International Development Law Organization (Privileges and Immunities) Regulations 2007

Select Legislative Instrument 2007 No. 85

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the International Organisations (Privileges and Immunities) Act 1963.

Dated 12 April 2007

P. M. JEFFERY
Governor-General

By His Excellency’s Command

ALEXANDER DOWNER
Minister for Foreign Affairs
1 Name of Regulations

These Regulations are the *International Development Law Organization (Privileges and Immunities) Regulations 2007*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Definitions

(1) In these Regulations:

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

(2) An expression used in these Regulations and in the Memorandum of Understanding has the same meaning in these Regulations as it has in the Memorandum of Understanding.

4 Application of Act to IDLO
For section 5 of the Act, the IDLO is an international organisation to which the Act applies.

5 Juridical personality and legal capacity of IDLO
The IDLO:
(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 IDLO
(1) Subject to subregulations (2) and (3), the IDLO has the privileges and immunities mentioned in the First Schedule to the Act, except items 6, 7, 8 and 10 of that Schedule.

(2) The IDLO’s immunity from suit and other legal processes under this regulation does not include immunity:
(a) from civil proceedings in relation to contracts entered into by the IDLO for the supply of goods or services, loans or other transactions for the provision of finance by or to the IDLO, contracts of guarantee or indemnity to which the IDLO is a party and other financial obligations; or
(b) from civil proceedings in relation to debts due to the Commonwealth; or
(c) from civil or administrative proceedings brought by a third party arising out of death, damage or personal injury resulting from an accident in which a motor vehicle owned by, or operated on behalf of, the IDLO was involved; or

(d) from proceedings with respect to the commission of an offence under a provision of a law of the Commonwealth, or of a State or Territory, with respect to motor traffic, motor vehicles or the use of a motor vehicle; or

(e) from the attachment, in accordance with a final order of a court, of any amount payable as salary, wages or other remuneration owed by the IDLO to any staff member of, or expert assisting, the IDLO; or

(f) from counter-claims made against the IDLO directly connected with proceedings initiated by the IDLO.

(3) The inviolability of premises of, or occupied by, the IDLO does not prevent persons having access to the premises without the consent of the Director for the purpose of protecting the premises in the case of fire or other occurrence requiring immediate protective action.

7 Privileges and immunities of Director-General

(1) For paragraph 6 (1) (b) of the Act, the office of Director-General is a high office.

(2) Unless he or she is a citizen or permanent resident of Australia, the Director-General has the privileges and immunities mentioned in Part I of the Second Schedule to the Act, other than any financial privilege or immunity.

(3) If the Director-General is a citizen or permanent resident of Australia, he or she has immunity from suit and other legal processes in respect of acts and things done in his or her official capacity as Director-General.

(4) A person who has ceased to hold the office of Director-General has the privileges and immunities mentioned in Part II of the Second Schedule to the Act.
8 Privileges and immunities of Representatives

(1) Subject to subregulations (4) and (5), a Representative, other than the Asia Regional Representative and any representative to whom subregulation (2) applies, has the following privileges and immunities:

(a) the privileges and immunities specified in items 1 to 4 and 6 of Part I of the Third Schedule to the Act;
(b) the same exemptions in relation to inspection of his or her personal baggage as are accorded to diplomatic agents;
(c) exemption from the application of laws relating to the registration of aliens and the obligation to perform national service;
(d) the same repatriation facilities, for himself or herself and his or her spouse and dependent relatives, in a time of international crisis as are accorded to diplomatic agents.

(2) Subject to subregulation (5), a Representative who is a citizen or permanent resident of Australia has immunity from suit and other legal processes in respect of words written or spoken, and things done, in the exercise of his or her official functions.

(3) Subject to subregulation (5), a person who has ceased to be a Representative has the privileges and immunities specified in Part II of the Third Schedule to the Act.

(4) Immunity from arrest and detention under subregulation (1) does not extend to a Representative found committing, attempting to commit or having just committed a serious offence.

