



Australian Passports Determination 2015

I, Julie Bishop, Minister for Foreign Affairs, make the following determination.

Dated 22 July 2015

Julie Bishop
Minister for Foreign Affairs

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Part 1—Preliminary

1 Name

This is the *Australian Passports Determination 2015*.

2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2015.	1 October 2015

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Australian Passports Act 2005*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) *Australian passport*;
- (b) *Australian travel document*;
- (c) *child*;
- (d) *travel-related document*.

In this instrument:

Act means the *Australian Passports Act 2005*.

business day has the meaning given by the *Acts Interpretation Act 1901*.

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

data page, in relation to an Australian travel document, means the page that contains biographic data of the document holder and data in relation to the issue of the document.

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

de facto relationship has the meaning given by the *Acts Interpretation Act 1901* for the purpose of paragraph 2D(b) of that Act.

Refugee Convention means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951, and the 1967 Protocol in force under that Convention.

Note: The Convention is in Australian Treaty Series 1954 No 5 ([1954] ATS 5) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

registered relationship has the meaning given by the *Acts Interpretation Act 1901* for the purpose of paragraph 2D(a) of that Act.

Part 2—Australian travel documents

Division 1—Issue of travel-related documents

6 Minister may issue convention travel documents

Minister may issue convention travel documents

- (1) For section 9 of the Act, the Minister may issue a convention travel document to a person who is present in Australia if the person:
 - (a) is not an Australian citizen; and
 - (b) is recognised as a refugee under the Refugee Convention; and
 - (c) qualifies under subsection (2) or (3).
- (2) The person qualifies under this subsection if the person is lawfully resident in Australia or is otherwise lawfully staying in Australia.
- (3) The person qualifies under this subsection if the person:
 - (a) is not lawfully resident in Australia; and
 - (b) is unable to obtain a valid travel document from the country of his or her lawful residence.
- (4) For section 9 of the Act, the Minister may issue a convention travel document to a person who is overseas if all of the following apply:
 - (a) the person is not an Australian citizen;
 - (b) the person has a valid Australian visa with re-entry rights;
 - (c) the person is recognised as a refugee under the Refugee Convention;
 - (d) the person is unable to obtain a valid travel document from the country of his or her lawful residence;
 - (e) the person has previously been issued with a convention travel document;
 - (f) either:
 - (i) the person's most recent convention travel document has been lost, stolen or damaged; or
 - (ii) the Minister is satisfied that exceptional circumstances exist.

Period of validity

- (5) A convention travel document ceases to be valid at the end of the day specified in the document as the day on which the document ceases to be valid.
- (6) The day specified under subsection (5) must be no later than:
 - (a) in the case of a person who qualifies under subsection (2)—2 years after the day on which the document was issued; or
 - (b) in the case of a person who qualifies under subsection (3)—1 year after the day on which the document was issued; or
 - (c) in the case of a document issued under subsection (4)—1 year after the day on which the document was issued.

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Meaning of residence etc.

- (7) In this section, a reference to residence, or staying, in a country (including Australia), in relation to a person, has the meaning that it has in the Refugee Convention.

7 Minister may issue certificates of identity

Minister may issue certificates of identity

- (1) For section 9 of the Act, the Minister may issue a certificate of identity to a person who:
- (a) is not an Australian citizen; and
 - (b) is about to leave Australia; and
 - (c) is:
 - (i) stateless; or
 - (ii) unable to obtain a valid travel document from the country of which the person claims to be a national.
- (2) For section 9 of the Act, the Minister may issue a certificate of identity to a person who is overseas if all of the following apply:
- (a) the person is not an Australian citizen;
 - (b) the person has a valid Australian visa with re-entry rights;
 - (c) the person is:
 - (i) stateless; or
 - (ii) unable to obtain a valid travel document from the country of which the person claims to be a national;
 - (d) the person has previously been issued with a certificate of identity;
 - (e) either:
 - (i) the person's most recent certificate of identity has been lost, stolen or damaged; or
 - (ii) the Minister is satisfied that exceptional circumstances exist.

Period of validity

- (3) A certificate of identity ceases to be valid when the first of the following occurs:
- (a) the day specified in the certificate as the day on which the certificate ceases to be valid ends;
 - (b) the person returns to the country of which the person claims to be a national, and is able to obtain a valid travel document from that country.
- (4) The day specified under paragraph (3)(a) must be no later than 2 years after the day on which the certificate was issued.

8 Minister may issue documents of identity

- (1) For section 9 of the Act, the Minister may issue a document of identity for travel purposes to:
- (a) an Australian citizen to whom the issue of an Australian passport is unnecessary or undesirable; or

- (b) a person who:
 - (i) possesses the nationality of another country that is a member of the Commonwealth of Nations; and
 - (ii) cannot obtain a valid travel document from the country or countries of which he or she has nationality.
- (2) The document ceases to be valid at the end of the day specified in the document as the day on which the document ceases to be valid. The day specified must not be later than 3 years after the day on which the document was issued.

