

# **Diplomatic Privileges and Immunities Amendment Act 2004**

Public Act 2004 No 1  
Date of assent 1 March 2004

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**The Parliament of New Zealand enacts as follows:****1 Title**

- (1) This Act is the Diplomatic Privileges and Immunities Amendment Act 2004.
- (2) In this Act, the Diplomatic Privileges and Immunities Act 1968 is called “the principal Act”.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 New section 9AB inserted**

The principal Act is amended by inserting, after section 9AA, the following section:

**“9AB Privileges and immunities of members, and of private servants of members, of EC delegations**

- “(1) The Governor-General may, by Order in Council, confer upon such members or classes of members (for example, administrative and technical staff, but in no case including service staff) of a permanent delegation of the European Commission (an **EC delegation**) as are specified in the Order, to such extent as may be so specified, the privileges and immunities specified in the Third Schedule.
- “(2) The Governor-General may, by Order in Council, confer upon such of the following as are specified in the Order, to such extent as may be so specified, the privileges and immunities specified in Schedule 4:
  - “(a) members of an EC delegation who are service staff.
  - “(b) private servants of members of an EC delegation.
- “(3) Schedule 5 extends to the members of the families forming part of the household of members of an EC delegation who are mentioned in subsection (1) any privileges and immunities conferred on the members under that subsection, except in so far as some or all of the operation of Schedule 5 is excluded by the Order conferring the privileges and immunities.
- “(4) No Order under this section may confer any privilege or immunity upon any person—

- “(a) as the representative of Her Majesty in right of New Zealand or of the Government of New Zealand; or
  - “(b) as a member of the staff of such a representative.
- “(5) An Order made under section 9(2)(a) in respect of the European Commission may, in accordance with this section, also confer privileges and immunities on members, or on private servants of members, of EC delegations, and nothing in this section limits the application of section 9(2)(b) and (c) to persons associated with the European Commission.”

#### 4 Amendments consequential on enactment of section 3

- (1) The heading to Part 2 of the principal Act is consequentially amended by omitting the words “**and Persons Connected Therewith**”, and substituting the words “**or tribunals and associated persons, and representatives attending international conferences**”.
- (2) The heading to section 9 of the principal Act is consequentially amended by omitting the words “**persons connected therewith**”, and substituting the words “**associated persons**”.
- (3) Section 9(2) of the principal Act is consequentially amended—
  - (a) by omitting the words “subparagraph (i) of paragraph (b) of this subsection”, and substituting the expression “paragraph (b)(i)” ; and
  - (b) by inserting, after the words “and to the members of the families forming part of the household of officers of the organisation”, the words “mentioned in paragraph (b)(ii)” ; and
  - (c) by omitting the words “that paragraph”, and substituting the words “those subparagraphs” ; and
  - (d) by inserting, before the words “the operation”, the words “some or all of”.
- (4) Section 9A of the principal Act is consequentially amended—
  - (a) by omitting from the heading the words “persons connected therewith”, and substituting the words “associated persons” ; and
  - (b) by omitting from subsection (1) the words “subparagraph (i) of paragraph (b) of this subsection”, and substituting the expression “paragraph (b)(i)” ; and

- (c) by inserting in subsection (1), after the words “and to the members of the families forming part of the household of officers of the Commonwealth Secretariat”, the words “mentioned in paragraph (b)(ii)” ; and
  - (d) by omitting from subsection (1) the words “that paragraph”, and substituting the words “those subparagraphs” ; and
  - (e) by inserting in subsection (1), before the words “the operation”, the words “some or all of” ; and
  - (f) by omitting from subsection (2) the words “persons connected therewith”, and substituting the words “associated persons”.
- (5) Section 21(1) of the principal Act is consequentially amended by inserting, before the expression “section 10,”, the expression “section 9AB,”.
- (6) The heading to Schedule 3 of the principal Act is consequentially amended—
- (a) by omitting the expression “Section 9(2)(b)”, and substituting the expression “ss 9(2)(b), 9AB(1)” ; and
  - (b) by omitting the words “**and Persons on Missions**”, and substituting the words “**persons on missions, and certain members of EC delegations**”.
- (7) The heading to the Schedule 4 of the principal Act is consequentially amended—
- (a) by omitting the expression “Section 9(2)(c)”, and substituting the expression “ss 9(2)(c), 9AB(3)” ; and
  - (b) by adding the words “, **members of EC delegations who are service staff, and private servants of members of EC delegations**”.
- (8) The heading to the Schedule 5 of the principal Act is consequentially amended—
- (a) by omitting the expression “Section 9(2)”, and substituting the expression “ss 9(2), 9AB(2)” ; and
  - (b) by omitting the words “**High Officers’ families**”, and substituting the words “**families of high officers or of certain members of EC delegations**”.
- (9) Schedule 5 of the principal Act is consequentially amended by adding the following clause:

“3. Where a person is accorded any such privileges and immunities as are mentioned in the Third Schedule as a member of an EC delegation, the members of the family of that member of the EC delegation who form part of his or her household must also be accorded those privileges and immunities to the same extent as the members of the family of a diplomatic agent who form part of his or her household are accorded the privileges and immunities accorded to that diplomatic agent.”

