Network of Aquaculture Centres in Asia and the Pacific (Privileges and Immunities) Regulations 1998

Statutory Rules 1998 No. 66 as amended

made under the

International Organisations (Privileges and Immunities) Act 1963

This compilation was prepared on 1 July 2001 taking into account amendments up to SR 2000 No. 201

Prepared by the Office of Legislative Drafting, Attorney-General’s Department, Canberra
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Name of Regulations [see Note 1]</td>
<td>3</td>
</tr>
<tr>
<td>2 Commencement [see Note 1]</td>
<td>3</td>
</tr>
<tr>
<td>3 Definitions</td>
<td>3</td>
</tr>
<tr>
<td>4 Act to apply to the Organisation</td>
<td>4</td>
</tr>
<tr>
<td>5 Organisation has legal personality and capacity</td>
<td>4</td>
</tr>
<tr>
<td>6 Privileges and immunities of the Organisation</td>
<td>4</td>
</tr>
<tr>
<td>7 Privileges and immunities of Coordinator</td>
<td>4</td>
</tr>
<tr>
<td>8 Privileges and immunities of representatives attending conferences convened by the Organisation</td>
<td>5</td>
</tr>
<tr>
<td>9 Privileges and immunities of officers of the Organisation</td>
<td>5</td>
</tr>
<tr>
<td>9A Indirect tax concession scheme — acquisitions</td>
<td>6</td>
</tr>
<tr>
<td>9B Indirect tax concession scheme — conditions</td>
<td>9</td>
</tr>
<tr>
<td>9C Indirect tax concession scheme — claims for payment</td>
<td>11</td>
</tr>
<tr>
<td>9D Indirect tax concession scheme — manner of payment</td>
<td>12</td>
</tr>
<tr>
<td>10 Waiver of privileges and immunities</td>
<td>12</td>
</tr>
<tr>
<td>11 Liability for motor vehicle accident or offence</td>
<td>12</td>
</tr>
<tr>
<td>12 Privileges and immunities subject to quarantine laws etc</td>
<td>13</td>
</tr>
<tr>
<td>13 Delegation</td>
<td>13</td>
</tr>
<tr>
<td>Notes</td>
<td>14</td>
</tr>
</tbody>
</table>
**1 Name of Regulations** [see Note 1]

These Regulations are the *Network of Aquaculture Centres in Asia and the Pacific (Privileges and Immunities) Regulations 1998*.

**2 Commencement** [see Note 1]

These Regulations take effect from the day specified in a written determination made by the Minister under subsection 13 (2) of the Act for the purposes of the commencement of these Regulations.

**3 Definitions**

In these Regulations:

*Act* means the *International Organisations (Privileges and Immunities) Act 1963*.

*Coordinator* means a person who holds, or is performing the duties of, the office of Coordinator of the Organisation.

*member of the family* or *family member*, in relation to a person (the *first person*), means a person who is:
(a) a part of the first person’s household; and
(b) any of the following members of the first person’s family:
   (i) the first person’s spouse;
   (ii) an unmarried child who is under the age of 21 years;
   (iii) an unmarried child who is under the age of 25 years and is undertaking full-time studies at an Australian educational institution;
   (iv) an unmarried child who is incapable of self-support because of a physical or mental disability.

*Organisation* means the Organisation for the Network of Aquaculture Centres in Asia and the Pacific established under Article 1 of the Agreement on the Network of Aquaculture Centres in Asia and the Pacific done at Bangkok on 8 January 1988.
taxable supply has the meaning given by section 195-1 of the GST Act.
tax invoice has the meaning given by section 29-70 of the GST Act.

4 Act to apply to the Organisation

The Organisation is declared to be an international organisation to which the Act applies.

5 Organisation has legal personality and capacity

The Organisation:
(a) is a body corporate with perpetual succession; and
(b) is capable, in its corporate name:
   (i) of entering into contracts; and
   (ii) of acquiring, holding and disposing of real and personal property; and
   (iii) of suing and being sued.

6 Privileges and immunities of the Organisation

(1) Subject to subregulations (2) and (3), the Organisation has the privileges and immunities mentioned in paragraphs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11 and 12 of the First Schedule to the Act.

(2) The Organisation is not exempt under subregulation (1) from Commonwealth, State, Territory or municipal dues or taxes that constitute payment for specific services in respect of premises owned, leased or occupied by the Organisation.

(3) The Organisation’s privileges in relation to indirect tax are limited to:
   (a) the exemption conferred by section 11B of the Act; and
   (b) concessions under section 11C of the Act in relation to acquisitions mentioned in subregulation 9A (1).

