

**Reprint  
as at 29 November 2010**



**Diplomatic Privileges (EC) Order  
2004**

(SR 2004/56)

Silvia Cartwright, Governor-General

**Order in Council**

At Wellington this 15th day of March 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 9 and 9AB of the Diplomatic Privileges and Immunities Act 1968, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This order is administered by the Ministry of Foreign Affairs and Trade.**

<b>Contents</b>		Page
1	Title	3
2	Commencement	3
<i>Interpretation</i>		
3	EC and other terms defined	3
<i>Declaration as to specified organisations</i>		
4	Declaration as to specified organisations	4
<i>Body corporate</i>		
5	Body corporate	5
<i>EC's privileges and immunities</i>		
6	Immunity from suit	5
7	Inviolability of premises and archives	5
8	Immunity of property	5
9	Exemption from taxes and rates	5
10	Exemption from taxes on importation of goods for official use	5
11	Exemption from restrictions on importation or exportation of goods for official use	6
12	Facilities in respect of telegraphic communications	6
<i>Privileges and immunities of certain high officers of EC</i>		
13	President and Commissioner for External Relations	6
<i>Privileges and immunities of members of EC delegations</i>		
14	Members whose functions equivalent to diplomatic agent	6
15	Administrative and technical staff	7
16	Service staff	8
<i>Privileges and immunities of private servants of members of EC delegations</i>		
17	Exemption from taxes in respect of emoluments	9
<i>Waiver</i>		
18	Privileges and immunities may be waived by EC	9
<i>Order not in force in Tokelau</i>		
19	Order not in force in Tokelau	9

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**Order**

**1 Title**

This order is the Diplomatic Privileges (EC) Order 2004.

**2 Commencement**

This order comes into force on 19 March 2004.

*Interpretation*

**3 EC and other terms defined**

(1) In this order, unless the context otherwise requires,—

**EC** means the Commission (commonly known as the European Commission or the Commission of the European Communities) established by Section 3 of Chapter 1 of Title I of Part Five of the Treaty establishing the European Community

**EC delegation** has the meaning given to it by section 9AB(1) of the Diplomatic Privileges and Immunities Act 1968

**European Atomic Energy Community** means the Community (commonly known as Euratom) established by the Treaty establishing the European Atomic Energy Community signed in Rome on 25 March 1957 as amended by—

- (a) Title IV of TEU; and
- (b) the Treaty of Amsterdam; and
- (c) the Treaty of Nice

**European Communities** means—

- (a) the European Atomic Energy Community; and
- (b) the European Community

**European Community** means the Community established by the Treaty establishing the European Community as amended by—

- (a) the Treaty of Amsterdam; and
- (b) the Treaty of Nice

**New Zealand national** means a person who is—

- (a) a New Zealand citizen or the holder of a residence class visa under the Immigration Act 2009; and
- (b) ordinarily resident in New Zealand at the time of appointment

**ordinarily resident in New Zealand** has the meaning given to it in subclause (2)

**specified organisations** means the following organisations:

- (a) EC; and
- (b) the European Atomic Energy Community; and
- (c) the European Community

**TEU** means the Treaty on European Union signed in Maastricht on 7 February 1992

**Treaty establishing the European Community** means the Treaty establishing the European Economic Community signed in Rome on 25 March 1957 as amended by Title II of TEU

**Treaty of Amsterdam** means the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed in Amsterdam on 2 October 1997

**Treaty of Nice** means the Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed in Nice on 26 February 2001.

- (2) For the purposes of this order, a person must be treated as being ordinarily resident in New Zealand if—
- (a) the person's home is in New Zealand; or
  - (b) the person is residing in New Zealand with the intention of residing in New Zealand indefinitely; or
  - (c) having resided in New Zealand with the intention of establishing his or her home in New Zealand, or with the intention of residing in New Zealand indefinitely, the person is outside New Zealand but has an intention to return to establish his or her home in New Zealand or to reside in New Zealand indefinitely.

Clause 3(1) **New Zealand national** paragraph (a): substituted, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

Clause 3(1) **permanent resident**: revoked, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

#### *Declaration as to specified organisations*

#### **4 Declaration as to specified organisations**

Each of the specified organisations is an organisation of which the Governments of 2 or more States are members.

*Body corporate*

**5 Body corporate**

Each of the specified organisations has the legal capacities of a body corporate.

*EC's privileges and immunities*

**6 Immunity from suit**

EC has immunity from suit and legal process, except in so far as in any particular case it has expressly waived its immunity.

**7 Inviolability of premises and archives**

EC has the like inviolability of official premises and archives as is accorded in respect of official premises and archives of a diplomatic mission.

**8 Immunity of property**

EC has immunity in relation to its property and assets from search, requisition, confiscation, expropriation, or any other form of interference.

**9 Exemption from taxes and rates**

EC is exempt from taxes and rates other than—

- (a) taxes on the importation of goods; and
- (b) taxes and rates that are charges for public utility services; and
- (c) goods and services tax under the Goods and Services Tax Act 1985.

