

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Foreign Affairs

International Organisations (Privileges and Immunities) Act 1963

Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023

The *International Organisations (Privileges and Immunities) Act 1963* (the Act) provides for the privileges and immunities of certain international organisations and of persons connected to those organisations in Australia.

Section 13 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 5(1)(a) of the Act provides that regulations may declare an organisation to be an international organisation to which the Act applies.

Section 6(1) of the Act provides that the regulations may confer upon an international organisation juridical personality and may confer privileges and immunities on specified categories of persons.

The Amendment will remove the condition at subsection 11(2)(c) that a person who holds an office in the Commission for the Conservation of Southern Bluefin Tuna (the Commission) is not ‘a person permanently resident in Australia’ for the purpose of entitlement to exemption from taxation in respect of salary and emoluments received from the Commission for services performed in Australia for the Commission.

The Amendment will improve consistency with Australia’s international obligations under the *Headquarters Agreement between the Government of Australia and the Commission for the Conservation of Southern Bluefin Tuna [1999] ATS 6*.

The Amendment will apply in relation to the salary and emoluments received from the Commission from 1 July 2023. This will ensure that officials of the Commission who are Australian permanent residents and have travelled to Australia solely for the purpose of performing duties of the office are entitled to income tax exemptions for their salary received from the Commission.

The Amendment will improve consistency with Australia’s international obligations under the *Headquarters Agreement between the Government of Australia and the Commission for the Conservation of Southern Bluefin Tuna [1999] ATS 6*.

Details of the *Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023* are set out in the [Attachment](#).

In accordance with section 17 of the *Legislation Act 2003*, all relevant Commonwealth Government Departments were consulted in the preparation of the Amendment. No public consultation was undertaken in relation to the Amendment.

The Office of Impact Analysis advised (reference number OIA23-05196) that a Regulatory Impact Statement is not required as the Regulations are unlikely to have a more than minor regulatory impact.

The Regulations have been assessed to be compatible with human rights for the purposes of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility is set out below.

The Regulations commence on the day after registration and is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Details of the *Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023*

Section 1 – Name

This section provides that the title of the instrument is the *Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023*

Section 2 – Commencement

This section provides for the provisions of the instrument to commence the day after the instrument is registered.

Section 3 – Authority

This section provides that the instrument is made under the *International Organisations (Privileges and Immunities) Act 1963*.

Section 4 – Schedules

This section would provide that each instrument specified in the Schedules to this instrument is amended or repealed as set out in the applicable items in the Schedules, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Regulations 1996

Item 1

This item would insert, before regulation 1, new heading ‘Part 1 Preliminary’. This would be an editorial change to improve readability of the instrument.

Item 2

This item would insert, after regulation 4, new heading ‘Part 2 – Privileges and Immunities of the Commission’. This would be an editorial change to improve readability of the instrument.

Item 3 – Paragraph 11(2)(c)

This item would remove the condition that a person is not permanently resident in Australia, in order to be entitled to income tax concessions under paragraph 11.

Item 4

This item would insert after regulation 15, new heading ‘Part 3 – Miscellaneous’. This would be an editorial change to improve readability of the instrument.

Item 5

This item would insert at the end of the instrument new heading ‘Part 4 – Application, Saving and Transitional provisions’. This would be an editorial change to improve readability of the instrument.

This item would also insert new paragraph 17 Application. This would provide that the amendment to paragraph 11(2)(c), applies to the salary and emoluments received from the Commission for the Conservation of Southern Bluefin Tuna from 1 July 2023.

Statement of Compatibility with Human Rights

Prepared in accordance with subsection 9(1) and 9(2) of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023

Overview

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The *Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Amendment Regulations 2023* (the Regulations) is an instrument made under the *International Organisations (Privileges and Immunities) Act 1963* (Cth) (the Act).

The Amendment will remove the condition at subsection 11(2)(c) that a person who holds an office in the Commission for the Conservation of Southern Bluefin Tuna (the Commission) is not ‘a person permanently resident in Australia’ for the purpose of entitlement to exemption from taxation in respect of salary and emoluments received from the Commission for services performed in Australia for the Commission.

The Amendment will apply in relation to the salary and emoluments received from the Commission from 1 July 2023. This will ensure that officials of the Commission who are Australian permanent residents and have travelled to Australia solely for the purpose of performing duties of the office are entitled to income tax exemptions for their salary received from the Commission.

The Amendment will improve consistency with Australia’s international obligations under the *Headquarters Agreement between the Government of Australia and the Commission for the Conservation of Southern Bluefin Tuna [1999] ATS 6*.

Human rights implications

This legislative instrument does not engage human rights under the *International Covenant on Civil and Political Rights* (ICCPR).

The amendments are confined to eligibility for taxation exemptions, which are conferred in the interest of the Commission’s functions and not for the personal benefit of individuals – i.e. does not change the privileges and immunities provided to the Commission, only the category of persons eligible to receive it.

The granting of privileges and immunities more broadly to international organisations and connected persons in Australia is part of a wider and reciprocal legal framework that protects Australian representatives overseas in the performance of their duties without fear of local pressure, harassment, intimidation, attack and arbitrary detention.

Conclusion

The Legislative Instrument is compatible with human rights as no changes are made to the privileges and immunities under the regulations and, therefore, the amendments do not raise any human rights issues.