**5 New sections 10D and 10E substituted**

The principal Act is amended by repealing section 10D, and substituting the following sections:

**“10D Privileges and immunities of International Criminal Court and its Judges, Prosecutor, Deputy Prosecutors, and staff**

“(1) In this section and section 10E,—

“**Agreement** means the Agreement on the Privileges and Immunities of the International Criminal Court adopted by the Assembly of States Parties on 9 September 2002

“**Assembly of States Parties** means the Assembly of States Parties to the Rome Statute

“**ICC** means the International Criminal Court established under the Rome Statute; and includes any of the organs of the International Criminal Court referred to in the Rome Statute

“**Rome Statute** means the Rome Statute of the International Criminal Court dated 17 July 1998 (the English text of which is set out in the Schedule to the International Crimes and International Criminal Court Act 2000).

“(2) The Governor-General may, by Order in Council, confer such privileges and immunities as may be required by—

“(a) article 48(1) of the Rome Statute or articles 2 to 12 of the Agreement, or both, on the ICC:

“(b) article 48(2) of the Rome Statute or article 15 of the Agreement, or both, on the following persons:

“(i) Judges of the ICC:

“(ii) the Prosecutor of the ICC:

“(iii) Deputy Prosecutors of the ICC:

“(iv) the Registrar of the ICC:

- “(c) article 48(3) of the Rome Statute or article 16 of the Agreement, or both, on the following persons:
    - “(i) the Deputy Registrar of the ICC:
    - “(ii) staff of the Office of the Prosecutor of the ICC:
    - “(iii) staff of the Registry of the ICC:
  - “(d) article 48(4) of the Rome Statute or articles 18 to 22 of the Agreement, or both, on counsel, witnesses, victims, experts, and any other person required to be present at the seat of the ICC:
  - “(e) article 14 of the Agreement on representatives of States participating in the proceedings of the ICC:
  - “(f) article 17 of the Agreement on personnel recruited locally by the ICC, other than persons referred to in paragraphs (b) to (e).
- “(3) An Order in Council made under subsection (2) may—
- “(a) confer privileges and immunities on New Zealand citizens and permanent residents subject to some or all of the limitations set out in article 23 of the Agreement; and
  - “(b) refer to the purpose of conferring the privileges and immunities (as set out in articles 25 and 26 of the Agreement); and
  - “(c) refer to how the privileges and immunities may be waived (as set out in article 48(5) of the Rome Statute and articles 25 and 26 of the Agreement); and
  - “(d) extend the privileges and immunities conferred on the persons referred to in subsection (2)(b) and (c) to members of their families forming part of their households (as contemplated by article 48(2) of the Rome Statute and to the extent provided in articles 15 and 16 of the Agreement).

**“10E Privileges and immunities of representatives at Assembly of States Parties or its subsidiary organs**

- “(1) The Governor-General may, by Order in Council, confer such privileges and immunities as may be required by article 13 of the Agreement on the following persons:

- “(a) representatives of States Parties to the Rome Statute attending meetings of the Assembly of States Parties or any of its subsidiary organs:
- “(b) representatives of States attending meetings of the Assembly of States Parties or any of its subsidiary organs as observers, as permitted by article 112(1) of the Rome Statute:
- “(c) representatives of States or intergovernmental organisations invited to meetings of the Assembly of States Parties or any of its subsidiary organs.
- “(2) An Order in Council made under subsection (1) may refer to the purpose of conferring the privileges and immunities and how the privileges and immunities may be waived (as set out in article 25 of the Agreement).”

**6 Refunds or payments in case of exemptions from taxation**  
Section 21(1) of the principal Act is amended by inserting, after the words “section 10,”, the words “section 10D, section 10E,”.

**7 Consequential amendment to Immigration Act 1987**  
Section 11(1)(a) of the Immigration Act 1987 (1987 No 74) is amended by inserting, after the words “the Diplomatic Privileges and Immunities Act 1968”, the words “, other than a person referred to in section 10D(2)(d) of that Act,”.

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### Legislative history

30 June 2003	Introduction (Bill 61-1)
20 July 2003	First reading and referral to Foreign Affairs, Defence and Trade Committee
7 November 2003	Reported from Foreign Affairs, Defence and Trade Committee
19 February 2004	Second reading
24 February 2004	Committee of the whole House (Bill 61-2)
25 February 2004	Third reading

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