

STATUTORY RULES

1968 No.

REGULATIONS UNDER THE INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES) ACT 1963-1966.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *International Organizations (Privileges and Immunities) Act 1963-1966*.

Dated this *thirteenth*

day of *December*, 1968.

CASEY

Governor-General.

By His Excellency's Command,

(Sgd) *Paul Hasluck*
Minister of State for External Affairs.

EUROPEAN LAUNCHER DEVELOPMENT ORGANISATION (PRIVILEGES AND IMMUNITIES) REGULATIONS.

1. These Regulations may be cited as the European Launcher Development Organisation (Privileges and Immunities) Regulations. Citation.

2. In these Regulations, unless the contrary intention appears— Definitions.

“the Act” means the *International Organizations (Privileges and Immunities) Act 1963-1966*;

“the Organization” means the European Organisation for the Development and Construction of Space Vehicle Launchers;

“the Protocol” means the Protocol on the Privileges and Immunities of the Organization, being the Protocol a copy of which is set out in the First Schedule to these Regulations.

3. The Organization is declared to be an international organization to which the Act applies. International Organizations (Privileges and Immunities) Act to apply to Eldo.

4.—(1.) The Organization—

(a) is a body corporate with perpetual succession;

(b) has the capacity to contract; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of instituting legal proceedings.

Eldo to have juridical personality and legal capacities.

(2.) All courts, judges and persons acting judicially in Australia shall take judicial notice of the seal of the Organization affixed to a document and shall presume that it was duly affixed.

* Notified in the *Commonwealth Gazette* on 15/65—PRICE 15c

1968.

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5. The Organization has such of the privileges and immunities specified in the First Schedule to the Act as are required by the Protocol to be conferred on the Organization. Privileges and immunities of Eldo.

6.—(1.) The office of Secretary-General of the Organization is a high office in the Organization for the purposes of sub-paragraph (i) of paragraph (b) of sub-section (1.) of section 6 of the Act. Privileges and immunities of Secretary-General of Eldo.

(2.) The person who holds, or is performing the duties of, the office of Secretary-General of the Organization has such of the privileges and immunities specified in Part I. of the Second Schedule to the Act as are required by the Protocol to be conferred on him.

(3.) A person who has ceased to hold, or perform the duties of, the office of Secretary-General of the Organization has the immunities specified in Part II. of the Second Schedule to the Act.

7.—(1.) A person who is accredited to, or is in attendance at an international conference convened by, the Organization or the Council of the Organization as a representative of a country other than Australia has such of the privileges and immunities specified in Part I. of the Third Schedule to the Act as are required by the Protocol to be conferred on him. Privileges and immunities of representatives to Eldo.

(2.) A person who has ceased to be accredited to, or has attended an international conference convened by, the Organization or the Council of the Organization as a representative of a country other than Australia has the immunities specified in Part II. of the Third Schedule to the Act.

8.—(1.) Subject to the next succeeding sub-regulation, a person who holds an office in the Organization, other than a person who holds, or is performing the duties of, the office of Secretary-General of the Organization, has such of the privileges and immunities specified in Part I. of the Fourth Schedule to the Act as are required by the Protocol to be conferred on him. Privileges and immunities of officers of Eldo other than the Secretary-General.

(2.) The salary and emoluments received from the Organization by a person to whom the last preceding sub-regulation applies, being a resident of Australia within the meaning of the *Income Tax and Social Services Contribution Assessment Act 1936-1968*, are not, to the extent to which they are for services rendered in Australia, exempt from taxation unless the person is not an Australian citizen and came to Australia solely for the purpose of performing duties of the office in the Organization held by him.

(3.) A person who has ceased to hold an office in the Organization other than the office of Secretary-General of the Organization has the immunities specified in Part II. of the Fourth Schedule to the Act.

9.—(1.) A person who is serving on a committee, or is participating in the work, of the Organization or is performing, whether alone or jointly with other persons, a mission on behalf of the Organization has such of the privileges and immunities specified in Part I. of the Fifth Schedule to the Act as are required by the Protocol to be conferred on him. Privileges and immunities of other persons connected with Eldo.

