

Migration Amendment Act 1979

No. 117 of 1979

An Act to amend the *Migration Act* 1958.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

Short title,
&c.

1. (1) This Act may be cited as the *Migration Amendment Act* 1979.¹

(2) The *Migration Act* 1958² is in this Act referred to as the Principal Act.

Commence-
ment

2. (1) Sections 1 and 2, sub-sections 3 (1) and sections 4, 5, 7, 11, 12, 13, 14, 16, 17, 18, 19, 22, 23, 24, 25, 27, 28 and 29 shall come into operation on the day on which this Act receives the Royal Assent.¹

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

Interpret-
ation

3. (1) Section 5 of the Principal Act is amended by inserting after the definition of "the holder" in sub-section (1) the following definition:

“ ‘ticket’ includes a travel document in respect of the conveyance of a person from one place to another place; ”

(2) Section 5 of the Principal Act is further amended—

(a) by inserting after the definition of “protected person” in sub-section (1) the following definition:

“ ‘return endorsement’ means a return endorsement in force under section 11A; ”;

(b) by adding at the end of sub-section (1) the following definition:

“ ‘visa’ means a visa in force under section 11A; ”; and

(c) by adding at the end thereof the following sub-section:

“(6) For the purposes of this Act, a reference to the holder of a visa or return endorsement shall be read as a reference to the person to whom a visa or return endorsement was granted and as including a reference to any other person whose name is included in that visa or return endorsement.”

4. Section 6 of the Principal Act is amended—

- (a) by repealing sub-section (5) and substituting the following sub-section:

“(5) An entry permit may be granted to an immigrant either upon his arrival in Australia or after he has entered Australia (whether or not that entry took place before, or takes place after, the commencement of this Part).”; and

- (b) by inserting after sub-section (6) the following sub-section:

“(6A) Without limiting the conditions subject to which an entry permit referred to in sub-section (6) may be granted, such a permit may be granted subject to a condition imposing restrictions with respect to the work that may be performed by the holder in Australia, including restrictions on performing any work, or work other than specified work or work of a specified kind, without the permission, in writing, of an authorized officer.”.

Immigrant
not to enter
Australia
without
entry permit

- 5. Section 7 of the Principal Act is amended by omitting sub-section (5).**

Cancellation,
expiration
and renewal
of entry
permits

6. Section 8 of the Principal Act is amended—

- (a) by adding at the end of paragraph (a) of sub-section (1) “, not being a person in respect of whom a declaration is in force under sub-section (2)”;

- (b) by omitting paragraph (b) of sub-section (1) and substituting the following paragraph:

“(b) a diplomatic or consular representative of a country other than Australia, a member of the staff of such a representative or the spouse or dependent relative of such a representative;”;

- (c) by inserting in sub-section (2) “(a), (b),” after “paragraph” (first occurring); and

- (d) by adding at the end thereof the following sub-section:

“(4) A reference in paragraph (b) of sub-section (1) to a diplomatic or consular representative of a country other than Australia shall be read as a reference to a person who has been appointed to, or is the holder of, a post or position in a diplomatic or consular mission of that country in Australia other than a person who was ordinarily resident in Australia when he was appointed to be a member of the mission.”.

Exemptions

- 7. Section 9 of the Principal Act is amended by repealing sub-section (2).**

Entry permit
to lapse upon
departure
from
Australia

8. Section 11 of the Principal Act is repealed and the following section substituted:

Visa, &c., not
to entitle
persons to
enter
Australia

“11. (1) A document or notation to which this section applies issued to a person on behalf of the Commonwealth shall not be deemed to be an entry permit and does not entitle that person to enter Australia or to be granted an entry permit.

“(2) A document or notation to which this section applies is—

- (a) a visa or return endorsement granted under this Act; or
- (b) a visa or similar notation, or a form of provisional authority to enter Australia, issued, before the commencement of this section, on behalf of the Commonwealth.”

