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

**No. 58 of 1995**

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**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.

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 **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*;".

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 **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.

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 **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 ofthat 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 hot, 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.".

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 **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,".

**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*]