



Overseas Missions (Privileges and Immunities) (Consequential Amendments) Act 1995

No. 58 of 1995

CONTENTS

Section

- 1. Short title**
- 2. Commencement**
- 3. Amendments**

SCHEDULE 1

AUSTRALIAN PROTECTIVE SERVICE ACT 1987

SCHEDULE 2

CRIMES (INTERNATIONALLY PROTECTED PERSONS) ACT 1976

CONTENTS—*continued*

**SCHEDULE 3
DIPLOMATIC AND CONSULAR MISSIONS ACT 1978**

**SCHEDULE 4
PUBLIC ORDER (PROTECTION OF PERSONS AND PROPERTY) ACT
1971**



Overseas Missions (Privileges and Immunities) (Consequential Amendments) Act 1995

No. 58 of 1995

An Act to make consequential amendments relating to the *Overseas Missions (Privileges and Immunities) Act 1995*

[Assented to 28 June 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Overseas Missions (Privileges and Immunities) (Consequential Amendments) Act 1995*.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Amendments

3. The Acts specified in the Schedules are amended as set out in the Schedules.

SCHEDULE 1

Section 3

AUSTRALIAN PROTECTIVE SERVICE ACT 1987

1. After paragraph 6(2)(a):

Insert:

“(ab) the protection of property in which a designated overseas mission has an interest;”.

2. Paragraph 6(2)(e):

After “(a),” insert “(ab),”.

3. After subsection 6(3):

Insert:

“(3A) Without limiting the generality of paragraph (2)(ab), a designated overseas mission is taken, for the purposes of that paragraph, to have an interest in any property:

(a) that it owns, occupies or uses; or

(b) that is in its possession or under its control.”.

4. Subsection 6(5):

Insert:

“ ‘designated overseas mission’ has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*;”.

SCHEDULE 2

Section 3

CRIMES (INTERNATIONALLY PROTECTED PERSONS) ACT 1976

1. Subsection 3(2):

Omit the subsection.

2. After section 3:

Insert:

Extended meaning of “internationally protected person”

“3A.(1) For the purposes of this Act, the definition of ‘internationally protected person’ in paragraph 1 of article 1 of the Convention has effect as if the reference in that definition to a Head of State included, in relation to Australia, the Governor-General.

“(2) For the purposes of this Act, the definition of ‘internationally protected person’ in paragraph 1 of article 1 of the Convention has effect as if that definition included, in prescribed circumstances, the following persons:

- (a) a prescribed representative or official of Australia;
- (b) a prescribed representative or official of a prescribed state other than Australia;
- (c) a prescribed official or agent of a prescribed international organisation, where the organisation is of an intergovernmental character;
- (d) a prescribed official of a prescribed designated overseas mission;
- (e) a member of the family of a person covered by paragraph (a), (b), (c) or (d), where the family member is part of the person’s household.

Note 1: A person may be prescribed by name, by reference to the holding of a specified office or position or by reference to membership of a specified class.

Note 2: A thing may be prescribed by name or by reference to membership of a specified class.

“(3) The Governor-General may make regulations for the purposes of this section.

“(4) In this section:

‘**designated overseas mission**’ has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*;

‘**official**’, in relation to a designated overseas mission, means:

- (a) the head of the mission; or
- (b) a member of the staff of the mission.”.

3. Section 17:

Repeal the section.

SCHEDULE 3

Section 3

DIPLOMATIC AND CONSULAR MISSIONS ACT 1978

1. Title:

Add at the end “**and to prevent the improper use of signs and titles of designated overseas missions**”.

2. Subsection 3(1):

Insert:

“ **‘authorised capacity’**, in relation to a designated overseas mission, means a capacity specified in an instrument in force under paragraph 4(1)(b) of the *Overseas Missions (Privileges and Immunities) Act 1995*, where the instrument relates to the mission;

‘designated overseas mission’ has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*;

‘foreign territory’ has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*;

‘mission’ means a mission, agency or office;”.

3. Paragraph 4(1)(a):

Omit the paragraph, substitute:

“(a) from engaging, or attempting to engage, in conduct that:

- (i) is, in relation to a diplomatic or consular mission established in Australia with the consent of the Commonwealth, conduct to which this subsection applies by virtue of subsection (2); or
- (ii) is, in relation to a designated overseas mission of a foreign territory, conduct to which this subsection applies by virtue of subsection (2A) or (2B);”.

4. Paragraph 4(2)(b):

Omit “country.”, substitute “country;”.

5. Subsection 4(2):

Add at the end (starting on a new line after the end of paragraph 4(2)(b)):

“other than:

- (c) conduct engaged in by a member of the staff (including the head) of a designated overseas mission in carrying out an authorised capacity of the designated overseas mission; or
- (d) conduct engaged in at the request or direction of a member of the staff (including the head) of a designated overseas mission, where the conduct would have been covered by paragraph (c) if it had been engaged in by that staff member.”.

