



# Australian Passports Determination 2005

as amended

made under

section 57 of the *Australian Passports Act 2005* and section 8 of the *Australian Passports (Application Fees) Act 2005*

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This compilation was prepared on 18 July 2007  
taking into account amendments up to *Australian Passports Amendment  
Determination 2007 (No. 2)*

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra

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**Part 1 Preliminary****1.1 Name of Determination** [see Note 1]

This Determination is the *Australian Passports Determination 2005*.

**1.2 Commencement** [see Note 1]

This Determination commences on the commencement of sections 3 to 58 of the *Australian Passports Act 2005*.

**1.3 Interpretation**

In this Determination:

***Application Fees Act*** means the *Australian Passports (Application Fees) Act 2005*.

***Australian charitable organisation*** means a charitable organisation that is registered under a law of the Commonwealth or a State or Territory.

***Australian Passports Act*** means the *Australian Passports Act 2005*.

***Australian travel document*** means an Australian passport or a document of a kind mentioned in Part 6.

## Part 2 Children's passports

### 2.1 Special circumstances

- (1) For paragraph 11 (2) (a) of the Australian Passports Act, subject to subsection (2), each of the circumstances mentioned in subsection (3) is a special circumstance in which the Minister may issue a passport to a child even though a person who has parental responsibility for the child (the ***non-consenting parent***) has not provided his or her consent to the child travelling internationally.
- (2) Subsection (1) does not apply if the Minister has been provided with court documents demonstrating that there are proceedings before a Commonwealth, State or Territory court that may affect the rights of the child to travel internationally.
- (3) The circumstances are as follows:
  - (a) where the application is made by or on behalf of the child, neither the applicant nor the Minister has been able to locate or contact the non-consenting parent for a reasonable period;
  - (b) the non-consenting parent is missing and presumed dead;
  - (c) the non-consenting parent is medically incapable of providing consent;
  - (d) there has been no contact (including contact in person or by telephone, mail or e-mail) between the child and the non-consenting parent for a substantial period before the application is made;
  - (e) where the application is made by or on behalf of the child — the child:
    - (i) is at least 16 years old; and
    - (ii) has had no contact (including contact in person or by telephone, mail or e-mail) with the non-consenting parent for at least:
      - (A) if the child is self-supporting and living independently of all persons with parental responsibility for the child — 1 year before the application is made; or
      - (B) otherwise — 2 years before the application is made;
  - (f) the non-consenting parent:
    - (i) is not an Australian citizen; and
    - (ii) separated from the person whose consent has been obtained before that person arrived in Australia; and
    - (iii) has not had contact with the child since the child's arrival in Australia;
  - (g) a family violence order has been issued against the non-consenting parent;
  - (h) if the child is outside Australia — there is evidence of family violence;
  - (i) an order of a court in a country that, under the *Family Law (Child Abduction Convention) Regulations 1986*, is a convention country, permits the child to travel internationally;

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- (j) in the case of a child who is outside Australia — the Minister considers that there is a need for the child to travel internationally;
- (k) an order of a State or Territory court, made under a child welfare law, grants parental responsibility or guardianship of the child to:
  - (i) a parent of the child other than the non-consenting parent; or
  - (ii) a person other than a parent of the child.
- (4) In this section, ***child welfare law***, ***family violence*** and ***family violence order*** have the same meaning as in Part VII of the *Family Law Act 1975*.
- (5) In paragraph (3) (i), the reference to an order of a court permitting a child to travel internationally includes an order of a court permitting the issue of a passport to the child.

## Part 3                      Refusal to issue passport — law enforcement and security

### 3.1            Competent authorities — Australian law enforcement matters

For paragraph (b) of the definition of *competent authority* in subsection 12 (3) of the Australian Passports Act, the following persons are specified:

- (a) the Attorney-General;
- (b) the Secretary of the Attorney-General's Department;
- (c) SES employees in the Attorney-General's Department.

### 3.2            Competent authorities — international law enforcement cooperation

- (1) For paragraph (b) of the definition of *competent authority* in subsection 13 (3) of the Australian Passports Act, the following persons are specified:

- (a) the Secretary of the Attorney-General's Department;
- (b) SES employees in the Attorney-General's Department.

- (2) For paragraph (c) of the definition of *competent authority* in subsection 13 (3) of the Australian Passports Act, the following agencies are specified:

- (a) the Australian Federal Police;
- (b) the Australian Trade Commission, to the extent that it performs consular functions within the consular district of Vancouver, Canada.

### 3.3            Reasons relating to potential for harmful conduct

For subparagraph 14 (1) (a) (v) of the Australian Passports Act, the offences mentioned in Schedule 1 are specified.

### 3.4            Competent authorities — potential for harmful conduct

- (1) For subparagraph (a) (ii) of the definition of *competent authority* in subsection 14 (3) of the Australian Passports Act, the following persons are specified in relation to conduct of the kind mentioned in subparagraph 14 (1) (a) (iv) of the Australian Passports Act:

- (a) the Secretary of the Department of Foreign Affairs and Trade;
- (b) SES employees in the Department of Foreign Affairs and Trade whose duties include the performance of functions under the Australian Passports Act;
- (c) APS employees holding, or performing the duties of, a position in the Department of Foreign Affairs and Trade classified at Executive Level 2, whose duties include the performance of functions under the Australian Passports Act.