9. (1) After Division 1 of Part II of the Principal Act the following Division is inserted:

“Division 1A—Visas and Return Endorsements

Visas and
return
endorsements

“11A. (1) An authorized officer may, in accordance with this section—

- (a) grant to a person, upon request by that person, a visa with respect to travel to Australia by that person and any person whose name is included in the visa—
 - (i) on a single occasion;
 - (ii) on occasions aggregating not more than a specified number of occasions; or
 - (iii) on any number of occasions,
 while the visa remains in force; or
- (b) upon request by a person who is residing in Australia, or has resided in Australia and wishes to return to Australia, grant to that person a return endorsement with respect to travel to Australia by that person and any other person whose name is included in the return endorsement on any number of occasions while it remains in force.

“(2) A visa or return endorsement—

- (a) shall be in a form approved by the Minister;
- (b) shall come into force on the day on which it is granted;
- (c) shall be expressed to continue in force until the expiration of a date specified in it, or of a period specified or otherwise described in it; and
- (d) shall, notwithstanding that it is so expressed to continue in force cease to be in force upon cancellation under section 11B.

“(3) For the purpose of sub-section (2) and subject to sub-section (4), where a notation in a form approved by the Minister as a form of visa or return endorsement is made by an officer in a passport or other

document of identity held by a person and the notation does not specify the name of any person as the person to whom it relates, the notation has effect as if it were expressed to relate to the person holding the passport or other document.

“(4) Where the spouse or child of a person, being a spouse or child whose name is included in the passport or document of identity of that person, accompanies that person to Australia, a visa or return endorsement granted by an authorized officer to that person and written on that passport or document of identity shall extend to that spouse or child if, but only if, the name of that spouse or child is included in the visa or return endorsement.

“(5) An authorized officer shall not grant a return endorsement to a person who is the holder of a temporary entry permit.

“11B. The Minister or an authorized officer may, in his absolute discretion, cancel a visa or return endorsement at any time by writing under his hand.

Cancellation,
expiration
and renewal
of visas and
return
endorsements

“11C. (1) The master, owner, agent and charterer of a vessel on which a person (not being an Australian citizen) is brought into Australia on or after the commencement of this section are each guilty of an offence against this section if the person, on his arrival in Australia—

Carriage of
persons to
Australia
without
documenta-
tion

- (a) is not in possession of a visa or return endorsement applicable to his travel to Australia on that occasion; and
- (b) is not exempted, by instrument under the hand of the Minister, from the requirements of this Division or included in a class of persons who are so exempted.

“(2) A person who is guilty of an offence against this section is liable, upon conviction, to a fine not exceeding \$2,000.

“(3) Notice of the making of an instrument of the kind referred to in paragraph (b) of sub-section (1) may be published in the *Gazette*.

“(4) In any proceedings against the master, owner, agent or charterer of a vessel for an offence against sub-section (1), evidence that a person who arrived in Australia on board that vessel failed, on his arrival, to produce to an officer, upon demand by that officer, a visa or return endorsement applicable to that person's travel to Australia on that occasion is *prima facie* evidence that the person was not, on his arrival, in possession of such a visa or return endorsement.

“(5) Where the master, owner, agent or charterer of a vessel on which a person is brought into Australia is prosecuted for an offence against sub-section (1) in relation to the bringing of that person into Australia, it is a defence if the master, owner, agent or charterer satisfies the court—

- (a) that the person was, when he boarded or last boarded the vessel for travel to Australia, in possession of a visa or return endorsement applicable to his travel to Australia on that occasion, being a visa or return endorsement that did not appear to have been cancelled and was expressed to continue in force until, or at least until, the date of his expected arrival in Australia;
- (b) that the master of the vessel had reasonable grounds for believing a person to be, when he boarded or last boarded the vessel for travel to Australia, a person referred to in paragraph (b) of sub-section (1); or
- (c) that the vessel on which the person was brought into Australia entered Australia from overseas by reason only of the illness of a person on board the vessel, stress of weather or other circumstances beyond the control of the master.