7 Privileges and immunities of Coordinator

(1) The office of Coordinator is a high office in the Organisation for subparagraph 6 (1) (b) (i) of the Act.
(2) A person who holds, or is performing the duties of, the office of Coordinator has the privileges and immunities mentioned in Part I of the Second Schedule to the Act.

(3) A person who has ceased to hold, or perform the duties of, the office of Coordinator has the immunities mentioned in Part II of the Second Schedule to the Act.

(4) However, subregulations (2) and (3) do not apply to a person who is an Australian citizen, or a person permanently resident in Australia, except in relation to actions of the person undertaken in performing the duties of the office of Coordinator.

8 Privileges and immunities of representatives attending conferences convened by the Organisation

(1) A person who is accredited to, or attends, a conference in Australia convened by the Organisation as a representative of a country other than Australia, has the privileges and immunities mentioned in Part I of the Third Schedule to the Act.

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

(3) However, subregulations (1) and (2) do not apply to a person who is an Australian citizen or a person permanently resident in Australia.

9 Privileges and immunities of officers of the Organisation

(1) A person who holds an office in the Organisation (other than the office of Coordinator) has the privileges and immunities mentioned in Part I of the Fourth Schedule to the Act.

(2) However, if the person is a resident of Australia, within the meaning of the Income Tax Assessment Act 1936, any salary and allowances received by the person from the Organisation...
for services performed in Australia for the Organisation are exempt from taxation only if:
(a) the person is not an Australian citizen or a person permanently resident in Australia; and
(b) the person came to Australia solely for the purpose of performing services for the Organisation.

(3) A person who has ceased to hold an office in the Organisation (other than the office of Coordinator) has the immunities mentioned in Part II of the Fourth Schedule to the Act.

9A Indirect tax concession scheme — acquisitions

(1) For paragraph 11C (1) (a) of the Act, the following acquisitions by the Organisation are covered by these Regulations:
(a) an acquisition of any of the following, on a single tax invoice for a taxable supply of at least $200 (including indirect tax):
   (i) goods (by purchase or lease);
   (ii) mail services;
   (iii) telecommunications services;
   (iv) electricity or gas services;
   (v) protection of premises services;
   (vi) removal of goods services;
   (vii) freight and cartage other than removal of goods;
   (viii) services directly relating to aquaculture or aquaculture technologies, including research of aquaculture or aquaculture technologies, other than services relating to the ordinary operations of the Organisation;
(b) an acquisition of goods that are freed from duties of excise by subregulation 6 (1);
(c) an acquisition of warehoused goods (within the meaning of the Customs Act 1901), the importation of which is covered by an immunity from taxation (including customs duties) conferred by these Regulations;
(d) an acquisition of any of the following, if the acquisition is subject to an arrangement between the Organisation and the Commonwealth for reimbursement of indirect tax:
(i) construction or renovation services;
(ii) real property;
(iii) any other thing.

(2) However, an acquisition by the Organisation is covered by these Regulations only if, at the time of the acquisition, it was intended for the official use of the Organisation.

(3) For paragraph 11C (1) (a) of the Act, the following acquisitions by the Coordinator are covered by these Regulations:
   (a) an acquisition of any of the following, on a single tax invoice for a taxable supply of at least $200 (including indirect tax):
      (i) goods (by purchase or lease);
      (ii) removal of goods services;
   (b) an acquisition of goods that are freed from duties of excise by subregulation 7 (2);
   (c) an acquisition of warehoused goods (within the meaning of the Customs Act 1901), the importation of which is covered by an immunity from taxation (including customs duties) conferred by these Regulations.

(4) However:
   (a) an acquisition by the Coordinator is covered by these Regulations only if, at the time of the acquisition, it was intended for the personal use of the Coordinator, or of a member of the family of the Coordinator; and
   (b) an acquisition of a motor vehicle for the personal use of the Coordinator is covered by these Regulations only if:
      (i) the vehicle was acquired in exceptional circumstances to replace a motor vehicle for which the Coordinator received:
         (A) a concession under section 11C of the Act; or
         (B) an exemption from indirect tax under section 11B of the Act; or
      (ii) within the previous 3 years, the Coordinator has not received:
         (A) a concession under section 11C of the Act for the acquisition of another motor vehicle; or
(B) an exemption from indirect tax under section 11B of the Act on the importation of another motor vehicle; and

(c) an acquisition of a motor vehicle for the personal use of a member of the family of the Coordinator is covered by these Regulations only if:

(i) the vehicle is acquired in exceptional circumstances to replace a motor vehicle for which the Coordinator received:

(A) a concession under section 11C of the Act; or

(B) an exemption under section 11B of the Act; or

(ii) the family member is eligible to hold a driver’s licence that is valid in Australia and, within the previous 3 years, the Coordinator has not received:

(A) a concession under section 11C of the Act for the acquisition of another motor vehicle for the personal use of a family member; or

(B) an exemption from indirect tax under section 11B of the Act on the importation of another motor vehicle for the personal use of a family member.

