

INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES).

No. 50 of 1963.

An Act relating to the Privileges and Immunities of certain International Organizations and of persons connected therewith, and for other purposes.

[Assented to 18th October, 1963.]

[Date of Commencement, 15th November, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *International Organizations (Privileges and Immunities) Act 1963*. Short title.

2.—(1.) The *International Organizations (Privileges and Immunities) Act 1948* and the *International Organizations (Privileges and Immunities) Act 1960* are repealed. Repeal and saving.

(2.) Subject to the next succeeding sub-section, regulations made under the Acts repealed by the last preceding sub-section and in force immediately before the commencement of this Act continue in force as if those Acts had not been repealed but regulations so continued in force may be repealed by regulations made under this Act.

(3.) Where regulations are made under this Act conferring privileges or immunities upon an international organization to which this Act applies or upon a person, any regulations continued

in force by the last preceding sub-section that also confer privileges or immunities upon that organization or person cease to have effect in relation to that organization or person.

Interpretation.

3.—(1.) In this Act, unless the contrary intention appears—

“ association ” means an association or other body or group of persons, whether incorporated or not;

“ envoy ” means an envoy of a foreign sovereign power accredited to the Queen in Australia;

“ international conference ” means a conference that is attended by—

(a) a person or persons representing Australia; and

(b) a person or persons representing a country or countries other than Australia;

“ international organization to which this Act applies ” means an organization that is declared by the regulations to be an international organization to which this Act applies, and includes—

(a) an organ of, or office within, an organization that is so declared;

(b) a commission, council or other body established by such an organization or organ; and

(c) a committee, or sub-committee of a committee, of such an organization, organ, commission, council or body.

(2.) The privileges and immunities conferred by this Act or the regulations are privileges and immunities in relation to the operation of the laws of the Commonwealth (including Acts of the Commonwealth other than this Act) and of the States and Territories of the Commonwealth.

(3.) For the purposes of this Act, a person who is, or has been during any period, a member of an organ of an international organization to which this Act applies but is not, or has not been during that period, accredited to that organ as a representative of a country shall be deemed to be, or to have been during that period, as the case may be, so accredited as a representative of the country of which he is a national.

(4.) For the purposes of this Act—

(a) an alternate or deputy of, or substitute for, a representative of a country; and

(b) an adviser to, or expert assisting, such a representative, shall each be deemed to be a member of the official staff of the representative.

(5.) References in this Act to countries shall be read as including references to the governments of countries.

(6.) A reference in this Act to a Schedule by number shall be read as a reference to the Schedule to this Act so numbered.

4. This Act extends to every Territory of the Commonwealth.

Extension of Act to Territories.

5. The regulations may declare an organization—

International organizations to which Act applies.

(a) of which Australia and a country or countries other than Australia are members; or

(b) that is constituted by a person or persons representing Australia and a person or persons representing a country or countries other than Australia,

to be an international organization to which this Act applies.

6.—(1.) Subject to this section, the regulations may, either without restriction or to the extent or subject to the conditions prescribed by the regulations—

Privileges and immunities of certain international organizations and persons connected therewith.

(a) confer upon an international organization to which this Act applies—

(i) juridical personality and such legal capacities as are necessary for the exercise of the powers and the performance of the functions of the organization; and

(ii) all or any of the privileges and immunities specified in the First Schedule;

(b) confer—

(i) upon a person who holds, or is performing the duties of, an office prescribed by the regulations to be a high office in an international organization to which this Act applies all or any of the privileges and immunities specified in Part I. of the Second Schedule; and

(ii) upon a person who has ceased to hold, or perform the duties of, such an office the immunities specified in Part II. of the Second Schedule;

(c) confer—

(i) upon a person who is accredited to, or is in attendance at an international conference

convened by, an international organization to which this Act applies as a representative of a country other than Australia all or any of the privileges and immunities specified in Part I. of the Third Schedule; and

- (ii) upon a person who has ceased to be accredited to such an organization, or has attended such a conference, as such a representative the immunities specified in Part II. of the Third Schedule;

(d) confer—

- (i) upon a person who holds an office in an international organization to which this Act applies (not being an office prescribed by the regulations to be a high office) all or any of the privileges and immunities specified in Part I. of the Fourth Schedule; and
- (ii) upon a person who has ceased to hold such an office the immunities specified in Part II. of the Fourth Schedule; and

(e) confer—

- (i) upon a person who is serving on a committee, or is participating in the work, of an international organization to which this Act applies or is performing, whether alone or jointly with other persons, a mission on behalf of such an organization all or any of the privileges and immunities specified in Part I. of the Fifth Schedule; and
- (ii) upon a person who has served on such a committee or participated in such work or has performed such a mission the immunities specified in Part II. of the Fifth Schedule.

