



Diplomatic Privileges (SPRFMO) Order 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 14th day of April 2014

Present:
His Excellency the Governor-General in Council

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

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Order

- 1 Title**
This order is the Diplomatic Privileges (SPRFMO) Order 2014.
- 2 Commencement**
This order comes into force on 15 April 2014.
- 3 Interpretation**
In this order, unless the context otherwise requires,—
- Agreement** means the Headquarters Agreement between the South Pacific Regional Fisheries Management Organisation and the Government of New Zealand, done at Wellington on 15 April 2014
- Commission** means the organ of the SPRFMO established by the Convention
- Convention** means the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, done at Auckland on 14 November 2009
- expert** means a person (whether or not representing a member) performing a short-term or temporary project on behalf of the

SPRFMO, with or without consideration, but does not include a staff member

member means a member of the Commission, in accordance with the Convention

motor traffic offence includes any offence against the Road User Charges Act 2012, the Land Transport Act 1998, or the Land Transport Management Act 2003 or against any regulation, rule, or bylaw made under any of those Acts

New Zealand resident means a person resident in New Zealand under section YD 1 of the Income Tax Act 2007

permanent resident means a person who is the holder of a residence class visa under the Immigration Act 2009

Secretariat means—

- (a) the Secretariat established by the Convention; and
- (b) any agency in New Zealand of that Secretariat

SPRFMO means—

- (a) the South Pacific Regional Fisheries Management Organisation established under article 6 of the Convention; and
- (b) any agency in New Zealand of the SPRFMO, including the Commission, the Secretariat, and any other subsidiary bodies

staff member means the Executive Secretary and all persons appointed or recruited for full-time employment with the Secretariat of the SPRFMO, but does not include—

- (a) an expert; or
- (b) a person recruited in New Zealand and who is paid at an hourly rate.

4 **Declaration as to SPRFMO**

The SPRFMO is an organisation of which the Governments of 2 or more States are members.

5 **Body corporate**

The SPRFMO has the legal capacities of a body corporate.

*SPRFMO's privileges and immunities***6 Immunity from suit**

The SPRFMO has, within the scope of its official activities, immunity from suit and legal process other than—

- (a) to the extent that in any particular case it has (through the Commission or the Executive Secretary, as appropriate) expressly waived immunity:
- (b) in respect of—
 - (i) any contract for the supply of goods or services:
 - (ii) any loan or any other transaction for the provision of finance (and any guarantee and indemnity relating to the transaction):
 - (iii) any other financial obligation:
- (c) in respect of a civil action by a third party for the death of, or injury to, a person or damage arising from an accident caused by a person operating a motor vehicle belonging to, or operated on behalf of, the SPRFMO:
- (d) in respect of legal action in relation to the use of motor vehicles belonging to, or operated on behalf of, the SPRFMO, if the legal action arises from—
 - (i) a motor traffic offence:
 - (ii) a motor vehicle accident:
- (e) in the event of an attachment, ordered by a court, in respect of salaries, wages, or other emoluments owed by the SPRFMO to a staff member or an expert:
- (f) in respect of a counter claim directly connected with proceedings initiated by the Secretariat:
- (g) in respect of the enforcement of an arbitration award made under article 22 of the Agreement.

7 Inviolability of premises and archives

The SPRFMO has the like inviolability of official premises and archives as is accorded to official premises and archives of a diplomatic mission.

8 Immunity of property

- (1) The SPRFMO has immunity in relation to its property and assets from search, requisition, confiscation, expropriation, or any other form of interference.

- (2) The immunity provided in subclause (1) does not apply to administrative or judicial constraints necessary for the purposes of preventing or investigating accidents involving motor vehicles belonging to, or operated on behalf of, the SPRFMO.
- (3) The immunity provided in subclause (1) does not apply to property and assets abandoned by the SPRFMO for 12 months or more.

9 Exemption from taxes and rates

The SPRFMO is, within the scope of its official activities, exempt from taxes and rates other than—

- (a) taxes on the importation of goods; and
- (b) taxes and rates that are public utility service charges; 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) Despite clause 9, the SPRFMO is exempt from taxes on the importation of goods directly imported by the SPRFMO for its official use in New Zealand or for exportation, or on the importation of any publications of the SPRFMO directly imported by it.
- (2) The exemption is subject to compliance with any conditions the Minister of Customs determines for the protection of revenue.

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

- (1) The SPRFMO is exempt from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the SPRFMO for its official use, and in the case of any publications of the SPRFMO 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 pub-

lic health, the prevention of diseases in plants and animals, and otherwise in the public interest.