(5) For paragraph 11C (1) (a) of the Act, the acquisition of a locally-manufactured motor vehicle by a person who holds an office in the Organisation (other than the Coordinator), for the personal use of the person or of a member of the family of the person, is covered by these Regulations if:

(a) the vehicle is acquired within the first 6 months of the person’s installation in Australia and the person has not previously received:

(i) a concession under section 11C of the Act for the acquisition of another motor vehicle; or

(ii) an exemption from indirect tax under section 11B of the Act on the importation of another motor vehicle; or

(b) the vehicle is acquired in exceptional circumstances to replace a motor vehicle for which the person has received:

(i) a concession under section 11C of the Act; or
(ii) an exemption from indirect tax under section 11B of the Act.

(6) In subparagraphs (4) (b) (i) and (c) (i) and paragraph (5) (b): exceptional circumstances, in relation to the replacement of a motor vehicle, includes the original vehicle being stolen or damaged beyond repair.

Note Section 11C of the Act establishes an indirect tax concession scheme that provides for reimbursement by the Commissioner of Taxation of indirect tax payable for acquisitions covered by these Regulations.

9B Indirect tax concession scheme — conditions

(1) For paragraph 11C (3) (a) of the Act, the amount mentioned in subsection 11C (1) of the Act is payable only if the following conditions are satisfied:

(a) the person who made the acquisition is subject to an agreement in writing between the Organisation and the Commonwealth to repay to the Commonwealth the amount worked out under subregulation (2) if:

(i) for a payment in relation to an acquisition of a motor vehicle — the person disposes of the motor vehicle (except to another person entitled to an indirect tax concession under these Regulations or another law of the Commonwealth in relation to similar acquisitions) in Australia or an external Territory within 3 years after it was acquired; or

(ii) for a payment in relation to an acquisition of goods other than a motor vehicle — the person disposes of the goods (except to another person entitled to an indirect tax concession under these Regulations or another law of the Commonwealth in relation to similar acquisitions) in Australia or an external Territory within 2 years after they were acquired; or

(iii) for a payment in relation to an acquisition of services or any other acquisition (except an acquisition covered by paragraph 9A (1) (d)) — the person assigns the services to another person (except to another person entitled to an indirect tax concession under these Regulations or another law
of the Commonwealth in relation to similar acquisitions) in Australia or an external Territory;

(b) if the person has breached a previous agreement under paragraph (a) — the person complies with any written requirements, including a requirement to give security, that the Minister considers necessary to ensure that the person complies with the agreement.

(2) For subparagraphs (1) (a) (i) and (ii):

(a) a sale of goods to a finance company as part of a sale and lease-back arrangement is not a disposal of the goods; and

(b) a person (the first person) is taken to have disposed of goods to which 1 of those subparagraphs applies within the period mentioned in that subparagraph to a person who is not entitled to an indirect tax concession in relation to similar acquisitions if:

(i) the first person disposes of the goods to a person (the second person) who is entitled to the concession; and

(ii) the second person disposes of the goods to another person; and

(iii) the series of disposals of the goods to other persons continues (if necessary) until the goods are eventually acquired, within the period mentioned in that paragraph, by a person who is not entitled to the concession.

(3) For paragraph (1) (a), the amount to be repaid is:

(a) for an acquisition to which subparagraph (1) (a) (i) or (ii) applies — the proportion of the amount paid under section 11C of the Act in relation to the acquisition that is equal to the proportion of the period mentioned in that subparagraph remaining after the person disposes of the goods; and

(b) for an acquisition to which subparagraph (1) (a) (iii) applies — the amount paid under section 11C of the Act in relation to the acquisition.

(4) However, for an acquisition to which subparagraph (1) (a) (i) or (ii) applies, a person is not required to repay an amount paid
under section 11C of the Act in relation to a lease payment that relates to a period before the person disposes of the goods.

(5) The amount mentioned in subsection 11C (1) of the Act is not payable if:
(a) an amount was payable for a similar acquisition; and
(b) the Minister tells the person in writing that, in his or her opinion, the person’s reasonable needs were met by that acquisition.

