



# **Australian Passports Act 2005**

**No. 5, 2005**

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## About this compilation

### This compilation

This is a compilation of the *Australian Passports Act 2005* that shows the text of the law as amended and in force on 14 June 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to provide for Australian passports, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Australian Passports 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 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	18 February 2005
2. Sections 3 to 58	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 9 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 July 2005 (see F2005L01517)
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.	

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- (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 Principal object of this Act**

The principal object of this Act is to provide for the issue and administration of Australian passports, to be used as evidence of identity and citizenship by Australian citizens who are travelling internationally.

**4 Act extends to the external Territories**

This Act extends to the external Territories.

**5 Act extends to things outside Australia**

This Act extends, unless the contrary intention appears:

- (a) to acts, omissions, matters and things outside Australia; and
- (b) to all persons, irrespective of their nationality or citizenship.

**6 Definitions**

- (1) In this Act, unless the contrary intention appears:

*ASIO* means the Australian Security Intelligence Organisation.

*Australia*, when used in a geographical sense, includes the external Territories.

*Australian passport* means a passport issued under this Act.

Note: Australian passports must be issued in forms approved by the Minister (see subsection 53(2)). These forms may include diplomatic, official and emergency passports.

*Australian travel document* means an Australian passport or a travel-related document.

*child* means a person who is under 18 and who has never been married.



**competent authority** means a competent authority for the purposes of section 12, 13, 14 or 16.

**conduct** has the same meaning as in the *Criminal Code*.

**contactless integrated circuit**, in relation to an Australian travel document, includes a chip and an antenna embedded in the document.

**document** includes:

- (a) any paper or other material on which there is writing; or
- (b) any paper or other material on which there are marks, figures, symbols or perforations that are:
  - (i) capable of being given a meaning by persons qualified to interpret them; or
  - (ii) capable of being responded to by a computer, a machine or an electronic device; or
- (c) any article or material from which information is capable of being reproduced with or without the aid of any other article or device; or
- (d) a photograph.

Note: Paragraph (c)—a disk, tape or chip is an example of an article from which information is capable of being reproduced.

**Document Verification Service** has the same meaning as **DVS** has in the *Identity Verification Services Act 2023*.

**engage in conduct** has the same meaning as in the *Criminal Code*.

**Face Verification Service** has the same meaning as **FVS** has in the *Identity Verification Services Act 2023*.

**Minister's determination** means an instrument made by the Minister for the purposes of this Act under section 57.

**officer** means any of the following:

- (a) an APS employee in the Department;
- (b) a member of the diplomatic staff of an Australian mission, being a person who is a member of the diplomatic staff of the

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mission within the meaning of the Vienna Convention on Diplomatic Relations;

- (c) 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;
- (d) an officer of Customs within the meaning of the *Customs Act 1901*;
- (e) a member or a special member of the Australian Federal Police;
- (f) an officer of the police force of a State or Territory;
- (g) a person, or a person who is one of a class of persons, authorised in writing by the Minister under section 52.

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 through that Department's website.

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 through that Department's website.

***personal information*** has the same meaning as in the *Privacy Act 1988*.

***refusal/cancellation request*** has the meaning given in section 18.

***travel-related document*** means a document issued under section 9.

- (2) For the purposes of this Act, if an overseas child order within the meaning of the *Family Law Act 1975* is registered in accordance with regulations made under section 70G of that Act, the order has the same force and effect as if it were an order of the Federal Circuit and Family Court of Australia (Division 1) made in accordance with that Act.

## **Part 2—Australian travel documents**

### **Division 1—Issue of Australian travel documents**

#### **Subdivision A—Issue of Australian passports**

##### **7 Australian citizen is entitled to be issued an Australian passport**

- (1) An Australian citizen is entitled, on application to the Minister, to be issued with an Australian passport by the Minister.
- (2) An Australian citizen's entitlement to be issued with an Australian passport is affected by section 8 and by Division 2.
- (3) An application for an Australian passport must be:
  - (a) made in the form approved by the Minister; and
  - (b) accompanied by the applicable fee (if any).

##### **8 Minister to be satisfied of person's citizenship and identity**

Before issuing an Australian passport to a person, the Minister must be satisfied:

- (a) that the person is an Australian citizen; and
- (b) of the identity of the person.

Note: See sections 42 and 43 for details about how the Minister satisfies himself or herself of an Australian passport applicant's citizenship and identity.

#### **Subdivision B—Issue of travel-related documents**

##### **9 Minister may issue travel-related documents**

- (1) The Minister may issue a person with a document of a kind specified in a Minister's determination, being a document issued for the purposes of travel.
  - (1A) A travel-related document may be issued to a person:

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- (a) on application by, or on behalf of, a person and in the circumstances specified in a Minister's determination; or
  - (b) on the Minister's own initiative, if the Minister is satisfied that such a document is required:
    - (i) to remove, deport or extradite the person from Australia; or
    - (ii) to facilitate the deportation of the person to Australia; or
    - (iii) to extradite the person to Australia; or
    - (iv) if the person is a prisoner—to effect the transfer of the person.
- (2) Subsections (1) and (1A) are subject to section 10 and are affected by Division 2.
- (3) An application for a travel-related document must be:
- (a) made in the form approved by the Minister; and
  - (b) accompanied by the applicable fee (if any).

**10 Minister to be satisfied of person's identity**

Before issuing a travel-related document to a person, the Minister must be satisfied of the identity of the person.

## **Division 2—Reasons the Minister may refuse to issue an Australian travel document**

### **Subdivision A—Children**

#### **11 Reasons relating to child without parental consent or court order for travel**

- (1) The Minister must not issue an Australian travel document to a child unless:
  - (a) each person who has parental responsibility for the child consents to the child having an Australian travel document; or
  - (b) an order of a court of the Commonwealth, a State or a Territory permits:
    - (i) the child to have an Australian travel document; or
    - (ii) the child to travel internationally; or
    - (iii) the child to live or spend time with another person who is outside Australia.
- (2) Subsection (1) does not prevent the Minister from issuing an Australian travel document to a child if:
  - (a) circumstances specified in a Minister's determination as special circumstances exist; or
  - (b) the Minister is satisfied that the child's welfare (physical or psychological) would be adversely affected if the child were not able to travel internationally; or
  - (c) the Minister is satisfied that:
    - (i) the child urgently needs to travel internationally because of a family crisis; and
    - (ii) if there is a person who has parental responsibility for the child and who has not consented to the child having an Australian travel document—it is not possible to contact that person within a reasonable period; or