9 Minister may issue provisional travel documents

- (1) For section 9 of the Act, the Minister may issue a provisional travel document to a person who:
 - (a) is an Australian citizen; and
 - (b) is unable to obtain an Australian travel document.
- (2) The document ceases to be valid when the first of the following occurs:
 - (a) the day specified in the document as the day on which the document ceases to be valid ends;
 - (b) the person arrives in a country in which there is an Australian embassy, high commission or consulate.
- (3) The day specified under paragraph (2)(a) must be no later than 1 month after the day on which the document was issued.

9A Application of the Act to travel-related documents

- (1) For section 9 of the Act, Division 2 of Part 2 of the Act applies to the issue of the following as if they were Australian passports:
 - (a) a convention travel document;
 - (b) a certificate of identity;
 - (c) a provisional travel document.
- (2) For section 9 of the Act, Division 2 of Part 2 of the Act (other than section 12) applies to the issue of a document of identity as if the document were an Australian passport.
- (3) For section 9 of the Act, subsections 20(1) and (2) of the Act apply to the following as if they were Australian passports:
 - (a) a convention travel document;
 - (b) a certificate of identity;
 - (c) a document of identity;
 - (d) a provisional travel document.

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Division 2—Reasons the Minister may refuse to issue an Australian passport

Subdivision A—Children

10 Special circumstances in which the Minister may issue an Australian passport to a child

- (1) For paragraph 11(2)(a) of the Act, each of the circumstances mentioned in subsection (3) is a special circumstance in which the Minister may issue an Australian passport to a child even though a person who has parental responsibility for the child (the *non-consenting person*) has not consented to the child having an Australian passport.

Note: *Parental responsibility* has the meaning given by subsection 11(5) of the Act.

- (2) Subsection (1) does not apply if the Minister has been provided with court documents demonstrating that there are proceedings before a Commonwealth, State or Territory court that may affect:
- (a) the rights of the child to travel internationally; or
 - (b) who has parental responsibility for the child.
- (3) The circumstances are the following:
- (a) if the application is made by or on behalf of the child—neither the applicant nor the Minister has been able to contact the non-consenting person for a reasonable period;
 - (b) the non-consenting person is either or both of the following:
 - (i) missing;
 - (ii) presumed dead;
 - (c) the non-consenting person is medically incapable of providing consent;
 - (d) there has been no contact between the child and the non-consenting person for a substantial period before the application is made;
 - (e) the non-consenting person:
 - (i) is not an Australian citizen; and
 - (ii) is separated from a person who has parental responsibility for the child and has consented to the child having an Australian passport; and
 - (iii) has not had contact with the child since the child arrived in Australia;
 - (f) a family violence order has been issued against the non-consenting person;
 - (g) if the child is outside Australia—there is evidence of family violence;
 - (h) if the child is outside Australia—the Minister considers that there is a need for the child to travel internationally or the child requires a passport to continue to legally reside overseas;
 - (i) an order of a court in a convention country (within the meaning of the *Family Law (Child Abduction Convention) Regulations 1986*) permits any of the following:
 - (i) the issue of a passport to the child;
 - (ii) the child to travel internationally;

- (iii) contact between the child and another person outside the country where the order was made;
 - (j) an order of a State or Territory court, made under a child welfare law, grants parental responsibility or guardianship of the child to:
 - (i) a parent of the child other than the non-consenting person; or
 - (ii) a person other than a parent of the child.
- (4) In this section, the following expressions have the same meaning as in the *Family Law Act 1975*:
 - (a) *child welfare law*;
 - (b) *family violence*;
 - (c) *family violence order*.

Subdivision B—Law enforcement and security

11 Competent authorities—Australian law enforcement matters

For paragraph (b) of the definition of *competent authority* in subsection 12(3) of the Act, the following persons are specified as competent authorities in relation to the circumstances mentioned in paragraph 12(1)(a) or (b) of the Act:

- (a) the Attorney-General;
- (b) the Secretary of the Attorney-General's Department;
- (c) SES employees in the Attorney-General's Department.

12 Competent authorities—international law enforcement cooperation

- (1) For paragraph (b) of the definition of *competent authority* in subsection 13(3) of the Act, the following persons are specified as competent authorities in relation to the circumstances mentioned in paragraph 13(1)(a), (b) or (c) of the Act:
 - (a) the Secretary of the Attorney-General's Department;
 - (b) SES employees in the Attorney-General's Department.
- (2) For paragraph (c) of the definition of *competent authority* in subsection 13(3) of the Act, the following agencies are specified as competent authorities in relation to the circumstances mentioned in paragraph 13(1)(a), (b) or (c) of the Act:
 - (a) the Australian Federal Police;
 - (b) the Australian Trade Commission, to the extent that it performs consular functions within the consular district of Vancouver, Canada.