**10 Exemption from taxes on importation of goods for official use**

- (1) EC is exempt from taxes on the importation of goods directly imported by EC for its official use in New Zealand or for exportation, or on the importation of any publications of EC directly imported by it.
- (2) The exemption is subject to compliance with any conditions the Minister of Customs determines for the protection of the revenue.

**11 Exemption from restrictions on importation or exportation of goods for official use**

- (1) EC is exempt from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by EC for its official use, and in the case of any publications of EC directly imported or exported by it.
- (2) The exemption is subject to compliance with any conditions the Minister of Customs determines for the protection of public health, the prevention of diseases in plants and animals, and otherwise in the public interest.

**12 Facilities in respect of telegraphic communications**

EC has the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or dispatched from places outside New Zealand), of any reduced rates applicable for the corresponding service in the case of press telegrams.

*Privileges and immunities of certain high officers of EC*

**13 President and Commissioner for External Relations**

The President of EC, and the Commissioner for External Relations of EC, enjoy—

- (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:
- (b) the like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent:
- (c) the like exemption from taxes and rates as is accorded to a diplomatic agent.

*Privileges and immunities of members of EC delegations*

**14 Members whose functions equivalent to diplomatic agent**

- (1) Members of an EC delegation whose functions are equivalent to those of a diplomatic agent enjoy—
  - (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:

- (b) the like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent:
  - (c) the like exemption from taxes and rates as is accorded to a diplomatic agent.
- (2) Examples of members of an EC delegation whose functions are equivalent to those of a diplomatic agent are Ambassadors, High Commissioners, Heads of Mission, Deputy or Assistant Heads of Mission, Ministers, Counsellors, First or Second Secretaries, and Attachés.
- (3) Despite subclause (1), if those members are New Zealand nationals,—
  - (a) they enjoy the immunity conferred by subclause (1)(a), and the inviolability conferred by subclause (1)(b), only in respect of things done or omitted to be done by them in the course of the performance of their official duties; and
  - (b) they do not enjoy the exemption conferred by subclause (1)(c); and
  - (c) members of their families forming part of their households do not enjoy the privileges and immunities conferred on them by subclause (1).
- (4) Despite subclause (1), if those members are not New Zealand nationals, members of their families forming part of their households do not enjoy the privileges and immunities conferred on them by subclause (1) if those members of their families are New Zealand citizens or permanent residents.

## **15 Administrative and technical staff**

- (1) Members of an EC delegation who are administrative or technical staff enjoy—
  - (a) the like immunity from suit and legal process as is accorded to a diplomatic agent:
  - (b) the like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent:
  - (c) the like exemption from taxes and rates as is accorded to a diplomatic agent.
- (2) Despite subclause (1)(a), those members enjoy immunity from civil and administrative jurisdiction only in respect of things

done or omitted to be done by them in the course of the performance of their official duties.

- (3) Despite subclause (1)(c), those members enjoy an exemption from taxes on the importation of goods only in respect of furniture and effects imported at the time of first taking up post in New Zealand.
- (4) Despite subclauses (1) to (3), if those members are New Zealand nationals,—
  - (a) they enjoy the immunity conferred by subclauses (1)(a) and (2), and the inviolability conferred by subclause (1)(b), only in respect of things done or omitted to be done by them in the course of the performance of their official duties; and
  - (b) they do not enjoy the exemption conferred by subclause (1)(c); and
  - (c) members of their families forming part of their households do not enjoy the privileges and immunities conferred on them by subclauses (1) to (3).
- (5) Despite subclauses (1) to (3), if those members are not New Zealand nationals, members of their families forming part of their households do not enjoy the privileges and immunities conferred on them by subclauses (1) to (3) if those members of their families are New Zealand citizens or permanent residents.

## **16 Service staff**

- (1) Members of an EC delegation who are service staff enjoy—
  - (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their official duties;
  - (b) exemption from taxes in respect of emoluments received as an officer or servant of EC.
- (2) Despite subclause (1)(b), if those members are New Zealand nationals, they do not enjoy the exemption conferred by subclause (1)(b).

*Privileges and immunities of private servants of  
members of EC delegations*

**17 Exemption from taxes in respect of emoluments**

- (1) Private servants of members of EC delegations enjoy exemption from taxes in respect of emoluments received as a private servant of a member of an EC delegation.
- (2) Despite subclause (1), if those private servants are New Zealand nationals, they do not enjoy the exemption conferred by subclause (1).

*Waiver*

**18 Privileges and immunities may be waived by EC**

The privileges and immunities conferred by clauses 13 to 17 do not apply in so far as in any particular case any privilege or immunity is waived by EC.

*Order not in force in Tokelau*

**19 Order not in force in Tokelau**

This order is not in force in Tokelau.

Diane Morcom,  
Clerk of the Executive Council.

**Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
- 

**Notes****1 General**

This is a reprint of the Diplomatic Privileges (EC) Order 2004. The reprint incorporates all the amendments to the order as at 29 November 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Immigration Act 2009 (2009 No 51): section 406(2)

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