(2.) A person who has served on such a committee or participated in such work or has performed such a mission has the immunities specified in Part II. of the Fifth Schedule to the Act.

10.—(1.) The person who holds, or is performing the duties of, the office of Secretary-General of the Organization may, on behalf of the Organization, waive any immunities to which—

Waiver of privileges and immunities.

- (a) the Organization;
- (b) a person who holds or has ceased to hold, or is performing or has ceased to perform the duties of, the office of Secretary-General of the Organization;
- (c) a person who holds or has ceased to hold any other office in the Organization; or
- (d) a person who is serving on a committee or participating in the work, or has served on a committee or participated in the work, of the Organization or is performing or has performed, whether alone or jointly with other persons, a mission on behalf of the Organization,

is entitled by virtue of the Act or these Regulations.

(2.) The government of a country may waive any immunities to which a person who is, or has ceased to be, accredited to, or is in attendance at, or has attended, a conference convened by, the Organization or the Council of the Organization as a representative of that country is entitled by virtue of the Act or these Regulations.

11. Nothing in these Regulations affects the application of any law of the Commonwealth or a Territory of the Commonwealth relating to quarantine, or prohibiting or restricting the importation into, or the exportation from, Australia or that Territory, as the case may be, of any animals, plants or goods, but this regulation does not prejudice the immunity from suit or from civil or criminal process conferred by these Regulations.

Privileges and immunities subject to quarantine laws.

12. The emblem in the Second Schedule to these Regulations is declared to be the official emblem of the Organization.

Official emblem of Eldo.

THE SCHEDULES.

FIRST SCHEDULE.

Regulation 2.

PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN ORGANISATION FOR THE DEVELOPMENT AND CONSTRUCTION OF SPACE VEHICLE LAUNCHERS.

The States Parties to the Convention for the Establishment of a European Organisation for the Development and Construction of Space Vehicle Launchers, signed in London on 29th March, 1962 (hereinafter referred to as "the Convention");

Desirous of defining the privileges and immunities which the Organisation, its officials and certain categories of persons taking part in its work shall enjoy in the territory of those States, and the privileges and immunities which the representatives of Member States on the Council and the members of subordinate bodies shall enjoy, in accordance with Article 20 of the Convention;

Have agreed as follows:—

ARTICLE 1

The Organisation shall have legal personality. It shall in particular have the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 2

The buildings and premises of the Organisation shall be inviolable, subject to the provisions of Articles 22 and 23.

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ARTICLE 3

The archives of the Organisation shall be inviolable.

ARTICLE 4

The official activities of the Organisation shall be, for the purposes of Articles 5 (1) and (3), 6 (1) and (2), 7 and 9 (2), its administrative activities and the design, development and construction of prototype space vehicle launchers.

ARTICLE 5

(1) Within the scope of its official activities, the Organisation shall have immunity from jurisdiction and execution, except:

- (a) to the extent that the Organisation shall have expressly waived such immunity in a particular case, it being understood that in any case of a dispute covered by paragraph (1) of article 26, of which the value in litigation does not exceed 100,000 French francs, and which cannot be settled by agreement, the Organisation will waive its immunity unless, in the opinion of the Council, the case raises a question of principle of such importance that it cannot agree to waive that immunity;
- (b) in respect of a civil action by a third party for damages arising from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organisation, or in respect of a motor traffic offence involving such a vehicle;
- (c) in respect of an enforcement of an arbitration award made either under Article 25 or Article 26.

(2) The Organisation's property and assets wherever situated shall be immune from any form of requisition, confiscation, expropriation and sequestration.

(3) With regard to the official activities of the Organisation, its property and assets shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of the Organisation.

ARTICLE 6

(1) Within the scope of its official activities, the Organisation and its property and income shall be exempt from all direct taxes.

(2) When substantial purchases which are strictly necessary for the exercise of its official activities, and in the price of which taxes or duties are included, are made by or on behalf of the Organisation, appropriate measures shall, whenever possible, be taken by the Governments of Member States to reimburse to the Organisation or to remit the amount of such taxes or duties.

