



Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017

No. 73, 2017

**An Act to amend legislation relating to passports
and the criminal law, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017

No. 73, 2017

An Act to amend legislation relating to passports and the criminal law, and for related purposes

[Assented to 26 June 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017*.

No. 73, 2017

*Passports Legislation Amendment (Overseas Travel by Child Sex
Offenders) Act 2017*

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	26 June 2017
2. Schedule 1	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	13 December 2017 (F2017N00095)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Australian Passports Act 2005

1 After subsection 12(1)

Insert:

(1A) A competent authority may make a refusal/cancellation request in relation to the person if the person is:

- (a) an Australian citizen; and
- (b) a reportable offender.

2 Subsection 12(2)

After “subsection (1)”, insert “or (1A)”.

3 Subsection 12(3) (definition of *competent authority*)

After “paragraph (1)(a) or (b)”, insert “or (1A)(b)”.

4 Subsection 12(3)

Insert:

reportable offender means a person:

- (a) whose name is entered on a child protection offender register (however described) of a State or Territory; and
- (b) who has reporting obligations (however described) in connection with that entry on the register.

5 Subsection 18(1)

After “12(1),”, insert “12(1A),”.

6 Paragraph 18(2)(c)

Before “whether”, insert “if the refusal/cancellation request is made under a provision other than subsection 12(1A)—”.

7 Subsection 22(1)

Omit “The”, substitute “Subject to section 22AA, the”.

8 After section 22

Insert:

22AA When an Australian passport must be cancelled

- (1) The Minister must cancel an Australian passport that has been issued to a person if a competent authority makes a refusal/cancellation request in relation to the person under subsection 12(1A).
- (2) To avoid doubt, the suspension of an Australian passport under section 22A does not prevent the Minister from cancelling it under this section.

9 Paragraph 48(c)

After “document”, insert “(other than under section 22AA)”.

10 Paragraph 48(e)

After “paragraph 22(2)(d)”, insert “or section 22AA”.

11 After paragraph 51(1)(c)

Insert:

- (caa) subsection 12(2), if the power is exercised because of a refusal/cancellation request made under subsection 12(1A);

12 After paragraph 51(1)(d)

Insert:

- (da) section 22AA;

Criminal Code Act 1995

13 After Division 271 of the *Criminal Code*

Insert:

Division 271A—Overseas travel by certain registered offenders

271A.1 Restrictions on overseas travel by certain registered offenders

- (1) A person commits an offence if:
- (a) the person is an Australian citizen; and
 - (b) the person's name is entered on a child protection offender register (however described) of a State or Territory; and
 - (c) the person has reporting obligations (however described) in connection with that entry on the register; and
 - (d) the person leaves Australia.

Penalty: Imprisonment for 5 years.

- (2) Absolute liability applies to paragraph (1)(a).

Note: For absolute liability, see section 6.2.

- (3) Subsection (1) does not apply if:

- (a) a competent authority (within the meaning of section 12 of the *Australian Passports Act 2005* or section 13 of the *Foreign Passports (Law Enforcement and Security) Act 2005*) has given permission (however described) for the person to leave Australia; or
- (b) the reporting obligations of the person are suspended at the time the person leaves Australia.

Note: The defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3).

Foreign Passports (Law Enforcement and Security) Act 2005

14 After subsection 13(1)

Insert:

- (1A) A competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents if the person is:
- (a) an Australian citizen; and

(b) a reportable offender.

15 Subsection 13(2) (definition of *competent authority*)

After “paragraph (1)(a) or (b)”, insert “or (1A)(b)”.

16 Subsection 13(2)

Insert:

reportable offender means a person:

- (a) whose name is entered on a child protection offender register (however described) of a State or Territory; and
- (b) who has reporting obligations (however described) in connection with that entry on the register.

17 Subsection 16(1)

After “section 13”, insert “(other than subsection 13(1A))”.

18 After subsection 16(1)

Insert:

- (1A) If a competent authority makes a request under subsection 13(1A) in relation to a person, the Minister must order the surrender of the person’s foreign travel documents.

19 Subsection 16(2)

After “subsection (1)”, insert “or (1A)”.

20 Subsection 23(1)

After “section 16”, insert “(other than subsection 16(1A))”.

21 Subsection 23A(1)

After “subsection 16(1)”, insert “or (1A)”.

22 Application of amendments

- (1) The amendments of section 12 of the *Australian Passports Act 2005* made by this Schedule apply to refusal/cancellation requests made in relation to a person after the commencement of this Schedule, whether

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- the person became a reportable offender (within the meaning of that section) before or after that commencement.
- (2) Section 22AA of the *Australian Passports Act 2005*, as inserted by this Schedule, applies to the cancellation of an Australian passport after the commencement of this Schedule, whether:
- (a) the Australian passport was issued to a person before or after that commencement; or
 - (b) the person became a reportable offender (within the meaning of section 12 of that Act) before or after that commencement.
- (3) Section 271A.1 of the *Criminal Code Act 1995*, as inserted by this Schedule, applies in relation to conduct engaged in by a person after the commencement of this Schedule, whether the person's name is entered on a child protection offender register (however described) of a State or Territory before or after that commencement.
- (4) The amendments of section 13 of the *Foreign Passports (Law Enforcement and Security) Act 2005* made by this Schedule apply to requests made in relation to a person after the commencement of this Schedule, whether the person became a reportable offender (within the meaning of that section) before or after that commencement.
- (5) The amendments of section 16 of the *Foreign Passports (Law Enforcement and Security) Act 2005* made by this Schedule apply to an order for the surrender of a person's foreign travel documents made after the commencement of this Schedule, whether:
- (a) the foreign travel documents were issued to the person before or after that commencement; or
 - (b) the person became a reportable offender (within the meaning of section 13 of that Act) before or after that commencement.
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[Minister's second reading speech made in—
House of Representatives on 14 June 2017
Senate on 20 June 2017]

(127/17)