“(6) Where—

- (a) two or more persons who are the holders of the same visa or return endorsement travel to Australia on board the same vessel; and
- (b) on the arrival of those persons in Australia, one of them is in possession of that visa or return endorsement,

for the purposes of this Act, each of them shall be deemed, upon arrival in Australia, to be in possession of that visa or return endorsement.”.

(2) A visa or similar notation, or a form of provisional authority to enter Australia, that was issued before the date fixed under sub-section 2 (2) and had not expired, or been cancelled, before that date has effect, on and after that date, according to its tenor, for all the purposes of the Principal Act as amended by this Act, as if it were a visa duly granted under section 11A of the Principal Act as so amended.

(3) A document or notation issued before the date fixed under sub-section 2 (2) in respect of the return of a person to Australia, being a document or notation that had not expired or been cancelled before that date, has effect, on and after that date, according to its tenor, for all the purposes of the Principal Act as amended by this Act, as if it were a return endorsement duly granted under section 11A of the Principal Act as so amended.

Persons
entering
Australia in
circumstances
to be
prohibited
immigrants

10. Section 16 of the Principal Act is amended—

- (a) by omitting paragraphs (b) and (c) of sub-section (1) and substituting the following paragraphs:

“(b) for the purpose of securing entry into Australia produces or produced to an officer—

- (i) a permit, certificate, passport, visa, return endorsement, identification card or other document that was not issued to him or is or was

forged or was obtained by false representation;
or

(ii) a passenger card that contains information that is false or misleading in a material particular;

“(ba) for the purpose of securing a visa or a return endorsement, or an entry permit permitting a person to remain in Australia, produces or produced to an officer a document of a kind referred to in sub-paragraph (i) of paragraph (b); or

“(c) at the time of entry is or was a person of any of the following descriptions, namely:

(i) a person suffering from a prescribed disease or a prescribed physical or mental condition;

(ii) a person who has been convicted of a crime and sentenced to death, to imprisonment for life or to imprisonment for a period of not less than 1 year;

(iii) a person who has been convicted of 2 or more crimes and sentenced to imprisonment for periods aggregating not less than 1 year;

(iv) a person who has been charged with a crime and either found guilty of having committed the crime while of unsound mind or acquitted on the ground that the crime was committed while he was of unsound mind;

(v) a person who has been deported from Australia or another country; or

(vi) a person who has been excluded from another country in prescribed circumstances.”;

(b) by inserting after sub-section (1) the following sub-sections:

“(1A) Where a person has been convicted of a crime and ordered to be confined in a corrective institution other than a prison, sub-section (1) applies to and in relation to him as if he had been convicted of that crime and sentenced to imprisonment for the period during which he was so confined.

“(1B) In sub-section (1), a reference to a crime shall be read as a reference to an offence punishable by death, by imprisonment for life or by imprisonment for a period of not less than 6 months.”; and

(c) by omitting from sub-section (2) “ disability or defect ” and substituting “ condition ”.

11. Section 19 of the Principal Act is amended by omitting “ wife ” Dependants of deportee (wherever occurring) and substituting “ spouse ”.

12. After section 21 of the Principal Act, the following section is inserted:

Deportation
and
maintenance
costs

“21A. (1) Where the Commonwealth makes arrangements for the conveyance of a deportee from a place in Australia to a place outside Australia, the deportee is liable to pay to the Commonwealth an amount equal to the passage money and other charges payable in respect of the conveyance.

“(2) The arrangements to which sub-section (1) apply include arrangements made under section 22 but do not include arrangements made under section 21.

“(3) Without limiting the manner in which the obligation of a deportee under sub-section (1) may be fulfilled, that obligation may be fulfilled, in whole or in part, as provided in sub-section (4).

