EXPLANATORY STATEMENT

International Organizations (Privileges and Immunities) Act 1963 - Organisation for Economic Co-operation and Development (Privileges and Immunities) Regulations

Statutory Rules 1983 No. 7 Issued by Authority of the Minister of State for Foreign Affairs

The purpose of these Regulations is to accord juridical personality, legal capacity and privileges and immunities to the Organisation for Economic Co-operation and Development (OECD) and privileges and immunities to certain persons associated with it, in accordance with an agreement between the OECD and Australia.

On becoming a member of the OECD, Australia undertook, as an obligation of membership, to enter into an agreement with the OECD relating to privileges and immunities. Article 10 of the Agreement provides that before it can come into force, the necessary requirements for it to be given legal effect in Australia must be completed. The gazettal of these Regulations will have that effect.

The Regulations declare the OECD to be an organization to which the Act applies, and confer on it juridical personality, legal capacity and a number of privileges and immunities. Amongst the privileges and immunities are immunity from suit and other legal process, inviolability of property, premises and assets, exemption from restrictions and controls, inviolability of archives, exemption from customs duties and taxes, exemption from import and export restrictions, certain communications privileges and freedom from censorship.

The offices of Secretary-General and Deputy Secretary-General of the OECD are declared to be high offices in the organization and persons holding such offices are accorded diplomatic privileges and immunities. Former Secretaries-General and Deputy Secretaries-General are accorded immunity from suit and other legal process in respect of official acts.

Persons accredited to or attending conferences convened by the OECD are accorded immunity from arrest and detention, immunity from suit and other legal process, inviolability of papers, exemption from currency and exchange restrictions and certain other privileges and immunities as are normally accorded to diplomatic agents. Although the Agreement accords all officials of the organization exemption from income tax, Australia has reached an informal understanding with the OECD that officials who are Australian citizens or permanent residents will not be exempt from tax levied on income earned in Australia in the course of their employment with the OECD. This understanding will be embodied in a statement to be made by Australia's Permanent Representative to the OECD when the Agreement is signed. The text of the statement which has been agreed by Ministers and the OECD is as follows:

> 'The obligation to exempt from taxation the salaries and emoluments of officials of the Organization is understood to require Australia to exempt from liability for any taxes and duties salaries and emoluments derived by an official in respect of services rendered outside Australia and salaries and emoluments in respect of services rendered in Australia where the official is not a resident of Australia, within the meaning of the law of Australia, or where the official is a resident of Australia within the meaning of that law but is not an Australian citizen and came to Australia solely for the purpose of performing duties of the office of the Organization held by him.'

Experts of the OECD are accorded immunity from arrest and detention, immunity from suit and other legal process in respect of official acts, inviolability of official papers, the right to use codes, and to use couriers, and exemption from currency and exchange restrictions. Former experts are accorded immunity from suit and other legal process in respect of their official acts.

Provision is made for all privileges and immunities accorded in the Regulations to be waived when appropriate and no law relating to quarantine or prohibitions on imports or exports is affected by the Regulations.

When these Regulations are gazetted Australia will inform the OECD that the necessary requirements for the Agreement to be given legal effect have been completed. The Agreement will then come into force.

Statutory Rules No. 28/82