13 Minister may refuse to issue an Australian passport—reasons relating to potential for harmful conduct

Criminal Code offences

- (1) For subparagraph 14(1)(a)(v) of the Act, the following offences are specified:
 - (a) offences against Division 70 of the *Criminal Code* (bribery of foreign public officials);
 - (b) offences against Division 71 of the *Criminal Code* (offences against United Nations and associated personnel);

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- (c) offences against Division 72 of the *Criminal Code* (international terrorist activities using explosive or lethal devices);
- (d) offences against Division 73 of the *Criminal Code* (people smuggling and related offences);
- (e) offences against Division 80 of the *Criminal Code* (treason, urging violence and advocating terrorism);
- (f) offences against Division 91 of the *Criminal Code* (offences relating to espionage and similar activities);
- (g) offences against Divisions 101, 102 and 103 of the *Criminal Code* (terrorism);
- (h) offences against Division 115 of the *Criminal Code* (harming Australians);
- (i) offences against sections 119.1 and 119.4 of the *Criminal Code* (foreign incursions and recruitment);
- (j) offences against Division 268 of the *Criminal Code* (genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court);
- (k) offences against Division 270 of the *Criminal Code* (slavery and slavery-like conditions);
- (l) offences against Division 271 of the *Criminal Code* (trafficking in persons and debt bondage);
- (m) offences against Division 272 of the *Criminal Code* (child sex offences outside Australia);
- (n) offences against Division 273 of the *Criminal Code* (offences involving child pornography material or child abuse material outside Australia);
- (o) offences against Division 307 of the *Criminal Code* (import-export offences);
- (p) offences against Division 400 (except subsections 400.8(2) and (3)) of the *Criminal Code* (money laundering);
- (q) offences against sections 474.19, 474.20, 474.22, 474.23 and 474.24A to 474.24C of the *Criminal Code* (offences relating to use of a carriage service for child pornography material or child abuse material);
- (r) offences against sections 474.25A to 474.27A of the *Criminal Code* (offences relating to use of a carriage service involving sexual activity with person under 16).

Offences against other legislation

- (2) For subparagraph 14(1)(a)(v) of the Act, the following offences are specified:
 - (a) offences against the following Parts of the *Charter of the United Nations Act 1945*:
 - (i) Part 4;
 - (ii) Part 5 (to the extent that it relates to the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*);
 - (b) offences against section 8 of the *Crimes (Internationally Protected Persons) Act 1976*;
 - (c) offences against the following sections of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990* (offences related to drug trafficking):

- (i) sections 9 to 13, and 15A to 15C;
- (ii) section 14 (to the extent that the offences are indictable offences);
- (d) offences against sections 65Y and 65Z of the *Family Law Act 1975* (child abduction);
- (e) offences against Subdivision A (except sections 235 and 236) of Division 12 of Part 2 of the *Migration Act 1958* (people smuggling and related offences).

14 Competent authorities—potential for harmful conduct

- (1) For subparagraph (a)(ii) of the definition of **competent authority** in subsection 14(3) of the Act, the following persons are specified as competent authorities in relation to the circumstance mentioned in subparagraph 14(1)(a)(iv) of the Act that relate to Australia:
 - (a) the Secretary of the Department;
 - (b) SES employees in the Department whose duties include the performance of functions under the Act.
- (2) For subparagraph (a)(ii) of the definition of **competent authority** in subsection 14(3) of the Act, the following persons are specified as competent authorities in relation to the circumstances mentioned in subsection 14(1) of the Act that relate to Australia:
 - (a) the Director-General of Security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*);
 - (b) a Deputy Director-General of Security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*).
- (3) For subparagraph (b)(ii) of the definition of **competent authority** in subsection 14(3) of the Act, the following persons are specified as competent authorities in relation to the circumstances mentioned in subsection 14(1) of the Act that relate to foreign countries:
 - (a) the Secretary of the Attorney-General's Department;
 - (b) SES employees in the Attorney-General's Department;
 - (c) the Director-General of Security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*);
 - (d) a Deputy Director-General of Security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*).
- (4) For subparagraph (b)(iii) of the definition of **competent authority** in subsection 14(3) of the Act, the following agencies are specified as competent authorities in relation to the circumstances mentioned in subsection 14(1) of the Act that relate to foreign countries:
 - (a) the Department of Immigration and Border Protection;
 - (b) the Australian Federal Police;
 - (c) in relation to conduct of the kind mentioned in subparagraph 14(1)(a)(i) of the Act—ASIO;
 - (d) the Australian Trade Commission, to the extent that it performs consular functions within the consular district of Vancouver, Canada.

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Subdivision C—Administrative reasons

**15 Circumstances in which the Minister may issue an Australian passport—
concurrent passports**

For subsection 17(2) of the Act, the Minister may issue an Australian passport to a person in any of the following circumstances:

- (a) the person needs a second passport to avoid significant delays in travel that would otherwise be caused by waiting for a visa to be issued;
- (b) the person intends to travel to a country that will not accept a travel document showing evidence of travel to another country, and the person's current Australian passport shows evidence of travel to that other country;
- (c) the Minister is satisfied that other exceptional circumstances exist.