“(4) Where the Commonwealth makes arrangements of the kind referred to in sub-section (1) for the conveyance of a deportee to a place outside Australia and the deportee is the holder of a ticket for his conveyance from a place within Australia to a place outside Australia, an authorized officer may, on behalf of the deportee and either with or without the consent of the deportee, arrange for the ticket to be applied for or towards the conveyance of the deportee to that first-mentioned place.

“(5) Arrangements for the application of a ticket made by the authorized officer in pursuance of sub-section (4) are as valid and effectual as they would be if they had been made by the deportee himself.

“(6) Where an authorized officer arranges for a ticket held by a deportee to be applied for or towards the conveyance of that deportee to a place in pursuance of sub-section (4)—

- (a) if the application of the ticket meets the passage money and other charges for the conveyance of the deportee to that place in full—the deportee shall be deemed to have fulfilled his obligation under sub-section (1); and
- (b) in any other case—the deportee shall be deemed to have fulfilled his obligation under sub-section (1) to the extent of the amount credited, by reason of the application of a ticket, to the amount of his passage money and other charges for conveyance to that place.

“(7) Where a person in respect of whom a deportation order has been made is kept in custody in a State or Territory under this Act pending his deportation from Australia, the person is liable to pay to the Commonwealth, in respect of the cost to the Commonwealth of keeping and maintaining him while he is so kept in custody, for each complete day in the period during which he is so kept in custody, an amount equal to the amount determined by the Minister, by notice published in the

Gazette, to be the daily maintenance amount in respect of that State or Territory.

“(8) A person referred to in sub-section (7) is not liable, under that sub-section, to pay to the Commonwealth any amount in relation to a day in respect of which another person, being a person on whom a requirement is made under section 21, is liable under that section to pay an amount to the Commonwealth in respect of the cost of maintaining that first-mentioned person.

“(9) In making a determination under sub-section (7) in respect of a State or Territory, the Minister shall have regard to the cost to the Commonwealth of persons kept in custody in that State or Territory on behalf of the Commonwealth.

“(10) The reference in sub-section (7) to a complete day shall be read as a reference to a period of 24 hours ending at midnight.

“(11) An amount payable by a deportee to the Commonwealth under sub-section (1) or (7) may be recovered by the Commonwealth, as a debt due to the Commonwealth, in a court of competent jurisdiction.”.

13. Section 22 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section: Deportees to be received on board vessels

“(2) For services rendered in pursuance of a requirement under sub-section (1) in connection with the conveyance of a deportee to a place outside Australia, the Commonwealth is liable to pay—

- (a) in the case of services rendered in respect of the deportee—the reasonable passage money and other charges for those services, less any amount paid by the deportee towards, or credited by reason of the application of a ticket towards, that passage money and those charges; and
- (b) in the case of services rendered in respect of the person charged with the custody of the deportee—reasonable passage money (if any) and other charges for those services.”.

14. The heading to Division 4 of Part II of the Principal Act is repealed and the following heading substituted: Division heading

“*Division 4—Offences in relation to entry into, and remaining in, Australia*”.

15. Section 27 of the Principal Act is amended—

- (a) by inserting after paragraph (a) of sub-section (1) the following paragraphs: Offences in relation to entering or remaining in Australia
 - “(aa) enters Australia after having been deported from Australia and is not, when he enters Australia, the holder of an entry permit endorsed with a statement

that the officer granting the permit recognizes him to be a person referred to in sub-section (1) of section 16;

- “(ab) becomes a prohibited immigrant upon the expiration of a temporary entry permit that is applicable to him;”;
- (b) by inserting in paragraph (c) of sub-section (1) “return endorsement,” after “visa,”;
- (c) by omitting from sub-section (1) “by imprisonment for a period not exceeding six months” and substituting “by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months”;
- (d) by omitting the penalty set out at the foot of sub-section (2) and substituting:
“Penalty: \$1,000 or imprisonment for 6 months.”;
- (e) by inserting after sub-section (2), the following sub-section:
“(2A) It is a defence to a prosecution of an immigrant for an offence against paragraph (ab) of sub-section (1) if the immigrant satisfies the Court that, after he became a prohibited immigrant a further entry permit applicable to him had come into force or he had ceased to be a prohibited immigrant by virtue of sub-section (4) of section 7.”; and
- (f) by omitting from sub-section (4) “One thousand dollars” and substituting “\$2,500”.

