



Tuvalu

STATE IMMUNITY ACT

2008 Revised Edition

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Tuvalu

STATE IMMUNITY ACT

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Tuvalu

STATE IMMUNITY ACT

AN ACT TO SPECIFY CIRCUMSTANCES IN WHICH STATE IMMUNITY MAY APPLY TO ACTIONS AGAINST THE CROWN¹

Commencement [1 January 1983]

1 Short title

This Act may be cited as the State Immunity Act.

2 Purpose of Act

- (1) This Act shall enable the Government of Tuvalu at the terminal date of any agreement entered into by or on its behalf to determine any liability which may be contingent on performance of that agreement and thereby to enable it to make proper fiscal planning.
- (2) The Act further enables the Governor-General to certify that any action taken by Government affecting the performance of an agreement has a general public purpose and shall in all respects be a sovereign act for which a defence of state immunity shall apply to any form of litigation or arbitration.

3 Claims under any agreement to be notified

The Crown shall not be liable under any agreement entered into by or on behalf of the Government of Tuvalu if within 30 days of the terminal date of that agreement a claim has not been notified to the signatory of that agreement or otherwise to the Government intimating failure to perform obligations under that agreement either in whole or in part.

4 Certificate of sovereign act

The Governor-General acting on the advice of the Prime Minister may at any time certify that action taken in respect of any agreement entered into by or on behalf of the Government of Tuvalu has a general public purpose and as a sovereign act shall for all purposes provide a defence of state immunity to any form of litigation or arbitration.

5 Recognition and enforcement of foreign judgments

In respect of an agreement to which section 3 or section 4 applies:

- (a) state immunity shall be a defence to the recognition and enforcement of any foreign judgment related to such an agreement;
- (b) no judgment, order or decision of any kind made by any court, tribunal or other body related to such an agreement may be executed against the property of the Government of Tuvalu.

6 No outstanding Crown liability

- (1) At the date of enactment, no claim under section 3 has been intimated to the signatory or to the Government of Tuvalu in respect of any agreement and no claim under that section shall be deemed to have been made.
- (2) For the avoidance of doubt, the Crown has no liability whatsoever in respect of any agreement which was terminated for any cause, at the enactment date of this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 105 – Act 4 of 1985