Passports Act 1938

Act No. 15 of 1938 as amended

This compilation was prepared on 13 September 2004
taking into account amendments up to Act No. 125 of 2004

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

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An Act relating to Passports

Part 1—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *Passports Act 1938*.

2 Commencement [*see* Note 1]

This Act shall commence on a date to be fixed by Proclamation.

3 Repeal

The *Passports Act 1920* is repealed:

Provided that any passport issued under the *Passports Act 1920* and held immediately prior to the commencement of this Act shall, subject to this Act, continue in force as if issued under this Act.

4 Extension of Act to Territories

This Act shall extend to the Territories.

4A Extra-territorial operation of Act

(1) This Act extends, except so far as the contrary intention appears:

(a) to acts, matters and things outside Australia; and

(b) to all persons, irrespective of their nationality or citizenship.

(2) Subsection (1) does not apply to Parts 2, 3 and 4 of this Act.

5 Interpretation

(1) In this Act, unless the contrary intention appears:

Administrator, in relation to an external Territory, means the person charged with the duty of administering the Government thereof on behalf of the Commonwealth.

approved officer means the person who is the approved officer for the purposes of this Act by virtue of an appointment under section 6AB.

approved representative means a person holding, or performing the duties of, any of the following offices (being an office of Australia) in a country or place outside Australia:

(a) Ambassador;
(b) High Commissioner;
(c) Minister;
(d) Head of a Mission;
(e) Consul-General; or
(f) Consul.

approved senior officer means the person who is the approved senior officer for the purposes of this Act by virtue of an appointment under section 6AA.

Australia includes the Territories.

Australian citizen means a person who is an Australian citizen within the meaning of the *Australian Citizenship Act 1948-1973*.

Australian passport means a passport issued under this Act.

authorized officer means an officer authorized by the Minister under subsection 7(1) to issue Australian passports.

competent authority means a competent authority for the purposes of section 13, 14 or 15.

document includes:

(a) any paper or other material on which there is writing; or
(b) any paper or other material on which there are marks, figures, symbols or perforations that are:
    (i) capable of being given a meaning by persons qualified to interpret them; or
    (ii) capable of being responded to by a computer, a machine or an electronic device; or
(c) any article or material (for example, a disk or a tape) from which information is capable of being reproduced with or without the aid of any other article or device.

enforcement officer means:

(a) an officer of Customs within the meaning of the *Customs Act 1901*; or

(b) a member or a special member of the Australian Federal Police; or

(c) an officer of the police force of a State or Territory; or

(d) a person, or a person who is one of a class of persons, authorised in writing by the Minister to exercise the powers and perform the functions of an enforcement officer.

foreign passport means a passport issued by or on behalf of the government of a foreign country.

foreign travel document means:

(a) a foreign passport; or

(b) a document of identity issued for travel purposes by or on behalf of the government of a foreign country (whether or not also issued for another purpose).

Minister's determination means an instrument made by the Minister for the purposes of this Act under section 24.

offence against this Act includes:

(a) an offence against this Act that is deemed to have been committed by virtue of section 5 of the *Crimes Act 1914*; and

(b) an offence against section 7 of the *Crimes Act 1914* in relation to this Act;

but does not include an offence against the regulations.

officer means any officer of the Department, and includes any officer of Customs, any member or special member of the Australian Federal Police, any member of the Police Force of a State or Territory of the Commonwealth, and any person authorized by the Minister to exercise the powers conferred on officers by this Act.

prescribed minor means a person who has not attained the age of 18 years, not being a person who is, or has been, married.

this Act includes any regulations made thereunder.

(2) A reference in this Act to an officer shall be read as including a reference to a person authorized by the Administrator of an external Territory who holds a delegation from the Minister under section 6 to exercise, in and in relation to that Territory, the powers conferred on officers by this Act.

(3) Where regulations empower the Minister or officers to issue certificates of identity or other documents of identity for travel purposes, a reference in section 6A, 8 (other than paragraph (1A)(a)), 8A, 9, 9A, 9C (other than paragraph (2)(a)), 10, 11A or 12 to an Australian passport, to a passport granted in pursuance of this Act or to a passport shall be read as including a reference to a certificate of identity or other document of identity issued by virtue of those regulations.

(5) For the purposes of this Act, where an overseas child order as defined in section 70F of the *Family Law Act 1975* is registered in a court in Australia in accordance with regulations under section 70G of that Act, that order shall be deemed to be an order of that court made in pursuance of that Act.

5A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

6 Administration of Act in external Territories

(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to the Administrator of an external Territory all or any of his or her powers under this Act, other than this power of delegation.

(2) A power so delegated to the Administrator of an external Territory may be exercised by the Administrator only in or in relation to that Territory.

(3) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(4) A delegation under this section does not prevent the exercise of a power by the Minister, including the exercise of a power in or in relation to any external Territory.

6AA Approved senior officer

The Minister may, by writing signed by him or her, appoint the officer of the Department for the time being holding, or performing the duties of, a specified office to be the approved senior officer for the purposes of this Act.

6AB Approved officer

The Minister may, by writing signed by him or her, appoint the officer of the Department for the time being holding, or performing the duties of, a specified office to be the approved officer for the purposes of this Act.

6A Australian passports to remain property of Commonwealth

An Australian passport remains always the property of the Commonwealth.

Part 1A—Australian passports

7 Issue of passports

(1) Subject to the regulations, the Minister or an officer authorized in that behalf by the Minister may issue Australian passports to Australian citizens.

(2) Australian passports shall be issued in the name of the Governor-General and shall be in such forms as are approved by the Minister.