Stowaways

16. Section 29 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “One thousand dollars” and substituting “\$2,000”; and
- (b) by omitting sub-section (2).

Persons concerned in bringing immigrants secretly into Commonwealth or harbouring prohibited immigrants

17. Section 30 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (2) the word “or” (last occurring);
- (b) by inserting after paragraph (a) of sub-section (2) the following paragraph:
“(aa) aid or incite a person who is a prohibited immigrant to remain in Australia; or”;
- (c) by omitting the penalty set out at the foot of the section and substituting the following penalty:
“Penalty: \$1,000 or imprisonment for 6 months.”; and
- (d) by adding at the end thereof the following sub-section:
“(3) For the purpose of sub-section (2), a person shall not be taken to have aided a prohibited immigrant to remain in Australia by reason only of that he does an act or thing by way of making a request, supporting a request or assisting another person to make a request for the grant of an entry permit, or a

further entry permit, permitting the prohibited immigrant to remain in Australia.”.

18. Section 31 of the Principal Act is amended—

(a) by inserting in sub-section (1) “or with an application for an entry permit or a further entry permit permitting an immigrant (including that person himself) to remain in Australia” after “Australia”; and

(b) by omitting the penalty set out at the foot of the section and substituting the following penalty:

“Penalty: \$1,000 or imprisonment for 6 months.”.

False papers,
&c.

19. After section 31 of the Principal Act the following sections are inserted in Division 4 of Part II:

“31A. The Minister or an authorized officer may require a person who is a prohibited immigrant to leave Australia within the time specified by the Minister or by that authorized officer, as the case may be, and the person shall comply with that requirement.

Penalty: \$1,000 or imprisonment for 6 months.

Minister or
authorized
officer may
require
prohibited
immigrant to
leave
Australia

“31B. (1) Where a person who is the holder of a temporary entry permit that is in force and is subject to a condition of the kind referred to in sub-section (6A) of section 6 contravenes or fails to comply with that condition, the person commits an offence against this sub-section.

“(2) Where a person who is a prohibited immigrant performs any work in Australia without the permission, in writing, of an authorized officer, the person commits an offence against this sub-section.

“(3) Where a person makes, in, or in connection with or in support of, an application to an authorized officer for permission to work in Australia, a statement that is false in a material particular, that person commits an offence against this sub-section.

“(4) The penalty for an offence against sub-section (1), (2) or (3) is a fine not exceeding \$1,000.

“(5) In proceedings in a court for an offence against sub-section (1) or (2), a certificate of the Secretary to the Department of Immigration and Ethnic Affairs, or of an officer of that Department authorized by the Secretary to that Department to give certificates under this sub-section—

(a) certifying that the person charged with the offence has not been given any permission by an authorized officer to perform work in Australia; or

(b) certifying that the person charged with the offence has not been given permission by an authorized officer to perform work in Australia other than the permission a copy of which is attached to the certificate,

Offences in
relation to
work

is admissible in evidence in the proceedings and is *prima facie* evidence of the matters stated in the certificate.

“(6) For the purposes of this section, a document purporting to be a certificate referred to in sub-section (5) shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

“(7) For the purposes of this section, a reference in a temporary entry permit, and the reference in sub-section (2), to the performance of any work in Australia by a person, shall each be read as not including a reference to the performance by the person of any work of a prescribed kind or of work in prescribed circumstances.”.