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- (d) in the case of a child who is outside Australia—the child departed Australia less than 12 months before the application for the Australian travel document was made and the Minister considers that an Australian travel document should be issued to enable the child’s return to Australia.
- (3) If the Minister refuses to issue an Australian travel document to a child, the Minister may declare that he or she is refusing to exercise the discretion under subsection (2) because the matter should be dealt with by a court.
- (5) For the purposes of this section, a person has **parental responsibility** for a child if, and only if:
  - (a) the person:
    - (i) is the child’s parent (including a person who is presumed to be the child’s parent because of a presumption (other than in section 69Q) in Subdivision D of Division 12 of Part VII of the *Family Law Act 1975*); and
    - (ii) has not ceased to have parental responsibility for the child because of an order made under the *Family Law Act 1975*; or
  - (aa) the person:
    - (i) is the child’s parent (including a person who is presumed to be the child’s parent because of a presumption (other than in section 189) in Subdivision 3 of Division 11 of Part 5 of the *Family Court Act 1997* (WA)); and
    - (ii) has not ceased to have parental responsibility for the child because of an order made under that Act; or
  - (b) under a parenting order:
    - (i) the child is to live with the person; or
    - (ii) the person has parental responsibility for the child; or
  - (d) the person has guardianship or custody of, or has parental responsibility for, the child under a law of the Commonwealth, a State or a Territory.

Note: The presumptions in the *Family Law Act 1975* and the *Family Court Act 1997* (WA) include a presumption arising from a court finding that a person is the child's parent, and a presumption arising from a man executing an instrument under law acknowledging that he is the father of the child.

## **Subdivision B—Law enforcement and security**

### **12 Reasons relating to Australian law enforcement matters**

- (1) If a competent authority believes on reasonable grounds that:
- (a) a person is the subject of an arrest warrant issued in Australia in respect of an indictable offence against a law of the Commonwealth, a State or Territory; or
  - (b) a person (including a person who is in prison) is prevented from travelling internationally by force of:
    - (i) an order of a court of the Commonwealth, a State or Territory; or
    - (ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of the Commonwealth, a State or Territory; or
    - (iii) a law of the Commonwealth, or an order or other direction (however described) under a law of the Commonwealth;

the competent authority may make a refusal/cancellation request in relation to the person.

Note: See also Subdivision D.

- (1A) A competent authority may make a refusal/cancellation request in relation to the person if the person is:
- (a) an Australian citizen; and
  - (b) a reportable offender.
- (2) If a competent authority makes a request under subsection (1) or (1A), the Minister must not issue an Australian passport to the person but may issue a travel-related document to the person.

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(3) In this section:

**competent authority**, in relation to a circumstance mentioned in paragraph (1)(a) or (b) or (1A)(b), means:

- (a) a person who has responsibility for, or powers, functions or duties in relation to, that circumstance under a law of the Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or
- (b) a person specified in a Minister's determination as a competent authority in relation to the circumstance.

**prevented from travelling internationally** includes:

- (a) required to remain in Australia; and
- (b) required to surrender an Australian travel document; and
- (c) not permitted to apply for an Australian travel document; and
- (d) not permitted to obtain an Australian travel document.

**reportable offender** means a person:

- (a) whose name is entered on a child protection offender register (however described) of a State or Territory; and
- (b) who has reporting obligations (however described) in connection with that entry on the register.

### 13 Reasons relating to international law enforcement cooperation

(1) If a competent authority believes on reasonable grounds that:

- (a) a person is the subject of an arrest warrant issued in a foreign country in respect of a serious foreign offence; or
- (b) a person (including a person who is in prison) is, in connection with a serious foreign offence, prevented from travelling internationally by force of:
  - (i) an order of a court of a foreign country; or
  - (ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of a foreign country, or other similar arrangement made under a law of a foreign country; or



(iii) a law of a foreign country, or an order or other direction (however described) under a law of a foreign country;  
or

(c) if an Australian travel document were issued to a person, it is likely that proceedings (of any kind) under a law of a foreign country in relation to a serious foreign offence that the person committed, or is alleged to have committed, would be compromised;

the competent authority may make a refusal/cancellation request in relation to the person.

Note: See also Subdivision D.

- (2) If a competent authority makes a request under subsection (1), the Minister may refuse to issue an Australian travel document to the person.
- (3) In this section:

**competent authority**, in relation to a circumstance mentioned in paragraph (1)(a), (b) or (c), means:

- (a) an officer within the meaning of paragraph (a), (b) or (c) of the definition of **officer** in subsection 6(1); or
- (b) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or
- (c) a non-corporate Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) that is specified in a Minister's determination as a competent authority in relation to the circumstance.

**prevented from travelling internationally** includes:

- (a) required to remain in the foreign country concerned; and
- (b) required to surrender a passport or document issued for the purposes of travel; and
- (c) not permitted to apply for a passport or document issued for the purposes of travel; and

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- (d) not permitted to obtain a passport or document issued for the purposes of travel.

*serious foreign offence* means an offence against the law of a foreign country:

- (a) for which the maximum penalty is death or imprisonment, or other deprivation of liberty, for a period of not less than 12 months; or
- (b) if the offence does not carry a penalty under the law of the country—the conduct constituting which is, under a treaty to which the country and Australia are parties (being a treaty relating in whole or in part to the surrender of persons accused or convicted of offences), required to be treated as an offence for which the surrender of persons is allowed by the country or Australia; or
- (c) the conduct constituting which would, if engaged in in Australia, constitute an indictable offence against this Act; or
- (d) the conduct constituting which would, if engaged in in Australia, constitute an offence specified in a Minister’s determination made for the purposes of subparagraph 14(1)(a)(v).

**14 Reasons relating to potential for harmful conduct**

- (1) If a competent authority suspects on reasonable grounds that:
  - (a) if an Australian travel document were issued to a person, the person would be likely to engage in conduct that:
    - (i) might prejudice the security of Australia or a foreign country; or
    - (ii) might endanger the health or physical safety of other persons (whether in Australia or a foreign country); or
    - (iii) might interfere with the rights or freedoms of other persons (whether in Australia or a foreign country) set out in the International Covenant on Civil and Political Rights; or
    - (iv) might constitute an indictable offence against this Act; or

- (v) might constitute an indictable offence against a law of the Commonwealth, being an offence specified in a Minister's determination; and
- (b) the person should be refused an Australian travel document in order to prevent the person from engaging in the conduct; the competent authority may make a refusal/cancellation request in relation to the person.

