is called the Diplomatic Immunities and Privileges Amendment Act, 2008, and takes effect on a date to be determined by the President by proclamation in the *Gazette*. 15