

PRIVILEGES AND IMMUNITIES

16. Diplomatic and Consular Privileges

In New Zealand the Diplomatic Privileges and Immunities Act 1968 and the Consular Privileges and Immunities Act 1971 give effect to the relevant provisions of the VCDR and VCCR.

These Acts enable the withdrawal of privileges from the mission or post of a particular country in reciprocation of similar limitations imposed on a mission or post of New Zealand in that country.

In accordance with Article 41 of the VCDR and Article 55 of the VCCR, and without prejudice to their privileges, all persons enjoying such privileges must respect New Zealand laws and regulations.

The full range of fiscal privileges extended to missions, posts and various categories of diplomatic and consular staff and their family members are set out in Chapter 18.

16.1 New Zealand Citizens and Permanent Residents

The privileges outlined in this chapter are not available to persons who are either New Zealand citizens or New Zealand permanent residents. Refer to Chapter 3.

16.2 Representatives of the Cook Islands and Niue

Because of the special relationships between New Zealand and the Cook Islands and Niue, and the fact that their representatives are New Zealand citizens, special regulations confer privileges and immunities on their diplomatic and consular staff.

16.3 Importation of Goods Exempt from Duty and GST

Duty and GST may be waived on goods imported by Diplomatic Missions, Consular Posts and their eligible staff where the goods are:

- Not intended for sale;
- intended for the official use of missions and posts and necessary to meet reasonable requirements of the missions and posts, including outreach activities (e.g. goods/books to be donated to schools, charities or other non-profit organisations). It is recommended that advice be sought from Protocol Division before goods for outreach purposes are to be imported to check their eligibility for exemption;
- the personal effects and goods intended for the personal use of the accredited members of the mission or post, or their officially recognised family members who form part of their households, and meet reasonable personal requirements;
- the personal effects of the Administrative and Technical Staff, Consular Employees and their officially recognised family members, that are imported within a period of six months of the staff members' arrival in New Zealand. These effects must be for the personal use of the staff members or family members.

Once paid, GST cannot be refunded. It is important to ensure that goods imported under privilege are clearly identified at the time of entry into New Zealand and accompanied by a certificate stating they are privileged diplomatic or consular goods for official or personal use. The certificate must be signed by a *certifying officer* of the missions/posts. An example of the wording to be used in these certificates is included in the Annex as form MFA

614. The certificates must be completed on mission or post letterhead and sent direct to the supplier, who will forward the completed form to New Zealand Customs Service.

16.3.1 Certifying Officers

Authorised certifying officers are required to approve all official and personal duty-exempt and tax-exempt goods, except motor vehicles, which are authorised by Protocol Division. The Heads of Mission/Post must appoint certifying officers, who are required to be senior members of the mission or post. In most cases, certifying officers are expected to be the Heads of Mission/Post and his/her deputy. A maximum of two certifying officers per mission or post is permitted. Certifying officers are appointed by the Heads of Mission/Post using form MFA 608.

Missions and posts should advise Protocol Division promptly of changes to certifying officers.

Except for the Heads of Mission/ Post, certifying officers may not approve their own purchases.

16.3.2 Permissible Quantities of Exempt Goods

Restrictions will not normally be placed on the quantities of duty-free or tax-exempt goods that may be imported or purchased locally (except motor vehicles), provided they meet the reasonable personal requirements of an eligible individual or are clearly identified for official use.

The New Zealand Customs Service monitors the quantity of goods purchased duty/tax-exempt. Where it is considered such purchases are in excess of 'reasonable requirements', the Chief of Protocol will be advised and an explanation will be sought from the Head of Mission/ Post concerned.

16.3.3 Local Purchases of Duty-Exempt Goods

Missions and posts can import goods from any source exempt from all Customs charges, including Goods and Services Tax (GST), provided they are clearly identified for diplomatic and consular use at the time of entry into New Zealand. (If wishing to import tobacco products, tobacco leaf and refuse, please refer to paragraph 9.4.1). In contrast, local purchases of wine, beer, spirits, tobacco products and perfumes are only exempt from excise taxes in New Zealand when they are purchased from a supplier licensed under Section 10 of the Customs and Excise Act 1996. GST is payable for all other local purchases. All duty-exempt purchases must be accompanied by an MFA 606 form signed by the mission or post certifying officer.

16.3.4 Retail Duty-Free Purchases

Some retail outlets, not licensed under section 10 of the Customs and Excise Act 1996, are able to sell goods at duty exempt prices to members of the public travelling overseas. The goods in question are handed over to the traveller immediately prior to departure. Goods purchased in this manner are not available to members of the Corps unless purchased in conjunction with overseas travel.

Members of the Corps are also reminded that they are not permitted to purchase goods at airport duty-free shops in a Customs controlled area (e.g. while accompanying official delegation arriving/departing NZ) unless they are travelling in or out of New Zealand at the time of purchase.

16.4 Refund of Motor Spirits Excise Duty

Upon application, the excise duty component of the price of motor spirits (fuel) is reimbursed to privileged persons, missions and posts based on reciprocity. Requests for refunds of excise duty must be submitted to the New Zealand Customs Service in Queenstown (refer MFA 606 and MFA 607 forms). A separate form must be submitted for each personally owned vehicle and each official vehicle. Refund requests must be supported by the supplier's original account or receipt showing the vehicle details, date, quantity and type of fuel purchased. Eftpos purchases will be acceptable provided the garage attendant enters the motor vehicle registration details and signs or initials the eftpos receipt at the time of purchase.

Refunds are only available for 'DC' and 'CC' (not 'FC') registered vehicles, that is, for diplomatic and consular officers only.

Refunds must be sought direct from the New Zealand Customs Service on a regular basis, preferably monthly, but not less frequently than three monthly.

16.5 Rates

Refer to Chapter 21.

16.6 Fiscal Privileges

For details on fiscal privileges for missions and posts and privileged individuals, refer to Chapter 18.

For details on fiscal privileges for Honorary Consuls, refer to Chapter 8.

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