



Asian Infrastructure Investment Bank (Privileges and Immunities) Regulation 2015

Select Legislative Instrument No. 175, 2015

I, the Honourable Paul de Jersey AC QC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 29 October 2015

Paul de Jersey
Administrator

By His Excellency's Command

Scott Morrison
Treasurer

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1 Name

This is the *Asian Infrastructure Investment Bank (Privileges and Immunities) Regulation 2015*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as sections 3 to 9 of the <i>Asian Infrastructure Investment Bank Act 2015</i> commence.	25 December 2015

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Asian Infrastructure Investment Bank Act 2015*.

4 Privileges and immunities of the Bank

The Bank has the privileges and immunities specified in Schedule 1.

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Section 5

Note: See also the *International Organisations (Privileges and Immunities) (Asian Infrastructure Investment Bank) Regulation 2015*, which confers additional privileges and immunities on the Bank.

5 Privileges and immunities of officers and employees of the Bank etc.

- (1) The following persons have the privileges and immunities specified in clause 1 of Schedule 2:
 - (a) Governors of the Bank;
 - (b) Directors of the Bank;
 - (c) Alternate Directors of the Bank;
 - (d) the President of the Bank;
 - (e) Vice-Presidents of the Bank;
 - (f) other officers and employees of the Bank;
 - (g) experts and consultants performing missions or services for the Bank.

- (2) The following persons have the privileges and immunities specified in clause 2 of Schedule 2:
 - (a) Directors of the Bank;
 - (b) Alternate Directors of the Bank;
 - (c) the President of the Bank;
 - (d) Vice-Presidents of the Bank;
 - (e) other officers and employees of the Bank;
 - (f) experts and consultants performing missions or services for the Bank.

- (3) Despite subsection (2), the salary, emoluments and expenses received from the Bank by a person:
 - (a) on whom privileges and immunities are conferred by subsection (2); and
 - (b) who is an Australian resident within the meaning of the *Income Tax Assessment Act 1997*;are not, to the extent to which they are for services rendered in Australia, exempt from taxation unless the person:
 - (c) is not an Australian citizen; and

- (d) came to Australia solely for the purpose of participating in the work of the Bank or performing a mission or service for the Bank.

6 Waiver of privileges and immunities

The Bank may waive any privileges or immunities to which:

- (a) the Bank; or
- (b) a Governor of the Bank; or
- (c) a Director of the Bank; or
- (d) an Alternate Director of the Bank; or
- (e) the President of the Bank; or
- (f) a Vice-President of the Bank; or
- (g) another officer or employee of the Bank; or
- (h) an expert or consultant performing a mission or service for the Bank;

is entitled by virtue of this instrument.

7 Alternate Governor of the Bank

For the purposes of this instrument, an Alternate Governor of the Bank is taken to be a Governor of the Bank.

Schedule 1—Privileges and immunities of the Bank

Note: See section 4.

1 Privileges and immunities of the Bank

The following table sets out privileges and immunities of the Bank.

Privileges and immunities	
Item	Privilege or immunity
1	Immunity of the Bank from suit and from other legal process, except in cases that arise out of, or in connection with, the exercise of the Bank's powers: (a) to raise funds, through borrowings or other means; or (b) to guarantee obligations; or (c) to buy and sell, or underwrite, the sale of securities; and that involve an action brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank: (d) has an office; or (e) has appointed an agent for the purpose of accepting service or notice of process; or (f) has issued or guaranteed securities.
2	Despite item 1, immunity from suit and from other legal process brought against the Bank by: (a) a member of the Bank; or (b) an agency or instrumentality of a member of the Bank; or (c) an entity or person directly or indirectly acting for, or deriving claims from, a member of the Bank or an agency or instrumentality of a member of the Bank.
3	Immunity of property and assets of the Bank from all forms of seizure, attachment or execution, in relation to a suit or other legal process, before the delivery of final judgment against the Bank. This item applies to property and assets of the Bank regardless of where they are located or by whom they are held.
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Privileges and immunities

Item	Privilege or immunity
4	Immunity of property and assets of the Bank from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action. This item applies to property and assets of the Bank regardless of where they are located or by whom they are held.
5	To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of the Bank Agreement, exemption of property and assets of the Bank from restrictions, regulations, controls and moratoria of any kind.
6	Inviolability of the Bank's archives and all documents belonging to the Bank. This item applies to the Bank's archives, and documents belonging to the Bank, regardless of where they are located or by whom they are held.
7	Inviolability of all documents held by the Bank. This item applies to documents held by the Bank regardless of where they are located.
8	Exemption from currency and exchange restrictions.
9	The right to avail itself, for telegraphic communications sent by the Bank and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Australia), of any reduced rates applicable in relation to telegraphic communications by the press.
10	Absence of censorship for official correspondence and other official communications.
11	The right to use codes and to send and receive correspondence and other papers and documents by couriers or in sealed bags and to have any such couriers or bags treated as diplomatic couriers or diplomatic bags, as the case may be.

Clause 1

Schedule 2—Privileges and immunities of officers and employees of the Bank etc.

Note: See section 5.

1 General privileges and immunities of the officers and employees of the Bank etc.

The following table sets out the privileges and immunities referred to in subsection 5(1).

Privileges and immunities	
Item	Privilege or immunity
1	Immunity from suit and from other legal process in respect of acts and things done in the person's capacity as: (a) a Governor of the Bank; or (b) a Director of the Bank; or (c) an Alternate Director of the Bank; or (d) the President of the Bank; or (e) a Vice-President of the Bank; or (f) another officer or employee of the Bank; or (g) an expert or consultant performing a mission or service for the Bank.
2	Inviolability of official papers, documents and records.
3	Exemption from the application of laws relating to immigration and the registration of aliens.
4	Exemption from the obligation to perform national service.
5	Exemption from currency or exchange restrictions to such extent as is accorded to an official, of comparable rank, forming part of a diplomatic mission.
6	The like privileges and immunities in respect of personal baggage as are accorded to a diplomatic agent.

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2 Taxation privileges and immunities of the officers and employees of the Bank etc.

The following table sets out the privileges and immunities referred to in subsection 5(2).

Privileges and immunities	
Item	Privilege or immunity
1	Exemption from taxation on salaries, emoluments and expenses received from the Bank.
