International Centre for Settlement of Investment Disputes (Privileges and Immunities) Regulations

1. THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the Acts Interpretation Act 1901, hereby make the following Regulations under the International Organizations (Privileges and Immunities) Act 1963.


BILL HAYDEN
Governor-General

By His Excellency's Command,

Gareth Evans
Minister of State for Foreign Affairs and Trade

Citation

1. These Regulations may be cited as the International Centre for Settlement of Investment Disputes (Privileges and Immunities) Regulations.

Commencement

2. These Regulations commence on the commencement of Part 3 of the ICSID Implementation Act 1990.

Interpretation

3. In these Regulations, unless the contrary intention appears:
   “arbitrator” means a person referred to in paragraph 9A (1) (b) or (c) of the Act;
   “Centre” means the International Centre for Settlement of Investment Disputes established by the Investment Convention;
   “conciliator” means a person referred to in paragraph 9A (1) (a) of the Act;

(S.R. 288/90)—Cat. No. 14/20.2.1991
"Council member" means the Chairman or a member of the Administrative Council of the Centre;
"proceedings" means proceedings under the Investment Convention;
"officer" means a person, other than a Council member, who holds an office in the Secretariat;
"Secretariat" means the Secretariat of the Centre;
"the Act" means the International Organizations (Privileges and Immunities) Act 1963.

Act applies to Centre
4. The Centre is declared to be an international organization to which the Act applies.

Centre to have juridical personality and legal capacity
5. The Centre:
   (a) is a body corporate; and
   (b) may sue and, subject to regulation 6, be sued in its corporate name; and
   (c) has the capacity, in its corporate name:
       (i) to contract; and
       (ii) to acquire, hold and dispose of real and personal property.

Privileges and immunities of Centre
6. The Centre has the privileges and immunities specified in paragraphs 1, 4, 6, 7 and 11 of the First Schedule to the Act.

Immunity from suit and other legal process: Council members and officers
7. A person who is a Council member or an officer has the immunity specified in paragraph 1 of Part 1 of the Fourth Schedule to the Act.

Other privileges and immunities of Council members and officers
8. (1) This regulation applies only to persons who are not Australian citizens.

   (2) A Council member is exempt from taxation on emoluments (other than salary) received from the Centre.

   (3) An officer is exempt from taxation on salary and other emoluments received from the Centre.

   (4) A person who is a Council member or an officer has the privileges and immunities specified in paragraphs 3, 4, 5 and 6 of Part 1 of the Fourth Schedule to the Act.
Privileges and immunities of conciliators and arbitrators

9. (1) A person who is a conciliator or an arbitrator has immunity from legal process with respect to acts performed by the person in the exercise of his or her functions as an arbitrator or a conciliator.

(2) Where:

(a) a person receives fees or expense allowances in his or her capacity as a conciliator or an arbitrator in proceedings; and

(b) but for this subregulation, the person would be liable to taxation on the fees or allowances by reason only of the occurrence of either or both of the following circumstances:

(i) the proceedings (or part of the proceedings) were conducted in Australia;

(ii) the fees or expense allowances were paid in Australia;

the person is exempt from that taxation.

(3) A person who is a conciliator or an arbitrator and who is not an Australian citizen has the privileges and immunities specified in paragraphs 3, 4, 5 and 6 of Part 1 of the Fourth Schedule to the Act.

Privileges and immunities of other persons concerned with proceedings

10. (1) In this regulation, “relevant person” means a person who is a party, agent, counsel, advocate, witness or expert in proceedings.

(2) A relevant person has immunity from legal process with respect to acts performed by the person in the exercise of his or her function as a party, agent, counsel, advocate, witness or expert in proceedings.

(3) Subject to subregulation (4), a relevant person has, in connection with the person’s travel to and from, and his or her stay at, the place where the proceedings are held, the privileges and immunities specified in paragraphs 3, 4, 5 and 6 of Part 1 of the Fourth Schedule to the Act.

(4) Subregulation (3) applies only if:

(a) the relevant person is not an Australian citizen; and

(b) the relevant person’s travel or stay, as the case may be, is undertaken in the exercise of his or her function as a party, agent, counsel, advocate, witness or expert in proceedings.

Waiver of privileges and immunities

11. A privilege or immunity specified or referred to in these Regulations may be waived by the Centre.

NOTE


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