**16 Circumstances in which the Minister may issue an Australian passport—
diplomatic and official passports**

For subsection 17(2) of the Act, the Minister may issue an Australian passport to a person who is travelling for diplomatic or official purposes, or is a dependant of a person travelling for diplomatic or official purposes.

Division 3—When Australian travel documents are not valid

17 Period of validity

- (1) For subsection 20(2) of the Act, an Australian passport ceases to be valid at the end of the day specified in the passport as the date of expiry.
- (2) The maximum period for which an Australian passport issued in circumstances mentioned in column 1 of an item in the following table may be valid is the period mentioned in column 2 of the item.

Period of validity		
	Column 1	Column 2
Item	Circumstances	Maximum period of validity
1	The passport is issued to an adult and no other item of this table applies	10 years.
2	The passport is issued to a child and no other item of this table applies	5 years.
3	The passport is issued to a child who is 16 or 17 and all of the following apply: (a) no other later item of this table applies; (b) the application fee mentioned in item 3 or 7 of the table in subsection 5(3) of the <i>Australian Passports (Application Fees) Determination 2015</i> is paid; (c) the application for the passport is lodged on or after 1 January 2016;	10 years.
4	The passport is issued to a person who is 75 or over and both of the following apply: (a) no other later item of this table applies; (b) the application fee mentioned in item 4 or 8 of the table in subsection 5(3) of the <i>Australian Passports (Application Fees) Determination 2015</i> is paid;	5 years.
5	The passport is a concurrent passport issued to a person in a circumstance mentioned in section 15	3 years.
6	The passport is an emergency passport	1 year.
7	The passport is issued to a person surrendering a diplomatic or official passport on resignation overseas from the person's diplomatic or official position	1 year.
8	The passport is issued to a person travelling internationally for the purpose of gender reassignment, if the passport is issued to the person in the intended gender	1 year.
9	The passport is issued to a terminally ill child or an accompanying family member	1 year.

Part 2 Australian travel documents

Division 3 When Australian travel documents are not valid

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Period of validity		
	Column 1	Column 2
Item	Circumstances	Maximum period of validity
	for the purpose of travel sponsored by a charitable organisation that is registered under a law of the Commonwealth or a State or Territory	
10	Both of the following apply: (a) the passport is issued to a person whose Australian travel documents (including the most recent travel document) have been lost or stolen: (i) 2 times in the 5 years immediately before the date of applying for the passport; or (ii) 3 or more times in the 5 years immediately before the date of applying for the passport; (b) the application for the passport is lodged on or after 1 January 2016;	either: (a) if subparagraph (a)(i) of column 1 of this item applies—5 years; or (b) if subparagraph (a)(ii) of column 1 of this item applies—2 years.
11	The passport is a replacement passport issued to a person whose Australian travel document has been lost, stolen or damaged and both of the following apply: (a) the person's travel documents (other than the travel document being replaced) have not been lost, stolen or damaged in the 5 years immediately before the date of applying for the passport; (b) the application for the replacement passport is lodged on or after 1 January 2016;	the period ending when the travel document being replaced would otherwise have ceased to be valid.
12	The passport is a replacement passport and the period of validity of the passport being replaced was less than the maximum period for a passport of that kind under another item of this table	the period ending when the passport being replaced would otherwise have ceased to be valid if the period of validity was instead the maximum period for a passport of that kind.
13	The passport is a replacement passport and all of the following apply: (a) the passport being replaced has no more blank visa pages; (b) the replacement passport is not an Australian frequent traveller passport; (c) the application for the replacement passport is lodged on or after 1 January 2016;	the period ending when the passport being replaced would otherwise have ceased to be valid.
14	The passport is a replacement passport issued to a child and the circumstances mentioned in paragraph 27(a) apply	the period ending when the passport being replaced would otherwise have ceased to be valid.
15	The passport is a replacement passport	the period ending when the passport being

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Period of validity		
Column 1		Column 2
Item	Circumstances	Maximum period of validity
	issued to reflect a change of name and the circumstances mentioned in paragraph 27(b) apply	replaced would otherwise have ceased to be valid.
16	The passport is a replacement passport issued to reflect a change of gender and the circumstances mentioned in paragraph 27(c) apply	the period ending when the passport being replaced would otherwise have ceased to be valid.

Note 1: In relation to items 1 and 4 of the table, a person 75 years or over may pay for a 5 year passport or a 10 year passport.

Note 2: An Australian frequent traveller passport has extra visa pages.

Lost or stolen travel documents

- (3) If:
- (a) column 1 of item 10 or 11 of the table in subsection (2) applies in relation to a passport issued to a person whose travel documents have been lost or stolen; and
 - (b) at the time of lodging the application for the passport, either of the following apply:
 - (i) the travel document has been found and returned by the document holder to the Department or an Australian diplomatic mission or consulate;
 - (ii) the Minister is satisfied that exceptional circumstances exist;
- the travel document is taken not to have been lost or stolen for the purpose of determining the maximum period for which the passport may be valid.

Effect of this section

- (4) This section does not limit section 18 or 19.