(3) The exercise by an authorized officer of a power under this section is subject to any directions of the Minister and to sections 7A, 7B, 7C, 7D and 7E.

(4) The Minister is not entitled to refuse, or to direct an authorized officer to refuse, to issue an Australian passport except:

(a) in circumstances in which, under section 7A, 7B, 7C, or 7D, an authorized officer is prohibited from issuing a passport unless directed otherwise by the Minister or by a person specified for the purpose in the relevant section; or

(b) in circumstances where the Minister may notify an authorized officer under subsection 7E(1) that an Australian passport is not to be issued.

(5) Where the Minister or an authorized officer makes a decision under subsection (1) refusing to issue a passport, the Minister or an authorized officer shall cause to be served, either personally or by post, on the applicant for the passport a notice in writing setting out that decision and the reasons for that decision.

7A Passport not to be issued to unmarried minors except in special circumstances

(1) Subject to subsections (2), (5) and (7), an authorized officer shall not, unless otherwise directed by the Minister, issue an Australian passport to a prescribed minor.

(2) An authorized officer may, unless otherwise directed by the Minister, issue an Australian passport to an Australian citizen who is a prescribed minor if:

(a) the minor furnishes to the authorized officer the consent in writing to the issue to the minor of an Australian passport of each person who has caring responsibility (as defined in subsection (8)) for the minor;

(b) the minor furnishes to the authorized officer a copy of an order of a court made in pursuance of a law of the Commonwealth or of a State or Territory permitting the minor to leave Australia; or

(c) the authorized officer is satisfied:

(i) that the physical or mental welfare of the minor would be adversely affected if an Australian passport were not issued to the minor; or

(ii) that:

(A) by reason of a family crisis, the minor urgently requires an Australian passport to enable him or her to travel outside Australia; and

(B) if there is a person who has caring responsibility (as defined in subsection (8)) for the minor whose written consent to the issue to the minor of an Australian passport has not been obtained—that person cannot be readily contacted.

(3) Where:

(a) an application has been made for the issue of an Australian passport to an Australian citizen who is a prescribed minor; and

(b) the applicant for the passport has furnished to an authorized officer a written statement declaring that special circumstances exist by reason of which the passport should be issued and setting out particulars of those circumstances;

the authorized officer shall refer the application and statement to the approved senior officer.

(4) Where an application for the issue of an Australian passport is referred to the approved senior officer under subsection (3), the

approved senior officer shall, unless he or she refers the application to the Minister:

(a) consider the application having regard to any guidelines issued under subsection (6); and

(b) if he or she is satisfied that special circumstances exist by reason of which the passport should be issued, give an authorized officer written notice that he or she is so satisfied.

(5) Where the approved senior officer gives an authorized officer a notice under paragraph (4)(b) in relation to an application for the issue of a passport to a prescribed minor, the authorized officer shall, unless otherwise directed by the Minister, issue a passport to that minor.

(6) The Minister may, by instrument in writing, issue guidelines relating to the consideration of applications under paragraph (4)(a).

(7) Where an authorized officer is satisfied that an Australian passport issued to a prescribed minor has been lost, stolen or destroyed, the officer may issue an Australian passport to that minor, not being a passport the period of validity of which extends beyond the period of validity of the first-mentioned passport.

(8) For the purposes of this section, a person has ***caring responsibility*** for a prescribed minor if:

(a) the person is a parent of the minor except where, because of orders made under the *Family Law Act 1975*, the person no longer has any parental responsibility for the minor; or

(b) the person has a residence order in relation to the minor; or

(c) the person has a specific issues order in relation to the minor under which the person is responsible for the minor's long-term or day-to-day care, welfare and development; or

(d) the person has a contact order in relation to the minor; or

(e) the person is entitled to guardianship or custody of, or access to, the minor under a law of the Commonwealth or of a State or a Territory.

(9) Expressions used in paragraphs (8)(a), (b), (c) and (d) have the same meaning as in the *Family Law Act 1975*.

7B Passports not to be issued to certain persons

An authorized officer shall not, unless otherwise directed by the Minister, the approved senior officer or the approved officer, issue an Australian passport to a person if:

(a) the authorized officer has reason to believe that there is in force a warrant issued in Australia for the arrest of the person; or

(b) the authorized officer has reason to believe that the person is required to remain in Australia or to refrain from applying for, or obtaining, an Australian passport:

(i) by order of a court made under a law of the Commonwealth or of a State or Territory; or

(ii) under a condition of parole or of a recognizance, surety or bail bond; or

(iii) under a condition specified in a licence granted under section 19AP of the *Crimes Act 1914* or in any similar instrument of early release granted or issued under a law of a State or Territory.

7C Passport not to be issued if moneys owing to Commonwealth

(1) Subject to subsection (2), an authorized officer shall not, unless otherwise directed by the Minister or an approved representative, issue an Australian passport to a person if the authorized officer has reason to believe that the person owes money to the Commonwealth in respect of:

(a) expenses incurred by the Commonwealth on behalf of the person in a foreign country;

(b) moneys lent to the person by the Commonwealth at a time when the person was outside Australia; or

(c) expenses incurred by the Commonwealth in, or in connection with, effecting the return of the person to Australia from a foreign country.

(2) An authorized officer may, unless otherwise directed by the Minister or an approved representative, issue an Australian passport to a person who owes money to the Commonwealth as mentioned in subsection (1) if the authorized officer is satisfied:

(a) that the physical or mental welfare of the person would be adversely affected if an Australian passport were not issued to the person; or

(b) that, by reason of a family crisis, the person urgently requires an Australian passport to enable the person to travel outside Australia.

