



Agreement on the Conservation of Albatrosses and Petrels

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Implementation of Headquarters Agreement

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Implementation of the ACAP Headquarters Agreement

The Headquarters Agreement (HQA) between the Secretariat to the Agreement on the Conservation of Albatrosses and Petrels (ACAP) and the Government of Australia was signed on 23 June 2008 and entered into force on 2 December 2008. The HQA established the permanent ACAP Secretariat in Hobart, Australia, and describes the general terms and provisions under which the Secretariat operates in, and is hosted by, Australia. The Agreement requires a range of implementing actions by both the Australian Government and the ACAP Secretariat for all provisions to be fully operational and for the Secretariat to have legal identity within Australia. This paper, prepared jointly by the ACAP Secretariat and the Government of Australia, reports on progress in undertaking those actions.

Perhaps the most significant action has been the making of regulations by the Australian Government under the *International Organisations (Privileges and Immunities) Act 1963* (the Act) to give legal effect to the privileges and immunities of the HQA. An electronic copy of the Act is available at:

[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/13C1190724DAB466CA25748A002117E9/\\$file/InternatOrganisPandI1963_WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/13C1190724DAB466CA25748A002117E9/$file/InternatOrganisPandI1963_WD02.pdf) A copy of the regulations, titled *Secretariat to the Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels (Privileges and Immunities) Regulations 2008, Select Legislative Instrument 2008 No. 233* (the Regulations), is at Attachment A. The Regulations establish the legal framework to give practical effect to the provisions of the HQA. In addition, a range of actions have been taken in respect of individual articles in the HQA; these actions are summarised below for the key articles.

The most significant article yet to be fully implemented is that relating to the exemption of the Secretariat from indirect taxes (article 10).

Article 1 – Definitions

No implementation action required.

Article 2 – Legal Capacity

Regulations 4 and 5 provide for the Secretariat to have legal personality and capacity to perform its functions within Australia.

Article 3 – Interpretation

No implementation action required.

Article 4 – Establishment of Secretariat and Headquarters

The Secretariat's Headquarters are now established at 27 Salamanca Square, Hobart, Tasmania, Australia

Article 5 – Premises

Provisions relating to the premises of the Headquarters of the Secretariat are provided for in the Regulations where necessary.

The ACAP Secretariat has formally advised the Government of Australia of the Headquarters location, in accordance with Article 5(3).

Article 6 – Immunities of the Secretariat

Immunities of the Secretariat are provided for under Regulations 7, 8, 9 and 10 and, as specified in Regulation 6, certain paragraphs of the First Schedule of The Act. The immunities provided by these Regulations came into effect on 3 December 2008.

Article 7 – Archives

The inviolability of the archives of the Secretariat is provided for in Paragraph 4 of the First Schedule of the Act.

Article 8 – Flag and Emblem

The ACAP logo is displayed on the premises. A flag has not yet been designed.

Article 9 – Exemption from Direct Taxes

The Secretariat's exemption from direct taxes is provided for in Regulation 10.

Article 10 – Exemption or Refund of Customs and Excise Duties and Refund for Value-added Tax

Exemption and refund of Customs and Excise Duties are provided for in Paragraph 6 of the First Schedule of the Act (Regulation 6 also refers).

Refund of Value-added Tax (Goods and Services Tax) has not yet been implemented. Parliamentary approval of an Amending Determination to the Indirect Taxation Concession Scheme is required. The Prime Minister and the Treasurer must approve this Amending Determination prior to its submission to the Australian Parliament. The legal drafting process and these approvals are expected to take an extended period of time.

Article 11 – Re-sale

The re-sale of goods acquired by the Secretariat is provided for in Regulation 10.2.

Article 12 – Currency and Exchange

Regulation 6 provides exemption from currency and exchange restrictions as detailed in paragraph 5 of the First Schedule of the Act. The Secretariat became an international organisation to which the Act applies on 3 December 2008.

Article 13 – Communications

The provision that the Secretariat's communications are not subject to censorship is provided for in Paragraphs 11 and 12 of the First Schedule of the Act.

Article 14 – Publications

The importation and exportation of the Secretariat's publications is provided for in paragraph 9.b of the First Schedule of the Act. Implementation has been completed.

Article 15 – Representatives in Attendance at ACAP Meetings

Regulation 14 provides for privileges and immunities for representatives at ACAP meetings.

Article 16 – Executive Secretary

Regulation 11 provides for privileges and immunities to the Executive Secretary of the Secretariat.

Article 17 – Staff Members

Regulation 12 provides for privileges and immunities to staff of the Secretariat.

Article 18 – Experts

Regulation 15 provides for privileges and immunities for experts working with the Secretariat.

Article 19 – Visas

The provision of visas to enter Australia is done on a case by case basis, as required.

Article 20 – Objective and Waiver of Privileges and Immunities

Regulation 20 of the Regulations provides for privileges and immunities of persons exercising functions in connection with ACAP, including representatives of States Parties, and the waiver of such privileges and immunities by the Meeting of the Parties or States Parties.

Article 21 – Cooperation

No implementation action required.

Article 22 – Notification of Appointments, Identity Cards

Notification of appointments has been made to the Australian Government in accordance with this article.

Article 23 – Consultations

Consultation between the parties is done on a case by case basis, as required.

Article 24 – Settlement of Disputes

No implementation action required.

Article 25 – Entry into Force and Termination

No implementation action required.

Article 26 – Amendment

No implementation action required.