Custody of prohibited immigrant during stay of vessel in port

20. Section 36 of the Principal Act is amended—

(a) by inserting after sub-section (1) the following sub-section:

“(1A) Where a person, not being a person exempted, by instrument under the hand of the Minister, from the requirements of Division 1A, who has travelled to a port in Australia on board a vessel, whether or not that port is the first port of call of the vessel in Australia, has, after the arrival of the vessel at its first port of call in Australia, sought and been refused an entry permit, he may, if an authorized officer so directs, be taken ashore by an officer and kept in such custody as an authorized officer directs until the departure of the vessel from its last port of call in Australia or until such earlier time as an authorized officer directs.”;

(b) by omitting from sub-section (2) “the last preceding sub-section” and substituting “sub-section (1) or (1A)”;

(c) by omitting from sub-section (3) “of this section” and substituting “or sub-section (1A)”;

(d) by omitting from sub-section (4) “of this section” and substituting “or sub-section (1A)”;

(e) by adding at the end thereof the following sub-section:

“(5) In this section, ‘vessel’ does not include aircraft.”.

21. After section 36 of the Principal Act the following section is inserted:

Custody of prohibited immigrant during stay of aircraft in Australia

“36A. (1) A person who is on board an aircraft at the time of the arrival of the aircraft at a proclaimed airport, whether or not that airport is the first port of call of the aircraft in Australia, being a stowaway or a person whom an authorized officer reasonably believes to be seeking to enter Australia in circumstances in which he would become a prohibited immigrant, may—

(a) if an authorized officer so directs; or

(b) if the master of the aircraft so requests and an authorized officer approves,

be taken off the aircraft by an officer and kept in such custody, either at the proclaimed airport or elsewhere, as an authorized officer directs until such time as he is removed from Australia in accordance with sub-section (4) or until such earlier time as an authorized officer directs.

“(2) A person who disembarks from an aircraft at a proclaimed airport, whether or not that airport is the first port of call of the aircraft in Australia, being a stowaway or a person whom an authorized officer reasonably believes to be seeking to enter Australia in circumstances in which he would become a prohibited immigrant, may, at any time before he leaves the airport—

- (a) if an authorized officer so directs; or
- (b) if the master of the aircraft so requests and an authorized officer approves,

be taken into custody by an officer and kept in such custody, either at the proclaimed airport or elsewhere, as an authorized officer directs until such time as he is removed from Australia in accordance with sub-section (4) or until such earlier time as an authorized officer directs.

“(3) Where a person, not being a person exempted, by instrument under the hand of the Minister, from the requirements of Division 1A, who travels by aircraft from a place outside Australia to a proclaimed airport has sought and been refused an entry permit at that airport or at any other airport in Australia at which he has called in the course of that travel, he may, if an authorized officer so directs, be taken into custody at that first-mentioned airport by an officer and kept in such custody, either at that first-mentioned airport or elsewhere, as an authorized officer directs until such time as he is removed from Australia in accordance with sub-section (4) or until such earlier time as an authorized officer directs.

“(4) Where a person is taken into custody under sub-section (1), (2) or (3), an authorized officer may, at any time within 24 hours after the person is so taken into custody, by notice in writing served on the master, owner, agent or charterer of the aircraft on which he travelled to Australia, require the master, owner, agent or charterer to remove the person from Australia at no charge to the Commonwealth.

“(5) A master, owner, agent or charterer on whom a requirement has been served under sub-section (4) shall comply with the requirement within the period of 72 hours commencing at the time when the requirement was served on him or within such further period as an authorized officer allows, whether or not the person to whom the requirement relates is able or willing to pay, or agrees to pay, a charge in respect of his removal from Australia.

Penalty: \$2,000.

“(6) It is a defence to a prosecution in respect of a failure to comply with a requirement under sub-section (4) if the defendant proves that, after the requirement was served upon him, he gave reasonable notice to

an authorized officer of his willingness to receive the person to whom the requirement related on board a specified vessel or aircraft at a specified port at a specified time for removal from Australia and the person concerned was not made available at that port at that time in the custody of an officer for placing on board that vessel or aircraft.

