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Statutory Rules 1992 No. 1

## Diplomatic Privileges and Immunities Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Diplomatic Privileges and Immunities Act 1967*.

Dated 15 JANUARY 1992.

**BILL HAYDEN**

Governor-General

By His Excellency's Command,

GARETH EVANS

Minister of State for Foreign Affairs and Trade

### 1. Amendment

1.1 The Diplomatic Privileges and Immunities Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48]

**2. Regulation 2 (Interpretation)**

2.1 After the definition of “European Economic Community”, insert:

“ ‘prescribed land or premises’ means land or premises belonging to the Commonwealth or a State or Territory to which the public has access; ‘prescribed object’ means an object or a structure that is on prescribed land or premises within 100 metres of the premises of a mission or of the residence of the head, or another diplomatic agent, of a mission;”.

**3. New regulations 5A and 5B**

3.1 After regulation 5, insert:

**Minister may issue certificates in certain circumstances**

“5A. (1) The Minister may certify, in the form set out in the Schedule, that in his or her opinion removal of a prescribed object described in the certificate from prescribed land or premises described in the certificate would be an appropriate step within the meaning of Article 22 or 29 of the Convention.

“(2) In deciding whether to issue a certificate, the matters to which the Minister is to have regard include:

- (a) the nature of the prescribed object;
- (b) the proximity of the object to the premises of a mission or to the residence of the head, or another diplomatic agent, of a mission;
- (c) the period for which the object has been on the prescribed land or premises.

“(3) A certificate takes effect when the certificate is issued, unless a later time or day is specified in the certificate.

“(4) A certificate has effect for a period of 30 days from the day when the certificate was issued.

“(5) Subregulation (4) does not prevent the issue of further certificates in respect of matters stated in a certificate.

“(6) The Minister is to cause a copy of a certificate to be laid before each House of the Parliament within 15 sitting days of that House after the day when the certificate is issued.

**Removal of prescribed objects from prescribed land or premises**

“5B. (1) In this regulation:

**‘prescribed officer’ means:**

- (a) a member or special member of the Australian Federal Police; or
- (b) a member of the police force of a State or Territory; or
- (c) a member of the Australian Protective Service.

“(2) A prescribed officer, with such assistance as the officer reasonably believes is necessary and with such force as is necessary and reasonable, may remove a prescribed object described in a certificate from prescribed land or premises described in the certificate.

“(3) A prescribed officer must not remove a prescribed object from prescribed land or premises before giving a reasonable opportunity to a person:

- (a) who is apparently in control of the object; or
  - (b) who placed the object on the land or premises;
- to remove the object from the land or premises and take it to a location:
- (c) where it may lawfully be placed; and
  - (d) that is more than 100 metres from the premises of the mission referred to in the certificate or the residence of the head, or another diplomatic agent, of the mission.

“(4) When a prescribed officer removes a prescribed object from prescribed land or premises, the officer may retain the object for a period of 7 days from the day when the object is removed from the land or premises.

“(5) At the end of the 7 days, the prescribed officer must take reasonable steps to return the prescribed object to a person referred to in

paragraph (3) (a) or (b) or (if that person is not entitled to possess it) the owner, unless:

- (a) proceedings in respect of which the object may afford evidence (including an appeal to a court in relation to those proceedings) were begun before the end of the 7 days and have not been completed; or
- (b) the officer is otherwise authorised by a law, or an order of a court, of the Commonwealth or of a State or Territory to retain, destroy or dispose of the object.”.

#### **4. New Schedule**

##### **4.1 Add at the end:**

### **“SCHEDULE**

Subregulation 5A (1)

## **COMMONWEALTH OF AUSTRALIA**

### **Diplomatic Privileges and Immunities Regulations**

#### **CERTIFICATE**

I, *(insert the full name of the Minister)*, Minister of State for Foreign Affairs and Trade, certify that in my opinion the removal of the following prescribed objects:

*(insert a description of the objects)*

from prescribed land or premises, being *(insert a description of the land or premises)*, in proximity to *(insert a description of the premises of a mission or of the residence of the head, or another diplomatic agent, of a mission)* would be an appropriate step within the meaning of Article 22 or 29 of the Convention.

The reasons for the issue of this certificate are that the presence of the prescribed objects on that land or those premises could lead to:

- \***(a)** the impairment of the dignity, or the disturbance of the peace, of the mission or of the head, or another diplomatic agent of, the mission;

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**SCHEDULE**—continued

- \* (b) the endangering of the head, or another diplomatic agent, of the mission;
- \* (c) the endangering of the premises of the mission or of the residence of the head, or another diplomatic agent, of the mission.

This certificate has effect from *(insert the time and date of issue of the certificate or the time and date when the certificate takes effect)*

Dated *(insert date of issue of certificate)*

*(signature of Minister)*

Minister of State for Foreign Affairs and Trade

*\*Omit if inapplicable.*

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on
2. Statutory Rules 1989 No. 287.

1992. 16 January