



Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987

No. 86 of 1987

**An Act to make amendments of certain Acts consequential
upon the enactment of the *Mutual Assistance in Criminal
Matters Act 1987*, and for related matters**

[Assented to 5 June 1987]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987*.

Commencement

2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The amendments made by this Act shall come into operation on a day or days to be fixed by Proclamation.

***Mutual Assistance in Criminal Matters
(Consequential Amendments) No. 86, 1987***

Amendment of Acts

3. The Acts specified in the Schedule are amended as set out in the Schedule.

Transitional

4. Notwithstanding the repeal of section 33AB of the *Extradition (Commonwealth Countries) Act 1966* or of section 27 of the *Extradition (Foreign States) Act 1966*, that section continues to apply to a request made for the purposes of that section before the repeal.

SCHEDULE

Section 3

AMENDMENT OF ACTS

Australian Citizenship Act 1948

Section 5A:

Add at the end the following subsection:

“(5) Notwithstanding the preceding provisions of this section, where a person who has travelled to Australia by virtue of a visa granted under section 11AB of the *Migration Act 1958* has entered into Australia, the person shall not be taken by virtue of this section to be a permanent resident for the purposes of this Act at any time when:

- (a) the relevant certificate issued under that section is in force; and
- (b) the person is not the holder of an entry permit (other than a temporary entry permit) in force under that Act.”.

Section 13:

After subsection (9) insert the following subsection:

“(9A) Subsection (9) does not apply to a person to whom subsection 5A (5) applies.”.

Director of Public Prosecutions Act 1983

Paragraph 6 (1) (k):

Add at the end “or the *Mutual Assistance in Criminal Matters Act 1987*”.

Subsection 9 (6):

After “1966” (second occurring) insert “, proceedings in Australia under the *Mutual Assistance in Criminal Matters Act 1987*”.

Extradition (Commonwealth Countries) Act 1966

Section 33AB:

Repeal the section.

Extradition (Foreign States) Act 1966

Section 27:

Repeal the section.

Mutual Assistance in Criminal Matters
(Consequential Amendments) No. 86, 1987

Migration Act 1958

Subsection 5 (1):

Before the definition of "stowaway" insert the following definition:

"'statutory visitor' means a non-citizen who has travelled to Australia by virtue of a visa granted under section 11AB;"

Subsection 5 (1) (definition of "visa"):

Add at the end "or 11AB".

After section 6A:

Insert the following section:

Conditions on which entry permits may be granted to statutory visitors after entry into Australia

"6B.(1) An entry permit may be granted to a statutory visitor after entering into Australia if, and only if, one or both of the following conditions is satisfied:

- (a) the visitor has been granted, by instrument under the hand of a Minister, territorial asylum in Australia;
- (b) the Minister has determined, by instrument in writing, that the visitor has the status of refugee within the meaning of the Convention relating to the Status of Refugees that was done at Geneva on 28 July 1951 or of the Protocol relating to the Status of Refugees that was done at New York on 31 January 1967.

"(2) The grant of an entry permit under subsection (1) shall be made:

- (a) where paragraph (1) (a) applies—by the Minister; or
- (b) where paragraph (1) (b) applies—by:
 - (i) the Minister; or
 - (ii) an officer authorised by the Minister, by instrument in writing, to be an authorised officer for the purposes of this section or section 6A.

"(3) An entry permit shall be in a form approved by the Minister and shall be expressed to permit the person to whom it is granted to remain in Australia.

"(4) Subsections 6 (4), (6) and (6A) apply to an entry permit granted under this section as they apply to an entry permit granted under section 6.

"(5) Subject to subsection (4), sections 6 and 6A do not apply in relation to a statutory visitor."

After section 11A:

Insert the following section:

Statutory visitors

"11AB. (1) The Secretary to the Attorney-General's Department, or an officer of that Department authorised by that Secretary, may issue a certificate in writing stating that the presence of a specified non-citizen in Australia is required for purposes connected with the *Mutual Assistance in Criminal Matters Act 1987*.

"(2) Where an authorised officer (as defined by subsection 5 (1)) is satisfied that a certificate is in force in relation to a person, the officer shall grant to the person a visa with respect to travel to Australia by the person for the purposes referred to in subsection (1).

"(3) Subsections 11A (2) and (3) (but no other provisions of section 11A) apply in relation to a visa granted under this section.

"(4) Subject to subsection (5), the Secretary to the Attorney-General's Department, or an officer of that Department authorised by that Secretary, may cancel a certificate, but only on the ground that the presence of the non-citizen in Australia is no longer required for the purposes referred to in subsection (1).

Mutual Assistance in Criminal Matters
(Consequential Amendments) No. 86, 1987

“(5) A certificate shall not be cancelled before reasonable notice in writing has been given to the non-citizen and the Secretary to the Department.”.

After section 18:

Insert the following section:

Non-citizens whose certificates under section 11AB are cancelled

“18A. (1) Where:

- (a) a person has travelled to Australia by virtue of a visa granted under section 11AB;
 - (b) the person:
 - (i) is in Australia;
 - (ii) is not the holder of a valid entry permit; and
 - (iii) has not become an Australian citizen; and
 - (c) the relevant certificate issued under section 11AB is cancelled;
- the person shall be deemed to be a prohibited non-citizen and the Minister shall be deemed to order the deportation of the person.

“(2) The Minister has no power to revoke an order deemed to be made under subsection (1).

“(3) In any proceedings in which it is alleged that subsection (1) applies or applied to a person at a particular time, a certificate of the Secretary to the Department, or of an officer of the Department authorised by that Secretary to grant certificates under this subsection, stating that the first-mentioned person is not, or was not, at that time an Australian citizen, or the holder of a valid entry permit, as the case requires, is admissible in the proceedings and is *prima facie* evidence of the matter stated.

“(4) For the purposes of subsection (3), a document purporting to be a certificate referred to in subsection (3) shall, unless there is evidence to the contrary, be deemed to be such a certificate and to have been duly given.”.

Section 31B:

After subsection (2) insert the following subsection:

“(2A) Where:

- (a) a certificate has been issued under subsection 11AB in relation to a person;
 - (b) the person has not become an Australian citizen or the holder of a valid entry permit; and
 - (c) the person performs any work in Australia;
- the person commits an offence against this subsection.”.

Subsection 31B (4):

After “(2)” insert “, (2A)”.

Subsection 31B (5):

- (a) Omit “or (2)”, substitute “, (2) or (2A)”.
- (b) Omit from the end of paragraph (a) “or”.
- (c) After paragraph (b) insert the following word and paragraph:
 - “; or (c) in the case of an offence against subsection (2A)—certifying that the person charged with the offence has not become an Australian citizen or the holder of a valid entry permit, as the case requires;”.

[Minister's second reading speech made in—
House of Representatives on 30 April 1987
Senate on 29 May 1987]