“(7) The master, owner, agent and charterer of an aircraft are, jointly and severally, liable to pay the Commonwealth a fair sum for the cost of keeping and maintaining a person while he is kept in custody in pursuance of sub-section (1), (2) or (3) and, if the person has been kept in custody at a place other than the proclaimed airport, the cost of transporting the person, and a custodian of the person, from the airport to the place of custody and, if the person is required to be removed from Australia, from the place of custody to the vessel or aircraft upon which he is to be so removed.

“(8) A person shall not, for the purposes of this Act, be deemed to have entered Australia by reason only of his having been taken from a proclaimed airport for the purpose of being kept in custody at a place outside a proclaimed airport in pursuance of sub-section (1), (2) or (3).”

**Powers of
entry and
search**

22. (1) Section 37 of the Principal Act is amended—

(a) by omitting the penalty set out at the foot of sub-section (2) and substituting the following penalty:

“Penalty: \$1,000.”;

(b) by inserting in sub-section (5) “with such assistance as he thinks necessary,” after “day or night”;

(c) by omitting from paragraph (b) of sub-section (5) “or” (last occurring);

(d) by omitting paragraph (c) of sub-section (5) and substituting the following paragraphs:

“(c) any document, book or paper relating to the immigration or proposed immigration of a person in circumstances in which he would have become, or would become, a prohibited immigrant; or

“(d) any passport or document of identity of, or any ticket for the conveyance from a place within Australia to a place outside Australia of a prohibited immigrant or a deportee”; and

(e) by omitting from sub-section (5) “such documents, books or papers and impound and detain them” and substituting “such document, book, paper, passport, document of identity or ticket, as the case may be, and impound and detain it”.

(2) The amendments made by sub-section (1) do not apply to a document, book or paper seized under section 37 of the Principal Act before the commencement of this section.

23. Section 38 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “of the officer or of another officer” and substituting “of any officer or in such other custody as the Minister or an authorized officer directs”;
- (b) by omitting from sub-section (3) “, not exceeding 7 days from the date of the authorization,”;
- (c) by inserting after sub-section (3) the following sub-section:

“(3A) The period for which the detention in custody of a person brought before a prescribed authority may be authorized under sub-section (3) by that prescribed authority shall not exceed 7 days from the date of the authorization or such longer period from the date of the authorization as the person consents to.”;
- (d) by omitting from sub-section (4) “the last preceding sub-section” and substituting “sub-section (3)”;
- (e) by adding at the end of sub-section (6) “or, if he is not in the custody of an officer, by the officer who so informs him”.

Arrest of
prohibited
immigrant**24. Section 39 of the Principal Act is amended by repealing sub-section (3) and substituting the following sub-sections:**Arrest of
deportee

“(3) If a person under this section claims, within 48 hours of his arrest and while he is in custody, that he is not the person in respect of whom the deportation order is in force, the person to whom the claim is made shall—

- (a) if he is an officer—ask him; or
- (b) in any other case—cause an officer to ask him,

to make a statutory declaration to that effect, and, if the person arrested makes such a declaration, the officer who asked him to make the declaration shall take him before a prescribed authority within 48 hours after the making of the declaration, or, if it is not practicable to take him before a prescribed authority within that time, as soon as practicable after the expiration of that period.

“(3A) If an arrested person who is required under sub-section (3) to be brought before a prescribed authority within a particular period, is not so brought before a prescribed authority, he shall be released.”.

25. Section 53 of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (1) and substituting the following paragraphs:Provisions
relating to
offences

- “(a) where the prescribed penalty for an offence apart from this section is \$1,000 or imprisonment for 6 months—a fine not exceeding \$2,000; and
- “(b) where the prescribed penalty for an offence apart from this section is \$2,000 or imprisonment for 1 year—a fine not exceeding \$4,000.”.

Proof of certain matters recited in deportation orders

26. Section 55 of the Principal Act is amended by inserting in paragraph (g) of sub-section (1) "return endorsement," after "visa,".