18 Circumstances in which Australian passports cease to be valid—damage

- (1) For subsection 20(2) of the Act, an Australian passport ceases to be valid if:
- (a) it is damaged; and
 - (b) the Minister is satisfied that it is no longer usable as evidence of the identity and citizenship of its holder or to facilitate international travel.
- (2) For paragraph (1)(b), the Minister must take into account any evidence of the following:
- (a) that any of the visible information (including a photograph or machine readable zone) on the data page of the passport has been altered or tampered with, is faulty or cannot be read reliably;
 - (b) that the data page (including the laminate) of the passport has been tampered with, altered, damaged or dislodged, or has been degraded;
 - (c) that any page is missing, substantially damaged or damaged to the extent that it cannot be read reliably;

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- (d) that any other part of the binding or structure of the passport has been tampered with or substantially damaged;
- (e) that any part of the passport's contactless integrated circuit is damaged or has been tampered or interfered with, or removed;
- (f) any other circumstances that the Minister could consider make the passport unusable as evidence of the identity and citizenship of its holder.

Note 1: For paragraph (c), an example of substantial damage is cutting a corner of the passport, cutting a machine readable zone or cancellation of a page or pages by perforation or stamping.

Note 2: For paragraph (d), an example of substantial damage is damage by water, solvents or any other substance.

19 Circumstances in which Australian passports cease to be valid—other circumstances

- (1) For subsection 20(2) of the Act, if an Australian passport is subject to an endorsement, or other advice in writing to the holder, that it is to cease to be valid on the occurrence of a circumstance mentioned in the endorsement or advice, the passport ceases to be valid on the occurrence of that circumstance.
- (2) For subsection 20(2) of the Act, an Australian passport ceases to be valid if the holder of the passport dies or loses his or her Australian citizenship.

Part 3—Administrative matters

Division 1—Information relating to Australian travel documents

20 Disclosure of information to and by the Minister

- (1) For paragraph 42(1)(e) of the Act, the following persons are specified:
 - (a) in relation to the address, contact details or electoral enrolment of an applicant or a referee in relation to an application—the Australian Electoral Commission;
 - (b) in relation to information contained in a document required by the Minister or relied on by the applicant as evidence of identity, address, entitlement or eligibility—the person that issued or signed the document;
 - (c) in relation to other information that the Minister considers is necessary for the purpose of satisfying the Minister as to a person's identity, entitlement or eligibility—the person who can provide the information.
- (2) For subsection 42(5) of the Act, the Minister may disclose personal information mentioned in subsection (3) in relation to an application for an Australian travel document to:
 - (a) a person mentioned in the application; or
 - (b) a person mentioned in subsection (1).
- (3) For subsection (2) the information is:
 - (a) in relation to the applicant, the referee in relation to the application or a person who witnesses the consent of a person with parental responsibility to an application:
 - (i) the person's full name; and
 - (ii) the person's date and place of birth; and
 - (iii) the person's sex; and
 - (iv) the number of any Australian travel document held by the person; and
 - (v) the date and place of issue of any Australian travel document held by the person; and
 - (vi) the person's address; and
 - (vii) the person's occupation; and
 - (viii) the person's signature; and
 - (ix) a photograph of the person; and
 - (b) in relation to a document or other thing that evidences or indicates, or can be used to evidence or indicate, a person's identity, citizenship or any aspect of a person's identity or citizenship:
 - (i) the official number allocated to the document or thing by the person or body that issued the document or thing or registered the relevant event to which the document or thing relates; and
 - (ii) the date on which the document or thing was issued or the relevant event was registered; and

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- (c) any other details on a document or other thing that evidences or indicates, or can be used to evidence or indicate, the applicant's identity, citizenship or any aspect of the applicant's identity or citizenship; and
- (d) in relation to an application made by, or on behalf of, a child:
 - (i) the full names of each person with parental responsibility for the child; and
 - (ii) the maiden name of the child's mother; and
- (e) the official number allocated by the Department to the application.

Note: *Parental responsibility* has the meaning given by subsection 11(5) of the Act.

21 Information that may be requested

- (1) For subsection 43(1) of the Act, the kinds of personal information that may be requested by the Minister for the purposes of Part 2 of the Act in relation to an application of a particular kind is the information mentioned in the application form for applications of that kind.
- (2) For subsection 43(1) of the Act, the Minister may request any of the following kinds of personal information for the purpose of satisfying himself or herself of a person's identity or citizenship under section 8 of the Act:
 - (a) the person's name as shown in records held by the registrar of births, deaths and marriages (however described) of a State or Territory or by the Department of Immigration and Border Protection;
 - (b) the person's date of birth as shown in those records;
 - (c) the person's place of birth as shown in those records;
 - (d) the person's sex as shown in those records.

Note: Subsection 43(2) of the Act provides that section 43 does not prevent the Minister from requesting under subsection 42(1) of the Act information that is not specified in this section.