Note 1: The text of the International Covenant on Civil and Political Rights is set out in Australian Treaty Series 1980 No. 23. In 2005 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

Note 2: See also Subdivision D.

- (2) If a competent authority makes a request under subsection (1), the Minister may refuse to issue the person an Australian travel document.
- (3) In this section:

**competent authority**, in relation to a circumstance mentioned in subsection (1), means:

- (a) an officer within the meaning of paragraph (a), (b) or (c) of the definition of **officer** in subsection 6(1); or
- (b) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or
- (c) a non-corporate Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) that is specified in a Minister's determination as a competent authority in relation to the circumstance; or
- (d) a person who has responsibility for, or powers, duties or functions in relation to, the circumstance under a law of the Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or
- (e) any person specified in a Minister's determination as a competent authority in relation to the circumstance.

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**Subdivision C—Administrative reasons**

**15 Reasons relating to repeated loss or thefts**

The Minister may refuse to issue an Australian travel document to a person if:

- (a) an application for an Australian travel document is under consideration; and
- (b) in the 5 years before the application is made, 2 or more Australian travel documents issued to the person have been lost or stolen.

**16 Reasons relating to financial assistance to travellers**

- (1) If a competent authority believes on reasonable grounds that a person (the *debtor*) owes money to the Commonwealth in respect of:
  - (a) expenses incurred by the Commonwealth on behalf of the debtor in a foreign country; or
  - (b) money lent to the debtor by the Commonwealth when the debtor was outside Australia; or
  - (c) expenses incurred by the Commonwealth in, or in connection with, effecting the debtor's departure from a foreign country;the competent authority may make a refusal/cancellation request in relation to the debtor.

Note: See also Subdivision D.

- (2) If a competent authority makes a request under subsection (1), the Minister may refuse to issue an Australian travel document to the debtor.
- (4) In this section:

*competent authority*, in relation to a debtor, means a person who has authority to incur expenses on behalf of, or lend money to, the debtor on behalf of the Commonwealth.

## **17 Reasons relating to concurrently valid or suspended Australian travel document**

- (1) The Minister must not issue an Australian travel document to a person if the person has already been issued with an Australian travel document and that document is still valid or is suspended under section 22A.
- (2) Subsection (1) does not prevent the Minister from issuing an Australian travel document to the person in the circumstances specified in a Minister's determination.

## **Subdivision D—Matters relating to requests by competent authorities**

### **18 Refusal/cancellation requests**

- (1) For the purposes of this Act, a *refusal/cancellation request* is a request made to the Minister under subsection 12(1), 12(1A), 13(1), 14(1) or 16(1) by a competent authority, being a request that the Minister do either or both of the following:
  - (a) refuse to issue an Australian travel document to a person;
  - (b) cancel an Australian travel document that has been issued to a person.
- (2) A competent authority may make a refusal/cancellation request in relation to a person:
  - (a) whether or not the person has applied for an Australian travel document; and
  - (b) whether or not an Australian travel document has been issued to the person; and
  - (c) if the refusal/cancellation request is made under a provision other than subsection 12(1A)—whether or not the person is an Australian citizen.
- (3) To avoid doubt, a competent authority may suspect on reasonable grounds that circumstances in subsection 14(1) apply in relation to

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a person, even if the competent authority knows that the person has already been issued with an Australian travel document.

**19 Acting on refusal/cancellation requests**

The Minister must not act on a refusal/cancellation request if that request:

- (a) has been withdrawn by the competent authority who made it;  
or
- (b) can no longer be regarded as current in accordance with the Department's usual administrative practices.

## **Division 2A—Reasons the Minister may refuse to process an application for an Australian travel document**

### **19A Reasons relating to fraud or dishonesty in application for Australian travel document**

- (1) The Minister may refuse to process an application for an Australian travel document if the Minister suspects, on reasonable grounds, that:
  - (a) a statement made in, or in connection with, the application:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the statement is misleading; or
  - (b) information given in, or in connection with, the application:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the information is misleading; or
  - (c) a document given in, or in connection with, the application is false or misleading.
- (2) If the Minister refuses to process the application, the applicable fee (if any) accompanying the application is not refundable.
- (3) If the Minister refuses to process the application and the person concerned still wishes that an Australian travel document be issued, a fresh application is required under section 7 or 9.
- (4) This section does not limit section 29, 30 or 31.

## **Division 3—When Australian travel documents are not valid**

### **20 When Australian travel documents are not valid**

#### *Cessation of validity*

- (1) An Australian travel document ceases to be valid:
  - (a) in accordance with a determination made for the purposes of subsection (2); or
  - (b) at the time specified on the document; or
  - (c) when cancelled under this Division;whichever happens first.
- (2) A Minister's determination may specify the time at which, or circumstances in which, an Australian travel document ceases to be valid.

#### *Suspension of validity*

- (3) An Australian travel document is not valid while it is suspended under section 22A.

### **22 When an Australian travel document may be cancelled**

- (1) Subject to section 22AA, the Minister may cancel an Australian travel document.
- (2) Without limiting subsection (1), the Minister may cancel an Australian travel document that has been issued to a person if:
  - (a) the document is still valid at the time when the person applies for, or is issued with, another Australian travel document; or
  - (b) the document has been lost or stolen; or
  - (c) the person dies; or
  - (d) a competent authority makes a refusal/cancellation request in relation to the person; or



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- (e) if the document is an Australian passport—the Minister becomes aware of a circumstance that would have required or permitted the Minister to refuse to issue an Australian passport to the person because of section 8, had the Minister been aware of the circumstance immediately before the document was issued; or
  - (f) if the document is a travel-related document—the Minister becomes aware of a circumstance that would have required the Minister to refuse to issue a travel-related document to the person:
    - (i) because of section 10; or
    - (ii) because a Minister’s determination made for the purposes of paragraph 9(1A)(a) in relation to that kind of travel-related document no longer applies; or
    - (iii) because the Minister is no longer satisfied that the travel-related document is required for a purpose mentioned in paragraph 9(1A)(b); or
  - (fa) if the document is an Australian travel document and paragraph (e) or (f) does not apply—the Minister becomes aware of a circumstance that would have required or permitted the Minister to refuse to issue an Australian travel document to the person because of section 11 or 17, had the Minister been aware of the circumstance immediately before the document was issued; or
  - (g) circumstances specified in a Minister’s determination exist.
- (3) To avoid doubt, the suspension of an Australian travel document does not prevent the Minister from cancelling it.