27. After section 66 of the Principal Act the following sections are inserted:

Offences in relation to escaping from custody

"66A. (1) A person shall not aid another person in escaping or attempting to escape from lawful custody in which that last-mentioned person is being kept in accordance with a relevant provision of this Act.

Penalty: \$1,000 or imprisonment for 6 months.

"(2) A person who is being kept in lawful custody in accordance with a relevant provision of this Act shall not escape or attempt to escape from that custody.

Penalty: \$1,000 or imprisonment for 6 months.

"(3) In this section, a reference to a relevant provision of this Act shall be read as a reference to sub-section (1) or (1A) of section 36, sub-section (1), (2) or (3) of section 36A, sub-section (1) of section 38 or sub-section (6) of section 39.

Commencement of prosecutions

"66B. A prosecution for an offence against this Act or the regulations may be instituted at any time within 5 years after the commission of that offence.

Jurisdiction of courts

"66C. (1) A provision of the *Judiciary Act* 1903 by which a court of a State is invested with jurisdiction with respect to offences against the laws of the Commonwealth has effect, in relation to offences against this Act, as if that jurisdiction were so invested without limitation as to locality other than the limitation imposed by section 80 of the Constitution.

"(2) Subject to section 80 of the Constitution, where a person has committed an offence against a provision of this Act outside a Territory and is found in, or brought into, the Territory, a court of the Territory has the same jurisdiction in respect of the offence as it would have if the offence had been committed in the Territory.

"(3) The trial of an offence against a provision of this Act not committed within a State may be held by a court of competent jurisdiction at any place where the court may sit.

Delegation

"66D. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer any of his powers under this Act other than this power of delegation.

"(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

"(3) A delegation under this section does not prevent the exercise of a power by the Minister."

28. Section 67 of the Principal Act is amended by omitting from paragraph (d) of sub-section (1) “Four hundred dollars or imprisonment for six months” and substituting “\$1,000 or imprisonment for 6 months”.

Regulations

29. The Principal Act is further amended by omitting the penalty set out at the foot of each of the provisions specified in column 1 of the Schedule and substituting the penalty specified in column 2 of the Schedule opposite to that provision.

Further amendments

SCHEDULE

Section 29

Column 1 Provision	Column 2 Substituted Penalty
Section 21 (4)	Penalty: \$2,000
Section 22 (1)	Penalty: \$1,000
Section 23	Penalty: \$500
Section 24	Penalty: \$500
Section 33 (1)	Penalty: \$2,000
Section 33 (2)	Penalty: \$2,000
Section 33 (3)	Penalty: \$2,000
Section 33 (4)	Penalty: \$2,000
Section 33 (7)	Penalty for any contravention of this sub-section: \$1,000
Section 42 (2)	Penalty: \$1,000 or imprisonment for 6 months
Section 44 (2)	Penalty: \$2,000
Section 47 (1)	Penalty: \$1,000 or imprisonment for 6 months
Section 47 (3)	Penalty: \$1,000 or imprisonment for 6 months
Section 48 (2)	Penalty: \$1,000 or imprisonment for 6 months
Section 49	Penalty: \$1,000 or imprisonment for 6 months
Section 50 (4)	Penalty: \$1,000 or imprisonment for 6 months
Section 51 (2)	Penalty: \$1,000 or imprisonment for 6 months
Section 52	Penalty: \$2,000 or imprisonment for 12 months
Section 62 (1)	Penalty: \$2,000 or imprisonment for 12 months
Section 63 (1)	Penalty: \$2,000
Section 65	Penalty: \$1,000 or imprisonment for 6 months

NOTES

1. Act No. 117, 1979; assented to 29 October 1979.
2. Act No. 62, 1958, as amended. For previous amendments see Act No. 87, 1964; No. 10, 1966; Nos. 16 and 216, 1973; and No. 91, 1976.