



# **Migration Amendment (Excision from Migration Zone) Act 2001**

**No. 127, 2001**



# **Migration Amendment (Excision from Migration Zone) Act 2001**

No. 127, 2001

**An Act to excise certain Australian territory from the migration zone under the *Migration Act 1958* for purposes related to unauthorised arrivals, and for related purposes**

---

## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
4	Application of amendments.....	2
	<b>Schedule 1—Amendment of the Migration Act 1958</b>	<b>3</b>





# **Migration Amendment (Excision from Migration Zone) Act 2001**

**No. 127, 2001**

---

---

**An Act to excise certain Australian territory from the migration zone under the *Migration Act 1958* for purposes related to unauthorised arrivals, and for related purposes**

*[Assented to 27 September 2001]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Migration Amendment (Excision from Migration Zone) Act 2001*.

---

## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **4 Application of amendments**

The amendments made by this Act apply to a visa application made after the excision time for the excised offshore place concerned.

Example: If a person becomes an offshore entry person by entering Australia at Christmas Island, then the amendments apply to any visa application made by the person after 2 pm on 8 September 2001 by legal time in the Australian Capital Territory.

## **Schedule 1—Amendment of the Migration Act 1958**

### **1 Subsection 5(1)**

Insert:

*excised offshore place* means any of the following:

- (a) the Territory of Christmas Island;
- (b) the Territory of Ashmore and Cartier Islands;
- (c) the Territory of Cocos (Keeling) Islands;
- (d) any other external Territory that is prescribed by the regulations for the purposes of this paragraph;
- (e) any island that forms part of a State or Territory and is prescribed for the purposes of this paragraph;
- (f) an Australian sea installation;
- (g) an Australian resources installation.

Note: The effect of this definition is to excise the listed places and installations from the migration zone for the purposes of limiting the ability of offshore entry persons to make valid visa applications.

### **2 Subsection 5(1)**

Insert:

*excision time*, for an excised offshore place, means:

- (a) for the Territory of Christmas Island—2 pm on 8 September 2001 by legal time in the Australian Capital Territory; or
- (b) for the Territory of Ashmore and Cartier Islands—2 pm on 8 September 2001 by legal time in the Australian Capital Territory; or
- (c) for the Territory of Cocos (Keeling) Islands—12 noon on 17 September 2001 by legal time in the Australian Capital Territory; or
- (d) for any other external Territory that is prescribed by the regulations for the purposes of the definition of *excised offshore place*—the time when the regulations commence; or
- (e) for any island that forms part of a State or Territory and is prescribed by the regulations for the purposes of the

definition of *excised offshore place*—the time when the regulations commence; or

- (f) for an Australian sea installation—the commencement of the *Migration Amendment (Excision from Migration Zone) Act 2001*; or
- (g) for an Australian resources installation—the commencement of the *Migration Amendment (Excision from Migration Zone) Act 2001*.

### 3 Subsection 5(1)

Insert:

*offshore entry person* means a person who:

- (a) entered Australia at an excised offshore place after the excision time for that offshore place; and
- (b) became an unlawful non-citizen because of that entry.

### 4 After section 46

Insert:

#### 46A Visa applications by offshore entry persons

- (1) An application for a visa is not a valid application if it is made by an offshore entry person who:
  - (a) is in Australia; and
  - (b) is an unlawful non-citizen.
- (2) If the Minister thinks that it is in the public interest to do so, the Minister may, by written notice given to an offshore entry person, determine that subsection (1) does not apply to an application by the person for a visa of a class specified in the determination.
- (3) The power under subsection (2) may only be exercised by the Minister personally.
- (4) If the Minister makes a determination under subsection (2), the Minister must cause to be laid before each House of the Parliament a statement that:
  - (a) sets out the determination; and



- (b) sets out the reasons for the determination, referring in particular to the Minister's reasons for thinking that the Minister's actions are in the public interest.
- (5) A statement under subsection (4) must not include:
    - (a) the name of the offshore entry person; or
    - (b) any information that may identify the offshore entry person; or
    - (c) if the Minister thinks that it would not be in the public interest to publish the name of another person connected in any way with the matter concerned—the name of that other person or any information that may identify that other person.
  - (6) A statement under subsection (4) must be laid before each House of the Parliament within 15 sitting days of that House after:
    - (a) if the determination is made between 1 January and 30 June (inclusive) in a year—1 July in that year; or
    - (b) if the determination is made between 1 July and 31 December (inclusive) in a year—1 January in the following year.
  - (7) The Minister does not have a duty to consider whether to exercise the power under subsection (2) in respect of any offshore entry person whether the Minister is requested to do so by the offshore entry person or by any other person, or in any other circumstances.
- 

*[Minister's second reading speech made in—  
House of Representatives on 18 September 2001  
Senate on 20 September 2001]*

(184/01)

---