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- (2) For subparagraph (b) (ii) of the definition of *competent authority* in subsection 14 (3) of the Australian Passports Act, the following persons are specified:
  - (a) the Secretary of the Attorney-General's Department;
  - (b) SES employees in the Attorney-General's Department.
- (3) For subparagraph (b) (iii) of the definition of *competent authority* in subsection 14 (3) of the Australian Passports Act, the following agencies are specified:
  - (a) the Australian Customs Service;
  - (b) the Australian Federal Police;
  - (c) in relation to conduct of the kind mentioned in subparagraph 14 (1) (a) (i) of the Australian Passports Act — the Australian Security Intelligence Organisation;
  - (d) the Australian Trade Commission, to the extent that it performs consular functions within the consular district of Vancouver, Canada.



## **Part 4                      Concurrent, diplomatic and official passports**

### **4.1              Concurrent passports**

For subsection 17 (2) of the Australian Passports Act, the Minister may issue an Australian passport to a person in any of the following circumstances:

- (a) the person needs a second passport to avoid significant delays in travel that would otherwise be caused by waiting for a visa to be issued;
- (b) the person intends to travel to a country that will not accept a travel document showing evidence of travel to another country, and the person's current Australian passport shows evidence of travel to that other country;
- (c) the Minister is satisfied that other exceptional circumstances exist.

### **4.2              Diplomatic and official passports**

For subsection 17 (2) of the Australian Passports Act, the Minister may issue an Australian passport to a person who is travelling for diplomatic or official purposes, or is a dependent of a person travelling for diplomatic or official purposes.

*Note* Australian passports must be issued in forms approved by the Minister under subsection 53 (2) of the Australian Passports Act. These forms may include diplomatic, official and emergency passports.

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## **Part 5                      Validity**

### **5.1            Period of validity**

- (1) For subsection 20 (2) of the Australian Passports Act, and subject to subsection (2), and sections 5.2 and 5.3, a passport ceases to be valid at the end of the day specified in the passport as the date of expiry.
- (2) The maximum period for which a passport may be valid is as follows:
  - (a) subject to paragraphs (c) to (j), for a passport issued to an adult — 10 years;
  - (b) subject to paragraphs (e) to (j), for a passport issued to a child — 5 years;
  - (c) for a passport issued to a person aged 75 years or over who pays the fee mentioned in item 1.3 or 1.6 of Schedule 4 — 5 years;
  - (d) for a passport issued to a person who has lost 3 or more travel documents, or had 3 or more travel documents stolen, in the last 5 years before the date of application for the passport — 5 years;
  - (e) for a concurrent passport issued to a person mentioned in paragraph 4.1 (a) — 3 years;
  - (f) for an emergency passport — 1 year;
  - (g) for a passport issued to a person surrendering a diplomatic or official passport on resignation overseas from the person's diplomatic or official position — 1 year;
  - (h) for a passport issued to a person travelling internationally for the purpose of gender reassignment, if the passport is issued to the person in the intended gender — 1 year;
  - (i) for a passport issued to a terminally ill child or an accompanying family member for the purpose of travel sponsored by an Australian charitable organisation — 1 year;
  - (j) for a replacement passport issued to reflect a change of name because of marriage or a reversion to a previous name because of divorce or the death of a spouse, the fee for which is waived under section 56 of the Australian Passports Act — the period ending when the passport being replaced would otherwise have ceased to be valid;
  - (k) for a replacement passport issued to a child, for which the application fee is waived under paragraph 8.2 (a) — the period ending when the passport being replaced would otherwise have ceased to be valid.

### **5.2            Circumstances in which passports cease to be valid — damage**

- (1) For subsection 20 (2) of the Australian Passports Act, a passport ceases to be valid if:
  - (a) it is damaged; and
  - (b) the Minister is satisfied that it is no longer usable as evidence of the identity and citizenship of its holder or to facilitate international travel.

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- (2) In making a decision for paragraph (1) (b), the Minister must take into account any evidence that:
- (a) any of the visible information (including a photograph or machine readable zone) on the data page of the passport has been altered or tampered with, is faulty or cannot be read reliably; or
  - (b) the data page (including the laminate) of the passport has been tampered with, altered, damaged or dislodged, or has degraded; or
  - (c) any page is missing, substantially damaged or damaged to the extent that it cannot be read reliably; or
  - (d) any other part of the binding or structure of the passport has been tampered with or substantially damaged; or
  - (e) there are any other circumstances that the Minister could consider that make the passport unusable as evidence of the identity and citizenship of its holder.

*Examples of substantial damage for paragraph (c)*

Cutting a corner of the passport, cutting a machine-readable zone or cancellation of a page or pages by perforation or stamping.

*Examples for paragraph (d)*

Damage by water, solvents or any other substance.

