

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(Foreign Affairs and Trade)

**OVERSEAS MISSIONS (PRIVILEGES AND IMMUNITIES)
BILL 1995**

CONTENTS

Section

1. Short title
2. Commencement
3. Definitions
4. Designated overseas missions
5. Application to external Territories
6. Privileges and immunities of designated overseas missions
7. Privileges and immunities of persons associated with designated overseas missions
8. Privileges and immunities may be conferred subject to limitations or conditions
9. Scope of privileges and immunities

TABLE OF PROVISIONS—*continued*

- 10. Waiver
- 11. Evidentiary certificate
- 12. Exemption from sales tax, customs duty and excise duty
- 13. Regulations

SCHEDULE 1

PRIVILEGES AND IMMUNITIES OF DESIGNATED OVERSEAS
MISSIONS

SCHEDULE 2

PRIVILEGES AND IMMUNITIES OF PERSONS ASSOCIATED WITH
DESIGNATED OVERSEAS MISSIONS

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

Presented and read a first time

(Foreign Affairs and Trade)

A BILL

FOR

An Act about privileges and immunities of certain overseas missions, and for related purposes

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Overseas Missions (Privileges and Immunities) Act 1995*.

5 Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Definitions

3. In this Act:

10 “Australia”, when used in a geographical sense, includes the external Territories;

“designated overseas mission” has the meaning given by section 4;

“foreign territory” means:

- (a) a colony, overseas territory, overseas province or protectorate of a foreign country; or
- (b) a territory outside Australia, where a foreign country is to any extent responsible for the international relations of the territory; or
- (c) a territory outside Australia that is to some extent self-governing, but that is not recognised as an independent sovereign state by Australia;

“mission” means a mission, agency or office;

“overseas mission” means an official mission established in Australia to represent a foreign territory in one or more capacities.

Designated overseas missions

4.(1) For the purposes of this Act, an overseas mission is a **designated overseas mission** if:

- (a) the overseas mission is declared by the regulations to be a designated overseas mission; and
- (b) there is in force a written instrument signed by the Minister authorising the overseas mission to operate in Australia in one or more specified capacities.

(2) If an instrument is made under paragraph (1)(b), the Minister must notify the making of the instrument in the *Gazette*.

Application to external Territories

5. This Act extends to each external Territory.

Privileges and immunities of designated overseas missions

6. The regulations may confer on a designated overseas mission any or all of the privileges and immunities set out in Schedule 1.

Privileges and immunities of persons associated with designated overseas missions

7. The regulations may confer on:

- (a) the head of a designated overseas mission; or
- (b) a member of the staff of a designated overseas mission; or
- (c) a member of the family of a person covered by paragraph (a) or (b), where the family member is part of the person’s household;

any or all of the privileges and immunities set out in Schedule 2.

Privileges and immunities may be conferred subject to limitations or conditions

8.(1) Privileges and immunities may be conferred by the regulations either:

- (a) unconditionally; or
- (b) subject to any limitations or conditions specified in the regulations.

(2) This section does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

Scope of privileges and immunities

5 **9.** Privileges and immunities conferred by the regulations are privileges and immunities in relation to the operation of:

- (a) the laws of the Commonwealth (including Acts other than this Act); and
- (b) the laws of the States and Territories.

Waiver

10 **10.** The regulations may deal with the waiver of any privileges or immunities conferred by the regulations.

Evidentiary certificate

11.(1) The Minister may give a written certificate certifying any fact relating to whether a mission or person:

- 15 (a) is entitled to any privileges or immunities conferred by the regulations; or
- (b) was at any time entitled to any privileges or immunities conferred by the regulations; or
- 20 (c) was during any period entitled to any privileges or immunities conferred by the regulations.

(2) In any proceedings, a certificate given under this section is *prima facie* evidence of the facts certified.

Exemption from sales tax, customs duty and excise duty

12.(1) The regulations may provide that:

- 25 (a) sales tax; or
- (b) a duty of customs; or
- (c) a duty of excise;

is not payable on goods that are for:

- (d) the official use of a designated overseas mission; or
- 30 (e) the personal use of a person referred to in section 7.

(2) Regulations made for the purposes of subsection (1) may provide for an exemption from sales tax, customs duty or excise duty either:

- (a) unconditionally; or
- (b) subject to any limitations or conditions specified in the regulations.

35 **(3)** The regulations may deal with the waiver of an exemption provided for by regulations made for the purposes of subsection (1).

(4) Subsection (2) does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

Regulations

13. The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE 1

Section 6

**PRIVILEGES AND IMMUNITIES OF DESIGNATED OVERSEAS
MISSIONS**

1. Inviolability of premises of, or occupied by, the mission.
 2. Inviolability of property and assets of, or in the custody of, or administered by, the mission.
 3. Exemption of property and assets of, or in the custody of, or administered by, the mission from restrictions and controls.
 4. Inviolability of official documents and archives of the mission.
 5. Freedom of communication for all official purposes of the mission.
 6. Absence of censorship of official communications of the mission.
 7. The right to use codes and to send and receive official documents by courier or in a sealed bag, and to have such a courier or bag treated as a diplomatic courier or a diplomatic bag, as the case may be.
 8. Exemption from taxation of fees and charges imposed by the mission in the course of its official duties.
 9. Exemption from taxation of premises of, or occupied by, the mission, where the taxation is imposed directly on the mission or on the foreign territory that the mission represents.
 10. Exemption from taxation of the head of mission's residence, where the taxation is imposed directly on the mission or on the foreign territory that the mission represents.
 11. Exemption from taxation of the residence of a member of the staff of the mission, where the taxation is imposed directly on the mission or on the foreign territory that the mission represents.
 12. Exemption from taxation of articles for the official use of the mission.
-

SCHEDULE 2

Section 7

**PRIVILEGES AND IMMUNITIES OF PERSONS ASSOCIATED
WITH DESIGNATED OVERSEAS MISSIONS**

1. Inviolability of private residences.
2. Exemption from taxation.
3. Exemption from the application of laws relating to immigration or work permits.
4. Exemption from obligations under social security laws.
5. Exemption from inspection of personal baggage accompanying persons entering or leaving Australia, other than inspection for purposes relating to quarantine.
6. Immunity from arrest, search or detention.
7. Immunity from criminal, civil and administrative jurisdiction.
8. Exemption from obligations to give evidence in judicial or administrative proceedings.
9. Exemption from restrictions on the export of movable property of a deceased person.
10. Inviolability of papers, correspondence and property.

