

Energy Charter Conference (Privileges and Immunities) Regulations 1997 No. 329

EXPLANATORY STATEMENT

Statutory Rules 1997 No. 329

Issued by the Authority of the Minister for Foreign Affairs

International Organisations (Privileges and Immunities) Act 1963

Energy Charter Conference (Privileges and Immunities) Regulations

Section 13 of the *International Organisations (Privileges and Immunities) Act 1963* ("the Act") provides that the Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

The Energy Charter Conference ("the Conference") is established by The Energy Charter Treaty concluded at Lisbon on 17 December 1994. The Conference has provisional application for all signatories pending that Treaty's general entry into force.

In order to recognise the Charter's personality, regulations may be made under the Act which will declare the conference to be an "international organisation" to which the Act applies, and to confer upon the Conference, and persons associated with it, privileges and immunities pursuant to sections 6 and 7 of the Act.

The Regulations grant the Conference legal personality and capacity to enable it to exercise its powers and to perform its functions in Australia. They also confer various privileges and immunities on the Conference including immunity from suit, exemption from currency and exchange restrictions, exemptions from customs and excise duties on goods imported or exported for official use. They also provide that official premises, property, documents and archives of the Conference be inviolable. However, the Conference is not exempt from any taxes on securities issued or guaranteed by it, or on dividends or interest on such securities. The Conference is also required to pay any costs or taxes associated with premises owned, leased or occupied by it.

The Regulations provide privileges and immunities to the Secretary-General of the Conference, which are similar to those accorded to diplomatic agents in Australia under the *Diplomatic Privileges and Immunities Act 1967*, which gives effect to the Vienna Convention on Diplomatic Relations 1961. Former Secretaries-General are to be accorded immunity from suit and from other legal process in respect of official acts.

The Regulations also provide office-holders, officers and staff members of the Conference (with certain limitations in respect of Australian citizens) with similar privileges and immunities to those accorded to consular missions and officers in Australia under the *Consular Privileges and Immunities Act 1972*, which gives effect to the Vienna Convention on Consular Relations 1963. The proposed Regulations provide that such persons be immune from suit and other legal process in Australia in respect of official acts. They also provide that officers (but not other staff members such as persons serving on a committee or participating in the work of, or performing a mission on behalf of the conference) be exempt from income tax on salaries or emoluments received from the organisation (with certain limitations in respect of Australian residents), and be

exempt from customs and excise duties on goods imported or exported into Australia if taking up a post here.

The Regulations commence on Gazettal.