### **5.3 Circumstances in which passports cease to be valid — other circumstances**

- (1) For subsection 20 (2) of the Australian Passports Act, if a passport is subject to an endorsement, or other advice in writing to the holder, that it is to cease to be valid on the occurrence of a circumstance mentioned in the endorsement or advice, the passport ceases to be valid on the occurrence of that circumstance.
- (2) For subsection 20 (2) of the Australian Passports Act, a passport ceases to be valid if the holder of the passport dies or loses his or her Australian citizenship.

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**Section 6.1**

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## **Part 6                      Travel-related documents**

### **6.1              Convention travel documents**

- (1) For section 9 of the Australian Passports Act and subject to section 6.5, the Minister may issue a convention travel document to a person who is present in Australia if the person:
  - (a) is not an Australian citizen; and
  - (b) is a refugee recognised under the Convention relating to the Status of Refugees dated 28 July 1951 and in force in Australia from 22 April 1954, and the Protocol in force under that Convention (in this section collectively called the *Refugee Convention*); and
  - (c) qualifies under subsection (2) or (3).
- (2) A person qualifies under this subsection if the person is lawfully resident in Australia or otherwise lawfully staying in Australia.
- (3) A person qualifies under this subsection if the person:
  - (a) is not lawfully resident in Australia; and
  - (b) is unable to obtain a travel document from the country of his or her lawful residence.
- (4) Subject to subsection (6), a convention travel document ceases to be valid at the end of the day specified in the document, being:
  - (a) in the case of a document issued to a person who qualifies under subsection (2) — a day not later than 2 years after the day on which the document is issued; or
  - (b) in the case of a document issued to a person who qualifies under subsection (3) — a day not later than 1 year after the day on which the document is issued.
- (5) The Minister may extend a convention travel document that has been issued to a person who qualified under subsection (2) only if the person is overseas.
- (6) If the Minister extends a convention travel document that was issued to a person who qualified under subsection (2), the document ceases to be valid at the end of the day specified in the document as extended, being a day not later than 6 months after the day on which the document is extended.
- (7) The Minister may issue a convention travel document overseas to replace a convention travel document that has been lost, stolen or damaged if the person to whom the original travel document was issued has a valid Australian visa with re-entry rights.
- (8) In this section, a reference to residence or staying in a country (including Australia), in relation to a person, has the meaning that it has in the Refugee Convention.

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**Section 6.3****6.2 Certificates of identity**

- (1) For section 9 of the Australian Passports Act and subject to section 6.5, the Minister may issue a certificate of identity to a person who:
  - (a) is not an Australian citizen; and
  - (b) is about to leave Australia; and
  - (c) is:
    - (i) stateless; or
    - (ii) unable to obtain a valid travel document from the country of which the person claims to be a national.
- (2) Subject to subsection (4), a certificate of identity ceases to be valid:
  - (a) at the end of the day specified in the certificate, being a day not later than 3 years after the day on which the certificate is issued; or
  - (b) when the person returns to the country of which the person claims to be a national, and is able to obtain a valid document from that country; whichever occurs first.
- (3) The Minister may extend a certificate of identity that has been issued to a person under subsection (1) only if:
  - (a) the person is overseas; and
  - (b) the person continues to be:
    - (i) stateless; or
    - (ii) unable to obtain a valid travel document from the country of which the person claims to be a national; and
  - (c) the person has a valid Australian visa with re-entry rights.
- (4) If the Minister extends a certificate of identity, the certificate ceases to be valid:
  - (a) at the end of the day specified in the certificate as extended, being a day not later than 5 years after the day on which the certificate was first issued; or
  - (b) when the person returns to the country of which the person claims to be a national, and is able to obtain a valid document from that country; whichever occurs first.
- (5) The Minister may issue a certificate of identity overseas to replace a certificate of identity that has been lost, stolen or damaged if the person to whom the original certificate was issued has a valid Australian visa with re-entry rights.

**6.3 Documents of identity**

- (1) For section 9 of the Australian Passports Act and subject to section 6.5, the Minister may issue a document of identity for travel purposes to:
  - (a) an Australian citizen to whom the issue of an Australian passport is unnecessary or undesirable; or

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- (b) a person who:
  - (i) possesses the nationality of another country that is a member of the Commonwealth; and
  - (ii) cannot obtain a valid travel document from the country or countries of which he or she has nationality.
- (2) A document of identity ceases to be valid at the end of the day specified in the document, being a day not later than 3 years after the day on which the document is issued.

**6.4 Provisional travel documents**

- (1) For section 9 of the Australian Passports Act and subject to section 6.5, the Minister may issue a provisional travel document to a person who:
  - (a) is an Australian citizen; and
  - (b) is unable to obtain an Australian travel document.
- (2) A provisional travel document ceases to have effect on the earlier of:
  - (a) the end of the day specified in the document, being a day not later than 1 month after the day on which the document is issued; or
  - (b) when the person arrives in a country in which there is an Australian embassy, high commission or consulate.