7D Issue of concurrently valid passports

Where an authorized officer believes that an applicant for an Australian passport is in possession of, or has under his or her control, an Australian passport that was issued to the applicant, being a passport that is in force, the authorized officer shall not, unless otherwise directed by the Minister, an approved representative or the approved senior officer, issue to the applicant an Australian passport that would be in force at any time when the first-mentioned Australian passport is in force unless the authorized officer considers that there are special reasons for so doing.

7E Passports not to be issued in certain circumstances

(1) Where the Minister:

(a) has formed an opinion that, if an Australian passport were issued to a person, that person would be likely to engage in conduct that:

(i) might prejudice the security of Australia or of a foreign country;

(ii) might endanger the health or physical safety of other persons, whether in Australia or in a foreign country; or

(iii) might interfere with the rights and freedoms of other persons, as set out in the International Covenant on Civil and Political Rights, whether in Australia or in a foreign country; and

(b) considers that, in the circumstances, action to prevent that person engaging in that conduct should be taken by way of not issuing an Australian passport to that person;

the Minister may notify an authorized officer or authorized officers that, by virtue of this section, an Australian passport is not to be issued to that person.

(1A) An authorized officer shall not issue an Australian passport to a person if the Minister has notified him or her under subsection (1) that an Australian passport is not to be issued to that person.

(2) A notification under subsection (1) given by the Minister to an authorized officer ceases to have effect upon the giving to the authorized officer of a notification by the Minister stating that the notification under subsection (1) has ceased to have effect.

8 Cancellation of passports etc.

(1) An Australian passport, whether in the possession or custody of the person to whom it was issued or otherwise, may be cancelled by the Minister, an approved representative or the approved senior officer, and a passport on being cancelled under this subsection becomes void.

(1A) Without limiting the generality of subsection (1), the Minister, an approved representative or the approved senior officer, may cancel an Australian passport if:

(a) the Minister, the approved representative or the approved senior officer, as the case may be, becomes aware of circumstances which, if they had existed immediately before the passport was issued (whether or not they did exist at that time), may have or would have prevented the issue of the passport by an authorized officer by virtue of the operation of section 7A, 7B, 7C or 7D; or

(b) the Minister, the approved representative or the approved senior officer, as the case may be, becomes aware that the passport has been lost or stolen.

(1B) Without limiting the generality of subsection (1), where the Minister:

(a) has formed an opinion that a person to whom an Australian passport has been issued is likely to engage in conduct that:

(i) might prejudice the security of Australia or of a foreign country;

(ii) might endanger the health or physical safety of other persons, whether in Australia or in a foreign country; or

(iii) might interfere with the rights and freedoms of other persons, as set out in the International Covenant on

Civil and Political Rights, whether in Australia or in a foreign country; and

(b) considers that, in the circumstances, action to prevent that person engaging in that conduct should be taken by way of cancelling that passport;

the Minister may cancel that passport.

(1C) A person who has in his or her possession or under his or her control an Australian passport that has been cancelled under subsection (1) shall, on demand by an officer, forthwith deliver up the passport to the officer.

Penalty: $2,000 or imprisonment for 1 year.

(1D) An Australian passport issued to a person may be cancelled by an authorized officer when the officer issues another passport to that person.

(2) Any renewal or endorsement of a passport granted or made in pursuance of this Act or in pursuance of the Act repealed by this Act may be cancelled by the Minister, or an approved representative or the approved senior officer, and thereupon the renewal or endorsement shall be void.

(3) Any officer may take possession of any passport bearing a renewal or endorsement which has been cancelled, and any person having in his or her possession or under his or her control any such passport shall, on demand by an officer, forthwith deliver it up to the officer.

Penalty: $2,000 or imprisonment for 1 year.

(4) The exercise by an approved representative or by the approved senior officer of a power of cancellation under this section is subject to any directions of the Minister.

8A Notification of loss or theft of passports

If an Australian passport is lost or is stolen, the person to whom the passport was issued shall, as soon as practicable after he or she becomes aware of the loss or theft:

(a) if the passport is lost or stolen within Australia—report the loss or theft to a member or special member of the Australian Federal Police or a member of the Police Force of a State or Territory; or

(b) if the passport is lost or stolen outside Australia—report the loss or theft to an officer of, or a person employed at, an Australian diplomatic or consular mission.

Penalty: $2,000 or imprisonment for 1 year.

9 Power to order passport to be delivered up

(1) In this section, ***prescribed document*** means:

(a) an Australian passport that has been obtained, or is reasonably suspected by an officer of having been obtained, by means of a false or misleading statement; or

(b) an Australian passport or other document that has been used, or is reasonably suspected by an officer of having been used, in, or in connection with, the commission of an offence against this Act or the regulations.

(1A) A person who has in his or her possession or under his or her control a prescribed document shall, on demand by an officer, forthwith deliver up the passport or document to the officer.

Penalty: $2,000 or imprisonment for 1 year, or both.

(2) Any person entering the Commonwealth or any external Territory, who is required by or under any law of the Commonwealth or of the external Territory to be in possession of a passport, shall, if required, deliver up his or her passport to an officer, before leaving the vessel or aircraft in which he entered the Commonwealth or the external Territory.

Penalty: $2,000 or imprisonment for 1 year.

(3) If any person specified in subsection (2) is allowed to retain his or her passport, he or she shall, if required by an officer at any time, deliver it up to the officer.