(3) No exemption shall be accorded in respect of duties and taxes which are no more than charges for public utility services.

ARTICLE 7

Goods imported or exported by or on behalf of the Organisation and strictly necessary for the exercise of its official activities shall, whenever possible, be exempt from all customs duties and other customs charges except mere payments for services rendered and from all prohibitions and restrictions on import or export.

ARTICLE 8

No exemption shall be granted under Articles 6 and 7 in respect of goods purchased or imported for the personal benefit of the staff members of the Organisation.

ARTICLE 9

(1) Goods belonging to the Organisation which have been acquired under Article 6 or imported under Article 7 shall not be sold or given away except in accordance with conditions laid down by the Governments of the States which have granted exemptions.

(2) The transfer of goods and services within the Organisation strictly necessary for its official activities shall be exempt from charges or restrictions of any kind. Alternatively, the Governments of Member States shall take all appropriate measures to remit or reimburse the amount of such charges or to lift such restrictions.

ARTICLE 10

The circulation of publications and other information material sent by or to the Organisation shall not be restricted in any way.

ARTICLE 11

The Organisation may receive and hold any kind of funds, currency or securities; it may dispose of them freely for any purpose provided for in the Convention and hold accounts in any currency to the extent required to meet its obligations.

ARTICLE 12

(1) With regard to its official communications and the transfer of all its documents, the Organisation shall enjoy treatment not less favourable than that accorded by the Government of each Member State to other international organisations.

(2) No censorship shall be applied to official communications of the Organisation by whatever means of communication.

ARTICLE 13

Member States shall take all appropriate measures to facilitate the entry, stay and departure of all staff members of the Organization.

ARTICLE 14

(1) Representatives of Member States attending meetings of the Council and of its subordinate bodies shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

- (a) immunity from arrest and detention, and from seizure of their personal luggage;
- (b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions;
- (c) inviolability for all their official papers and documents;
- (d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;
- (e) exemption for themselves and their spouses from all measures restricting entry and from aliens' registration formalities;
- (f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign Governments on temporary official missions;
- (g) the same customs facilities as regards their personal luggage as are accorded to diplomatic agents.

(2) Privileges and immunities are accorded to representatives of Member States, not for their personal advantage, but in order to ensure complete independence in the exercise of their functions in connection with the Organisation. Consequently, a Member State has not only the right but also the duty to waive the immunity of its representative in all cases where, in the opinion of that State, the immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

ARTICLE 15

In addition to the privileges and immunities provided for in Article 16 below, the Secretary-General of the Organisation, and the official referred to in Article 15 (5) of the Convention, shall enjoy the privileges and immunities to which diplomatic persons of comparable rank are entitled.

ARTICLE 16

The staff members of the Organisation:

- (a) shall have, even after they have left the service of the Organisation, immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by a staff member of the Organisation, nor in the case of damage caused by a motor vehicle belonging to or driven by a staff member;
- (b) shall be exempt from all obligations in respect of military service;
- (c) shall enjoy inviolability for all their official papers and documents;
- (d) shall enjoy the same facilities as regards exemption from all measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organisations, and members of their families forming part of their households shall enjoy the same facilities;
- (e) shall enjoy the same privileges in respect of exchange regulations as are normally accorded to the staff members of international organisations;
- (f) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crisis, and the members of their family forming part of their households shall enjoy the same facilities;
- (g) shall have the right to import duty-free their furniture and personal effects at the time of first taking up their post in the State concerned and the right on the termination of their functions in that State to export free of duty their furniture and personal effects, subject, in both cases, to the conditions considered necessary by the Government of the State where the right is exercised.

ARTICLE 17

Persons other than those referred to in Article 7 of the Convention and in Article 16 of this Protocol in the exercise of their functions in connection with the Organisation or in carrying out missions for the Organisation shall, in their capacity as experts, enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

- (a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; experts shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;
- (b) inviolability for all their official papers and documents;
- (c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign Governments on temporary official missions.