**6.5 General restrictions on the issue of travel-related documents**

- (1) Division 2 of Part 2 of the Australian Passports Act and Parts 2 and 3 of this Determination apply to the issue of a convention travel document, certificate of identity or provisional travel document as if that document or certificate were an Australian passport.
- (2) Division 2 of Part 2 of the Australian Passports Act, except section 12, and Parts 2 and 3 of this Determination, except section 3.1, apply to the issue of a document of identity as if that document were an Australian passport.
- (3) Sections 5.2 and 5.3 apply to a convention travel document, certificate of identity, document of identity or provisional travel document as if that document or certificate were an Australian passport.
- (4) Before issuing a travel-related document to a person, the Minister must be satisfied of the citizenship of the person.

*Note 1* Before issuing a travel-related document to a person, the Minister must be satisfied of the identity of the person — see section 10 of the Australian Passports Act.

*Note 2* Division 2 of Part 2 of the Australian Passports Act relates to reasons why the Minister may refuse to issue an Australian passport.

## **Part 7                      Performance of functions under the                                  Australian Passports Act**

### **Division 1                Identity, citizenship and other requirements**

#### **7.1              Disclosure of information to and by the Minister**

- (1) For paragraph 42 (1) (e) of the Australian Passports Act, the following persons are specified:
  - (a) in relation to the address, contact details or electoral enrolment of an applicant or a guarantor in relation to an application — the Australian Electoral Commission;
  - (b) in relation to information contained in a document required by the Minister or relied on by the applicant as evidence of identity, address or entitlement — the person that issued or signed the document;
  - (c) in relation to other information that the Minister considers is necessary for the purpose of satisfying the Minister as to a person's identity or entitlement — the person who can provide the information.
- (2) For subsection 42 (5) of the Australian Passports Act, the Minister may disclose the personal information mentioned in subsection (3) in relation to an application for a travel document to:
  - (a) a person mentioned in the application; or
  - (b) a person mentioned in subsection (1).
- (3) For subsection (2), the information is:
  - (a) in relation to the applicant, the guarantor in relation to the application or a person who witnesses the consent of a person with parental responsibility to an application:
    - (i) the person's full name; and
    - (ii) the person's date and place of birth; and
    - (iii) the person's sex; and
    - (iv) the number of any Australian travel document held by the person; and
    - (v) the date and place of issue of any Australian travel document held by the person; and
    - (vi) the person's address; and
    - (vii) the person's occupation; and
  - (b) in relation to a birth certificate, marriage certificate or citizenship certificate:
    - (i) the official number allocated to the certificate by:
      - (A) in the case of a registered birth certificate or marriage certificate — the registry of births, deaths and marriages that issued the certificate; or

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- (B) in the case of a citizenship certificate — the Minister for Immigration and Multicultural and Indigenous Affairs; or
  - (C) in the case of an overseas birth certificate or marriage certificate — the authority that issued the certificate; and
- (ii) the date on which the certificate was issued and, in the case of a registered birth certificate or marriage certificate, the date on which the birth or marriage was registered; and
- (c) the applicant's name, as stated on his or her birth certificate; and
- (d) in relation to an application made by, or on behalf of, a child:
  - (i) the full names of the child's mother and father; and
  - (ii) the maiden name of the child's mother; and
- (e) the official number allocated by the Department to the application.

## 7.2 Information that may be requested

- (1) For subsection 43 (1) of the Australian Passports Act, the kind of personal information that may be requested by the Minister for the purposes of Part 2 of the Australian Passports Act in relation to an application of a particular kind is the information mentioned in the application form for applications of that kind.
- (2) For subsection 43 (1) of the Australian Passports Act, the Minister may request the following kinds of personal information for the purpose of satisfying himself or herself of the person's identity under paragraph 8 (b) of the Australian Passports Act:
  - (a) the person's name as shown in records held by the Registrar of Births, Deaths and Marriages of an Australian State or Territory or by the Department of Immigration and Citizenship;
  - (b) the person's date of birth as shown in those records;
  - (c) the person's place of birth as shown in those records;
  - (d) the person's sex as shown in those records.

*Note* Subsection 43 (2) of the Australian Passports Act provides that section 43 does not prevent the Minister from requesting under subsection 42 (1) of that Act information that is not specified in this section.

## 7.3 Method of disclosing information

For subsection 44 (1) of the Australian Passports Act, information that the Minister may request under subsection 42 (1) of that Act is to be disclosed:

- (a) in a manner compatible with systems of the Department operated for the purposes of performing functions under the Australian Passports Act if it is disclosed in electronic form; or
- (b) in the form of original documents if it is disclosed in hard-copy form.



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## **Division 2                      Disclosure of information — lost or stolen documents and disclosure for particular purposes**

### **7.4                      Lost, stolen and otherwise invalid travel documents**

For section 45 of the Australian Passports Act, the Minister may disclose personal information of a kind mentioned in Schedule 2 to a person mentioned in Part 1 of Schedule 3, for the purpose of informing the person about the status of an Australian travel document.