Penalty: $2,000 or imprisonment for 1 year.

(4) Any passport delivered up to an officer in accordance with the provisions of this section may, subject to any direction of the Minister, an approved representative or the approved senior officer, be retained by the officer or be returned to the person who delivered it up, as the officer thinks fit.

9A Offences relating to improper use or possession of passports etc.

(1) A person who:

(a) in connection with travel or identification, uses an Australian passport that has been cancelled; or

(b) in connection with travel or identification, uses an Australian passport that was issued to another person; or

(c) being a person to whom an Australian passport has been issued, permits another person to use that passport in connection with travel or identification; or

(d) has in his or her possession or under his or her control an Australian passport that was not issued to him or her; or

(e) has in his or her possession or under his or her control:

(i) an Australian passport that has been falsified; or

(ii) a document (not being an Australian passport) that purports to be an Australian passport; or

(g) intentionally does an act that causes the defacing or destruction of an Australian passport;

is guilty of an offence and is punishable, on conviction, by a fine not exceeding $5,000 or imprisonment for a period not exceeding 2 years.

(2) Paragraphs (1)(a) to (e) (inclusive) do not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code.*

9C Offences relating to the issue of passports

(1) A person other than the Minister or an authorized officer shall not purport to issue an Australian passport or a document (not being an Australian passport) that purports to be an Australian passport.

(2) An authorized officer shall not:

(a) intentionally issue an Australian passport in contravention of section 7A, 7B, 7C, 7D or 7E; or

(b) issue an Australian passport to a person knowing that the person is not an Australian citizen.

Penalty: $5,000 or imprisonment for 2 years.

10 Penalty for making false statements

(1) A person shall not make any false or misleading statement, whether orally or in writing:

(a) in the course of obtaining, or attempting to obtain, an Australian passport or a renewal or endorsement of an Australian passport; or

(b) in the course of supporting an application by another person for an Australian passport or for a renewal or endorsement of an Australian passport.

Penalty: $5,000 or imprisonment for 2 years.

11 Prosecution of offences

(1A) This section does not apply to offences against Part 2 or 3 of this Act.

(1) Subject to subsection (2), an offence against this Act (other than an offence against subsection 8(1C) or (3), section 8A or subsection 9(1A), (2) or (3)) is an indictable offence.

(2) Where a person is charged with an indictable offence against this Act, a court of summary jurisdiction may, with the consent of the defendant and of the prosecutor and if the court is satisfied that it is proper to do so, determine the charge summarily.

(3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against this Act, the penalty that the court may impose is:

(a) where the offence, if prosecuted on indictment, would have been punishable by imprisonment for a period not exceeding 1 year—a fine not exceeding $1,000 or imprisonment for a period not exceeding 6 months, or both; and

(b) in any other case—a fine not exceeding $2,000 or imprisonment for a period not exceeding 1 year, or both.

11A Review of certain decisions

(1) In this section:

decision has the same meaning as it has in the *Administrative Appeals Tribunal Act 1975*.

Ministerial decision means a decision by the Minister, being:

(a) a decision under subsection 7(1) to issue a passport;
(b) a decision under subsection 7(1) refusing to issue a passport;
(c) a direction under subsection 7(3);
(d) a direction under subsection 7A(1);
(e) a direction under subsection 7A(2);
(f) a direction under subsection 7A(5);
(g) a direction under section 7B;
(h) a direction under subsection 7C(2);
(j) a decision for the purposes of paragraph 7E(1)(a);
(k) a decision for the purposes of paragraph 7E(1)(b);
(m) a decision under subsection 8(1) to cancel a passport;
(n) a decision under subsection 8(1A) to cancel a passport;
(p) a decision for the purposes of paragraph 8(1B)(a);
(q) a decision for the purposes of paragraph 8(1B)(b);
(r) a decision under subsection 8(2) to cancel the renewal or endorsement of a passport;
(s) a direction under subsection 9(4);
(t) a decision under subsection (2) of this section; or
(u) a decision under subsection (4) of this section.

reviewable decision means:

(a) a decision by an approved representative, being:
    (i) a direction under subsection 7C(2);
    (ii) a decision under subsection 8(1) to cancel a passport;
    (iii) a decision under subsection 8(1A) to cancel a passport;
    (iv) a decision under subsection 8(2) to cancel the renewal or endorsement of a passport; or

(v) a direction under subsection 9(4);

(b) a decision by the approved senior officer, being:

(i) a decision for the purposes of subsection 7A(4);

(ii) a direction under section 7B;

(iii) a decision under subsection 8(1) to cancel a passport;

(iv) a decision under subsection 8(1A) to cancel a passport;

(v) a decision under subsection 8(2) to cancel the renewal or endorsement of a passport; or

(vi) a direction under subsection 9(4);

(c) a direction by the approved officer under section 7B;

(d) a decision by an authorized officer, being:

(i) a decision under subsection 7(1) to issue a passport;

(ii) a decision under subsection 7(1) refusing to issue a passport;

(iii) a decision for the purposes of section 7A;

(iv) a decision for the purposes of section 7B;

(v) a decision for the purposes of section 7C;

(vi) a decision for the purposes of section 7D;

(vii) a decision under subsection 8(1D) to cancel a passport; or

(viii) a decision for the purposes of subsection 9(1); or

(e) a decision by an officer, being:

(i) a decision for the purposes of subsection 8(1C); or

(ii) a decision for the purposes of subsection 9(1A).

(2) Where a reviewable decision is made, a person affected by the decision who is dissatisfied with the decision may, within the period of 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the expiration of that period) allows, make a written application to the Minister for the review of the decision by the Minister.