(2.) Regulations made for the purposes of this section may be of general application or may relate to—

- (a) particular international organizations to which this Act applies;
- (b) particular offices or classes of offices;
- (c) particular conferences, committees or missions or classes of conferences, committees or missions; or
- (d) representatives of particular countries.

(3.) Where by the regulations any privileges or immunities are conferred upon a person who is accredited to, or is in attendance at an international conference convened by, an international organization to which this Act applies as a representative of a country other than Australia, that person is entitled

to the same privileges and immunities while travelling to a place for the purpose of presenting his credentials or of attending the conference or while returning from a place after ceasing to be so accredited or after attending the conference.

(4.) Where by the regulations any privileges or immunities are conferred upon a person who is serving on a committee, or participating in the work, of an international organization to which this Act applies or is performing, whether alone or jointly with other persons, a mission on behalf of such an organization, that person is entitled to the same privileges and immunities while travelling to a place for the purpose of serving on the committee or participating in that work or performing the mission or while returning from a place after serving on the committee or participating in that work or performing the mission.

(5.) Subject to the next succeeding sub-section, where by the regulations or by sub-section (3.) of this section any privileges or immunities are conferred upon a person who is, or has been, a person accredited to, or in attendance at an international conference convened by, an international organization to which this Act applies as a representative of a country other than Australia, a person who is, or has been during any period, a member of the official staff of the first-mentioned person is entitled, in respect of that period, to the same privileges and immunities.

(6.) A person who is, or has been, a representative of a country other than Australia or a member of the official staff of such a representative during a period when he is or was an Australian citizen is not entitled under this section or the regulations to any privileges or immunities in respect of that period, except in respect of acts and things done in his capacity as such a representative or member.

7.—(1.) Where—

- (a) an international conference is, or is to be, held in Australia or in a Territory of the Commonwealth;
or
- (b) a mission is, or is to be, sent by a country other than Australia to Australia or to a Territory of the Commonwealth,

Privileges and immunities of representatives attending certain international conferences or engaged on missions in Australia or a Territory.

and it appears to the Governor-General that the provisions of this Act other than this section do not, or may not, apply in relation to

that conference or mission but it is desirable that diplomatic privileges and immunities should be applicable in relation to that conference or mission, the regulations may declare the conference or mission, as the case may be, to be a conference or mission to which this section applies.

(2.) Subject to the next succeeding sub-section, where a conference or mission has been declared by the regulations to be a conference or mission to which this section applies—

- (a) a person who is, or has been, a representative of a country other than Australia at the conference or on the mission is, in respect of the period during which he is, or has been, such a representative, entitled to the privileges and immunities accorded to an envoy;
- (b) a person who is, or has been, a member of the official staff of a person referred to in the last preceding paragraph during the whole or any part of the period referred to in that paragraph is entitled to the privileges and immunities accorded to a member of the retinue of an envoy in respect of that period or that part of that period, as the case may be; and
- (c) in the case of an international conference—a person who is, or has been, a member of the secretariat established for the purposes of the conference is entitled to immunity from suit and from other legal process in respect of acts and things done in his capacity as such a member.

(3.) A person who is, or has been, in attendance at an international conference, or engaged on a mission, to which this section applies as a representative, or as a member of the official staff of a representative, of a country other than Australia during a period when he is or was an Australian citizen, is not entitled under the last preceding sub-section to any privileges or immunities in respect of that period, except in respect of acts and things done in his capacity as such a representative or member.

Withdrawal of privileges and immunities of representatives of countries not according reciprocal treatment.

8.—(1.) Where the Minister is satisfied that persons, or members of the official staffs of persons, representing Australia at an international conference in a country would not receive in that country privileges and immunities corresponding to those conferred in Australia by this Act or the regulations upon persons, or upon members of the official staffs of persons, representing

that country, the Minister may, by instrument in writing, withdraw from the representatives, or from the members of the official staffs of the representatives, of that country all or any of those privileges and immunities.

