

No. 47785

**Australia
and
Portugal**

Agreement on employment of the spouses and dependants of diplomatic and consular personnel between Australia and the Portuguese Republic. Lisbon, 6 February 2009

Entry into force: *6 November 2009 by notification, in accordance with article 11*

Authentic texts: *English and Portuguese*

Registration with the Secretariat of the United Nations: *Australia, 14 September 2010*

**Australie
et
Portugal**

Accord entre l'Australie et la République portugaise relatif à l'emploi des conjoints et des membres de famille à charge du personnel diplomatique et consulaire. Lisbonne, 6 février 2009

Entrée en vigueur : *6 novembre 2009 par notification, conformément à l'article 11*

Textes authentiques : *anglais et portugais*

Enregistrement auprès du Secrétariat des Nations Unies : *Australie, 14 septembre 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT ON EMPLOYMENT OF THE SPOUSES AND DEPENDANTS
OF DIPLOMATIC AND CONSULAR PERSONNEL BETWEEN AUSTRALIA
AND THE PORTUGUESE REPUBLIC**

Taking into consideration the contemporary trends and requirements in diplomatic relations and with a view to ensuring the rights of dependents of diplomats engaged in a gainful occupation,

Australia and the Portuguese Republic have agreed on the following:

Article 1

General Definitions

For the purposes of this Agreement:

1. "A member of a diplomatic mission or consular post" means any employee of the sending State, who is not a national or permanent resident of the receiving State, in a diplomatic mission, consular post or mission to an international organization in the receiving State;
2. "A member of the family" means a person who the receiving State has accepted as such and who forms part of the official household of a member of a diplomatic mission or consular post. "The members of the family" shall include:
 - a) Spouses,
 - b) Unmarried dependent children under 21 years of age of the family/forming unit,
 - c) Unmarried dependent children under 25 years of age of the family-forming unit who are in full-time attendance as students at a post-secondary educational institution, and
 - d) Unmarried, dependent children, when suffering from physical or mental disabilities, with no age limit.
3. "Diplomatic Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 2

Scope of the Agreement

1. On the basis of reciprocity, members of the family forming part of the official household of a member of the diplomatic mission or a consular post of the sending State will be authorized to engage in gainful employment in the receiving State in accordance with the provisions of the law of the receiving State and subject to the provisions of this Agreement.

2. No restriction will be placed on the type of gainful employment that may be undertaken. It is understood, however, that in professions where particular qualifications are required, it will be necessary for the members of the family to meet those qualifications and that employment may be denied in cases where, for security reasons, only nationals of the receiving State may be employed.

Article 3

Authorization

Authorization will not normally be given if the applicant would, by entering into the proposed employment, cease to form part of the household of the member of the diplomatic mission or consular post.

Article 4

Procedures

1. An official request for authorization to engage in gainful employment will be sent on behalf of the member of the family by the Embassy of the sending State to the Ministry of Foreign Affairs of the receiving State.
2. The family member will be authorized to engage in gainful employment from the time of arrival of the member of a diplomatic mission or consular post in the receiving State until the time of departure of the latter or until the end of a reasonable period thereafter.
3. The procedures followed will be applied in a way which enables the member of the family to engage in employment as soon as possible and any requirements relating to work permits and similar formalities will be favourably applied.
4. The Ministry of Foreign Affairs of the receiving State will promptly and officially inform the Embassy that the person has permission to engage in gainful employment.

Article 5

Civil and administrative privileges and immunities

In the case of members of the family who enjoy immunity from the civil and administrative jurisdiction of the receiving State in accordance with the Diplomatic Convention such immunity will be waived by the sending State in respect of all matters arising out of the employment and falling within the civil or administrative law of the receiving State. In such cases, the sending State will also waive immunity from execution of any judgment against a member of the family.

Article 6

Criminal immunity

In the case of members of the family who enjoy immunity from the criminal jurisdiction of the receiving State in accordance with the Diplomatic Convention:

- a) The sending State will waive the immunity of the member of the family concerned from the criminal jurisdiction of the receiving State in respect of any act or omission arising from the gainful occupation except in special instances when the sending State considers that such a waiver would be contrary to its interests.
- b) A waiver of immunity from criminal jurisdiction will not be construed as extending to immunity from execution of the sentence, for which a specific waiver will be required. In such cases, the sending State will give serious consideration to waiving the latter immunity.

Article 7

Taxation and social security regimes

In accordance with the Diplomatic Convention or under any other applicable international instrument members of the family will be subject to the taxation and social security regimes of the receiving State for all matters connected with their gainful employment in that State.

Article 8

Settlement of disputes

Disputes between the two states regarding the interpretation or application of the provisions to this Agreement shall be settled through diplomatic channels.

Article 9

Duration and termination

1. This Agreement shall remain in force for an unlimited period of time.
2. This Agreement may be terminated by either Party, at any time, by giving written notice through diplomatic channels of its intention to terminate the Agreement.
3. The termination of this Agreement shall enter into force three months after the receiving date of the aforementioned notification.

Article 10

Revision

The Agreement can be subject to any amendment on a proposal made by either Party. The amendments shall enter into force under the terms of article 11.

Article 11

Entry into force

The Agreement shall enter into force thirty days after the reception of the last of the diplomatic notes confirming that the internal legal procedures necessary for its entry into force have been fulfilled.

Done in Lisbon on the sixth day of February 2009 in
English and Portuguese, both texts being equally authentic.

For Australia

For the Portuguese Republic

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H.E. Luke Williams
Ambassador

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Vasco Valente
Secretary-General
Ministry of Foreign Affairs