(3) There shall be set out in the application under subsection (2) the reasons for making the application.

(4) Upon the receipt of an application under subsection (2) for the review of a reviewable decision, the Minister shall review that decision and shall make a decision:

(a) affirming the decision under review;

(b) varying the decision under review; or

(c) setting aside the decision under review and making a decision in substitution for the decision so set aside.

(5) Application may be made to the Administrative Appeals Tribunal for review of a Ministerial decision.

(6) Where the Minister makes a Ministerial decision for the purposes of paragraph 7E(1)(b) or 8(1B)(b) in the making of which the determining factors were matters relating to relations between Australia and a foreign country or relations between Australia and foreign countries, the Minister may issue a certificate signed by him or her that that decision involved questions of international relations.

(7) Notwithstanding section 43 of the *Administrative Appeals Tribunal Act 1975*, the Administrative Appeals Tribunal shall not make a decision in relation to a Ministerial decision for the purposes of paragraph 7E(1)(b) or 8(1B)(b) in respect of which the Minister has issued a certificate under subsection (6) other than a decision:

(a) affirming the decision under review; or

(b) remitting the decision under review to the Minister for his or her reconsideration in accordance with recommendations of the Tribunal.

(8) If an application is made for the review (whether by the Minister or the Administrative Appeals Tribunal) of a decision for the purposes of subsection 9(1), the document to which the decision relates shall continue to be a prescribed document for the purposes of subsection 9(2) unless and until that decision is set aside.

(9) Where the Minister makes a decision under subsection (4), the Minister shall give written notice of that decision to:

(a) the person, or each person, to whom written notice of the reviewable decision to which the decision of the Minister or his or her delegate relates was given; and

(b) the person who made the application for the review of that reviewable decision.

11B Notice of decision

(1) Where the Minister makes a Ministerial decision within the meaning of section 11A and gives to the person or persons whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of the person or persons whose interests are affected by the decision.

(2) Where a reviewable decision within the meaning of section 11A is made and notice of the making of the decision is given to the person or persons whose interests are affected by the decision, that notice shall include a statement to the effect that:

(a) a person affected by the decision may, if he or she is dissatisfied with the decision, seek review of the decision by the Minister in accordance with subsection 11A(2); and

(b) upon that review may, if he or she is dissatisfied with that decision, make application to the Administrative Appeals Tribunal for review of that decision.

(3) Any failure to comply with the requirements of subsection (1) or (2) in relation to a decision does not affect the validity of the decision.

11C Delegation

(1) The Minister may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him or her, delegate to an officer of the Department his or her powers under section 11A.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

12 Regulations

(1A) This section does not apply in relation to Parts 2, 3 or 4 of this Act.

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular:

(a) for empowering the Minister or authorized officers to issue certificates of identity or other documents of identity for travel purposes;

(b) for empowering the Minister or authorized officers to endorse Australian passports;

(c) for prescribing the fees to be charged in respect of the issue, renewal or endorsement of passports;

(d) for empowering the Minister to grant exemptions from the payment of fees; and

(e) for prescribing penalties not exceeding $1,000, or imprisonment for a term not exceeding 3 months, for breaches of the regulations.

(2) Without limiting the generality of paragraph (1)(b), the power to make regulations for the purpose specified in that paragraph extends to the power to make regulations:

(a) empowering the Minister or an authorized officer to endorse an Australian passport with particulars of a prescribed minor who is likely to travel with the person to whom the passport is issued; and

(b) prescribing the circumstances in which, and the conditions under which, the power referred to in paragraph (a) may be exercised by an authorized officer.

Part 2—Enforcement officers' powers in relation to foreign travel documents

Division 1—Requesting the Minister to order surrender of foreign travel documents

13 Request relating to Australian law enforcement matters

(1) If a competent authority believes on reasonable grounds that:

(a) a person is the subject of an arrest warrant issued in Australia in respect of an indictable offence against a law of the Commonwealth, a State or Territory; or

(b) a person (including a person who is in prison) is prevented from travelling internationally by force of:

(i) an order of a court of the Commonwealth, a State or Territory; or

(ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of the Commonwealth, a State or Territory; or

(iii) a law of the Commonwealth, or an order or other direction (however described) under a law of the Commonwealth;

the competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents.

(2) In this section:

competent authority, in relation to a circumstance mentioned in paragraph (1)(a) or (b), means:

(a) a person who has responsibility for, or powers, functions or duties in relation to, that circumstance under a law of the Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or

(b) a person specified in a Minister's determination as a competent authority in relation to the circumstance.

prevented from travelling internationally includes:

(a) required to remain in Australia; and

(b) required to surrender a passport; and

(c) not permitted to apply for a passport; and

(d) not permitted to obtain a passport.

14 Request relating to international law enforcement co-operation

(1) If a competent authority believes on reasonable grounds that:

(a) a person is the subject of an arrest warrant issued in a foreign country in respect of a serious foreign offence; or

(b) a person (including a person who is in prison) is prevented from travelling internationally by force of:

(i) an order of a court of a foreign country; or

(ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of a foreign country, or other similar arrangement made under a law of a foreign country; or

(iii) a law of a foreign country, or an order or other direction (however described) under a law of a foreign country.

the competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents.