(2.) The Minister shall cause any such instrument to be published in the *Gazette*.

9. The regulations may confer upon—

- (a) the judges, assessors and officials of the International Court of Justice established by the Charter of the United Nations;
- (b) persons engaged on missions by order of that Court;
- (c) the agents, advocates and counsel of countries that are parties in cases before that Court; and
- (d) witnesses in cases before that Court,

Privileges and immunities of judges and officials of, and persons engaged in business before, the International Court of Justice.

such privileges and immunities as are required to give effect to the Statute of that Court and such privileges and immunities in respect of acts and things done in the course of the performance of their functions in connexion with the business of that Court as are required to give effect to any resolution of, or convention or agreement approved by, the General Assembly of the United Nations.

10. The regulations may make provision for or in relation to the waiver of any privileges or immunities to which an international organization or a person is entitled by virtue of this Act or the regulations.

Waiver.

11.—(1.) The Minister may give a certificate in writing certifying any fact relating to the question whether a person is, or was at any time or in respect of any period, entitled, by virtue of this Act or the regulations, to any privileges or immunities.

Certificates by Minister.

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

12.—(1.) Except with the consent in writing of the Minister, a person (including a body corporate) shall not—

Protection of names, &c., of international organizations.

- (a) use the name or an abbreviation of the name of an international organization to which this Act applies in connexion with a trade, business, profession, calling or occupation; or
- (b) use—
 - (i) a seal, emblem or device that is identical with the official seal or emblem of an international organization to which this Act applies;

- (ii) a seal, emblem or device so nearly resembling the official seal or emblem of such an organization as to be capable of being mistaken for that seal or emblem; or
- (iii) a seal, emblem or device that is capable of being taken to be the official seal or emblem of such an organization.

Penalty: Fifty pounds.

(2.) Where, without the consent in writing of the Minister, the name or an abbreviation of the name of an international organization to which this Act applies, or a seal, emblem or device referred to in paragraph (b) of the last preceding subsection—

- (a) is used as, or as part of, the name, seal or emblem of an association;
- (b) is used as, or as part of, the name or emblem of a newspaper or magazine owned by, or published by or on behalf of, an association; or
- (c) is used by an association in connexion with any activity of the association so as to imply that the association is in any way connected with that organization,

then—

- (d) if the association is a body corporate—the association; or
- (e) if the association is not a body corporate—every member of the governing body of the association,

is guilty of an offence against this section and is punishable upon conviction by a fine not exceeding Fifty pounds.

(3.) A person shall not be convicted of an offence against this section in respect of the use of an abbreviation of the name of an international organization to which this Act applies if the use occurred in such circumstances or in relation to such matters as to be unlikely to be taken to imply any connexion with the organization, unless the prosecution proves that the use was intended to imply such a connexion.

(4.) The conviction of a person of an offence under this section in respect of the use of a name, abbreviation of a name, seal, emblem or device does not prevent a further conviction of that person in respect of the use of that name, abbreviation, seal, emblem or device at any time after the first-mentioned conviction.

(5.) For the purposes of this section—

- (a) any combination of words or letters, or of both words and letters, that is capable of being understood as referring to an international organization to which this Act applies shall be deemed to be an abbreviation of the name of that organization; and
- (b) if a seal or emblem is declared by the regulations to be the official seal or emblem of an international organization to which this Act applies, that seal or emblem shall be taken to be the official seal or emblem of that organization.

(6.) Proceedings under this section shall not be instituted without the consent in writing of the Attorney-General.

13. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

THE SCHEDULES.

FIRST SCHEDULE.

Section 6.

Privileges and Immunities of International Organization.

1. Immunity of the organization, and of the property and assets of, or in the custody of, or administered by, the organization, from suit and from other legal process.
2. Inviolability of property and assets of, or in the custody of, or administered by, the organization and of premises of, or occupied by, the organization.
3. Exemption of property and assets of, or in the custody of, or administered by, the organization from restrictions and controls.
4. Inviolability of archives.
5. Exemption from currency and exchange restrictions.
6. Exemption from duties on the importation or exportation of—
 - (a) goods imported or exported by the organization for its official use; and
 - (b) publications of the organization imported or exported by it.
7. Exemption of the organization from the liability to pay or collect taxes other than duties on the importation or exportation of goods and of the income, property, assets and transactions of the organization from such taxes.
8. Exemption from taxes of obligations and securities issued or guaranteed by the organization and of interest and dividends on such obligations and securities.
9. Exemption from prohibitions and restrictions on the importation or exportation of—
 - (a) goods imported or exported by the organization for its official use; and
 - (b) publications of the organization imported or exported by it.
10. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Australia), of any reduced rates applicable in relation to telegraphic communications by the press.