### **7.5                      Disclosure for particular purposes**

- (1) For section 46 of the Australian Passports Act, the Minister may disclose personal information of a kind mentioned in Schedule 2 to a person mentioned in Part 2 of Schedule 3, for the purpose mentioned in paragraph 46 (a) of the Australian Passports Act.
- (2) For section 46 of the Australian Passports Act, the Minister may disclose personal information of a kind mentioned in Schedule 2 to a person mentioned in Part 3 of Schedule 3, for the purpose mentioned in paragraph 46 (b) of the Australian Passports Act.
- (3) For section 46 of the Australian Passports Act, the Minister may disclose personal information of a kind mentioned in Schedule 2 to a person mentioned in Part 4 of Schedule 3, for the purpose mentioned in paragraph 46 (c) of the Australian Passports Act.

## **Division 3                      Biometrics and ePassports**

### **7.6                      Methods to be used for confirming evidence of identity**

- (1) For paragraph 47 (1) (a) of the Australian Passports Act, the following methods are to be used for the purposes of confirming the validity of evidence of the identity of an applicant for an Australian travel document, or a person to whom an Australian travel document has been issued:
  - (a) matching a digitised version of the photograph provided by the applicant with any previous application from the applicant, and with any other digitised photographs of the applicant held by the Department;
  - (b) embedding a contactless chip into the Australian travel document in a manner that the Minister considers is consistent with international standards and recommended practices and procedures for travel documents adopted in accordance with the Convention on International Civil Aviation.

*Note* Any personal information collected as part of using a method specified in this section must be dealt with in accordance with section 14 of the *Privacy Act 1988* (including Information Privacy Principles 1 and 4).

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- (2) For subsection 47 (3) of the Australian Passports Act, the personal information mentioned in item 1 of Schedule 2 may be used for the purposes mentioned in subsection (1).

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**Section 8.2**

## **Part 8                      Fees**

### **8.1            Amount of fees**

- (1) For section 4 of the Application Fees Act, subject to subsections (2) and (3), the fee in respect of a matter specified in an item in Schedule 4 is the amount specified in that item.
- (2) The fee specified in item 4.1 of Schedule 4 is payable in addition to the fee for the issue of a travel document if the applicant requests that the document be issued within 48 hours after the provision of all the information requested by the Minister for the purpose of being satisfied of the identity or entitlement of the person in order to issue the document.
- (3) Subject to subsection (4), the fee specified in item 4.2, 4.3 or 4.4 of Schedule 4 is payable in addition to the fee for an application for a travel document if:
  - (a) the applicant for the travel document has lost a travel document or travel documents, or had a travel document or travel documents stolen, in the period of 5 years before applying for the travel document; and
  - (b) the application is an application for a travel document to replace a travel document that has been lost or stolen.
- (4) The reference in subsection (3) to a travel document that has been, or travel documents that have been, lost or stolen does not include a travel document if the fee specified in item 4.2, 4.3 or 4.4 of Schedule 4 that was applicable on the replacement of that document has been waived under paragraph 8.2 (h) or a refund of the fee has been given under subsection 8.3 (4).

*Note* All applicable fees (including the fees specified in Part 4 of Schedule 4, if applicable) are payable with the application — see section 7 of the Application Fees Act.

### **8.2            Waiver**

For paragraph 56 (2) (a) of the Australian Passports Act, a fee may be waived in any of the following circumstances:

- (a) the fee is for an application for a passport to a child under the age of five who has been previously issued with a passport during his or her first year of life, if the child has not previously been issued with a replacement passport;
- (b) the fee is for an application for a replacement passport to a person who has changed his or her name because of marriage or divorce, or on the death of his or her spouse, if:
  - (i) the applicant's previous passport is current at the time of the event leading to the change of name; and
  - (ii) the person has not previously had a fee waived on grounds mentioned in this paragraph; and
  - (iii) the application is made within 1 year of the person's marriage or divorce, or the death of the person's spouse, as the case may be;

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- (c) the fee is for an application for a passport of a kind mentioned in paragraph 5.1 (2) (i);
- (d) the fee is for an application by, or on behalf of, an Australian citizen for a document of identity for travel between Australia and Norfolk Island only;
- (e) the fee is for an application for a new travel document to replace a document that is faulty as a result of error by the Department;
- (f) the fee is for an application for a certificate of identity to be issued for the deportation of a person under the *Migration Act 1958*;
- (g) the fee is for an application for a passport to replace a passport (except an emergency passport) if the period of validity of the original passport was less than the maximum period for a passport of that kind under subsection 5.1 (2);
- (h) the fee is for an application for an official passport on the surrender of a diplomatic passport;
- (i) the fee is for an application for a 1-year passport on the surrender of a diplomatic or official passport on the resignation overseas of the person from his or her diplomatic or official position;
- (j) the applicant is a person in respect of whom the Minister is of the opinion that, in view of special circumstances, it is not desirable that any fee should be charged.

**8.3 Refunds**

- (1) For paragraphs 56 (2) (b) and (c) of the Australian Passports Act, an amount specified in subsection (2), (4), (5) or (6) may be refunded to an applicant in the circumstances mentioned in that subsection.