(2) In this section:

competent authority, in relation to a circumstance mentioned in paragraph (1)(a) or (b), means:

(a) an approved representative; or

(b) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or

(c) an agency (within the meaning of the *Financial Management and Accountability Act 1997*) that is specified in a Minister's determination as a competent authority in relation to the circumstance.

prevented from travelling internationally includes:

(a) required to remain in the foreign country concerned; and

(b) required to surrender a passport; and

(c) not permitted to apply for a passport; and

(d) not permitted to obtain a passport.

serious foreign offence means an offence against the law of a foreign country:

(a) for which the maximum penalty is death or imprisonment, or other deprivation of liberty, for a period of not less than 12 months; or

(b) if the offence does not carry a penalty under the law of the country—the conduct constituting which is, under a treaty to which the country and Australia are parties (being a treaty relating in whole or in part to the surrender of persons accused or convicted of offences), required to be treated as an offence for which the surrender of persons is allowed by the country or Australia; or

(c) the conduct constituting which would, if engaged in in Australia, constitute an indictable offence against this Act; or

(d) the conduct constituting which would, if engaged in in Australia, constitute an offence specified in a Minister's determination made for the purposes of subparagraph 15(1)(a)(v).

15 Request relating to potential for harmful conduct

(1) If a competent authority suspects on reasonable grounds that:

(a) unless a person's foreign travel documents are surrendered, the person would be likely to engage in conduct that:

(i) might prejudice the security of Australia or a foreign country; or

(ii) might endanger the health or physical safety of other persons (whether in Australia or a foreign country); or

(iii) might interfere with the rights or freedoms of other persons (whether in Australia or a foreign country) set out in the International Covenant on Civil and Political Rights; or

(iv) might constitute an indictable offence against this Act; or

(v) might constitute an indictable offence against a law of the Commonwealth, being an offence specified in a Minister's determination; and

(b) the person should be required to surrender the person's foreign travel documents in order to prevent the person from engaging in the conduct;

the competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents.

Note: The text of the International Covenant on Civil and Political Rights is set out in Australian Treaty Series 1980 No. 23. In 2004 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible on the Internet through that Department's world-wide web site.

(2) In this section:

competent authority:

(a) in relation to a circumstance mentioned in subsection (1) that relates to Australia, means:

(i) a person who has responsibility for, or powers, duties or functions in relation to, the circumstance under a law of the Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or

(ii) a person specified in a Minister's determination as a competent authority in relation to the circumstance; or

(b) in relation to a circumstance mentioned in subsection (1) that relates to a foreign country, means:

(i) an approved representative; or

(ii) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or

(iii) an agency (within the meaning of the *Financial Management and Accountability Act 1997*) that is specified in a Minister's determination as a competent authority in relation to the circumstance.

Division 2—Demands for foreign travel documents

16 Demand for foreign travel document if authorised by Minister

(1) If a competent authority makes a request under section 13, 14 or 15 in relation to a person, the Minister may order the surrender of the person's foreign travel documents.

(2) If the Minister has made an order under subsection (1), an enforcement officer may demand that the person surrender to the officer the person's foreign travel documents.

(3) If the person does not immediately surrender the person's foreign travel documents, the officer may:
  (a) seize the person's foreign travel documents; and
  (b) seize any foreign travel document of the person that is not in the possession or control of any person.

(4) Subsection (3) does not authorise an enforcement officer to enter premises that the officer would not otherwise be authorised to enter.

(5) A person commits an offence if:
  (a) an enforcement officer demands under subsection (2) that the person surrender the person's foreign travel documents; and
  (b) the officer informs the person that the Minister has ordered the surrender of the person's foreign travel documents and that the officer is authorised to make the demand; and
  (c) the officer informs the person that it may be an offence not to comply with the demand; and
  (d) the person has possession or control of one or more of the person's foreign travel documents; and
  (e) the person fails to surrender those documents to the officer immediately.

  Penalty: Imprisonment for 1 year or 20 penalty units, or both.

(6) A foreign travel document obtained by an enforcement officer under this section may be retained for so long as there is a competent authority who:

(a) believes on reasonable grounds that a circumstance mentioned in section 13 or 14 applies in relation to the person; or

(b) suspects on reasonable grounds that a circumstance mentioned in section 15 applies in relation to the person.

(7) Despite subsection (6), a foreign travel document must be returned to the person to whom it was issued if, on review by the Administrative Appeals Tribunal:

(a) the Tribunal sets aside the decision of the Minister to order the surrender of the document; and

(b) either:

(i) the Tribunal substitutes a decision not to order the surrender of the document; or

(ii) the Tribunal remits the matter for reconsideration and, on that reconsideration, the Minister decides not to order the surrender of the document.

17 Demand for suspicious foreign travel document

(1) An enforcement officer may demand that a person surrender to the officer:

(a) a foreign travel document that has been obtained, or that the officer suspects on reasonable grounds has been obtained, by means of a false or misleading statement, false or misleading information or a false or misleading document; or

(b) a foreign travel document or other document that has been used, or that the officer suspects on reasonable grounds has been used, in the commission of an offence against this Act.

(2) A person commits an offence if:

(a) an enforcement officer demands under subsection (1) that the person surrender a document; and

(b) the officer informs the person that the officer is authorised to demand that document; and

(c) the officer informs the person that it may be an offence not to comply with the demand; and

(d) the person has possession or control of the document; and

(e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

(3) A document surrendered to an enforcement officer under this section may be retained for so long as there is an enforcement officer who suspects on reasonable grounds:

(a) that the document was obtained by means of a false or misleading statement, false or misleading information or a false or misleading document; or

(b) that the document has been used in the commission of an offence against this Act.