**22AA When an Australian passport must be cancelled**

- (1) The Minister must cancel an Australian passport that has been issued to a person if a competent authority makes a refusal/cancellation request in relation to the person under subsection 12(1A).

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- (2) To avoid doubt, the suspension of an Australian passport under section 22A does not prevent the Minister from cancelling it under this section.

**22A Suspension of Australian travel document**

- (1) The Minister may, on request under subsection (2), suspend for 28 days all Australian travel documents that have been issued to a person.
- (2) The Director-General of Security may request the Minister to suspend all Australian travel documents issued to a person if the Director-General suspects on reasonable grounds that:
- (a) the person may leave Australia to engage in conduct that might prejudice the security of Australia or a foreign country; and
  - (b) all the person's Australian travel documents should be suspended in order to prevent the person from engaging in the conduct.
- (3) If an Australian travel document of a person has been suspended under subsection (1), another request under subsection (2) relating to the person must not be made unless the grounds for suspicion mentioned in subsection (2) include information first obtained by the Director-General of Security or an officer or employee of ASIO after the end of the suspension.
- (4) The Director-General of Security may, in writing, delegate his or her power under subsection (2) to a Deputy Director-General of Security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*).
- (5) In exercising power under a delegation, the delegate must comply with any directions of the Director-General of Security.

## **Part 3—Powers of officers**

### **23 Demand for surrender of suspicious Australian travel document**

- (1) An officer may demand that a person surrender a document to the officer if:
  - (a) the document is an Australian travel document that has been obtained, or that the officer suspects on reasonable grounds has been obtained, by means of a false or misleading statement, false or misleading information or a false or misleading document; or
  - (b) the document is an Australian travel document or other document that has been used, or that the officer suspects on reasonable grounds has been used, in the commission of an offence against this Act.
- (2) A person commits an offence if:
  - (a) an officer demands under subsection (1) that the person surrender a document; and
  - (b) the officer informs the person that the officer is authorised to demand that document; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and
  - (d) the person has possession or control of the document; and
  - (e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

### **24 Demand for surrender of cancelled or invalid Australian travel document**

- (1) An officer may demand that a person surrender an Australian travel document to the officer if:
  - (a) the document has been cancelled; or

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- (b) the document has otherwise ceased, under section 20, to be valid except because of a suspension under section 22A.
- (2) A person commits an offence if:
- (a) an officer demands under subsection (1) that the person surrender an Australian travel document; and
  - (b) the officer informs the person that the officer is authorised to demand that document; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and
  - (d) the person has possession or control of the document; and
  - (e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

### **24A Demand for surrender of suspended Australian travel document**

- (1) An officer may demand that a person surrender an Australian travel document to the officer if the document is suspended under section 22A.
- (2) A person commits an offence if:
- (a) an officer demands under subsection (1) that the person surrender an Australian travel document; and
  - (b) the officer informs the person that the officer is authorised to demand that document; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and
  - (d) the person has possession or control of the document; and
  - (e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

- (3) An Australian travel document obtained by an officer under this section must be returned, to the person to whom it was issued, at

the end of the period for which it is suspended, unless it is cancelled.

## **25 Demand for surrender of debtor's Australian travel document**

- (1) An officer may demand that a person surrender an Australian travel document to the officer if the officer suspects on reasonable grounds that the person owes money to the Commonwealth in respect of:
  - (a) expenses incurred by the Commonwealth on behalf of the person in a foreign country; or
  - (b) money lent to the person by the Commonwealth when the person was outside Australia; or
  - (c) expenses incurred by the Commonwealth in, or in connection with, effecting the person's departure from a foreign country.
- (2) A person commits an offence if:
  - (a) an officer demands under subsection (1) that the person surrender the person's Australian travel document; and
  - (b) the officer informs the person that the officer is authorised to make the demand; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and
  - (d) the person has possession or control of the document; and
  - (e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

## **26 Customs officers may seize a suspicious document**

- (1) A Customs officer may seize a document if:
  - (a) the document is not in the possession or control of any individual; and
  - (b) the officer suspects on reasonable grounds that the document is an Australian travel document or other document that has been used in the commission of an offence against this Act.

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- (2) If:
- (a) a Customs officer suspects on reasonable grounds that a document that has been used in the commission of an offence against this Act is inside a container; and
  - (b) the container is not in the possession or control of any individual;
- the officer may search the container for the purposes of determining whether such a document is inside.

- (3) This section does not authorise a Customs officer to enter premises that the officer would not otherwise be authorised to enter.

- (4) In this section:

**container** includes baggage, a mail receptacle, and any other thing that could be used for the carriage of goods (whether or not designed for that purpose).

**Customs officer** means an officer within the meaning of paragraph (d) of the definition of **officer** in subsection 6(1).

## **Part 4—Offences relating to Australian travel documents**

Note 1: An offence against this Act that is punishable by a term of imprisonment of more than one year is an indictable offence (see section 4G of the *Crimes Act 1914*).

Note 2: In certain circumstances, an indictable offence may be tried summarily (see section 4J of the *Crimes Act 1914*).

Note 3: Some offences are also contained in Part 3.

### **Division 1—Preliminary**

#### **27 Definitions**

In this Part, unless the contrary intention appears:

***dishonest***, in relation to a person's conduct, means:

- (a) dishonest according to the standards of ordinary people; and
- (b) known by the person to be dishonest according to the standards of ordinary people.

***false Australian travel document***:

- (a) means a document:
  - (i) that is not an Australian passport but that purports to be an Australian passport; or
  - (ii) that is not a travel-related document but that purports to be a travel-related document; and
- (b) includes a document that is an Australian travel document that has been altered by a person who is not authorised to alter that document.

#### **28 Geographical jurisdiction**

Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to offences against this Act.