*Priority processing fee*

- (2) If the applicant has paid the additional fee specified in item 4.1 of Schedule 4 in relation to a travel document, and:
  - (a) the travel document is not issued within 48 hours after the Minister receives all the information requested by the Minister for the purpose of being satisfied of the identity or entitlement of the person in order to issue the document; or
  - (b) the Minister is satisfied that there are compassionate grounds for the refund of the additional fee;the Minister may refund the additional fee.
- (3) For paragraph (2) (b), ***compassionate grounds*** means the need to travel due to the death or serious illness of the mother, father, son, daughter, brother, sister, mother-in-law or father-in-law of the applicant.

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**Section 8.3**

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*Lost or stolen fee*

- (4) If:
- (a) the additional fee specified in item 4.2, 4.3 or 4.4 of Schedule 4 is paid as a result of a travel document (the *original document*) being lost or stolen; and
  - (b) the applicant applies for a refund within 3 months after the issue of the replacement travel document to which the fee relates; and
  - (c) the person to whom the original document was issued could not reasonably be regarded as having caused or contributed to the loss or theft; and
  - (d) the circumstances of the loss or theft are not covered by an insurance policy;
- the Minister may refund the additional fee.
- (5) If:
- (a) the additional fee specified in item 4.2, 4.3 or 4.4 of Schedule 4 is paid as a result of a travel document (the *original document*) being lost or stolen; and
  - (b) the original document is found and returned by the person to whom it was issued to the Department or an Australian diplomatic mission or consulate within 3 months after it was reported as lost or stolen; and
  - (c) the applicant applies for a refund within 3 months after the original document was recorded by the Department as lost or stolen;
- the Minister may refund an amount equal to the fee specified in item 4.2 of Schedule 4.

*Extenuating or unusual circumstances*

- (6) The Minister may refund a fee or part of a fee (including a fee specified in Part 4 of Schedule 4, if applicable) if the Minister is satisfied that the refund of the fee, or part of the fee, is justified by extenuating or unusual circumstances.

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**Section 9.1**

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## **Part 9                      Name on travel document, endorsements and observations**

### **9.1              Name on travel document**

- (1) For subsection 53 (3) of the Australian Passports Act, subject to subsection (10), the circumstances in which the name on a person's travel document may be a name other than a name mentioned in paragraphs 53 (3) (a) to (d) of the Australian Passports Act are set out in subsections (2) to (9).
- (2) If a person is divorced or widowed since his or her previous travel document was issued, the person may use the name that:
  - (a) is specified on:
    - (i) his or her registered birth certificate, Australian citizenship certificate, registered marriage certificate or registered name change certificate; or
    - (ii) a previous passport issued to the person after 20 August 1986 with a period of validity of at least 2 years; and
  - (b) he or she used immediately before marrying the spouse who has died or in respect of whom the divorce has been granted.
- (3) An indigenous Australian whose birth has not been registered in a State or Territory may use a name by which he or she is generally known, the general use of which is confirmed by the person's community elders, or supported by other evidence.
- (4) Subject to subsection (9), if a certificate of Australian citizenship has been granted to a person under the *Australian Citizenship Act 1948*, and the name on that certificate is not the same as the name on the person's birth certificate, the person may not use the name on his or her birth certificate unless the name is registered.
- (5) Subject to subsection (9), if a travel document has been issued to a person in the name specified on his or her Australian citizenship certificate, registered marriage certificate or registered name change certificate, the person may use a different name only:
  - (a) in the circumstances mentioned in subsection (2); or
  - (b) if the name by which he or she is registered changes.
- (6) In the circumstances mentioned in paragraph (5) (b), the only name that the person may use is the name specified on the register after the change.
- (7) A person who:
  - (a) was born overseas; and
  - (b) resides overseas; and

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**Section 9.1**

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- (c) is unable to obtain a change of name certificate or a marriage certificate from any Australian register of births, deaths and marriages;  
may use the name specified on a marriage certificate issued by a foreign authority.
- (8) A person who:
- (a) was born overseas; and
  - (b) resides overseas; and
  - (c) is unable to obtain a change of name certificate from any register of births, deaths and marriages (Australian or overseas);
- may, if the Minister considers it desirable that another name appear on the travel document, use the name by which he or she is commonly known.
- (9) If, on the request of the person, in exceptional circumstances, the Minister considers it desirable that another name appear on the travel document, the person may use that name.
- (10) Despite anything in subsections (1) to (9), or section 53 of the Australian Passports Act, the name appearing on a travel document must not be a name that the Minister considers to be unacceptable.
- (11) Without limiting subsection (10), a name may be treated as unacceptable if it contains any of the following:
- (a) an expletive, a racial or ethnic slur or implication, or an otherwise obscene or offensive term;
  - (b) a political statement or slogan;
  - (c) the name of, or a reference to, a public institution or public office;
  - (d) a title, award or decoration not awarded by the Crown or conferred under a law of the Commonwealth;
  - (e) a term that could mislead people into believing that the bearer has been awarded or conferred a title, award or decoration;
  - (f) a string of words that would not commonly be recognised as a name;
  - (g) a name that cannot be established by repute or usage;
  - (h) any other term that is contrary to the public interest;
  - (i) too many characters for the data page of the travel document;
  - (j) a symbol without phonetic significance;
  - (k) characters that the Minister considers are inconsistent with the international standards and recommended practices and procedures for travel documents adopted in accordance with the Convention on International Civil Aviation, concluded at Chicago on 7 December 1944.