ARTICLE 18

(1) Subject to the conditions and following the procedure laid down by the Council, within a period of one year from the date of the entry into force of the Convention, the Secretary-General and the staff members of the Organisation shall be subject to a tax, for the benefit of the Organisation, on salaries and emoluments paid by the Organisation. From the date on which this tax is applied such salaries and emoluments shall be exempt from national income tax; but the Member States shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.

(2) The provisions of paragraph (1) of this article shall not apply to pensions and annuities paid by the Organisation to its former Secretaries-General and staff members.

ARTICLE 19

The Council shall decide the categories of staff members to whom the provisions of Article 16, in whole or in part, and Article 18 shall apply and the categories of experts to whom the provisions of Article 17 shall apply. The names, titles and addresses of the

staff members and experts included in such categories shall be communicated from time to time to the Governments of States parties to the Convention.

ARTICLE 20

The Organisation, its Secretary-General and its staff members shall be exempt from all compulsory contributions to national social security schemes should it establish its own social security system, subject to the agreements made with the Member States in accordance with the provisions of Article 29.

ARTICLE 21

(1) The privileges and immunities provided for in this Protocol are not designed to give to the Secretary-General, staff members and experts of the Organisation personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded.

(2) The Secretary-General has the right and the duty to waive such immunity when he considers that such immunity is preventing the carrying out of justice and when it is possible to dispense with the immunity without prejudicing the interests of the Organisation. In respect of the Secretary-General, the Council may waive such immunity.

ARTICLE 22

(1) The Organisation shall co-operate at all times with the competent authorities of Member States in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning handling of explosives and inflammable material, public health, labour inspection or other similar national legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

(2) The procedure of co-operation mentioned in the foregoing paragraph may be laid down in the complementary agreements referred to in Article 29.

ARTICLE 23

Each Member State retains the right to take all precautionary measures necessary in the interests of its security.

ARTICLE 24

No Member State is obliged to accord the privileges and immunities referred to in Articles 14, 15, 16 (b), (e) and (g) and 17 (c) to its own nationals.

ARTICLE 25

(1) The Organisation shall be required in all written contracts into which it enters other than those concluded in accordance with staff regulations to insert an arbitration clause or to conclude a special agreement in writing whereby any disputes arising out of the interpretation or execution of the contract may at the request of either party be submitted to private arbitration. Such arbitration clause or agreement shall specify the law applicable and the country where the arbitrators shall sit. The procedure of the arbitration shall be that of that country.

(2) The enforcement of the award of such arbitration shall be governed by the rules in force in the State in which it is to be executed.

ARTICLE 26

(1) Any Member State may submit to an international Arbitration Tribunal any dispute:

- (a) arising out of damage caused by the Organisation;
- (b) involving any other non-contractual responsibility of the Organisation;
- (c) involving the Secretary-General, a staff member or expert of the Organisation, and in which the person concerned can claim immunity from jurisdiction under articles 15, 16(a) or 17(a), if this immunity is not waived in accordance with the provisions of Article 21. In such disputes where the claim for immunity from jurisdiction arises under Article 16(a) or 17(a), the responsibility of the Organisation shall, in such arbitration, be substituted for that of the individuals concerned.

(2) If a Member State intends to submit a dispute to arbitration it shall notify the Secretary-General who shall forthwith inform each Member State of such notification.

(3) The procedure laid down in paragraph (1) of this Article shall not apply to disputes between the Organisation and the Secretary-General, its staff members or experts in respect of their conditions of service.

(4) No appeal shall lie against the award of the Arbitration Tribunal, which shall be final; it shall be binding on the parties. In case of dispute concerning the import or scope of the award, it shall be incumbent upon the Arbitration Tribunal to interpret it on request by either party.

ARTICLE 27

(1) The Arbitration Tribunal referred to in Article 26 shall consist of three members, one arbitrator nominated by the State, or States, party to the arbitration, one arbitrator nominated by the Organisation and a third arbitrator who shall be the chairman, nominated by the said two arbitrators.

(2) The arbitrators shall be nominated from a panel comprising no more than six arbitrators appointed by each Member State and six arbitrators appointed by the Organisation.