## Division 2—Offences

### 29 Making false or misleading statements in relation to Australian travel documents

- (1) A person commits an offence if:
- (a) the person makes a statement (whether orally, in writing or any other way) to another person; and
  - (b) the statement:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the statement is misleading; and
  - (c) the statement is made in, or in connection with:
    - (i) an application for an Australian travel document; or
    - (ii) an Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply:
- (a) as a result of subparagraph (1)(b)(i)—if the statement is not false or misleading in a material particular; or
  - (b) as a result of subparagraph (1)(b)(ii)—if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

### 30 Giving false or misleading information in relation to Australian travel documents

- (1) A person commits an offence if:
- (a) the person gives information to another person; and
  - (b) the information:
    - (i) is false or misleading; or



- (ii) omits any matter or thing without which the information is misleading; and
- (c) the information is given in, or in connection with:
  - (i) an application for an Australian travel document; or
  - (ii) an Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply:
  - (a) as a result of subparagraph (1)(b)(i)—if the information is not false or misleading in a material particular; or
  - (b) as a result of subparagraph (1)(b)(ii)—if the information did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

### **31 Producing false or misleading documents in relation to Australian travel documents**

- (1) A person commits an offence if:
  - (a) the person produces a document to another person; and
  - (b) the document is false or misleading; and
  - (c) the document is produced in, or in connection with:
    - (i) an application for an Australian travel document; or
    - (ii) an Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply if the document is not false or misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement

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signed by the person (or, in the case of a body corporate, by a competent officer of the body corporate):

- (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

**32 Improper use or possession of an Australian travel document**

- (1) A person commits an offence if:
  - (a) the person uses an Australian travel document in connection with travel or identification; and
  - (b) the document has been cancelled.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) A person commits an offence if:
  - (a) the person uses an Australian travel document in connection with travel or identification; and
  - (b) the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (3) A person commits an offence if:
  - (a) the person provides another person with an Australian travel document that was issued to the first-mentioned person; and
  - (b) the person is reckless as to whether the document is or will be used by the other person in connection with travel or identification.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (4) A person commits an offence if:
- (a) the person has possession or control of an Australian travel document; and
  - (b) the person knows that the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (5) Subsections (1), (2), (3) and (4) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

### **32A Possessing false Australian travel documents**

- (1) A person commits an offence if:
- (a) the person has possession or control of a document; and
  - (b) the person knows that the document is a false Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

### **33 Selling a genuine or false Australian travel document**

A person commits an offence if the person sells an Australian travel document or a false Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

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**34 Damaging or interfering with an Australian travel document**

- (1) A person commits an offence if:
- (a) the person engages in conduct in relation to an Australian travel document; and
  - (b) the conduct results in:
    - (i) the destruction of the Australian travel document; or
    - (ii) damage to, manipulation of, or tampering or interference with the Australian travel document; or
    - (iii) damage to, manipulation of, or tampering or interference with the Australian travel document's contactless integrated circuit; or
    - (iv) the removal of the Australian travel document's contactless integrated circuit.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

**35 Dishonestly obtaining an Australian travel document**

- (1) A person commits an offence if:
- (a) the person obtains an Australian travel document; and
  - (b) the person does so:
    - (i) dishonestly; or
    - (ii) by threats.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) In a prosecution for an offence against this section, the determination of dishonesty is a matter for the trier of fact.

- (3) In this section:

**obtain** includes:

- (a) obtain for another person; and
- (b) induce a third person to do something that results in another person obtaining.

**threat** includes a threat that is:

- (a) express or implied; or
- (b) conditional or unconditional.

### **36 Making or providing false Australian travel documents**

- (1) A person commits an offence if:
  - (a) the person makes a false Australian travel document; and
  - (b) the person does so with the intention that the document may be used, acted upon or accepted as if it were an Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) A person commits an offence if:
  - (a) the person provides a false Australian travel document to another person; and
  - (b) the person does so with the intention that the document may be used, acted upon or accepted as if it were an Australian travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (3) Paragraph (2)(a) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

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**37 Bringing, taking or sending a document across international borders**

- (1) A person commits an offence if:
- (a) the person:
    - (i) brings a document into a country; or
    - (ii) takes a document out of a country; or
    - (iii) sends a document to or from a country; and
  - (b) the person knows that:
    - (i) the document is a false Australian travel document; or
    - (ii) the document is an Australian travel document that was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

**38 Issue of passport contrary to this Act**

A person commits an offence if:

- (a) the person is an officer to whom the Minister has delegated the function of issuing Australian passports; and
- (b) the person issues an Australian passport; and
- (c) the person knows that the issue of the passport is contrary to a provision of this Act.

Penalty: Imprisonment for 10 years, or 1,000 penalty units, or both.

**39 Issue of travel-related document contrary to this Act or Minister's determination**

A person commits an offence if:

- (a) the person is an officer to whom the Minister has delegated the function of issuing travel-related documents; and
- (b) the person issues a travel-related document; and
- (c) the person knows that the issue of the document:
  - (i) is contrary to this Act; or
  - (ii) is contrary to a Minister's determination.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

#### **40 Abuse of public office**

- (1) An officer commits an offence if:
  - (a) the officer:
    - (i) exercises any influence that the officer has in the officer's capacity as an officer under this Act; or
    - (ii) engages in any conduct in the exercise of the officer's duties as such an officer; and
  - (b) the officer does so with the intention of:
    - (i) dishonestly obtaining a benefit for himself or herself or any other person; or
    - (ii) dishonestly causing a detriment to another person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) In a prosecution for an offence against subsection (1), the determination of dishonesty is a matter for the trier of fact.
- (3) In this section:

***benefit*** includes any advantage and is not limited to property.

***detriment*** includes any disadvantage and is not limited to personal injury or to loss of, or damage to, property.

***obtain*** includes:

- (a) obtain for another person; and

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- (b) induce a third person to do something that results in another person obtaining.

**41 Failure to notify officer of lost or stolen Australian travel document**

A person commits an offence if:

- (a) an Australian travel document issued to the person is lost or stolen; and
- (b) the person knows that the document has been either lost or stolen; and
- (c) the person fails to report the loss or theft to an officer as soon as practicable after the first time the person knows that the document has been either lost or stolen.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.



## **Part 5—Administrative matters**

### **Division 1—Information relating to Australian travel documents**

#### **42 Disclosure of personal information for the purposes of this Act**

*Information that may be disclosed to the Minister*

- (1) For the purposes of performing functions under this Act, the Minister may request:
  - (a) an applicant for an Australian travel document; or
  - (b) a person mentioned in an application for an Australian travel document; or
  - (c) a person to whom an Australian travel document has been issued; or
  - (d) a competent authority; or
  - (e) a person specified in a Minister's determination;to disclose to the Minister, or a delegate of the Minister, personal information about:
  - (f) an applicant for an Australian travel document, or a person who is connected with an applicant or an application; or
  - (g) a person to whom an Australian travel document has been issued.
- (2) If a person mentioned in paragraph (1)(b), (d) or (e) holds the information under a law of the Commonwealth, the Minister may direct the person to disclose the information.
- (3) For the purposes of:
  - (a) paragraph 6.2(b) of Australian Privacy Principle 6; and
  - (c) a provision of a law of a State or Territory that provides that information that is personal may be disclosed if the disclosure is authorised by law;

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the disclosure of information by a person in response to a request or direction under this section is taken to be a disclosure that is required or authorised by this Act.