22 Method of disclosing information

For subsection 44(1) of the Act, information that the Minister may request under subsection 42(1) of that Act is to be disclosed:

- (a) in a manner compatible with systems of the Department operated for the purposes of performing functions under the Act if it is disclosed in electronic form; or
- (b) in the form of original documents if it is disclosed in hard-copy form.

23 Disclosure of information

- (1) This section is made for sections 45 and 46 of the Act.
- (2) For a purpose specified in column 1 of an item in the following table, the Minister may disclose personal information of a kind specified in column 2 of the item to a person specified in column 3 of the item.

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Disclosure of information		
Column 1	Column 2	Column 3
Purposes for which information may be disclosed	Kinds of information	Persons to whom information may be disclosed
1 The purpose of informing the person to whom the information is given about the status of an Australian travel document (see section 45 of the Act)	Any of the following information: (a) data page information; (b) status information	Any of the following persons: (a) a person receiving the information for any foreign border authority; (b) a person receiving the information for the International Criminal Police Organization (Interpol); (c) a person authorised by Interpol to access information held by Interpol in accordance with Interpol's rules on the processing of information for the purposes of international police cooperation; (d) the registrar of births, deaths and marriages (however described) of a State or Territory; (e) a person receiving the information for the road traffic authority (however described) of a State or Territory; (f) the Secretary of the Department of Defence; (g) a member of the Australian Federal Police; (h) a member of the police force of a State or Territory; (i) a person receiving the information for a court of the Commonwealth, or a State or Territory; (j) the Secretary of the Department of Immigration and Border Protection; (k) the Commissioner of the Australian Border Force; (l) a person who is working in the National Border Targeting Centre.
2 The purpose of 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 (see paragraph 46(a) of the Act)	Any of the following information: (a) data page information; (b) status information; (c) authenticity information	Any of the following persons: (a) the registrar of births, deaths and marriages (however described) of a State or Territory; (b) a person receiving the information for the road traffic authority (however described) of a State or Territory; (c) the Secretary of the Department of Defence; (d) a member of the Australian Federal Police; (e) a member of the police force of a State or Territory; (f) a person receiving the information for a court of the Commonwealth, or a State or Territory; (g) the Secretary of the Department of Immigration and Border Protection;

Part 3 Administrative matters

Division 1 Information relating to Australian travel documents

Section 23

Disclosure of information		
Column 1	Column 2	Column 3
Purposes for which information may be disclosed	Kinds of information	Persons to whom information may be disclosed
		(h) the Commissioner of the Australian Border Force; (i) a person who is working in the National Border Targeting Centre; (j) a person receiving the information for any foreign border authority.
3 The purpose of facilitating or otherwise assisting the international travel of a person to whom an Australian travel document has been issued (see paragraph 46(b) of the Act)	Any of the following information: (a) data page information; (b) status information; (c) authenticity information	Any of the following persons: (a) the Secretary of the Department of Immigration and Border Protection; (b) the Commissioner of the Australian Border Force; (c) a person who is working in the National Border Targeting Centre; (d) a person receiving the information for any foreign border authority.
4 The purpose of law enforcement (see paragraph 46(c) of the Act)	Any of the following information: (a) data page information; (b) status information; (c) request information	A person who has responsibility for, or powers, functions or duties in relation to, law enforcement under a law of the Commonwealth or a State or Territory.
5 The purpose of the operation of family law and related matters (see paragraph 46(d) of the Act)	Any of the following information: (a) data page information; (b) status information; (c) request information	Any of the following persons: (a) a person receiving the information for a court of the Commonwealth, or a State or Territory; (b) the Secretary of the Attorney-General's Department when acting as the Commonwealth Central Authority for the purposes of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on 25 October 1980 or the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, done at The Hague on 19 October 1996.
6 The purposes of any of the following laws, which are specified for paragraph 46(e) of the Act: (a) Division 7 of Part 3 of	Any of the following information: (a) data page information;	Any of the following persons: (a) the Attorney-General; (b) the Secretary of the Attorney-General's Department; (c) an SES employee or APS employee in the

Section 23

Disclosure of information		
Column 1	Column 2	Column 3
Purposes for which information may be disclosed	Kinds of information	Persons to whom information may be disclosed
<p>the <i>A New Tax System (Family Assistance) Act 1999</i> (to the extent the Division applies because of a notice given under section 57GK of that Act);</p> <p>(b) Division 5 of Part 6-1 of the <i>Paid Parental Leave Act 2010</i> (to the extent the Division applies because of a notice given under section 278D of that Act);</p> <p>(c) Part 1.3B of the <i>Social Security Act 1991</i> (to the extent the Part applies because of a notice given under section 38P of that Act)</p>	<p>(b) status information;</p> <p>(c) request information</p>	<p>Attorney-General's Department.</p>

Note: For column 3 of item 5 of the table, the Convention on the Civil Aspects of International Child Abduction referred to in paragraph (b) is set out in Australian Treaty Series 1987 No. 2 ([1987] ATS 2). The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children referred to in paragraph (b) is set out in Australian Treaty Series 2003 No. 19 ([2003] ATS 19). Both Conventions could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(3) In this section:

authenticity information means information that is necessary to establish the authenticity of an applicant for, or a person holding, an Australian travel document.

