Foreign Passports (Law Enforcement and Security) Act 2005

Act No. 15 of 1938 as amended

This compilation was prepared on 3 March 2010
taking into account amendments up to Act No. 8 of 2010

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 foreign passports and other foreign travel documents

Part 1—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *Foreign Passports (Law Enforcement and Security) Act 2005*.

2 Commencement [*see* Note 1]

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

4 Extension of Act to Territories

This Act shall extend to the Territories.

5 Interpretation

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

Australia includes the Territories.

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.

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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.

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.

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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.

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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) a member of the diplomatic staff of an Australian mission, being a person who is a member of the diplomatic staff of the mission within the meaning of the Vienna Convention on Diplomatic Relations; or

(aa) a consular officer of an Australian consulate, being a person who is a consular officer (but not an honorary consular officer) within the meaning of the Vienna Convention on Consular Relations; 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

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(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.

Note 1: The text of the Vienna Convention on Diplomatic Relations is set out in Australian Treaty Series 1968 No. 3. In 2005 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

Note 2: The text of the Vienna Convention on Consular Relations is set out in Australian Treaty Series 1973 No. 7. In 2005 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

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).

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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 through that Department's website.

(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

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(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) a member of the diplomatic staff of an Australian mission, being a person who is a member of the diplomatic staff of the mission within the meaning of the Vienna Convention on Diplomatic Relations; or

(ia) a consular officer of an Australian consulate, being a person who is a consular officer (but not an honorary consular officer) within the meaning of the Vienna Convention on Consular Relations; 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.

Note 1: The text of the Vienna Convention on Diplomatic Relations is set out in Australian Treaty Series 1968 No. 3. In 2005 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

Note 2: The text of the Vienna Convention on Consular Relations is set out in Australian Treaty Series 1973 No. 7. In 2005 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

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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.

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(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

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(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.

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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

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(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.

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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.

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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

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(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).

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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.

23A Delegation of Minister's power to order surrender of documents

(1) The Minister may delegate to an SES employee the Minister's power to make an order under subsection 16(1) in response to a request made under section 13.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

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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 Act to be prescribed; or

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

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Notes to the *Foreign Passports (Law Enforcement and Security) Act 2005*

Note 1

The *Foreign Passports (Law Enforcement and Security) Act 2005* 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)*	—

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Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	S. 3: 22 Nov 1984 *(c)*	—
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	—
Australian Passports (Transitionals and Consequentials) Act 2005	7, 2005	18 Feb 2005	Ss. 4–11 and Schedule 1: 1 July 2005 (*see* s. 2(1)) Remainder: Royal Assent	Ss. 4–11 [*see* Table A]
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Schedule 5 (items 55–57): Royal Assent	—

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Act Notes

(a) The *Foreign Passports (Law Enforcement and Security) Act 2005* 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 *Foreign Passports (Law Enforcement and Security) Act 2005* 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 *Foreign Passports (Law Enforcement and Security) Act 2005* 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 *Foreign Passports (Law Enforcement and Security) Act 2005* 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 *Foreign Passports (Law Enforcement and Security) Act 2005* 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.

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Table of Amendments

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

Provision affected	How affected
Title	rs. No. 7, 2005
Part 1	
Heading to Part 1	ad. No. 125, 2004
S. 1	am. No. 7, 2005
S. 3	rep. No. 7, 2005
S. 4	am. No. 216, 1973
S. 4A	ad. No. 103, 1979 am. No. 125, 2004 rep. No. 7, 2005
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; No. 7, 2005
S. 5A	ad. No. 35, 2001
S. 6	am. No. 103, 1979 rs. No. 168, 1984 am. No. 43, 1996 rep. No. 7, 2005
Ss. 6AA, 6AB	ad. No. 168, 1984 am. No. 43, 1996 rep. No. 7, 2005
S. 6A	ad. No. 103, 1979 rep. No. 7, 2005
Part 1A	rep. No. 7, 2005
Heading to Part 1A	ad. No. 125, 2004 rep. No. 7, 2005
S. 7	rs. No. 85, 1948 am. No. 216, 1973; No. 103, 1979; No. 168, 1984 rep. No. 7, 2005
S. 7A	ad. No. 103, 1979 am. No. 168, 1984; No. 140, 1995; No. 43, 1996 rep. No. 7, 2005
S. 7B	ad. No. 103, 1979 am. No. 168, 1984; No. 123, 1991 rep. No. 7, 2005
S. 7C	ad. No. 103, 1979 am. No. 168, 1984 (as am. by No. 65, 1985) rep. No. 7, 2005
Ss. 7D, 7E	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996 rep. No. 7, 2005
S. 8	am. No. 93, 1966; No. 103, 1979; No. 168, 1984; No. 43, 1996 rep. No. 7, 2005
S. 8A	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996

