



## Diplomatic Privileges and Immunities (Asian Development Bank) Order 2019

His Excellency, Tom Marsters

Queen's Representative

### Order in Executive Council

At Avarua, Rarotonga this

1<sup>st</sup>

day of

number

2019

Present:

### His Excellency the Queen's Representative in Executive Council

Pursuant to section 9 of the Diplomatic Privileges and Immunities Act 1968 (as extended by section 26), His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following Order—

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#### Part 1 Declaration

#### Part 2 Privileges and Immunities of the Asian Development Bank

#### Order

- 1 **Title**  
This Order is the Diplomatic Privileges and Immunities (Asian Development Bank) Order 2019.
- 2 **Commencement**  
This Order comes into force on the day after the date on which it is made.

**3 Interpretation**

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

**Act** means the Diplomatic Privileges and Immunities Act 1968;

**assets** includes a non-commercial telecommunications network, software and hardware;

**official premises** includes the office seat;

**property** includes a diplomatic bag.

(2) Any term or expression that is defined in the Act and used, but not defined, in this Order has the same meaning as in the Act.

**Part 1  
Declaration**

4 The Asian Development Bank is declared to be an organisation the members of which are sovereign Powers.

**Part 2  
Privileges and Immunities of the Asian Development Bank**

5 The Asian Development Bank will have the legal capacities of a body corporate.

6 Except in so far as in any particular case it has expressly waived its immunity, the Asian Development Bank will have immunity from suit and legal process.

7 The Asian Development Bank must have the like inviolability of official premises and official archives as is accorded in respect of the official premises and official archives of a foreign envoy.

8 The Asian Development Bank will have immunity in relation to its property and assets, wherever located and by whomsoever held, from search requisition, confiscation, expropriation, or any other form of interference.

9 The Asian Development Bank will have the like exemption from taxes and rates, other than taxes on the importation of goods as is accorded the Government of any other State. For the exemption from payment of Value Added Tax (VAT) the Asian Development Bank will submit to the Ministry of Finance all VAT tax receipts accumulated over the financial year to 30 June to enable a refund of VAT to be processed and paid.

10 The Asian Development Bank will have exemption from taxes on the importation of goods directly imported by the Asian Development Bank for its

official use in the Cook Islands, or for exportation, or on the importation of any publications of the Asian Development Bank directly imported by it, including on the subsequent disposition of such imported goods and subject to compliance with such conditions as the Minister of Finance may prescribe for the protection of the revenue.

- 11 The Asian Development Bank will have exemption from prohibitions and restrictions on importation and exportation in the case of goods directly imported or exported by the Asian Development Bank for its official use and, in the case of any publications of the Asian Development Bank directly imported or exported by it, subject to compliance with such conditions as Minister of Finance may prescribe for the protection of the public health, the prevention of diseases in plants and animals, and otherwise in the public interest.
- 12 (1) Except in so far as in any particular case any immunity or privilege is waived by the Governments concerned, representatives of the Governments of members on any organ of the Asian Development Bank or at any conference convened by the Asian Development Bank will enjoy—
- (a) While exercising their functions as such, and during their journey to and from the place of meeting, the like immunity from personal arrest or detention and from seizure of their personal baggage and the like inviolability of all papers and documents as are accorded to a foreign envoy:
  - (b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as such:
  - (c) While exercising their functions as such, and during their journey to and from the place of meeting, the like exemption from taxes as is accorded to a foreign envoy.
- (2) This clause shall not confer any immunity or privilege upon any person as the representative of the Government of the Cook Islands or as a member of the staff or such a representative.

*Privileges and Immunities of high officials of the Asian Development Bank*

- 13 Except in so far as in any particular case any immunity or privilege is waived by the President of the Asian Development Bank. The President of the Asian Development Bank and all Governors, Directors, alternates, officers, representatives, officials and employees of the Bank, including experts performing missions for the Bank and members of comparable rank shall be accorded the like immunity from suit and legal process, the like inviolability of residence, official premises, and official archives, and the like exemption from taxes and rates as are accorded to a foreign envoy.
- 14 For the exemption from payment of Value Added Tax (VAT) the Asian Development Bank will submit to the Ministry of Finance all VAT tax receipts accumulated over the financial year to 30 June to enable a refund of VAT to be processed and paid.

*Immunities and privileges of persons employed on missions*

- 15 Except in so far as in any particular case any immunity or privilege is waived by the Board of Governors of the Asian Development Bank, persons employed on missions on behalf of the Asian Development Bank shall enjoy—
- (a) While performing their missions and during time spent on journeys in connection therewith, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability of all papers and documents relating to the work of the Asian Development Bank:
  - (b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in the exercise of their functions:
  - (c) Exemption from taxes and rates including ordinary income tax and social security income tax in respect of emoluments received by them for services while performing their duties:
  - (d) For the exemption from payment of Value Added Tax (VAT) the Asian Development Bank will submit to the Ministry of Finance all VAT tax receipts accumulated over the financial year to 30 June to enable a refund of VAT to be processed and paid:
  - (e) Exemption from national service.

*Privileges and Immunities of other officials*

- 16 Except in so far as in any particular case any immunity or privilege is waived by the President of the Asian Development Bank all officials of the Asian Development Bank shall enjoy—
- (a) Immunity from suit and legal process in respect of words spoken or written and all things done or omitted to be done by them in the course of the performance of their official duties:
  - (b) Exemption from taxes including ordinary income tax and social security income tax in respect of emoluments received by them as officers or servants of the Asian Development Bank:
  - (c) Exemption from taxes on the importation of furniture and effects imported at the time of first taking up the post in the Cook Islands including on the subsequent disposition of imported goods, that exemption to be subject to compliance with such conditions as the Minister of Finance may prescribe for the protection of the revenue:
  - (d) For the exemption from payment of Value Added Tax (VAT) the Asian Development Bank will submit to the Ministry of Finance all VAT tax receipts accumulated over the financial year to 30 June to enable a refund of VAT to be processed and paid:
  - (e) Exemption from national service.

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JJ Harold Browne

**Clerk of the Executive Council**

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This Order is administered by the Ministry of Finance and Economic Management.

This Order was made on the \_\_\_\_\_ day of \_\_\_\_\_ 2019.

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