



House of Representatives

Supplementary Order Paper

Tuesday, 24 February 2004

Diplomatic Privileges and Immunities Amendment Bill

Proposed amendments

Hon Phil Goff, in Committee, to move the following amendments:

Clause 2

To omit from lines 7 and 8 on page 1 the words “a date appointed by the Governor-General by Order in Council”, and substitute the words “the day after the date on which it receives the Royal assent”.

New clauses 2A and 2B

To insert, before *clause 3* (before line 9 on page 1), the following clauses:

2A 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 the Fourth Schedule:

“(a) members of an EC delegation who are service staff:

“(b) private servants of members of an EC delegation.

- “(3) The Fifth Schedule 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 the Fifth Schedule 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.”

2B Amendments consequential on enactment of section 2A

- (1) The heading to Part II 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 the Third Schedule 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 Fourth Schedule 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 Fifth Schedule 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) The Fifth Schedule 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.”
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Explanatory note

This Supplementary Order Paper supersedes Supplementary Order Paper 189. It sets out amendments to the Diplomatic Privileges and Immunities Amendment Bill. The Bill makes amendments to the Diplomatic Privileges and Immunities Act 1968 (“the principal Act”) that are needed to implement the Agreement on the Privileges and Immunities of the International Criminal Court.

The main amendment to the Bill is the insertion of *new clauses 2A and 2B*. (However, *clause 2* is also amended to ensure that all of the Bill comes into force on the day after assent.)

New clause 2A inserts in the principal Act a *new section 9AB*. The new section gives power to make orders conferring privileges and immunities upon members, and private servants of members, of permanent delegations in New Zealand of the European Commission (**EC delegations**). A proposal to establish an EC delegation has made clear the need for the power. The new section also ensures that privileges may be extended to family of certain members of an EC delegation (in the same way as privileges may be extended to family of high officers of other international organisations or of the Commonwealth Secretariat).

New clause 2B makes amendments consequential on the enactment of *new clause 2A*. (The amendments in *new clause 2B(3)(a) to (c) and (4)(b) to (d)* make clearer sections 9(2) and 9A(1) of the principal Act. The need to make those amendments was identified in connection with the proposal to establish the EC delegation.)
