

Taipei Economic and Cultural Office (Privileges and Immunities) Amendment Regulations 2002 (No. 1) 2002 No. 197

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 197

Issued by the authority of the Minister for Foreign Affairs

Overseas Missions (Privileges and Immunities) Act 1995

Taipei Economic and Cultural Office (Privileges and Immunities) Amendment Regulations 2002 (No. 1)

Section 12A of the *Overseas Missions (Privileges and Immunities) Act 1995* ("the Act") provides that Regulations made under this Act may provide details of the Indirect Tax Concession Scheme. The Act provides that the Commissioner must pay any indirect tax paid for specified acquisitions for the official use of specified missions.

Section 13 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

The purpose of the Regulations is to amend the Indirect Tax Concession Scheme package for the Taipei Economic and Cultural Office (TECO) to afford it enhanced tax concessions based on those afforded to the Australian Commerce and Industry Office and staff in Taipei and to amend the *Taipei Economic and Cultural Office (Privileges and Immunities) Regulations 1998* to harmonise the treatment of TECO in terms of privileges and immunities to other organisations operating under the Vienna Convention on Diplomatic Relations.

With regard to the Indirect Tax Concession Scheme the Regulations specify:

- (a) the types of acquisitions that are covered for official or personal use; and
- (b) the conditions, limitations and the period and manner of payment in relation to any amounts payable.

The Regulations regulations would upgrade the tax concession package afforded to TECO by expanding those acquisitions and persons covered by the scheme, and present an opportunity to maximise benefits for Australia through reciprocal arrangements to provide limited tax concessions.

Taiwan's interests are represented unofficially in Australia by TECO which operates under the Act. TECO was authorised as a designated overseas mission in accordance with section 4 of the Act by written instrument on 12 October 1998.

It is not possible to accord diplomatic privileges and immunities to offices established under the Act. However, our policy is to accord substantially the same treatment wherever possible in the interest of facilitating the legitimate operations of TECO in Australia.

The regulations will be taken to have commenced on 1 May 2001. The Regulations neither disadvantage the right of a person (other than the Commonwealth) to impose any liabilities as at or prior to the date of notification, in accordance with subsection 48(2) of the *Acts Interpretation Act 1901*.

Details of the Regulations are set out in the Attachment.

ATTACHMENT

Taipei Economic and Cultural Office (Privileges and Immunities) Amendment Regulations 2002 (No. 1).

Details of the proposed Regulations are as follows:

Regulation 1 states that the name of the Regulations.

Regulation 2 states that the Regulations are taken to have commenced on 1 May 2001.

Regulation 3 states that Schedule 1 amends the *Taipei Economic and Cultural Office (Privileges and Immunities) Amendment Regulations 1998* (the principal regulations).

Schedule 1

Item 1 substitutes Regulation 3 the effect of which is to expand the definition of State Office to include a TECO office in Brisbane.

Item 2 amends Regulation 7 by omitting the words "staff of" and inserting the words "persons associated with" in the heading of Regulation 7. The effect of this is to enable the provision to afford privileges and immunities to family members of TECO officers as well as to the officers themselves.

Item 3 substitutes Subregulation 7(1) and inserts a new Subregulation 7(1A). The effect of this amendment is to afford privileges and immunities mentioned in items 110 inclusive of Schedule 2 to the Act to family members of TECO Officers of the Canberra office as well as to the officers themselves.

Item 4 amends paragraph 8(4)(a) by omitting the words "Representative; or" and substituting the words "Representative or the head of a State office; or". The effect of this amendment is to enable the head of a State office to provide written undertakings in relation to duties of customs and excise.

Item 5 amends paragraph 9(3)(a) by omitting the words "Representative; or" and substituting the words "Representative or the head of a State office; or". The effect of this amendment is to enable the head of a State office to provide written undertakings in relation to Regulation 9.