*Note* The text of the Convention on International Civil Aviation is set out in Australian Treaty Series 1975 No. 5. In 2005 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.

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**Section 9.2**

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(12) In this section:

*Australian citizenship certificate* means a certificate of citizenship granted under the *Australian Citizenship Act 1948*.

*registered* means registered on the register of births, deaths and marriages (however described) of any State or Territory.

## **9.2 Endorsements and observations**

In issuing an Australian travel document, the Minister may endorse, or make an observation on, that travel document to specify such particulars as the Minister thinks fit.



## Part 10                      Miscellaneous

### 10.1      Delegation of Minister's powers

- (1) The Minister may, in writing, delegate to a person who is an officer within the meaning of paragraph (a), (b), (c) or (g) of the definition of *officer* in subsection 6 (1) of the Australian Passports Act any or all of the Minister's powers and functions under paragraph 5.2 (1) (b) and sections 8.2, 8.3 and 9.1.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

### 10.2      Review of decisions

A decision under section 8.2 or 8.3, or subsection 9.1 (8), (9) or (10), is reviewable in accordance with the procedures set out in sections 49 and 50 of the Australian Passports Act as if the decision were a reviewable decision under section 48 of the Australian Passports Act.

## **Schedule 1                      Offences**

(section 3.3)

### **Part 1                      Criminal Code offences**

1. Offences against Division 70 of the *Criminal Code* (bribery of foreign public officials).
2. Offences against Division 71 of the *Criminal Code* (offences against United Nations and associated personnel).
3. Offences against Division 72 of the *Criminal Code* (international terrorist activities using explosive or lethal devices).
4. Offences against Division 73 of the *Criminal Code* (people smuggling and related offences).
5. Offences against Division 101 of the *Criminal Code* (terrorism).
6. Offences against Division 102 of the *Criminal Code* (terrorist organisations).
7. Offences against Division 104 of the *Criminal Code* (harming Australians).
8. Offences against Division 268 of the *Criminal Code* (genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court).
9. Offences against Division 270 of the *Criminal Code* (slavery, sexual servitude and deceptive recruiting).
10. Offences against Division 400 (except subsections 400.8 (2) and (3)) of the *Criminal Code* (money laundering).
11. Offences against sections 474.19 to 474.24, 474.26 and 474.27 of the *Criminal Code* (child pornography and related matters).

### **Part 2                      Offences against other legislation**

1. Offences against sections 233B, 233BAA and 233BAB of the *Customs Act 1901* (import and export of certain goods).
2. Offences against Part IIIA of the *Crimes Act 1914* (child sex tourism).
3. Offences against section 8 of the *Crimes (Internationally Protected Persons) Act 1976*.
4. Offences against:
  - (a) sections 9 to 13, and 15A to 15C; and
  - (b) section 14 (to the extent that the offences are indictable offences);of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990* (offences related to drug trafficking).

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5. Offences against sections 65Y and 65Z of the *Family Law Act 1975* (child abduction).

## **Schedule 2      Information that may be disclosed**

(sections 7.4 and 7.5)

1. Information contained on the data page of the Australian travel document including, but not limited to, the following:
  - (a) the document number;
  - (b) the document type;
  - (c) the date of issue of the document;
  - (d) the place of issue of the document;
  - (e) the date of expiry of the document;
  - (f) the authority of the document;
  - (g) the document holder's family name, given name or names, and sex;
  - (h) the document holder's nationality;
  - (i) the document holder's date of birth;
  - (j) the document holder's place of birth;
  - (k) the document holder's photograph;
  - (l) the document holder's signature.
2. The status of the Australian travel document, including, but not limited to, the following:
  - (a) whether the document is valid;
  - (b) whether the document has been lost or stolen;
  - (c) whether the document is in some way restricted in its use.
3. For a purpose mentioned in paragraph 46 (a) or (b) of the Australian Passports Act — any other information that is necessary to establish the authenticity of an applicant for, or a person holding, an Australian travel document.
4. For a purpose mentioned in paragraph 46 (c), (d) or (e) of the Australian Passports Act — any other information that is necessary to meet the request.

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## **Schedule 3      Persons to whom personal information may be disclosed**

(sections 7.4 and 7.5)

### **Part 1      Disclosure for purpose mentioned in section 45 of Australian Passports Act**

1. The Secretary of the New Zealand Department administering the Immigration Act 1987 (NZ).

*Note* At the commencement of this Determination, the New Zealand Department administering the Immigration Act 1987 (NZ) was the Department of Labour.

