



Australian Passports (Transitionals and Consequentials) Act 2005

No. 7, 2005

An Act to provide for transitional and consequential matters relating to the enactment of the *Australian Passports Act 2005*, and for related purposes

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

Part 1—Preliminary	2
1 Short title	2
2 Commencement	2
3 Schedule(s)	2
Part 2—Transitional provisions	4
4 Definitions	4
5 Passports issued under the old Act are taken to have been issued under the new Act	4
6 Travel-related documents issued under the old regulations are taken to have been issued under the new Act	4
7 Old Act continues to apply in relation to pending proceedings and other matters	5
8 Applications under the old Act	5
9 Applications under the old regulations	5
10 Review of decisions made under the old Act	6
11 Transitional regulations	6
Schedule 1—Consequential amendments	7
<i>Administrative Appeals Tribunal Act 1975</i>	7
<i>Australian Security Intelligence Organisation Act 1979</i>	7
<i>Crimes Act 1914</i>	7
<i>Criminal Code Act 1995</i>	7
<i>Migration Act 1958</i>	7
<i>Passports Act 1938</i>	7



Australian Passports (Transitionals and Consequentials) Act 2005

No. 7, 2005

An Act to provide for transitional and consequential matters relating to the enactment of the *Australian Passports Act 2005*, and for related purposes

[Assented to 18 February 2005]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Passports (Transitional and Consequential) Act 2005*.

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
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Part 2	At the same time as sections 3 to 58 of the <i>Australian Passports Act 2005</i> commence.	
3. Schedule 1	At the same time as sections 3 to 58 of the <i>Australian Passports Act 2005</i> commence.	

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

Section T3T

concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 2—Transitional provisions

4 Definitions

In this Act:

commencement day means the day on which sections 3 to 58 of the *Australian Passports Act 2005* commence.

new Act means the *Australian Passports Act 2005*.

old Act means the *Passports Act 1938* as in force immediately before the commencement day.

old regulations means the *Passports Regulations 1939* as in force immediately before the commencement day.

5 Passports issued under the old Act are taken to have been issued under the new Act

- (1) An Australian passport issued under the old Act is taken, on and from the commencement day, to be an Australian passport issued under the new Act.
- (2) The passport continues to be valid for the unexpired part of the term it would have had if the old regulations had not been repealed.
- (3) Subsection (2) does not prevent the Minister from cancelling the passport under the new Act.

6 Travel-related documents issued under the old regulations are taken to have been issued under the new Act

- (1) A convention travel document, certificate of identity or document of identity issued under the old regulations is taken, on and from the commencement day, to be a travel-related document (within the meaning of the new Act) issued under the new Act.

- (2) The document or certificate continues to have effect for the unexpired part of the period specified in the document or certificate.
- (3) Subsection (2) does not prevent the Minister from cancelling the document or certificate under the new Act.

7 Old Act continues to apply in relation to pending proceedings and other matters

- (1) To avoid doubt, except as expressly provided by sections 8, 9 and 10 or by regulations made under section 11, section 8 of the *Acts Interpretation Act 1901* is to apply in relation to the repeal of Part 1A of the old Act.
- (2) If, on or after the commencement day, there are proceedings of the Administrative Appeals Tribunal to which paragraph 21AA(5)(c) of the *Administrative Appeals Tribunal Act 1975* applies and which relate to the old Act, the amendment made by item 1 of Schedule 1 to this Act is, for the purposes of those proceedings, taken not to have been made.

8 Applications under the old Act

If an application for an Australian passport made under the old Act has not been decided immediately before the commencement day, the application is, on and from the commencement day, taken to be an application for an Australian passport made under the new Act.

9 Applications under the old regulations

If an application for a convention travel document, certificate of identity or document of identity made under the old regulations has not been decided immediately before the commencement day, the application is, on and from the commencement day, taken to be an application for a travel-related document (within the meaning of the new Act) made under the new Act.

10 Review of decisions made under the old Act

Section 11A of the old Act continues to apply in relation to a decision made under that Act, as if that section had not been repealed.

11 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the repeal of Part 1A of the old Act and the commencement of the new Act.