- (4) Nothing in this section has the effect of authorising a disclosure that, despite subsection (3), is prevented by a law of the Commonwealth, a State or Territory.

*Information that may be disclosed by the Minister*

- (5) For the purposes of performing functions under this Act, the Minister may disclose personal information to a person specified in a Minister's determination.

**43 Minister may determine information required for the purpose of satisfying Minister of person's citizenship and identity etc.**

- (1) A Minister's determination may specify kinds of personal information that may be requested by the Minister for the purposes of Part 2.
- (2) This section does not prevent the Minister from requesting under subsection 42(1) information that is not specified in a determination made for the purposes of subsection (1) of this section.

**44 Method of disclosing information to Minister**

- (1) A Minister's determination may specify that personal information:
- (a) of a kind specified in the instrument; and
  - (b) that the Minister may request under subsection 42(1);
- is to be disclosed in a particular manner or particular form.
- (2) A Minister's determination made for the purposes of subsection (1) may specify that, if information covered by the instrument is not disclosed in the manner or form specified:
- (a) the information is taken not to have been disclosed; or

- (b) in specified circumstances, the information is taken not to have been disclosed.
- (3) A Minister's determination made for the purposes of subsection (1) may specify circumstances in which information covered by the instrument, despite not being disclosed in the manner or form specified, is still taken to have been disclosed.

#### **45 Minister may disclose information about Australian travel documents that are lost, stolen or otherwise invalid**

The Minister may disclose personal information, of a kind specified in a Minister's determination, to a person specified in a Minister's determination, for the purpose of informing that person about the status of an Australian travel document.

#### **46 Minister may disclose information for particular purposes**

- (1) On request, the Minister may disclose personal information, of a kind specified in a Minister's determination, to a person specified in a Minister's determination, for any of the following purposes:
  - (a) confirming or verifying information relating to an applicant for an Australian travel document or a person to whom an Australian travel document has been issued;
  - (b) facilitating or otherwise assisting the international travel of a person to whom an Australian travel document has been issued;
  - (c) law enforcement;
  - (d) the operation of family law and related matters;
  - (da) participating in:
    - (i) the Document Verification Service; or
    - (ii) the Face Verification Service; or
    - (iii) any other service specified, or of a kind specified, in the Minister's determination;to share or match information relating to the identity of a person;

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- (e) the purposes of a law of the Commonwealth specified in a Minister's determination.

Note: Information disclosed under this section must be dealt with in accordance with the Australian Privacy Principles.

- (2) To avoid doubt, information may be provided to the service referred to in paragraph (1)(da) before being disclosed to the person participating in the service.

**46A Minister may arrange for computer programs to disclose personal information for the purposes of certain identity verification services**

- (1) The Minister may arrange for the use, under the Minister's control, of computer programs in disclosing personal information under paragraph 46(1)(da) to a person participating in:
  - (a) the Document Verification Service; or
  - (b) the Face Verification Service.
- (2) For the purposes of this Act or any legislative instrument made under this Act, the Minister is taken to have disclosed personal information in accordance with paragraph 46(1)(da) if the disclosure was made by the operation of a computer program under an arrangement made under subsection (1) of this section.

## **Division 2—Methods of performing functions under this Act**

### **47 Minister may determine particular methods and technologies**

- (1) A Minister's determination may specify methods (including technologies) that are to be used:
  - (a) 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; or
  - (b) for performing other functions in connection with this Act.

Note: Any personal information collected as part of using a method specified in a determination must be dealt with in accordance with the Australian Privacy Principles.

- (2) The determination may provide for:
  - (a) the circumstances in which the methods are to be used; and
  - (b) any other matters relating to use, or the consequences of use, of the methods.
- (3) If the determination relates to the use of personal information, the determination must specify the nature of the personal information and the purposes for which it may be used.
- (4) Subsection (1) does not imply that methods or technologies not specified in a Minister's determination must not be used for performing functions in connection with this Act.

## Division 3—Review of decisions about Australian travel documents

### 48 Reviewable decisions

For the purposes of this Division, the following decisions under this Act are *reviewable decisions*:

- (a) a decision to issue an Australian travel document, other than:
  - (i) a decision made under paragraph 9(1A)(b); or
  - (ii) a decision to issue an Australian travel document to a child;
- (b) a decision to refuse to issue an Australian travel document (other than a decision in relation to which a declaration under subsection 11(3) has been made or a decision made because of subsection 12(2));
- (c) a decision to cancel an Australian travel document (other than under section 22AA);
- (ca) a decision to refuse to process an application for an Australian travel document;
- (d) a decision that an Australian travel document is one to which paragraph 23(1)(a) or (b) applies;
- (e) a decision under section 24 to demand the surrender of a cancelled Australian travel document, other than an Australian travel document cancelled because of paragraph 22(2)(d) or section 22AA;
- (ea) a decision under section 24 to demand the surrender of an invalid Australian travel document;
- (f) a decision under section 25 to demand the surrender of an Australian travel document;
- (h) a decision under subsection 49(4);
- (ha) a decision under subsection 53(4) to refuse a name or a signature;
- (i) a decision not to waive an application fee imposed under the *Australian Passports (Application Fees) Act 2005*;

- (j) a decision not to refund an application fee imposed under the *Australian Passports (Application Fees) Act 2005*;
- (k) a decision to refund part of an application fee imposed under the *Australian Passports (Application Fees) Act 2005*.

Note: Except in cases described in section 48A of this Act, under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to persons whose interests are affected by the decision a notification of the making of the decision and of their right to have the decision reviewed. In notifying any such persons, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act.

#### **48A When notice of refusal or cancellation of Australian travel document is not required**

##### *Application*

- (1) This section sets out when the Minister is not required to notify a person of a decision by the Minister to do either of the following because of a refusal/cancellation request made under subsection 14(1):
  - (a) refuse to issue an Australian travel document to the person;
  - (b) cancel an Australian travel document issued to the person.

Note: This section applies to a delegate of the Minister in the same way as it applies to the Minister: see paragraph 34AB(1)(c) of the *Acts Interpretation Act 1901*.

##### *Request by ASIO*

- (2) The Minister is not required to notify the person if:
  - (a) the request was made by ASIO or the Director-General of Security; and
  - (b) there is in force a certificate under paragraph 38(2)(a) of the *Australian Security Intelligence Organisation Act 1979* relating to notice to the person of the making of the security assessment that constituted the request.