Item 6 substitutes Paragraph 11A(1)(a), the effect of which is to expand the scope of the category of acquisitions for the indirect tax concession scheme and the purposes of paragraph 12A(1)(a) of the Act relating to the indirect tax concession, from locally manufactured motor vehicles, to a specified range of goods and services on a single tax invoice for a taxable supply of at least \$200.

Item 7 substitutes paragraph 11A(1)(c), the effect of which is to expand the scope of the reference to warehoused goods (within the meaning of the *Customs Act 1901*), the importation of which is covered by an immunity from taxation by the Regulations, by removing the restricted application of paragraph 11A(1)(c) to alcohol and tobacco.

Item 8 substitutes Paragraph 11A(3) (a), the effect of which is to expand the scope of the category of acquisitions for the indirect tax concession scheme and the purposes of paragraph 12A(1)(a) of the Act relating to the indirect tax concession, from locally-manufactured motor vehicles, to goods (by purchase or lease) and the removal of goods services on a single tax invoice for a taxable supply of at least \$200.

Item 9 substitutes Paragraph 11A(3)(c), the effect of which is to expand the scope of warehoused goods (within the meaning of the *Customs Act 1901*), the importation of which is

covered by an immunity from taxation by the Regulations, by removing the restricted application of paragraph 11A(3)(c) to alcohol and tobacco.

Item 10 amends subparagraph 11A(4)(c)(i) by omitting the words "the officer" and inserting the words "a family member (except the officer)" in Subparagraph 11A(4)(c)(i). The effect of this item is to ensure that for the purposes of Subparagraph 11A(4)(c)(i), the acquisition of a motor vehicle for the personal use of a member of the family of an officer of TECO is covered by the Regulations only if a family member received a concession or exemption mentioned in 11A(4)(c)(i) (A) or 11A(4)(c)(i) (B), or Subparagraph 11A(4)(c)(ii) applies.

Item 11 amends subparagraph 11A(4)(c)(ii) by omitting the words "the officer has not" and inserting the words "no family member (except the officer) has". The effect of this item is to ensure that for the purpose of the application of subparagraph 11A(4)(c), a family member has not received a concession or exemption under Subparagraph 11A(4)(c)(ii)(A) or 11A(4)(c)(ii)(B).

Item 12 amends subparagraph 11A(4)(c)(ii)(A) by omitting the words "for the personal use of a family member" in order to ensure consistency with the revised construction of the provision in accordance with item 11 above.

Item 13 amends subparagraph 11A(4)(c)(ii)(B) by omitting the words "for the personal use of a family member" in order to ensure consistency with the construction of the provision in accordance with Item 11 above.

Item 14 amends subparagraph 11B(1)(a)(ii) by omitting the word "acquired" and inserting the text "acquired; or". The effect of this item is to clarify that for the purposes of Subparagraph 11B(1)(a), the conditions which must be satisfied are specified in Subparagraph 11B(1)(a)(i), Subparagraph 11B(1)(a)(ii) or Subparagraph 11B(1)(a)(iii).

Item 15 inserts a new Subparagraph 11B(1)(a)(iii) after Subparagraph 11B(1)(a)(ii). The effect of this item is to insert a new condition for the purposes of Subregulation 11B(1). This condition is for a payment in relation to the acquisition of services or any other acquisition (except for an acquisition covered by paragraph 11A(1)(d)) where the person assigns the services to another person in Australia or any external Territory who is not entitled to an indirect tax concession under the Regulations or another law of the Commonwealth in relation to similar acquisitions.

Item 16 amends subregulation 11B(3) by inserting a new subparagraph 11B(3)(b). The effect of this is to clarify that for an acquisition to which subparagraph (1)(a)(iii) applies the amount to be repaid is the the amount paid under section 12A of the Act in relation to the acquisition.

Item 17 amends the heading for Schedule 2 by substituting the reference to "staff of TECO" with the words "persons associated with TECO". The effect of this item is to expand the scope of persons covered by the limitations and conditions set out in Schedule 2.

Item 18 omits item 1 from Schedule 2 of the Regulations. The effect of this is to remove the condition that the only inviolable residence is the private residence of the Representative.