Schedule 1—Consequential amendments

Administrative Appeals Tribunal Act 1975

1 Paragraph 21AA(5)(c)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

Note: Subsection 7(2) of this Act may affect the operation of this amendment.

Australian Security Intelligence Organisation Act 1979

2 Paragraph 34JBA(1)(a)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

3 Paragraph 34JC(1)(a)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

4 Section 35 (paragraph (c) of the definition of *prescribed administrative action*)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

Crimes Act 1914

5 Subsection 22(4)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

Criminal Code Act 1995

6 Paragraph 104.7(1)(c) of the *Criminal Code*

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

Migration Act 1958

7 Subsection 5(1) (definition of *Australian passport*)

Omit “*Passports Act 1938*”, substitute “*Australian Passports Act 2005*”.

Passports Act 1938

8 Title

Repeal the title, substitute:

An Act relating to foreign passports and other foreign travel documents

9 Section 1

Omit “*Passports Act 1938*”, substitute “*Foreign Passports (Law Enforcement and Security) Act 2005*”.

10 Sections 3 and 4A

Repeal the sections.

11 Subsection 5(1) (definition of *Administrator*)

Repeal the definition.

12 Subsection 5(1) (definition of *approved officer*)

Repeal the definition.

13 Subsection 5(1) (definition of *approved representative*)

Repeal the definition.

14 Subsection 5(1) (definition of *approved senior officer*)

Repeal the definition.

15 Subsection 5(1) (definition of *Australian citizen*)

Repeal the definition.

16 Subsection 5(1) (definition of *Australian passport*)

Repeal the definition.

17 Subsection 5(1) (definition of *authorized officer*)

Repeal the definition.

18 Subsection 5(1) (definition of *offence against this Act*)

Repeal the definition.

19 Subsection 5(1) (definition of *officer*)

Repeal the definition.

20 Subsection 5(1) (definition of *prescribed minor*)

Repeal the definition.

21 Subsection 5(1) (definition of *this Act*)

Repeal the definition.

22 Subsections 5(2), (3) and (5)

Repeal the subsections.

23 Sections 6, 6AA, 6AB and 6A

Repeal the sections.

24 Part 1A

Repeal the Part.

25 Subsection 14(2) (paragraph (a) of the definition of *competent authority*)

Repeal the paragraph, substitute:

- (a) a member of the diplomatic staff of an Australian mission, being a person who is a member of the diplomatic staff of the mission within the meaning of the Vienna Convention on Diplomatic Relations; or
- (aa) a consular officer of an Australian consulate, being a person who is a consular officer (but not an honorary consular officer) within the meaning of the Vienna Convention on Consular Relations; or

26 Subsection 14(2) (at the end of the definition of *competent authority*)

Add:

- Note 1: The text of the Vienna Convention on Diplomatic Relations is set out in Australian Treaty Series 1968 No. 3. 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.
- Note 2: The text of the Vienna Convention on Consular Relations is set out in Australian Treaty Series 1973 No. 7. 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.

27 Subsection 15(2) (subparagraph (b)(i) of the definition of *competent authority*)

Repeal the subparagraph, substitute:

- (i) a member of the diplomatic staff of an Australian mission, being a person who is a member of the diplomatic staff of the mission within the meaning of the Vienna Convention on Diplomatic Relations; or
- (ia) a consular officer of an Australian consulate, being a person who is a consular officer (but not an honorary consular officer) within the meaning of the Vienna Convention on Consular Relations; or

28 Subsection 15(2) (at the end of the definition of *competent authority*)

Add:

- Note 1: The text of the Vienna Convention on Diplomatic Relations is set out in Australian Treaty Series 1968 No. 3. 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.
- Note 2: The text of the Vienna Convention on Consular Relations is set out in Australian Treaty Series 1973 No. 7. 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.

29 After section 23

Add:

23A Delegation of Minister's power to order surrender of documents

- (1) The Minister may delegate to an SES employee the Minister's power to make an order under subsection 16(1) in response to a request made under section 13.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

30 Paragraph 25(a)

Omit “this Part or by Part 2 or 3 of”.

31 Paragraph 25(b)

Omit “this Part or to Part 2 or 3 of”.

*[Minister's second reading speech made in—
House of Representatives on 2 December 2004
Senate on 9 December 2004]*

(230/04)