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*Request by Australian Federal Police*

- (3) The Minister is not required to notify the person if:
- (a) the request was made by a member or a special member of the Australian Federal Police; and
  - (b) there is in force a certificate under subsection (4).
- (4) If the Minister administering the *Australian Federal Police Act 1979* is satisfied that notifying the person of the decision would adversely affect a current investigation of any of the following offences, that Minister may, by signed writing, certify accordingly:
- (a) an offence against Subdivision A of Division 72 of the *Criminal Code*;
  - (b) an offence against Subdivision B of Division 80 of the *Criminal Code*;
  - (c) an offence against Part 5.3 or 5.5 of the *Criminal Code*;
  - (d) an offence against either of the following provisions of the *Charter of the United Nations Act 1945*:
    - (i) Part 4 of that Act;
    - (ii) Part 5 of that Act, to the extent that it relates to the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*.
- (5) A certificate under subsection (4) is not a legislative instrument.
- (6) If the Minister administering the *Australian Federal Police Act 1979* issues a certificate under subsection (4) or revokes a certificate under that subsection, he or she must give a copy of the certificate or revocation to the Minister administering this Act.
- (6A) Before the end of the following periods, the Minister administering the *Australian Federal Police Act 1979* must consider whether to revoke a certificate under subsection (4) (if the certificate remains in force):
- (a) 12 months after it was issued;
  - (b) 12 months after that Minister last considered whether to revoke it.



*Overriding the Administrative Appeals Tribunal Act 1975*

- (7) This section has effect despite section 27A of the *Administrative Appeals Tribunal Act 1975*.

Note: If subsection (2) or (3) ceases to apply because a certificate mentioned in that subsection ceases to be in force, section 27A of the *Administrative Appeals Tribunal Act 1975* (about notification) will apply in relation to the decision (unless the other of those subsections still applies).

**49 Review by Minister of decisions made by Minister's delegate**

- (1) If:
- (a) a reviewable decision is made by a delegate of the Minister;  
and
  - (b) the decision is not a decision under subsection (4);
- a person affected by the decision may apply in writing to the Minister for review of the decision.
- (2) An application for review of a decision must be made within 28 days after the person is notified of the decision.
- (3) An application for review of a decision must set out the reasons for making the application.
- (4) After receiving an application for review of a decision, the Minister must review the decision and:
- (a) affirm the decision under review; or
  - (b) vary the decision under review; or
  - (c) set aside the decision under review and make a decision in substitution for it.

Note: Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to persons whose interests are affected by the decision a notification of the making of the decision and of their right to have the decision reviewed. In notifying any such persons, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act.

Section 50

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**50 Review by Administrative Appeals Tribunal of decisions made by Minister**

- (1) If a reviewable decision is made:
  - (a) by the Minister; or
  - (b) under subsection 49(4) by a delegate of the Minister;application may be made to the Administrative Appeals Tribunal for review of that decision.
- (2) The Minister may, if the Minister makes:
  - (a) a decision in response to a refusal/cancellation request made under subsection 13(1) or 14(1); or
  - (b) a decision under subsection 49(4) on review of a decision made by a Minister's delegate in response to a refusal/cancellation request made under section 13 or 14;certify that the decision involved matters of international relations or criminal intelligence.
- (3) Despite section 43 of the *Administrative Appeals Tribunal Act 1975*, if the Minister has given a certificate under subsection (2) in relation to a decision, then in any review of that decision the Administrative Appeals Tribunal may only make a decision:
  - (a) affirming the Minister's decision; or
  - (b) remitting the decision to the Minister for reconsideration in accordance with any directions or recommendations of the Tribunal.

## Division 4—Officers and delegates

### 51 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) any or all of the Minister's powers and functions under the following provisions:
- (a) section 7;
  - (b) section 9;
  - (c) subsection 11(3);
  - (caa) subsection 12(2), if the power is exercised because of a refusal/cancellation request made under subsection 12(1A);
  - (ca) section 19A;
  - (d) section 22;
  - (da) section 22AA;
  - (e) section 42;
  - (f) section 45;
  - (g) section 46;
  - (h) subsection 49(4);
  - (ha) subsection 53(2);
  - (hb) subsection 53(4);
  - (i) section 55.
- (1A) The Minister may, in writing, delegate to the Secretary of the Department the Minister's power under subsection 22A(1).
- (2) The Minister may, in writing, delegate to the Administrator of an external Territory any or all of the Minister's powers under this Act (except subsection (1)), to be exercised by the Administrator only in, or in relation to, the external Territory.
- (3) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

Section 52

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**52 Authorisation of persons as officers**

- (1) The Minister may, in writing, authorise a person, or a class of persons, to exercise specified powers and to perform specified functions of an officer under this Act.
- (2) A person who is authorised under subsection (1) must comply with any directions of the Minister in the exercise of the powers or performance of the functions specified in the authority.
- (3) An instrument made under this section is not a legislative instrument.

## Part 6—Miscellaneous

### 53 Form of Australian travel documents

- (1) Australian passports may be issued in the name of the Governor-General.
- (2) Australian travel documents must be issued in forms approved by the Minister.
- (3) The name of the person to whom an Australian travel document is issued must appear on the document.
- (4) The Minister may refuse any name or signature of the person that the Minister considers to be unacceptable, inappropriate or offensive.
- (5) Unless subsection (4) or a circumstance specified in a Minister's determination applies, the name must be the most recent name:
  - (a) on the person's birth certificate; or
  - (b) on a notice given to the person under section 37 of the *Australian Citizenship Act 2007*; or
  - (c) on a certificate, entry or record of the person's marriage, being a certificate granted or entry or record made by the Registrar of births, deaths and marriages (however described) of a State or Territory; or
  - (d) on a certificate, entry or record relating to the registration of the person's relationship with another person, being a certificate, entry or record:
    - (i) issued or made under, or for the purposes of, a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901*; and
    - (ii) relating to a kind of relationship prescribed for the purposes of that section; and

## Section 54

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- (iii) issued or made by the Registrar of births, deaths and marriages (however described) of the State or Territory concerned; or
  - (e) included, by way of effecting a name change of the person, on a register kept under a law of a State or Territory by the Registrar of births, deaths and marriages (however described) of the State or Territory.
- (6) However, a person may only rely on a certificate, entry or record mentioned in paragraph (5)(c) or (d) for the person's surname, unless a register mentioned in paragraph (5)(e) shows that the person's surname has subsequently changed.

