



Australian Passports Amendment Determination 2013 (No. 1)

I, Bob Carr, Minister for Foreign Affairs, make the following determination under section 57 of the *Australian Passports Act 2005*.

Dated: 6 March 2013

Bob Carr
Minister for Foreign Affairs

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1 Name of determination

This determination is the *Australian Passports Amendment Determination 2013 (No. 1)*.

2 Commencement

This determination commences on the day after it is registered.

3 Authority

This determination is made under section 57 of the *Australian Passports Act 2005*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Australian Passports Determination 2005

1 Section 1.3

Insert:

de facto partner has the meaning given by section 2D of the *Acts Interpretation Act 1901*.

de facto relationship has the meaning given by section 2F of the *Acts Interpretation Act 1901*.

registered relationship has the meaning given by section 2E of the *Acts Interpretation Act 1901*.

2 Subsection 2.1(2)

Repeal the subsection, substitute:

- (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:
- (a) the rights of the child to travel internationally; or
 - (b) who has parental responsibility for the child.

Note: For the purposes of section 11 of the Australian Passports Act, *parental responsibility* has the meaning given by subsection 11(5) of the Australian Passports Act.

3 Paragraph 2.1(3)(e)

Repeal the paragraph.

4 Subsection 2.1(4)

Omit “Part VII of”.

5 Section 4.2

Omit “dependent”, substitute “dependant”.

6 Paragraph 5.1(2)(d)

Repeal the paragraph, substitute:

- (d) for a passport issued to a person whose travel documents have been lost or stolen at least 3 times in the 5 years immediately before the date of applying for the passport—5 years;

7 Paragraph 5.1(2)(e)

Omit “mentioned in paragraph 4.1(a)”, substitute “in a circumstance mentioned in section 4.1”.

8 Paragraph 5.1(2)(j)

Repeal the paragraph, substitute:

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- (j) for a replacement passport issued to reflect a change of name, for which the fee is waived under paragraph 8.2(b)—the period ending when the passport being replaced would otherwise have ceased to be valid;

9 Paragraph 8.2(b)

Repeal the paragraph, substitute:

- (b) the fee is for an application for a replacement passport to a person if:
 - (i) the person's name has changed because of any of the following events:
 - (A) the person has married or divorced;
 - (B) the person has entered or ceased to be in a registered relationship;
 - (C) the person has entered or ceased to be in a de facto relationship;
 - (D) the person's spouse, partner in a registered relationship or partner in a de facto relationship has died;
 - (E) the person is transitioning to another gender; and
 - (ii) at the time the person applied for the replacement passport, the person held a current passport valid for at least another 2 years;

10 After paragraph 8.2(i)

Insert:

- (ia) all of the following apply:
 - (i) the fee is of a kind mentioned in item 4.2 of Schedule 4;
 - (ii) the travel document recorded by the Department as lost or stolen is found;
 - (iii) an application for a replacement travel document is made within 3 months after the date when the found travel document was recorded by the Department as lost or stolen;
 - (iv) the found travel document is returned to the Department or an Australian diplomatic mission or consulate with the application;

11 Subsection 8.3(3)

Repeal the subsection, substitute:

- (3) In paragraph (2)(b):

compassionate grounds includes:

 - (a) the need to travel because of the death or serious illness of the applicant's spouse, de facto partner, father, mother, son, daughter, brother, sister, father-in-law or mother-in-law; and
 - (b) the need to travel with a person who:
 - (i) needs to travel because of a circumstance mentioned in paragraph (a); and
 - (ii) is the primary carer of the applicant.

12 Subsection 9.1(2)

Repeal the subsection, substitute:

- (2) If, after a person's previous travel document was issued, the person has divorced or ceased to be in a registered relationship, or the person's spouse or partner in a
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registered relationship has died, the person may use a name that the person had used before the person married or entered the registered relationship if:

- (a) the name:
 - (i) is registered in Australia; or
 - (ii) is stated on an Australian citizenship certificate; and
- (b) the name has not been replaced with another name that:
 - (i) has been registered for the person in Australia; or
 - (ii) is stated on an Australian citizenship certificate.

