

Timor Sea Treaty Designated Authority (Privileges and Immunities) Regulations 2003 2003 No. 45

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 45

Issued by the Authority of the Minister for Foreign Affairs

Subject: International Organisations (Privileges and Immunities) Act 1963

Timor Sea Treaty Designated Authority (Privileges and Immunities) Regulations 2003

Section 13 of the *International Organisations (Privileges and Immunities) Act 1963* (the Act) provides that the Governor-General may make regulations for carrying out or giving effect to the Act.

The purpose of the Regulations is to give effect to Australia's obligations under the Timor Sea Treaty in respect of the privileges and immunities of the Designated Authority, a body created by Article 6 of the Treaty to administer on behalf of Australia and East Timor the exploration for and exploitation of petroleum resources of a defined area in the Timor Sea.

The Regulations also repeal regulations conferring privileges and immunities on the Joint Authority established under the Timor Gap Treaty with Indonesia and subsequently kept in being as a transitional measure pending the entry into force of the Timor Sea Treaty, first by agreement with the United Nations Transitional Administration in East Timor and later with the newly independent East Timor.

The Treaty provides that, for three years after its entry into force, or for such different period as Australia and East Timor may agree, the Designated Authority has juridical personality and such legal capacities under the law of both Australia and East Timor as are necessary for the exercise of its powers and the performance of its functions. The Designated Authority is also exempt from income tax imposed under the law of East Timor or the federal law of Australia. In addition, staff of the Designated Authority are exempt from taxation of salaries, allowances and other emoluments paid to them by the Designated Authority in connection with their employment, other than taxation under the law of whichever of Australia or East Timor they are deemed to reside in for taxation purposes. When taking up a post with the Designated Authority located in the country in which they are not resident, staff are exempt from customs duties on imports of furniture and other household and personal effects imported within six months of first entry unless an extension of time is granted by the relevant Government. Such goods may not be alienated except under conditions agreed in advance with the relevant Government. The Regulations enact the above provisions into Australian law.

The Regulations commence on the same day as section 5B of the Act, that is, 2 April 2003. As only the Commonwealth is thereby adversely affected, subsection 48(2) of the *Acts Interpretation Act 1901* does not apply.

Details of the Regulations are set out in the Attachment.

Authority: Section 13 of the *International Organisations (Privileges and Immunities) Act 1963*

ATTACHMENT

Timor Sea Treaty Designated Authority (Privileges and Immunities) Regulations 2003

Details of the Regulations are as follows:

Regulation 1 states the name of the Regulations.

Regulation 2 states that the Regulations commence on the same day as s.5B of the principal Act (inserted by the *Petroleum (Timor Sea Treaty)(Consequential Amendments) Act 2003*).

Regulation 3 repeals the previous regulations conferring privileges and immunities on the Joint Authority first established under the Timor Gap Treaty with Indonesia and subsequently kept in being on an interim basis pending the entry into force of the Timor Sea Treaty, including a regulation amending those regulations.

Regulation 4 is a definition provision.

Regulation 5 confers on the Designated Authority legal personality and capacities.

Regulation 6 exempts the Designated Authority from liability to pay or collect income tax and fringe benefits tax.

Regulation 7 confers on officers of the Designated Authority other than residents of Australia exemption from taxation of salaries and emoluments received from the Designated Authority and the right to import furniture and effects free of duties within six months of first entry into Australia to take up a post with the Designated Authority, provided that they are not alienated within two years of importation other than by agreement with the Commonwealth, and to export furniture and effects free of duties when leaving Australia on the termination of their functions.