(5) Immunity from suit and other legal processes under this regulation does not include immunity:

(a) from civil or administrative proceedings arising out of death, damage or personal injury resulting from an accident in which a motor vehicle owned or driven by the representative was involved; or
(b) from proceedings with respect to the commission of an offence under a provision of a law of the Commonwealth, or of a State or Territory, with respect to motor traffic, motor vehicles or the use of a motor vehicle.
9 Privileges and immunities of Asia Regional Representative, Director and staff members

(1) Subject to subregulation (5), a person mentioned in subregulation (3) who is not a citizen or permanent resident of Australia has the following privileges and immunities:

(a) the privileges and immunities specified in Part I of the Fourth Schedule to the Act, other than items 2 and 3 of that Part;

(b) exemption for himself or herself, and his or her spouse, from the application of laws relating to the registration of aliens.

(2) Subject to subregulations (5) and (6), a person mentioned in subregulation (3) who is a citizen or permanent resident of Australia has the following privileges and immunities:

(a) the privileges and immunities mentioned in items 1, 4 and 6 of Part I of the Fourth Schedule to the Act;

(b) exemption for himself or herself, and his or her spouse, from the application of laws relating to the registration of aliens.

(3) The persons are:

(a) the Asia Regional Representative; and

(b) the Director; and

(c) members of the staff of the IDLO’s Asia Pacific Regional Center.

(4) Subject to subregulation (5), a person who has ceased to be a person mentioned in subregulation (3) has the privileges and immunities specified in Part II of the Fourth Schedule to the Act.

(5) Immunity from suit and other legal processes under this regulation does not include immunity:

(a) from civil or administrative proceedings arising out of death, damage or personal injury resulting from an accident in which a motor vehicle owned or driven by the person was involved; or

(b) from proceedings with respect to the commission of an offence under a provision of a law of the Commonwealth,
or of a State or Territory, with respect to motor traffic, motor vehicles or the use of a motor vehicle; or
(c) from civil proceedings in relation to debts due to the Commonwealth.

(6) A staff member who is a citizen or permanent resident of Australia has the immunity mentioned in item 4 of Part I of the Fourth Schedule to the Act only if the staff member’s name has been placed on a list compiled by the Director for that purpose and approved by the Minister.

10 Privileges and immunities of technical experts

(1) Subject to subregulation (4), a technical expert who is not a citizen or permanent resident of Australia has the privileges and immunities specified in Part I of the Fifth Schedule to the Act, other than items 2A and 4 of that Part.

(2) Subject to subregulation (4), a technical expert who is a citizen or permanent resident of Australia has the privileges and immunities mentioned in items 2 and 3 of Part I of the Fifth Schedule to the Act.

(3) Subject to subregulation (4), a person who has ceased to be a technical expert has the privileges and immunities mentioned in Part II of the Fifth Schedule to the Act.

(4) Immunity from suit and other legal processes under this regulation does not include immunity:
(a) from civil or administrative proceedings arising out of death, damage or personal injury resulting from an accident in which a motor vehicle owned or driven by the technical expert was involved; or
(b) from proceedings with respect to the commission of an offence under a provision of a law of the Commonwealth, or of a State or Territory, with respect to motor traffic, motor vehicles or the use of a motor vehicle; or
(c) from civil proceedings in relation to debts due to the Commonwealth.
11 Emblem of IDLO

For paragraph 12 (5) (b) of the Act, each emblem depicted in Schedule 1 is an official emblem of the IDLO.

12 Waiver of privileges and immunities

(1) The IDLO may waive a privilege or immunity to which a Representative (other than the Asia Regional Representative) or the Director is entitled because of the Act or these Regulations.

(2) The Director may waive a privilege or immunity to which the IDLO or a person other than a person mentioned in subregulation (1) is entitled because of the Act or these Regulations.

13 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 immigration, health, quarantine or public order or restricting the importation into, or exportation from, Australia or that State or Territory of any animals, plants or goods.

(2) However, this regulation does not prejudice any immunity from suit or other legal process conferred by these Regulations.
Schedule 1  Official emblems
(regulation 11)

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the Legislative Instruments Act 2003. See www.frl.gov.au.