### **54 Australian travel documents are the property of the Commonwealth**

An Australian travel document remains the property of the Commonwealth at all times.

### **55 Endorsements and observations**

The Minister may endorse, or make observations on, Australian travel documents in the circumstances specified in a Minister's determination.

### **56 Application fees**

- (1) The application fees imposed by the *Australian Passports (Application Fees) Act 2005* are payable to the Commonwealth.
- (2) A Minister's determination may specify one or more of the following:
  - (a) the circumstances in which application fees imposed under the *Australian Passports (Application Fees) Act 2005* may be waived;
  - (b) the circumstances in which application fees imposed under the *Australian Passports (Application Fees) Act 2005* may be refunded to applicants;

(c) the amount of the refunds in those circumstances.

### **57 Minister's determinations**

The Minister may, by legislative instrument, specify any of the matters that this Act provides may be specified in a Minister's determination.

### **58 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Governor-General may make regulations prescribing penalties not exceeding 20 penalty units for breaches of the regulations.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment



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Endnote 1—About the endnotes

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous (prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
ed = editorial change	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment can be given effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
mod = modified/modification	SubPt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Passports Act 2005	5, 2005	18 Feb 2005	s 3–58: 1 July 2005 (s 2(1) item 2) Remainder: 18 Feb 2005 (s 2(1) item 1)	
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Sch 1 (items 4–6): 1 July 2005 (s 2(1) item 4)	—
Family Law Amendment (Shared Parental Responsibility) Act 2006	46, 2006	22 May 2006	Sch 8 (items 3, 4) and Sch 9 (item 2): 1 July 2006 (s 2(1) items 8, 9)	—
Australian Citizenship (Transitional and Consequential) Act 2007	21, 2007	15 Mar 2007	Sch 1–3: 1 July 2007 (s 2(1) item 2) Remainder: 15 Mar 2007 (s 2(1) item 1)	Sch 3 (items 14, 17)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 8 (item 1): 1 July 2009 (s 2(1) item 22)	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (items 10, 11): 1 Mar 2010 (s 2(1) item 31)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (item 227) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 17–20) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19) Sch 6 (item 1): 12 Dec 2012 (s 2(1) item 16)	Sch 6 (items 1, 15–19)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 7 (items 362, 363) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014	116, 2014	3 Nov 2014	Sch 1 (items 11–26): 1 Dec 2014 (s 2(1) item 2)	—
Passports Legislation Amendment (Integrity) Act 2015	122, 2015	10 Sept 2015	Sch 1 (items 1–51, 53–61, 66–68): 8 Oct 2015 (s 2(1) item 2)	Sch 1 (items 66–68)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 55): 5 Mar 2016 (s 2(1) item 2)	—
Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017	73, 2017	26 June 2017	Sch 1 (items 1–12, 22): 13 Dec 2017 (s 2(1) item 2)	Sch 1 (item 22)
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (item 108): 1 Sept 2021 (s 2(1) item 5)	—
National Security Legislation Amendment (Comprehensive Review and Other Measures No. 1) Act 2022	31, 2022	1 Apr 2022	Sch 8 (items 1, 2): 2 Apr 2022 (s 2(1) item 2)	Sch 8 (item 2)
Identity Verification Services (Consequential Amendments) Act 2023	116, 2023	14 Dec 2023	14 June 2024 (s 2(1) item 1)	Sch 1 (items 5, 7)

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024	39, 2024	31 May 2024	Sch 8 (items 1–10): <u>awaiting commencement</u> (s 2(1) item 2)	—

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## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 6.....	am No 46, 2006; No 8, 2010; No 116, 2014; No 122, 2015; No 13, 2021; No 116, 2023
<b>Part 2</b>	
<b>Division 1</b>	
<b>Subdivision B</b>	
s 9.....	am No 122, 2015
<b>Division 2</b>	
Division 2 heading.....	rs No 122, 2015
<b>Subdivision A</b>	
s 11.....	am No 46, 2006; No 122, 2015
<b>Subdivision B</b>	
s 12.....	am No 122, 2015; No 73, 2017
s 13.....	am No 9, 2006; No 62, 2014; No 122, 2015
s 14.....	am No 8, 2010; No 62, 2014; No 122, 2015
<b>Subdivision C</b>	
s 15.....	rs No 122, 2015
s 16.....	am No 122, 2015
s 17.....	am No 116, 2014; No 122, 2015
<b>Subdivision D</b>	
s 18.....	am No 122, 2015; No 73, 2017
<b>Division 2A</b>	
Division 2A.....	ad No 122, 2015
s 19A.....	ad No 122, 2015
<b>Division 3</b>	
Division 3 heading.....	rs No 116, 2014
s 20.....	am No 116, 2014 rs No 122, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 21.....	am No 116, 2014 rep No 122, 2015
s 22.....	am No 116, 2014; No 122, 2015; No 73, 2017
s 22AA.....	ad No 73, 2017
s 22A.....	ad No 116, 2014 am No 31, 2022
<b>Part 3</b>	
s 24.....	am No 116, 2014; No 122, 2015
s 24A.....	ad No 116, 2014
<b>Part 4</b>	
<b>Division 2</b>	
s 29.....	am No 122, 2015
s 30.....	am No 122, 2015
s 31.....	am No 122, 2015
s 32A.....	ad No 122, 2015
s 33.....	rs No 122, 2015
s 34.....	rs No 122, 2015
s 36.....	rs No 122, 2015
<b>Part 5</b>	
<b>Division 1</b>	
s 42.....	am No 197, 2012
s 45.....	am No 122, 2015
s 46.....	am No 197, 2012; No 116, 2023
s 46A.....	ad No 116, 2023
<b>Division 2</b>	
s 47.....	am No 197, 2012
<b>Division 3</b>	
s 48.....	am No 116, 2014; No 122, 2015; No 73, 2017; <u>No 39, 2024</u>
s 48A.....	ad No 116, 2014 am No 122, 2015; <u>No 39, 2024</u>
s 49.....	am No 122, 2015; <u>No 39, 2024</u>

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 50.....	am <u>No 39, 2024</u>
<b>Division 4</b>	
s 51.....	am No 116, 2014; No 122, 2015; No 73, 2017
s 52.....	am No 126, 2015
<b>Part 6</b>	
s 53.....	am No 21, 2007; No 144, 2008; No 46, 2011; No 122, 2015