(2A) A person may use the name stated in an Australian travel document if:

- (a) the document is the most recent Australian travel document issued to the person; and
- (b) the document was issued on or after 20 August 1986; and
- (c) the document had a period of validity of at least 2 years; and
- (d) the name stated for the person in the document has not been replaced with another name that:
 - (i) is registered for the person in Australia; or
 - (ii) is stated on an Australian citizenship certificate.

13 Subsection 9.1(4)

Omit “a certificate of Australian citizenship has been granted to a person under the *Australian Citizenship Act 1948*”, substitute “an Australian citizenship certificate has been granted to a person”.

14 Subsections 9.1(7) and (8)

Repeal the subsections, substitute:

- (7) A person may use the name stated on a foreign marriage certificate if:
 - (a) the person:
 - (i) was born overseas; and
 - (ii) resides overseas; and
 - (iii) is unable to obtain a marriage certificate or name change certificate from a registry of births, deaths and marriages (however described) of a State or Territory; and
 - (b) the foreign marriage certificate was issued to the person after the person became an Australian citizen.
- (8) A person may use the name stated on a foreign name change certificate if:
 - (a) the person:
 - (i) was born overseas; and
 - (ii) resides overseas; and
 - (iii) is unable to obtain a name change certificate from a registry of births, deaths and marriages (however described) of a State or Territory; and
 - (b) the foreign name change certificate was issued to the person after the person became an Australian citizen.

15 Paragraph 9.1(11)(d)

Repeal the paragraph, substitute:

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- (d) a title, award or decoration that is not awarded directly to, or conferred directly on, the applicant by the Crown or under a law of the Commonwealth;

16 Subsection 9.1(11) (note)

Repeal the note, substitute:

Note: The text of the Convention on International Civil Aviation is set out in Australian Treaty Series 1957 No. 5 ([1957] ATS 5). In 2013, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

17 Subsection 9.1(12)

Repeal the subsection, substitute:

(12) In this section:

Apostille Convention means the Convention abolishing the Requirement of Legalisation for Foreign Public Documents, done at The Hague on 5 October 1961.

Note: The text of the Convention abolishing the Requirement of Legalisation for Foreign Public Documents is set out in Australian Treaty Series 1995 No. 11 ([1995] ATS 11). In 2013, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Australian citizenship certificate means:

- (a) a certificate of citizenship granted under the *Australian Citizenship Act 1948*; or
- (b) a notice given to a person under section 37 of the *Australian Citizenship Act 2007*.

foreign marriage certificate means a marriage certificate that:

- (a) is issued in accordance with the local law of the overseas country where the marriage takes place; and
- (b) is recognised by a competent authority of that overseas country as a certificate, entry or record of a marriage solemnised in, or under the law of, that country; and
- (c) relates to a marriage that is recognised under the *Marriage Act 1961*; and
- (d) is legalised.

foreign name change certificate means a certificate that:

- (a) is issued in accordance with the local law of the overseas country where the certificate is issued; and
- (b) is recognised by a competent authority of that overseas country as a certificate, entry or record which effects a name change for a person; and
- (c) is legalised.

legalised means:

- (a) for a foreign marriage certificate or foreign name change certificate issued in an overseas country that is a signatory to the Apostille Convention—an apostille has been placed on the certificate or on a separate document affixed to the certificate in accordance with the requirements of the Apostille Convention; or
 - (b) for a foreign marriage certificate or foreign name change certificate issued in an overseas country that is not a signatory to the Apostille Convention—
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one or more signatures, stamps or seals have been placed on the certificate, or on a separate document affixed to the certificate, in accordance with processes recognised in the country in which the certificate is issued

registered means registered on a register maintained by a Registrar of births, deaths and marriages (however described) of any State or Territory.

18 Subsection 10.1(1)

Omit “sections 8.2”, substitute “sections 6.1, 6.2, 8.2”.

19 Clause 4 of Part 2 of Schedule 1

Omit “Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990”, substitute “*Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*”.

20 After clause 12 of Part 1 of Schedule 3

Add:

13. The Commissioner of the Bureau of Immigration of the Philippines.

21 After clause 10 of Part 2 of Schedule 3

Insert:

11. The Commissioner of the Bureau of Immigration of the Philippines.

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

22 After clause 4 (second occurring) of Part 2 of Schedule 3

Add:

5. The Commissioner of the Bureau of Immigration of the Philippines.