(3) If, within three months from the date of the notification referred to in paragraph (2) of Article 26, either party fails to make the nomination referred to in paragraph (1) of this Article, the choice of the arbitrator shall, on request of the other party, be made by the President of the International Court of Justice from the persons included in the said panel. This shall also apply, when so requested by either party, if within one month from the date of appointment of the second arbitrator, the first two arbitrators are unable to agree on the nomination of the third arbitrator. However, a national of the State applying for arbitration may not be chosen to fill the post of the arbitrator whose appointment devolves on the Organisation, nor may a person included in the panel and appointed by the Organisation be chosen to fill the post of an arbitrator whose appointment devolves on the State which is the claimant. Nor may a person of either of these categories be chosen as Chairman of the Tribunal.

(4) The Council shall establish the procedure to be followed in the Arbitration Tribunal.

ARTICLE 28

Within one year from the date of entry into force of the Convention, the Organisation shall make suitable provision for the satisfactory settlement of disputes arising between the Organisation and the Secretary-General, staff members or experts in respect of their conditions of service.

ARTICLE 29

The Organisation may, on a decision of the Council, conclude with one or more Member States complementary agreements to give effect to the provisions of this Protocol as regards such State or States and other arrangements to ensure the efficient functioning of the Organisation and the safeguarding of its interests.

ARTICLE 30

(1) The Council may recommend amendments to this Protocol to Member States. Any Member State which wishes to propose an amendment shall notify the Secretary-General thereof. The Secretary-General shall inform all Member States of any amendment so notified at least three months before it is to be discussed by the Council.

(2) Any amendment recommended by the Council shall require acceptance in writing. It shall come into force thirty days after the Government of the United Kingdom of Great Britain and Northern Ireland shall have received notification of acceptance from all Member States. The Government of the United Kingdom shall inform all Member States of the date of entry into force of any such amendment.

ARTICLE 31

Any dispute between two or more States, members of the Organisation or former members, or between one or more of them and the Organisation, concerning the interpretation or the application of this Protocol shall be settled in accordance with the provisions of Article 22 of the Convention.

ARTICLE 32

(1) This Protocol shall be open for signature until 31st July, 1964 by the States which have signed the Convention or acceded to it.

(2) This Protocol shall be subject to ratification or approval. The instruments of ratification or approval shall be deposited with the Government of the United Kingdom

ARTICLE 33

(1) As from 1st August, 1964 any Member State not signatory to this Protocol may accede to it.

(2) Instruments of accession shall be deposited in the archives of the Government of the United Kingdom.

ARTICLE 34

(1) This Protocol shall enter into force when instruments of ratification, approval or accession have been deposited on behalf of five Member States, or on the date of the entry into force of the Convention, whichever is the later,

(2) For any State which deposits its instrument of ratification, approval or accession after the entry into force of this Protocol in accordance with paragraph (1) of this Article, this Protocol shall enter into force on the date of the deposit of such instrument.

ARTICLE 35

The Government of the United Kingdom shall notify all States which have signed this Protocol or which have acceded to it, and also the Secretary-General of the Organisation, of signatures made in accordance with paragraph (1) of Article 32, of the deposit of each instrument of ratification, approval or accession and of the entry into force of this Protocol.

ARTICLE 36

(1) This Protocol shall remain in force until the expiry of the Convention.

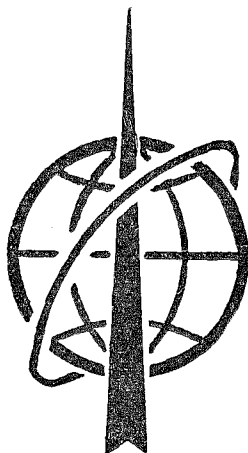
(2) Denunciation of the Convention by any Member State in accordance with the provisions of Article 23 of the Convention, shall imply denunciation by that State of this Protocol.

(3) This Protocol shall likewise cease to be valid for a Member State to which are applied the provisions of Article 24 of the Convention.

SECOND SCHEDULE.

Regulation 12.

OFFICIAL EMBLEM OF THE EUROPEAN ORGANISATION FOR THE DEVELOPMENT AND CONSTRUCTION OF SPACE VEHICLE LAUNCHERS.



By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.