Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Regulations 2000

Statutory Rules 2000 No. 84 as amended

made under the

*International Organisations (Privileges and Immunities) Act 1963*

This compilation was prepared on 23 December 2004 taking into account amendments up to SR 2004 No. 382

Prepared by the Office of Legislative Drafting and Publishing, Attorney-General’s Department, Canberra
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1 **Name of Regulations** [see Note 1]

These Regulations are the *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Regulations 2000*.

2 **Commencement** [see Note 1]

These Regulations commence on gazetted.

3 **Definitions**

In these Regulations:

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

*PrepCom* means the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, being the *Organization* within the meaning of the *Comprehensive Nuclear Test-Ban Treaty Act 1998*.

*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 applies to PrepCom**

PrepCom is an international organisation to which the Act applies.

5 **Juridical personality and legal capacity of PrepCom**

(1) PrepCom is a body corporate with perpetual succession.

(2) PrepCom has the capacity, in its corporate name:

(a) to contract; and

(b) to acquire, hold and dispose of real and personal property; and
6 Privileges and immunities of PrepCom

(1) PrepCom has the privileges and immunities specified in the items, except items 5 and 8, in the First Schedule to the Act.

(2) However, PrepCom does not have immunity from suit or other legal process for recovery of damages for any loss, injury or death arising from a motor vehicle accident.

(3) Also, property and assets of PrepCom are not immune or inviolable from a Commonwealth, State or Territory law:
   (a) if the property or assets are abandoned by PrepCom for more than 12 months; or
   (b) in an emergency in which there is a risk of personal injury or death, property damage or harm to the environment.

(4) Also, PrepCom does not have immunity from a Commonwealth, State or Territory law that imposes a fee for a service provided to PrepCom by the Commonwealth or a State or Territory, or a Commonwealth, State or Territory authority, that is in the form of a tax if the amount of the fee does not exceed the cost of providing the service.

7 Privileges and immunities of PrepCom high officers

(1) Offices in PrepCom at or above the level of Director are high offices.

(2) A person holding, or performing the duties of, a high office in PrepCom has the following privileges and immunities:
   (a) the privileges and immunities accorded to PrepCom officers under regulation 9;
   (b) immunity from personal arrest and detention;
   (c) inviolability of personal baggage.
8  **Immunity of former PrepCom high officers**

(1) A person who has ceased to be a high officer of PrepCom has the immunity specified in Part II of the Second Schedule to the Act.

(2) However, the person does not have immunity from suit or other legal process in respect of recovery of damages for any loss, injury or death arising from a motor vehicle accident.

9  **Privileges and immunities of PrepCom officers**

(1) A person who holds an office in PrepCom, other than a high office, has the privileges and immunities specified in items 1 to 6 (inclusive) in Part I of the Fourth Schedule to the Act.

(2) However, the officer does not have the immunities specified in items 1, 5 and 6 in Part I of the Fourth Schedule to the Act if he or she is an Australian citizen or a permanent resident of Australia.

(3) Also, the officer does not have the immunity mentioned in subregulation (1) from suit or other legal process in respect of recovery of damages for any loss, injury or death arising from a motor vehicle accident.

(4) Also, property and assets of the officer are not immune or inviolable from a Commonwealth, State or Territory law:
   (a) if the property or assets are abandoned by the officer for more than 12 months; or
   (b) in an emergency in which there is a risk of personal injury or death, property damage or harm to the environment.

10  **Immunity of former PrepCom officers**

(1) A person who has ceased to hold an office mentioned in regulation 9 has the immunity specified in Part II of the Fourth Schedule to the Act.
(2) However, the person does not have immunity from suit or other legal process in respect of recovery of damages for any loss, injury or death arising from a motor vehicle accident.

11 Privileges and immunities of persons performing PrepCom missions

(1) A person who is performing, whether alone or jointly with other persons, a mission on behalf of PrepCom has the privileges and immunities specified in Part I of the Fifth Schedule to the Act.

(2) However, subregulation (1) does not apply to items 1 and 5 in Part I of the Fifth Schedule to the Act if the person is an Australian citizen or a permanent resident of Australia.

(3) Also, the person does not have the immunity mentioned in subregulation (1) from suit or other legal process in respect of recovery of damages for any loss, injury or death arising from a motor vehicle accident.

12 Immunity of persons who have performed PrepCom missions

(1) A person who has performed a mission on behalf of PrepCom has the immunity specified in Part II of the Fifth Schedule to the Act.

(2) However, the person does not have immunity from suit or other legal process in respect of recovery of damages for any loss, injury or death arising from a motor vehicle accident.

13 Waiver of privileges and immunities

The Executive Secretary of PrepCom may waive a privilege or immunity to which PrepCom, or a person on whom the privilege or immunity is conferred by regulation 7, 8, 9, 10, 11 or 12, is entitled because of the Act and these Regulations.
14 Privileges and immunities subject to quarantine laws etc

(1) Nothing in these Regulations affects the operation of any law of the Commonwealth, a State or a Territory relating to quarantine, or restricting the importation into, or the exportation from, Australia or that State or Territory of any animals, plants or goods.

(2) However, this regulation does not prejudice the immunity from suit or from other legal process conferred by these Regulations.

15 Indirect tax concession scheme — acquisitions

(1) For paragraph 11C (1) (a) of the Act, the following acquisitions by PrepCom, made on or after 17 August 2000, 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;

(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 a written arrangement between PrepCom and the Commonwealth for reimbursement of indirect tax:
   (i) construction or renovation services;
   (ii) real property;
Regulation 16

(iii) any other thing.

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

16 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 there is a written arrangement between PrepCom and the Commonwealth for PrepCom to repay to the Commonwealth the amount worked out under subregulation (4) if:

(a) for a payment in relation to an acquisition of goods — PrepCom 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

(b) for a payment in relation to an acquisition of services or any other acquisition (except an acquisition covered by paragraph 15 (1) (d)) — PrepCom 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.

(2) Subregulation (1) does not apply to a payment in relation to the acquisition of goods or services that are disposed of to the Commonwealth in accordance with a written arrangement between the Commonwealth and PrepCom.

(3) For paragraph (1) (a):

(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) PrepCom is taken to have disposed of goods to which that paragraph applies within the period mentioned in that paragraph to a person who is not entitled to an indirect tax concession in relation to similar acquisitions if:
(i) PrepCom 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.

(4) For subregulation (1), the amount to be repaid is:
   (a) for an acquisition of goods — 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 paragraph (1) (a) remaining after PrepCom disposes of the goods; and
   (b) for an acquisition of services — the amount paid under section 11C of the Act in relation to the acquisition.

(5) However, for an acquisition of goods, PrepCom 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 PrepCom disposes of the goods.

17 Indirect tax concession scheme — claims for payment

A claim for payment under regulation 15:
   (a) must be signed by, or for, the Executive Secretary of PrepCom; 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
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(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 15 (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 PrepCom 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 PrepCom.

Note Paragraphs 17 (e) and (f) are intended to limit the number of claims from PrepCom to one in each quarter, to minimise delays in the processing of claims.

18 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 Executive Secretary of PrepCom.
Notes to the *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Privileges and Immunities) Regulations 2000*

**Note 1**


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