No. 50. *International Organizations (Privileges and Immunities).* 1963.

FIRST SCHEDULE—*continued.*

11. Absence of censorship for official correspondence and other official communications.

12. The right to use codes and to send and receive correspondence and other papers and documents by couriers or in sealed bags and to have any such couriers or bags treated as diplomatic couriers or diplomatic bags, as the case may be.

SECOND SCHEDULE.

Section 6.

PART I.

Privileges and Immunities of High Officer of International Organization.

The like privileges and immunities (including privileges and immunities in respect of a spouse and children under the age of twenty-one years) as are accorded to an envoy.

PART II.

Immunities of Former High Officer of International Organization.

Immunity from suit and from other legal process in respect of acts and things done in his capacity as such an officer.

THIRD SCHEDULE.

Section 6.

PART I.

Privileges and Immunities of Representative accredited to, or attending Conference convened by, International Organization.

1. Immunity from personal arrest or detention.
2. Immunity from suit and from other legal process in respect of acts and things done in his capacity as such a representative.
3. Inviolability of papers and documents.
4. The right to use codes and to send and receive correspondence and other papers and documents by couriers or in sealed bags.
5. Exemption (including exemption of the spouse of the representative) from the application of laws relating to immigration, the registration of aliens and the obligation to perform national service.
6. Exemption from currency or exchange restrictions to such extent as is accorded to a representative of a foreign government on a temporary mission on behalf of that government.
7. The like privileges and immunities, not being privileges and immunities of a kind referred to in any of the preceding paragraphs, as are accorded to an envoy, other than exemption from—
 - (a) excise duties;
 - (b) sales taxes; and
 - (c) duties on the importation or exportation of goods not forming part of personal baggage.

PART II.

Immunities of Former Representative accredited to, or attending Conference convened by, International Organization.

Immunity from suit and from other legal process in respect of acts and things done in his capacity as such a representative.

FOURTH SCHEDULE.

Section 6.

PART I.

Privileges and Immunities of Officer (other than High Officer) of International Organization.

1. Immunity from suit and from other legal process in respect of acts and things done in his capacity as such an officer.
2. Exemption from taxation on salaries and emoluments received from the organization.
3. Exemption (including exemption of a spouse and any dependent relatives) from the application of laws relating to immigration and the registration of aliens.
4. Exemption from the obligation to perform national service.
5. Exemption from currency or exchange restrictions to such extent as is accorded to an official, of comparable rank, forming part of a diplomatic mission.
6. The like repatriation facilities (including repatriation facilities for a spouse and any dependent relatives) in time of international crisis as are accorded to an envoy.
7. The right to import furniture and effects free of duties when first taking up a post in Australia and to export furniture and effects free of duties when leaving Australia on the termination of his functions.

PART II.

Immunities of Former Officer (other than High Officer) of International Organization.

Immunity from suit and from other legal process in respect of acts and things done in his capacity as such an officer.

FIFTH SCHEDULE.

Section 6.

PART I.

Privileges and Immunities of Person serving on Committee or participating in Work of, or performing Mission on behalf of, International Organization.

1. Immunity from personal arrest or detention.
2. Immunity from suit and from other legal process in respect of acts and things done in serving on the committee, participating in the work or performing the mission.
3. Inviolability of papers and documents.
4. The right, for the purpose of communicating with the organization, to use codes and to send and receive correspondence and other papers and documents by couriers or in sealed bags.
5. Exemption from currency or exchange restrictions to such extent as is accorded to a representative of a foreign government on a temporary mission on behalf of that government.
6. The like privileges and immunities in respect of personal baggage as are accorded to an envoy.

PART II.

Immunities of Person who has served on Committee or participated in Work of, or performed Mission on behalf of, International Organization.

Immunity from suit and from other legal process in respect of acts and things done in serving on the committee, participating in the work or performing the mission.