data page information means information contained on the data page of an Australian travel document, including the following:

- (a) the document number;
- (b) the document type;
- (c) the date of issue of the document;
- (d) the place of issue of the document;
- (e) the date of expiry of the document;
- (f) the authority of the document;
- (g) the document holder's family name, given name or names, and sex;
- (h) the document holder's nationality;

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- (i) the document holder's date of birth;
- (j) the document holder's place of birth;
- (k) the document holder's photograph;
- (l) the document holder's signature.

request information means any other information that is necessary to meet a request under section 46 of the Act for disclosure of personal information.

status information means information about the status of an Australian travel document, including the following:

- (a) whether the document is valid;
- (b) if the document is not valid—the reason why it is not valid;
- (c) whether the document has been lost or stolen;
- (d) whether the document is in some way restricted in its use.

Division 2—Methods of performing functions under this Act

24 Methods to be used for confirming evidence of identity

- (1) For paragraph 47(1)(a) of the Act, the following methods are to be used 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:

- (a) matching a digitised version of a photograph that is either:
 - (i) provided by the applicant; or
 - (ii) taken by the Department or its agent for the purpose of the application;with any other digitised photograph held by or provided to the Department;
- (b) embedding a contactless integrated circuit into the travel document in a manner that the Minister considers is consistent with international standards and recommended practices and procedures for travel documents adopted in accordance with the Convention on International Civil Aviation, done at Chicago on 7 December 1944.

Note 1: Any personal information collected as part of using a method specified in this section must be dealt with in accordance with the Australian Privacy Principles.

Note 2: The Convention on International Civil Aviation is in Australian Treaty Series 1957 No. 5 ([1957] ATS 5) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (2) For subsection 47(3) of the Act, the personal information mentioned in column 2 of item 2 of the table in subsection 23(2) may be used for the purposes mentioned in subsection (1).

Part 4—Miscellaneous

25 Names on Australian travel documents

- (1) For subsection 53(3) of the Act, subject to section 25A of this instrument, the circumstances in which the name on a person's Australian travel document may be a name other than a name mentioned in paragraphs 53(3)(a) to (d) of the Act are set out in subsections (2) to (10).
- (2) If, after a person's previous Australian travel document was issued, the person has divorced or ceased to be in a registered relationship, or the person's spouse or partner in a registered relationship has died, the person may use a surname that the person had used before the person married or entered the registered relationship if:
 - (a) the surname:
 - (i) is registered for the person in Australia; or
 - (ii) is stated on an Australian citizenship certificate; and
 - (b) the surname has not been replaced with another surname that:
 - (i) is registered for the person in Australia; or
 - (ii) is stated on an Australian citizenship certificate.
- (3) A person may use the name stated in an Australian travel document if:
 - (a) the document is the most recent Australian travel document issued to the person with a period of validity of at least 2 years; and
 - (b) the document was issued on or after 20 August 1986; and
 - (c) the name stated for the person in the document has not been replaced with another name that:
 - (i) is registered for the person in Australia; or
 - (ii) is stated on an Australian citizenship certificate.
- (4) An Indigenous Australian whose birth has not been registered in a State or Territory may use a name by which he or she is generally known, the general use of which is confirmed by the person's community elders, or supported by other evidence.
- (5) Subject to subsection (10), if an Australian citizenship certificate has been granted to a person, and the name on that certificate is not the same as the name on the person's birth certificate, the person may not use the name on his or her birth certificate unless the name is registered.
- (6) Subject to subsection (10), if an Australian travel document has been issued to a person in the name specified on his or her Australian citizenship certificate, registered marriage certificate or registered name change certificate, the person may use a different name only:
 - (a) in the circumstances mentioned in subsection (2); or
 - (b) if the name by which he or she is registered changes.
- (7) In the circumstances mentioned in paragraph (6)(b), the only name that the person may use is the name specified on the register after the change.

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- (8) A person may use the surname stated on a foreign marriage certificate if:
- (a) the person:
 - (i) was born overseas; and
 - (ii) resides overseas; and
 - (iii) is unable to obtain a marriage certificate or name change certificate from the registrar of births, deaths and marriages (however described) of a State or Territory; and
 - (b) the marriage to which the foreign marriage certificate relates occurred after the person became an Australian citizen.
- (9) A person may use the name stated on a foreign name change certificate if:
- (a) the person:
 - (i) was born overseas; and
 - (ii) resides overseas; and
 - (iii) is unable to obtain a name change certificate from the registrar of births, deaths and marriages (however described) of a State or Territory; and
 - (b) the name change to which the foreign name change certificate relates occurred after the person became an Australian citizen.
- (10) If, on the request of the person, in exceptional circumstances, the Minister considers it desirable that another name appear on the Australian travel document, the person may use that name.
- (11) In this section:

Australian citizenship certificate means:

- (a) a certificate of citizenship granted under the *Australian Citizenship Act 1948* (as in force before it was repealed); or
- (b) a notice given to a person under section 37 of the *Australian Citizenship Act 2007*.