Part 3—Offences relating to foreign travel documents

18 Making false or misleading statements in relation to foreign travel document applications

(1) A person commits an offence if:

(a) the person makes a statement (whether orally, in writing or any other way) to another person; and

(b) the statement:

(i) is false or misleading; or

(ii) omits any matter or thing without which the statement is misleading; and

(c) the statement is made in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(2) Subsection (1) does not apply:

(a) as a result of subparagraph (1)(b)(i)—if the statement is not false or misleading in a material particular; or

(b) as a result of subparagraph (1)(b)(ii)—if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

19 Giving false or misleading information in relation to foreign travel document applications

(1) A person commits an offence if:

(a) the person gives information to another person; and

(b) the information:

(i) is false or misleading; or

(ii) omits any matter or thing without which the information is misleading; and

(c) the information is given in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(2) Subsection (1) does not apply:

(a) as a result of subparagraph (1)(b)(i)—if the information is not false or misleading in a material particular; or

(b) as a result of subparagraph (1)(b)(ii)—if the information did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

20 Producing false or misleading documents in relation to foreign travel document applications

(1) A person commits an offence if:

(a) the person produces a document to another person; and

(b) the document is false or misleading; and

(c) the document is produced in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(2) Subsection (1) does not apply if the document is not false or misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement signed by the person (or, in the case of a body corporate, by a competent officer of the body corporate):

(a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and

(b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

21 Improper use or possession of a foreign travel document

(1) A person commits an offence if:

(a) the person uses a foreign travel document in connection with travel or identification; and

(b) the document has been cancelled.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(2) A person commits an offence if:

(a) the person uses a foreign travel document in connection with travel or identification; and

(b) the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(3) A person commits an offence if:

(a) the person provides another person with a foreign travel document that was issued to the first-mentioned person; and

(b) the first-mentioned person is reckless as to whether the document is or will be used by the other person in connection with travel or identification.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(4) A person commits an offence if:

(a) the person has possession or control of a foreign travel document; and

(b) the person knows that the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(5) Subsections (1), (2), (3) and (4) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

22 Possessing, making or providing false foreign travel documents

(1) A person commits an offence if:

(a) the person has possession or control of a document; and

(b) the person knows that the document is a false foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(2) A person commits an offence if:

(a) the person:

(i) makes a false foreign travel document; or

(ii) provides a false foreign travel document to another person; and

(b) the person does so with the intention that the false foreign travel document may be used, acted on or accepted as if it were a passport or document of identity issued by or on behalf of the government of a foreign country.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

(3) Subsections (1) and (2) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

(4) In this section:

false foreign travel document:

(a) means a document:

(i) that purports to be a passport issued by or on behalf of the government of a foreign country but that was not issued by or on behalf of that government; or

(ii) that purports to be a document of identity issued for travel purposes by or on behalf of the government of a foreign country for the purposes of travel but that was not issued by or on behalf of that government; and

(b) includes a foreign travel document that has been altered by a person who is not authorised to alter that foreign travel document.

make, in relation to a false foreign travel document, includes alter a document so as to make it a false document (whether or not it was already a false document before the alteration).

Part 4—Miscellaneous

23 Administrative review

(1) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Minister under section 16 to order the surrender of a person's foreign travel documents.

(2) For the purposes of section 27 of the *Administrative Appeals Tribunal Act 1975*, the only person whose interests are taken to be affected by the decision is the person whose foreign travel documents are ordered to be surrendered.

(3) The Minister may, if the Minister makes a decision in response to a request under section 15, certify that the decision involved matters of international relations or criminal intelligence.

(4) Despite section 43 of the *Administrative Appeals Tribunal Act 1975*, if the Minister has given a certificate under subsection (3) in relation to a decision, then in any review of that decision the Administrative Appeals Tribunal may only make a decision:

(a) affirming the Minister's decision; or

(b) remitting the decision to the Minister for reconsideration in accordance with any directions or recommendations of the Tribunal.

24 Minister's determinations

(1) The Minister may make instruments specifying any of the matters that this Act provides may be specified in a Minister's determination.

(2) An instrument made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

25 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Part or by Part 2 or 3 of this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Part or to Part 2 or 3 of this Act.

Notes to the *Passports Act 1938*

Note 1

The *Passports Act 1938* as shown in this compilation comprises Act No. 15, 1938 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Passports Act 1938	15, 1938	5 July 1938	1 July 1939 (*see Gazette* 1939, p. 993)	
Passports Act 1948	85, 1948	21 Dec 1948	26 Jan 1949	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	1 Dec 1966	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
Administrative Changes (Consequential Provisions) Act 1976	91, 1976	20 Sept 1976	S. 3: *(a)*	S. 4
Passports Amendment Act 1979	103, 1979	25 Oct 1979	25 Oct 1979	S. 9(2) and (3)
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	19 Oct 1979 (*see* s. 2 and *Gazette* 1979, No. S206)	—
Australian Federal Police (Consequential Amendments) Act 1980	70, 1980	28 May 1980	28 May 1980	—
Passports Amendment Act 1984	168, 1984	25 Oct 1984	22 Nov 1984	—
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	S. 3: 22 Nov 1984 *(b)*	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	S. 3: 22 Nov 1984 *(c)*	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Crimes Legislation Amendment Act (No. 2) 1991	123, 1991	23 Aug 1991	Ss. 5–10, Parts 3–7, 9 (ss. 11–34, 38, 39) and ss. 40–50: 20 Sept 1991 Part 8 (ss. 35–37): 6 Dec 1991 (*see Gazette* 1991, No. S330) S. 51: 23 Feb 1992 Remainder: Royal Assent	—
Family Law Reform (Consequential Amendments) Act 1995	140, 1995	12 Dec 1995	Schedule 1 (items 50–54): 11 June 1996 (*see Gazette* 1996, No. GN5) *(d)*	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 5 (items 112–114): Royal Assent *(e)*	—
Foreign Affairs and Trade Legislation Amendment Act 1997	150, 1997	17 Oct 1997	Schedule 1 (item 30): 14 Nov 1997 *(f)*	—
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [*see* Table A]
Foreign Affairs and Trade Legislation Amendment (Application of Criminal Code) Act 2001	35, 2001	28 Apr 2001	26 May 2001	S. 4 [*see* Table A]
Anti-terrorism Act (No. 3) 2004	125, 2004	16 Aug 2004	Schedule 1: 13 Sept 2004	—

