

# **European Space Agency (Privileges and Immunities) Regulations 2000 2000 No. 94**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2000 No. 94**

Issued by the authority of the Minister for Foreign Affairs

*International Organisations (Privileges and Immunities) Act 1963*

European Space Agency (Privileges and Immunities) Regulations 2000

Section 13 of the *International Organisations (Privileges and Immunities) Act 1963* (the Act) provides that the Governor-General may make Regulations for the purposes of the Act.

Section 12A of the Act provides for the making of regulations conferring legal capacity and personality on an international organisation. The purpose of the proposed Regulations is to confer legal capacity and personality on the European Space Agency (ESA).

The ESA was established pursuant to Article 1 of the Convention for the Establishment of a European Space Agency (the Convention). The purpose of the ESA is to provide for and to promote cooperation among European States in space research and technology and their space applications exclusively for peaceful purposes. Though Australia is not a party, there are 12 countries which are a party to the Convention so as to satisfy the requirement in s. 12A(1)(a)(i) of the Act which provides that the organisation must be established by an instrument to which two or more countries are parties.

The ESA falls outside the scope of subsections 3(1) and 5(1) of the Act. Subsection 3(1) provides that an international organisation to which the Act applies is one which is declared by the regulations to be an international organisation to which this Act applies. Subsection 5(1) provides that an organisation to which the Act applies is one to which Australia is a member (paragraph 5(1)(a)) or is constituted by a person representing Australia (paragraph 5(1)(b)), which is not the case. Paragraph 12A(1)(b) provides that where the provisions of the Act other than section 12A do not apply to the organisation then juridical personality and legal capacity can be conferred by regulation where it appears to the Minister that it is desirable to do so.

Australia's relationship with the ESA was established in the Agreement between the Government of Australia and the European Space Agency for a co-operative space tracking program (the Agreement) done at Paris on 15 June 1979. The purpose of the Regulations is to facilitate the ESA purchasing and registering title to land in Western Australia which it is purchasing to establish a new facility (a site for a deep space antenna) under the Agreement. Although the Regulations change the status of the ESA from a foreign entity to an Australian body corporate, its conduct in Australia remains subject to the Agreement. The revised status would also remove ambiguities concerning the ESA's rights and obligations under the Goods and Services Tax legislation. The Regulations do not confer privileges and immunities on the ESA.

Details of the Regulation are attached.

The Regulations commence on gazettal.