2. The United States Secretary of Homeland Security.
3. The International Criminal Police Organisation (Interpol).
4. Persons authorised by Interpol to access information held by Interpol in accordance with Interpol's rules on the processing of information for the purposes of international police co-operation, as in force at the commencement of this Determination.
5. The registrar of births, deaths and marriages (however described) of each State and Territory.
6. The road traffic authority (however described) of each State and Territory.
7. The Secretary of the Department of Defence.
8. The Australian Federal Police.
9. The police force of each State and Territory.
10. All courts of the Commonwealth, and of each State and Territory.

### **Part 2      Disclosure for purpose mentioned in paragraph 46 (a) of Australian Passports Act**

1. The registrar of births, deaths and marriages (however described) of each State and Territory.
2. The road traffic authority (however described) of each State and Territory.
3. The Secretary of the Department of Defence.
4. The Australian Federal Police.
5. The police force of each State and Territory.
6. All courts of the Commonwealth, and of each State and Territory.

**Part 3                    Disclosure for purpose mentioned in paragraph  
46 (b) of Australian Passports Act**

1.    The Secretary of the Department of Immigration and Multicultural and Indigenous Affairs.
2.    The Chief Executive Officer of the Australian Customs Service.
3.    The Secretary of the New Zealand Department administering the Immigration Act 1987 (NZ).

*Note* At the commencement of this Determination, the New Zealand Department administering the Immigration Act 1987 (NZ) was the Department of Labour.

**Part 4                    Disclosure for purpose mentioned in paragraph  
46 (c) of Australian Passports Act**

1.    Any person who has responsibility for, or powers, functions or duties in relation to, law enforcement under a law of the Commonwealth or a State or Territory.

## Schedule 4 Fees

(section 8.1)

*Note* It is intended that the fees specified in Schedule 4 will be indexed annually in accordance with the Consumer Price Index.

### Part 1 Applications for passports

Item	Matter	Fee (\$)
1.1	Application for an Australian passport of 32 pages, other than a passport for a child or an emergency passport	193
1.2	Application for an Australian passport of 32 pages for a child, other than an emergency passport	96
1.3	Application by a person aged at least 75 years for an Australian passport of 32 pages to be valid for not more than 5 years, other than an emergency passport	96
1.4	Application for an Australian passport of 64 pages, other than a passport for a child or an emergency passport	289
1.5	Application for an Australian passport of 64 pages for a child, other than an emergency passport	144
1.6	Application by a person aged at least 75 years for an Australian passport of 64 pages to be valid for not more than 5 years, other than an emergency passport	144
1.7	Application for an emergency passport	0

### Part 2 Applications for observations on passports

Item	Matter	Fee (\$)
2.1	Application for the making of an observation on a passport after the issue of the passport	12

### Part 3 Applications for travel-related documents

Item	Matter	Fee (\$)
3.1	Application for a certificate of identity	115
3.2	Application for extension of a certificate of identity	12
3.3	Application for a document of identity	38
	<i>Note</i> The fee for an application by, or on behalf of, an Australian citizen for a document of identity for travel between Australia and Norfolk Island only may be waived.	
3.4	Application for extension of a document of identity	12
3.5	Application for a convention travel document	115
3.6	Application for extension of a convention travel document	10
3.7	Application for a provisional travel document	0

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**Part 4      Additional fees**

<b>Item</b>	<b>Matter</b>	<b>Fee (\$)</b>
4.1	Additional fee: priority processing	73
4.2	Additional fee: 1 travel document lost or stolen	64
4.3	Additional fee: 2 travel documents lost or stolen	193
4.4	Additional fee: 3 or more travel documents lost or stolen	386

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## Table of Instruments

**Notes to the *Australian Passports Determination 2005*****Note 1**

The *Australian Passports Determination 2005* (in force under section 57 of the *Australian Passports Act 2005* and section 8 of the *Australian Passports (Application Fees) Act 2005*) as shown in this compilation is amended as indicated in the Tables below.

**Table of Instruments**

<b>Title</b>	<b>Date of FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
<i>Australian Passports Determination 2005</i>	16 June 2005 (see F2005L01508)	1 July 2005 (see s. 2.1 and F2005L01517)	—
<i>Australian Passports Amendment Determination 2005 (No. 1)</i>	20 Sept 2005 (see F2005L02625)	24 Oct 2005	—
<i>Australian Passports Amendment Determination 2006 (No. 1)</i>	28 June 2006 (see F2006L02002)	1 July 2006	—
<i>Australian Passports Amendment Determination 2007 (No. 1)</i>	17 July 2007 (see F2007L02258)	18 July 2007	—
<i>Australian Passports Amendment Determination 2007 (No. 2)</i>	17 July 2007 (see F2007L02269)	18 July 2007	—

## Table of Amendments

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## Table of Amendments

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

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Provision affected	How affected
<b>Part 2</b>	
S. 2.1.....	am. 2007 No. 2
<b>Part 7</b>	
<b>Division 1</b>	
S. 7.2.....	am. 2007 No. 1
<b>Division 3</b>	
Div. 3 of Part 7 .....	ad. 2005 No. 1
S. 7.6.....	ad. 2005 No. 1
<b>Schedule 4</b>	
Schedule 4.....	rs. 2005 No. 1; 2006 No. 1

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