Act Notes

(a) The *Passports Act 1938* was amended by section 3 only of the *Administrative Changes (Consequential Provisions) Act 1976*, subsection 2(7) of which provides as follows:

> (7) The amendments of each other Act specified in the Schedule made by this Act shall be deemed to have come into operation on 22 December 1975.

(b) The *Passports Amendment Act 1984* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(34) of which provides as follows:

> (34) The amendment of the *Passports Amendment Act 1984* made by this Act shall be deemed to have come into operation immediately after the commencement of that first-mentioned Act.

(c) The *Passports Act 1938* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(33) of which provides as follows:

> (33) The amendment of the *Passports Act 1938* made by this Act shall be deemed to have come into operation immediately after the commencement of the *Passports Amendment Act 1984*.

(d) The *Passports Act 1938* was amended by Schedule 1 (items 50–54) only of the *Family Law Reform (Consequential Amendments) Act 1995*, subsection 2(2) of which provides as follows:

> (2) The amendments made by Parts 1, 2, 3, 4, 6, 8, 9 and 10 of Schedule 1 commence on the commencement of section 31 of the *Family Law Reform Act 1995*.

(e) The *Passports Act 1938* was amended by Schedule 5 (items 112–114) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:

> (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(f) The *Passports Act 1938* was amended by Schedule 1 (item 30) only of the *Foreign Affairs and Trade Legislation Amendment Act 1997*, subsection 2(3) of which provides as follows:

> (3) The amendment of section 10 of the *Passports Act 1938* made by this Act commences on the 28th day after the day on which this Act receives the Royal Assent.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
Heading to Part 1	ad. No. 125, 2004
S. 4	am. No. 216, 1973
S. 4A	ad. No. 103, 1979 am. No. 125, 2004
S. 5	am. No. 85, 1948; No. 216, 1973; No. 91, 1976; Nos. 103 and 155, 1979; No. 70, 1980; No. 168, 1984; No. 140, 1995; No. 137, 2000; No. 125, 2004
S. 5A	ad. No. 35, 2001
S. 6	am. No. 103, 1979 rs. No. 168, 1984 am. No. 43, 1996
Ss. 6AA, 6AB	ad. No. 168, 1984 am. No. 43, 1996
S. 6A	ad. No. 103, 1979
Part 1A	
Heading to Part 1A	ad. No. 125, 2004
S. 7	rs. No. 85, 1948 am. No. 216, 1973; No. 103, 1979; No. 168, 1984
S. 7A	ad. No. 103, 1979 am. No. 168, 1984; No. 140, 1995; No. 43, 1996
S. 7B	ad. No. 103, 1979 am. No. 168, 1984; No. 123, 1991
S. 7C	ad. No. 103, 1979 am. No. 168, 1984 (as am. by No. 65, 1985)
Ss. 7D, 7E	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996
S. 8	am. No. 93, 1966; No. 103, 1979; No. 168, 1984; No. 43, 1996
S. 8A	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996
S. 9	am. No. 93, 1966; No. 216, 1973; No. 103, 1979; No. 168, 1984; No. 65, 1985; No. 43, 1996; No. 125, 2004
S. 9A	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996; No. 35, 2001; No. 125, 2004
S. 9B	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996 rs. No. 137, 2000 rep. No. 125, 2004
S. 9C	ad. No. 103, 1979 am. No. 168, 1984; No. 35, 2001
S. 10	am. No. 93, 1966 rs. No. 103, 1979 am. No. 168, 1984; No. 150, 1997; No. 35, 2001; No. 125, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 11	rs. No. 103, 1979 am. No. 168, 1984; No. 125, 2004
Ss. 11A–11C	ad. No. 168, 1984; No. 43, 1996
S. 12	am. No. 93, 1966; No. 103, 1979; No. 168, 1984; No. 125, 2004
Part 2	
Part 2	ad. No. 125, 2004
Division 1	
Ss. 13–15	ad. No. 125, 2004
Division 2	
Ss. 16, 17	ad. No. 125, 2004
Part 3	
Part 3	ad. No. 125, 2004
Ss. 18–22	ad. No. 125, 2004
Part 4	
Part 4	ad. No. 125, 2004
Ss. 23–25	ad. No. 125, 2004

Table A

Application, saving or transitional provisions

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

(1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:

(a) an offence committed before the commencement of this item; or

(b) proceedings for an offence alleged to have been committed before the commencement of this item; or

(c) any matter connected with, or arising out of, such proceedings;

as if the amendment or repeal had not been made.

(2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

(a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and

(b) any or all of those other provisions are repealed by this Schedule; and

(c) the first-mentioned provision is amended by this Schedule;

the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Table A

Foreign Affairs and Trade Legislation Amendment (Application of Criminal Code) Act 2001 (No. 35, 2001)

4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.