

IMMIGRATION.

No. 36 of 1940.

An Act to amend the *Immigration Act* 1901-1935.

[Assented to 4th June, 1940.]

[Date of commencement, 2nd July, 1940.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

**Short title and
citation.**

1.—(1.) This Act may be cited as the *Immigration Act* 1940.

(2.) The *Immigration Act* 1901–1935* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Immigration Act* 1901–1940.

2. Section two of the Principal Act is amended—

Definitions.

(a) by inserting, before the definition of “Officer”, the following definitions :—

“ ‘Collector of Customs’, in relation to any power or function, includes an officer authorized in writing by the Minister to exercise or perform that power or function ;

‘Master of a vessel’ includes the pilot of an aircraft ;” ;
and

(b) by inserting, after the definition of “Officer”, the following definitions :—

“ ‘Passport’ includes a document of identity issued from official sources, whether within or outside Australia, and having the characteristics of a passport ;

‘Vessel’ includes aircraft ”.

3. Section three of the Principal Act is amended—

Prohibited immigrants.

(a) by omitting paragraph (ge) and inserting in its stead the following paragraph :—

“ (ge) any alien who, on demand by an officer, fails to satisfy the officer—

(a) that he is the holder of a landing permit, issued by or on behalf of the Minister, authorizing the admission of the holder into Australia, and that he is able to comply with the conditions specified therein ; or

(b) that his admission into Australia has otherwise been authorized by or on behalf of the Minister ;” ; and

(b) by inserting in paragraph (gg), after the word “Act”, the words “and whose re-entry into the Commonwealth has not been authorized by the Minister”.

4. Section four of the Principal Act is repealed and the following section inserted in its stead :—

“ 4.—(1.) The Minister, or an officer thereto authorized in writing by the Minister (in this section referred to as ‘an authorized officer’), may issue a certificate of exemption in the prescribed form authorizing any person who, unless he possesses such a certificate, is liable to be

Certificate to enter or remain temporarily.

* Act No. 17, 1901 ; as amended by No. 17, 1905 ; No. 19, 1905 ; No. 25, 1908 ; No. 10, 1910 ; No. 38, 1912 ; No. 51, 1920 ; No. 47, 1924 ; No. 7, 1925 ; No. 56, 1930 ; No. 26, 1932 ; No. 37, 1933 ; and No. 13, 1935.

prohibited under this Act from entering or remaining in the Commonwealth, to enter or remain in the Commonwealth without being subject to any of the provisions of this Act restricting entry into or stay in the Commonwealth.

“(2.) The certificate shall be expressed to be in force for a specified period only, but the period may be extended from time to time by the Minister or by an authorized officer.

“(3.) Any such certificate may at any time be cancelled by the Minister by writing under his hand.

“(4.) Upon the expiration or cancellation of any such certificate, the person named therein may, if found within the Commonwealth, be declared by the Minister to be a prohibited immigrant and may thereupon be required by notice in writing given by an authorized officer, in accordance with the directions of the Minister, to leave the Commonwealth within a period to be specified in the notice.

“(5.) If the person fails to leave the Commonwealth within the period specified in the notice, he may be deported from the Commonwealth pursuant to an order of the Minister.

“(6.) Where, in pursuance of this section, a person enters the Commonwealth from any vessel, a penalty shall not attach to the vessel or its master, owners, agents or charterers in respect of such entry; but the master, owners, agents or charterers of the vessel may, at any time within five years after the entry of the person into the Commonwealth, be required by notice in writing given by any Collector of Customs, to provide a passage for that person from the Commonwealth to the place whence he came, and in default of compliance with that requirement shall be guilty of an offence.

Penalty: One hundred pounds.”

5. Section five of the Principal Act is amended—

(a) by omitting from paragraph (c) of sub-section (1.) the words “certificate, credentials or identification card” and inserting in their stead the words “permit, certificate, passport, credentials, identification card or other document”; and

(b) by omitting from paragraph (c) of sub-section (3.) the words “certificate, credentials or identification card” and inserting in their stead the words “permit, certificate, passport, credentials, identification card or other document”.

Immigrants
evading officers
or found
within the
Commonwealth.

Deportation of
prisoner.

6. Section seven AA of the Principal Act is amended by adding at the end thereof the words “or within such extended period as is authorized by the Minister”.

7. Section eight of the Principal Act is repealed and the following section inserted in its stead:—

Certain persons
may be
deported.

“8. Any person, not being a British subject either natural-born or naturalized, who is convicted of a crime of violence against the person or of extorting any money or thing from any resident of the

Commonwealth by force or threat, or of any attempt to commit such a crime, or who is convicted of any other criminal offence for which he is sentenced to imprisonment for one year or longer, shall be liable, upon the expiration of, or during, any term of imprisonment imposed on him therefor, to be deported from the Commonwealth pursuant to any order of the Minister.”.

8. Section eight c of the Principal Act is amended by inserting, after the word “shall”, the words “, unless the Minister otherwise directs,”. Custody
pending
deportation.

9.—(1.) Section sixteen of the Principal Act is amended— Regulations.

(a) by omitting from paragraph (d) the word “and”; and

(b) by adding at the end thereof the following paragraph:—

“; and (f) for requiring maintenance guarantees to be given, in such circumstances as the Minister thinks fit, in relation to persons seeking to enter the Commonwealth and providing for the enforcement of those guarantees.”.

(2.) Regulation 6 of the Immigration Regulations (being Statutory Rules 1932, No. 103 and purporting to have been made under the *Immigration Act 1901–1932*) shall be deemed to be, and at all times to have been, as valid and effectual for all purposes as if the amendments made to the Principal Act by this section had been in force immediately prior to the date on which that regulation was made.