SCHEDULE 3—continued

6. After subsection 4(2):

Insert:

“(2A) A person engages in conduct that is, in relation to a designated overseas mission of a foreign territory, conduct to which subsection (1) applies if:

- (a) the person displays, or causes or permits to be displayed, any sign, flag or insignia; and
- (b) the sign, flag or insignia is displayed within, on or outside any premises; and
- (c) the premises are not:
 - (i) premises of the designated overseas mission; or
 - (ii) the residence of a member of the staff (including the head) of the designated overseas mission; and
- (d) the sign, flag or insignia states, implies or is reasonably capable of being taken to imply that there is located at the premises an office of a mission, or the residence of a member of a mission, that represents, in a capacity that corresponds to an authorised capacity of the designated overseas mission:
 - (i) that foreign territory or a part of that foreign territory; or
 - (ii) the people of that foreign territory or of a part of that foreign territory; or
 - (iii) a government of that foreign territory or of a part of that foreign territory; and
- (e) the conduct is neither:
 - (i) engaged in, in a diplomatic or consular capacity, by a member of a diplomatic or consular mission established in Australia with the consent of the Commonwealth; nor
 - (ii) engaged in at the request or direction of a member of such a diplomatic or consular mission, where the conduct would have been covered by subparagraph (i) if it had been engaged in by the member.

“(2B) A person also engages in conduct that is, in relation to a designated overseas mission of a foreign territory, conduct to which subsection (1) applies if:

- (a) the person makes or publishes, or causes or permits to be made or published, any representation; and

SCHEDULE 3—continued

- (b) the representation states, implies or is reasonably capable of being taken to imply that:
- (i) there is located in Australia a mission (other than the designated overseas mission of that foreign territory); or
 - (ii) a person in Australia occupies a position in a mission (other than the designated overseas mission of that foreign territory); that represents, in a capacity that corresponds to an authorised capacity of the designated overseas mission:
 - (iii) that foreign territory or a part of that foreign territory; or
 - (iv) the people of that foreign territory or of a part of that foreign territory; or
 - (v) a government of that foreign territory or of a part of that foreign territory; and
- (c) the conduct is neither:
- (i) engaged in, in a diplomatic or consular capacity, by a member of a diplomatic or consular mission established in Australia with the consent of the Commonwealth; nor
 - (ii) engaged in at the request or direction of a member of such a diplomatic or consular mission, where the conduct would have been covered by subparagraph (i) if it had been engaged in by the member.”.

7. Subsection 5(1):

Omit “of a country established in Australia with the consent of the Commonwealth”, substitute “or a designated overseas mission”.

8. After subsection 6(1):

Insert:

“(1A) The Minister may, for the purposes of this Act, give a written certificate:

- (a) certifying that a specified mission is, or is not, a designated overseas mission of a foreign territory; or
- (b) certifying that there is, or is not, located at specified premises an office of a designated overseas mission of a foreign territory; or
- (c) certifying that there is, or is not, located at specified premises the residence of a member of the staff (including the head) of a designated overseas mission of a foreign territory; or
- (d) certifying that a specified capacity is an authorised capacity of a designated overseas mission of a foreign territory.”.

SCHEDULE 4

Section 3

**PUBLIC ORDER (PROTECTION OF PERSONS AND PROPERTY)
ACT 1971**

1. Title:

After “**Consular Posts**” insert “, **Designated Overseas Missions**”.

2. Subsection 4(1):

Insert:

“ ‘**designated overseas mission**’ has the same meaning as in the *Overseas Missions (Privileges and Immunities) Act 1995*;

‘**prescribed staff member**’, in relation to a designated overseas mission, means a member of the staff (including the head) of the designated overseas mission who is specified in regulations made for the purposes of this definition;

Note: A person may be prescribed by name, by reference to the holding of a specified office or position or by reference to membership of a specified class.”.

3. Subsection 4(1) (after paragraph (b) of the definition of “protected person”):

Insert:

“(ba) a prescribed staff member of a designated overseas mission;”.

4. Subsection 4(1) (after paragraph (b) of the definition of “protected premises”):

Insert:

“(ba) occupied for the purposes of a designated overseas mission;”.

5. Section 4:

Add at the end:

“(3) The Governor-General may make regulations for the purposes of the definition of ‘prescribed staff member’ in subsection (1).”.

6. Part III (heading):

After “**PERSONNEL**”, insert “, **DESIGNATED OVERSEAS MISSIONS**”.

7. Section 14:

After “this Part” insert “, except in so far as they apply in relation to designated overseas missions,”.

Overseas Missions (Privileges and Immunities)
(Consequential Amendments) No. 58, 1995

NOTE ABOUT SECTION HEADING

1. On the commencement of this Act, the heading to section 4 of the *Diplomatic and Consular Missions Act 1978* is altered by omitting all the words after “**claims**” and substituting “**about diplomatic or consular status or designated overseas mission status**”.

[*Minister's second reading speech made in—*
Senate on 29 March 1995
House of Representatives on 21 June 1995]