Privileges and immunities of representatives of members

- 12 Privileges and immunities of representatives of members**
- (1) Representatives of members at any conference or meeting convened by the SPRFMO enjoy, in the exercise of their official functions and during their journeys to and from the places of meeting,—
- (a) the like immunity from suit and legal process (even after termination of their mission) in respect of acts, including words written or spoken, done by representatives as is accorded to a diplomatic agent; and
- (b) the like inviolability of all of their official papers and documents as is accorded to a diplomatic agent.
- (2) The immunity conferred by subclause (1)(a) does not apply to any legal action in relation to motor vehicles driven by or belonging to representatives of members if the legal action arises from—
- (a) a motor traffic offence;
- (b) a motor vehicle accident.
- (3) In this clause, **representatives of members**—
- (a) means representatives of members of the Commission in attendance at conferences or meetings convened by the Commission, Secretariat, or any other subsidiary bodies of the SPRFMO; and
- (b) includes all delegates, alternates, advisers, technical experts, and secretaries of delegations; but
- (c) does not include any representative of the Government of New Zealand, any member of the staff of any such representative, or any New Zealand citizen or permanent resident.
- (4) The privileges and immunities conferred by this clause do not apply in so far as in any particular case any privilege or immunity is waived by the member concerned.

*Privileges and immunities of staff members***13 Privileges and immunities of staff members**

- (1) Staff members enjoy—
 - (a) immunity from suit and legal process (even after they have left the service of the SPRFMO) in respect of acts, including words written or spoken, done by them in the exercise of their official functions; and
 - (b) the inviolability of all of their official papers and documents; and
 - (c) exemption from income taxes in respect of emoluments received as staff members for services performed solely for the SPRFMO; and
 - (d) exemption from duties on the furniture and effects (including 1 motor vehicle) imported at the time of first taking up a post in New Zealand.
- (2) The immunity from jurisdiction conferred by subclause (1)(a), does not apply to any legal action in relation to motor vehicles driven by or belonging to staff members, if the legal action arises from—
 - (a) a motor traffic offence;
 - (b) a motor vehicle accident.
- (3) The exemption conferred by subclause (1)(c) does not apply to emoluments received for services performed in New Zealand by a staff member who is a New Zealand citizen or New Zealand resident, except where the staff member has become a New Zealand resident solely by reason of performing his or her duties for the SPRFMO.
- (4) The exemption conferred by subclause (1)(d)—
 - (a) does not apply in relation to the importation of furniture and effects by staff members who are New Zealand citizens or permanent residents;
 - (b) is subject to conditions governing the disposal of goods imported into New Zealand duty-free.
- (5) The privileges and immunities conferred by this clause do not apply in so far as in any particular case any privilege or immunity is waived,—
 - (a) in the case of the Executive Secretary, by the Commission; or

- (b) in any other case, by the Executive Secretary.

Privileges and immunities of experts

14 Privileges and immunities of experts

- (1) Experts enjoy, in the exercise of their official functions and during their journeys to and from the places of meeting,—
- (a) the like immunity from suit and legal process (even after the termination of their mission) in respect of acts, including words written or spoken, done by them as is accorded to a diplomatic agent; and
- (b) the like inviolability of all their official papers and documents, as is accorded to a diplomatic agent.
- (2) The immunity conferred by subclause (1)(a), does not apply to any legal action in relation to motor vehicles driven by or belonging to experts if the legal action arises from—
- (a) a motor traffic offence;
- (b) a motor vehicle accident.
- (3) The privileges and immunities conferred by subclause (1) do not apply to any representative of the Government of New Zealand, any member of the staff of any such representative, or any New Zealand citizen or permanent resident.
- (4) The provisions of this order are without prejudice to any privilege or immunity to which an expert may be entitled under any other international agreement to which New Zealand is a party.
- (5) The privileges and immunities conferred by this clause do not apply in so far as in any particular case any privilege or immunity is waived by the Commission.

Order not in force in Tokelau

15 Order not in force in Tokelau

This order is not in force in Tokelau.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 15 April 2014, is made under the Diplomatic Privileges and Immunities Act 1968. This order, which is not in force in Tokelau,—

- gives effect to the Headquarters Agreement between the South Pacific Regional Fisheries Management Organisation and the Government of New Zealand, expected to be done at Wellington on 15 April 2014; and
- declares the South Pacific Regional Fisheries Management Organisation (the **SPRFMO**) to be an organisation of which the Governments of 2 or more States are members; and
- provides that the SPRFMO has the legal capacities of a body corporate.

This order also confers specified privileges and immunities on—

- the SPRFMO; and
- representatives of members; and
- staff members of the Secretariat; and
- experts to the SPRFMO.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 14 April 2014.

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