(6) In this regulation, person includes the Organisation.

9C Indirect tax concession scheme — claims for payment
A claim for payment under regulation 9A:
(a) must be signed by, or for, the Coordinator; and
(b) must be sent with the tax invoice for the acquisition; and
(c) must be sent:
   (i) for an acquisition of a motor vehicle — to the Protocol Branch of the Department of Foreign Affairs and Trade; or
   (ii) in any other case — to the Australian Taxation Office; and
(d) for an acquisition of a motor vehicle or an acquisition of real property by lease — may be sent at any time after the acquisition; and
(e) for an acquisition of a kind mentioned in paragraph 9A (1) (d), except an acquisition of real property by lease — may only be sent:
   (i) in accordance with the arrangement mentioned in that paragraph; or
   (ii) if the arrangement does not specify a time when a claim may be sent:
       (A) with another claim; or
       (B) at least 3 months after another claim from the Organisation is sent; and
(f) for an acquisition that is not mentioned in paragraph (d) or (e) — may only be sent:
(i) with another claim; or
(ii) at least 3 months after another claim from the Organisation.

Note  Paragraphs 9C (e) and (f) are intended to limit the number of claims from the Organisation to one in each quarter, to minimise delays in the processing of claims.

9D Indirect tax concession scheme — manner of payment
For paragraph 11C (3) (b) of the Act, the amount is to be paid to a single recipient, or an account, nominated by, or for, the Coordinator.

10 Waiver of privileges and immunities
(1) The Organisation may waive a privilege or immunity conferred by the Act or these Regulations on:
   (a) the Organisation; or
   (b) a person who holds, or has ceased to hold, the office of Coordinator.

(2) The Coordinator may waive a privilege or immunity conferred on a person under regulation 9.

(3) The government of a country may waive a privilege or immunity conferred by the Act or these Regulations on a person who, as a representative of that country:
   (a) is a person mentioned in regulation 8; or
   (b) is, or has been, a member of the official staff of a person mentioned in paragraph (a).

11 Liability for motor vehicle accident or offence
The immunities conferred by these Regulations do not extend to civil or criminal process:
(a) for the recovery of damages for any damage, injury or death resulting from an accident involving a motor vehicle owned or operated by the Organisation, or owned or driven by a person to whom a provision of these Regulations applies; or
(b) in relation to the commission of an offence under a law of the Commonwealth, a State or a Territory, relating to motor traffic, motor vehicles or the use of a motor vehicle.

12 Privileges and immunities subject to quarantine laws etc

(1) These Regulations do not affect the application of any law of the Commonwealth, a State or a Territory about:
   (a) quarantine; or
   (b) importation into, or exportation from, Australia or an External Territory.

(2) However, subregulation (1) does not affect any immunity from civil or criminal process.

13 Delegation

(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person the Minister’s powers under paragraphs 9B (1) (b) and (5) (b) of these Regulations.

(2) A power delegated under subregulation (1), when exercised by the delegate, is taken to have been exercised by the Minister.

(3) A delegation of power under subregulation (1) does not prevent the exercise of the power by the Minister.
Notes to the *Network of Aquaculture Centres in Asia and the Pacific (Privileges and Immunities) Regulations 1998*

**Note 1**

The *Network of Aquaculture Centres in Asia and the Pacific (Privileges and Immunities) Regulations 1998* (in force under the *International Organisations (Privileges and Immunities) Act 1963*) as shown in this compilation comprise Statutory Rules 1998 No. 66 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

### Table of Statutory Rules

<table>
<thead>
<tr>
<th>Year and number</th>
<th>Date of notification in Gazette</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000 No. 201</td>
<td>31 July 2000</td>
<td>1 July 2000 <em>(see r. 2)</em></td>
<td>R. 3</td>
</tr>
</tbody>
</table>
Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>R. 3</td>
<td>am. 2000 No. 201</td>
</tr>
<tr>
<td>R. 6</td>
<td>am. 2000 No. 201</td>
</tr>
<tr>
<td>Rr. 9A–9D</td>
<td>ad. 2000 No. 201</td>
</tr>
<tr>
<td>R. 13</td>
<td>ad. 2000 No. 201</td>
</tr>
</tbody>
</table>
### Table A

**Application, saving or transitional provisions**

#### Statutory Rules 2000 No. 201

**3 Purpose of Regulations**

These Regulations amend Regulations made under the *International Organisations (Privileges and Immunities) Act 1963* (the Act) to apply the indirect tax concession scheme under section 11C of the Act to the organisations covered by those Regulations and officers and high officers of those organisations.