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Table of Amendments

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

Provision affected	How affected
	rep. No. 7, 2005
S. 9	am. No. 93, 1966; No. 216, 1973; No. 103, 1979; No. 168, 1984; No. 65, 1985; No. 43, 1996; No. 125, 2004 rep. No. 7, 2005
S. 9A	ad. No. 103, 1979 am. No. 168, 1984; No. 43, 1996; No. 35, 2001; No. 125, 2004 rep. No. 7, 2005
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 rep. No. 7, 2005
S. 10	am. No. 93, 1966 rs. No. 103, 1979 am. No. 168, 1984; No. 150, 1997; No. 35, 2001; No. 125, 2004 rep. No. 7, 2005
S. 11	rs. No. 103, 1979 am. No. 168, 1984; No. 125, 2004 rep. No. 7, 2005
Ss. 11A–11C	ad. No. 168, 1984; No. 43, 1996 rep. No. 7, 2005
S. 12	am. No. 93, 1966; No. 103, 1979; No. 168, 1984; No. 125, 2004 rep. No. 7, 2005
Part 2	
Part 2	ad. No. 125, 2004
Division 1	
S. 13	ad. No. 125, 2004
S. 14	ad. No. 125, 2004 am. No. 7, 2005; No. 8, 2010
S. 15	ad. No. 125, 2004 am. No. 7, 2005; No. 8, 2010
Note to s. 15(1)	am. No. 8, 2010
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
S. 23	ad. No. 125, 2004
S. 23A	ad. No. 7, 2005
S. 24	ad. No. 125, 2004

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Table of Amendments

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Provision affected	How affected
S. 25.....	ad. No. 125, 2004 am. No. 7, 2005

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Table A

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.

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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.

Australian Passports (Transitionals and Consequentials) Act 2005 (No. 7, 2005)

4 Definitions

In this Act:

commencement day means the day on which sections 3 to 58 of the *Australian Passports Act 2005* commence.

new Act means the *Australian Passports Act 2005*.

old Act means the *Passports Act 1938* as in force immediately before the commencement day.

old regulations means the *Passports Regulations 1939* as in force immediately before the commencement day.

5 Passports issued under the old Act are taken to have been issued under the new Act

(1) An Australian passport issued under the old Act is taken, on and from the commencement day, to be an Australian passport issued under the new Act.

(2) The passport continues to be valid for the unexpired part of the term it would have had if the old regulations had not been repealed.

Table A

(3) Subsection (2) does not prevent the Minister from cancelling the passport under the new Act.

6 Travel-related documents issued under the old regulations are taken to have been issued under the new Act

(1) A convention travel document, certificate of identity or document of identity issued under the old regulations is taken, on and from the commencement day, to be a travel-related document (within the meaning of the new Act) issued under the new Act.

(2) The document or certificate continues to have effect for the unexpired part of the period specified in the document or certificate.

(3) Subsection (2) does not prevent the Minister from cancelling the document or certificate under the new Act.

7 Old Act continues to apply in relation to pending proceedings and other matters

(1) To avoid doubt, except as expressly provided by sections 8, 9 and 10 or by regulations made under section 11, section 8 of the *Acts Interpretation Act 1901* is to apply in relation to the repeal of Part 1A of the old Act.

(2) If, on or after the commencement day, there are proceedings of the Administrative Appeals Tribunal to which paragraph 21AA(5)(c) of the *Administrative Appeals Tribunal Act 1975* applies and which relate to the old Act, the amendment made by item 1 of Schedule 1 to this Act is, for the purposes of those proceedings, taken not to have been made.

8 Applications under the old Act

If an application for an Australian passport made under the old Act has not been decided immediately before the commencement day, the application is, on and from the commencement day, taken to be an application for an Australian passport made under the new Act.

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9 Applications under the old regulations

If an application for a convention travel document, certificate of identity or document of identity made under the old regulations has not been decided immediately before the commencement day, the application is, on and from the commencement day, taken to be an application for a travel-related document (within the meaning of the new Act) made under the new Act.

10 Review of decisions made under the old Act

Section 11A of the old Act continues to apply in relation to a decision made under that Act, as if that section had not been repealed.

11 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the repeal of Part 1A of the old Act and the commencement of the new Act.