

# **Taipei Economic and Cultural Office (Privileges and Immunities) Regulations 1998 1998 No. 300**

## EXPLANATORY STATEMENT

Statutory Rules 1998 No. 300

Issued by Authority of the Minister for Foreign Affairs

*Overseas Missions (Privileges and Immunities) Act 1995*

Taipei Economic and Cultural Office (Privileges and Immunities) Regulations 1998

The *Overseas Missions (Privileges and Immunities) Act 1995* (the Act) specifically applies to foreign territories which are to some extent self-governing but which are not recognized as an independent sovereign state by Australia- The Act provides a framework within which privileges and immunities can be conferred upon the premises of, and persons associated with, an "overseas mission" representing a foreign territory. Section 13 of the Act provides that the Governor-General make regulations, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for the carrying out or giving effect to the Act. .

The purpose of the Regulations is to declare the Taipei Economic and Cultural Office (TECO) to be a designated Overseas Mission to which the Act will apply, and to confer upon TECO and persons associated with it, privileges and immunities pursuant to sections 6 and 7 of the Act. The Regulations replaced the previous Regulations according privileges and immunities to TECO under the *International Organizations (Privileges and Immunities) Act 1963*. The previous Regulations were automatically repealed by sub-section 7(5)(b) of the *International Organizations (Privileges and Immunities) Act 1963* on October 17 1998

The level of privileges and immunities the Regulations grant to TECO and staff members was determined by a principle of reciprocity (i.e. similar to privileges and immunities granted to the Australia Commerce and Industry Office, Taipei), by the status currently conferred on the TECO Representative and staff members and by way of comparison with those granted to Hong Kong Economic and Trade Office under the same Act.

The Regulations discriminate between TECO's Canberra office and those in Melbourne and ,g Sydney. (Under the previous privileges and immunity Regulations TECO staff in all locations receive the same level of privileges and immunities.) Given that TECO Canberra is the main representative office, Canberra staff would be accorded the full range of privileges and immunities already in place, although the Regulations discriminate between officers (defined as 'officers exercising the functions of the office') and the administrative and technical staff. Administrative and technical staff are granted limited privileges and immunities in accordance with usual practice

The Regulations accord staff members of the Sydney and Melbourne offices privileges and immunities commensurate with the functions performed by regional offices of a foreign territory. The Regulations accord immunity from the criminal, civil and administrative jurisdiction of Australian courts to officers in Canberra All other staff members of both the Canberra office and tile State offices, are granted immunity from criminal, civil and administrative jurisdiction in respect of official acts only. The Regulations standardize taxation exemptions already accorded to TECO staff, including exemption from income taxation but not including indirect taxation (such as sales tax), and also standardize exemption from customs and excise duties on imported goods for use in an office or for personal use.

Previously TECO office premises were not granted any privileges and immunities. The Regulations provide that TECO premises, property, archives and documents are inviolable, and that the offices are entitled to use appropriate means of communication. The Regulations also provide that the premises are exempt from taxation imposed directly against them, and from customs and excise duties on the import or purchase of goods for the use of the offices

The privileges and immunities in the Regulations extend to family members of staff members of TECO. The privileges or immunities are not extended to staff members who are also Australian citizens or permanent residents.

The Regulations commence on gazettal.