foreign marriage certificate means a marriage certificate that:

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

foreign name change certificate means a certificate that:

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

legalised means:

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- (a) for a foreign marriage certificate or foreign name change certificate issued in an overseas country that is a signatory to the Convention abolishing the Requirement of Legalisation for Foreign Public Documents, done at The Hague on 5 October 1961—an apostille has been placed on the certificate or on a separate document affixed to the certificate in accordance with the requirements of the Convention; or
- (b) for a foreign marriage certificate or foreign name change certificate issued in an overseas country that is not a signatory to the Convention abolishing the Requirement of Legalisation for Foreign Public Documents, done at The Hague on 5 October 1961—one or more signatures, stamps or seals have been placed on the certificate, or on a separate document affixed to the certificate, in accordance with processes recognised in the country in which the certificate is issued.

Note: The Convention abolishing the Requirement of Legalisation for Foreign Public Documents is in Australian Treaty Series 1995 No. 11 ([1995] ATS 11) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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

25A Unacceptable names

- (1) The name on a person's Australian travel document may be a name in the circumstances mentioned in subsection 25(2) to (10) if the name is not one that the Minister considers to be unacceptable.
- (2) Without limiting subsection (1), a name may be treated as unacceptable if it contains any of the following:
 - (a) an expletive, a racial or ethnic slur or implication, or another obscene or offensive term;
 - (b) a political statement or slogan;
 - (c) the name of, or a reference to, a public institution or public office;
 - (d) a title, award or decoration that is not awarded directly to, or conferred directly on, the applicant by the Crown or under a law of the Commonwealth;
 - (e) a term that could mislead people into believing that the bearer has been awarded or conferred a title, award or decoration;
 - (f) a string of words that would not commonly be recognised as a name;
 - (g) a name that cannot be established by repute or usage;
 - (h) any other term that is contrary to the public interest;
 - (i) too many characters for the data page of the travel document;
 - (j) a symbol without phonetic significance;
 - (k) characters that the Minister considers are inconsistent with the international standards and recommended practices and procedures for travel documents adopted in accordance with the Convention on International Civil Aviation, done at Chicago on 7 December 1944.

Note: The Convention on International Civil Aviation is in Australian Treaty Series 1957 No. 5 ([1957] ATS 5) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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- (3) Without limiting subsection (1), a name may be treated as unacceptable if the Minister considers that the signature of the name appearing on the travel document is unacceptable.

26 Endorsements and observations

For section 55 of the Act, in issuing an Australian travel document, the Minister may endorse, or make an observation on, the travel document to specify such particulars as the Minister thinks fit.

27 Waivers

For paragraph 56(2)(a) of the Act, a fee may be waived in any of the following circumstances:

- (a) the fee is in relation to an application for a replacement passport for a child under 5 who has previously been issued with an Australian passport during his or her first year of life, if the child has not previously been issued with a replacement passport;
- (b) the fee is in relation to an application for a replacement passport for a person who, at the time of application, held a current Australian passport valid for at least another 2 years and whose name has changed because of any of the following reasons:
 - (i) the person has married or divorced;
 - (ii) the person has entered into, or ceased to be in, a registered relationship;
 - (iii) the person has entered into, or ceased to be in, a de facto relationship;
 - (iv) the person's spouse, partner in a registered relationship or de facto partner has died;
 - (v) the person is transitioning to another gender;
- (c) the fee is in relation to an application for a replacement passport for a person who, at the time of application, held a current Australian passport valid for at least another 2 years and whose gender has changed;
- (d) the fee is in relation to an application for an Australian passport issued in circumstances mentioned in item 7 of the table in subsection 17(2) (surrendering diplomatic or official passports);
- (e) the fee is in relation to an application for an Australian passport issued in circumstances mentioned in item 9 of the table in subsection 17(2) (terminally ill child or family member);
- (f) the fee is in relation to an application for an Australian passport issued in circumstances mentioned in item 12 of the table in subsection 17(2) (replacing passports issued with less than the maximum period of validity);
- (g) the fee is in relation to an application by, or on behalf of, an Australian citizen for a document of identity for travel between Australia and Norfolk Island only;
- (h) the fee is in relation to an application for a replacement passport that is to replace a passport that is faulty as a result of error by the Department;
- (i) the fee is in relation to an application for a certificate of identity to be issued for the deportation or removal of a person under the *Migration Act 1958*;

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- (j) the fee is in relation to an application for an official passport on the surrender of a diplomatic passport;
- (k) the fee is in relation to an application for a passport of a kind mentioned in item 3 of the table in subsection 6(3) of the *Australian Passports (Application Fees) Determination 2015* (overseas applications);
- (l) the Minister is satisfied that exceptional circumstances exist in relation to the applicant.

28 Refunds

- (1) For paragraphs 56(2)(b) and (c) of the Act, an amount specified in subsection (2), (3) or (5) may be refunded to an applicant in the circumstances mentioned in that subsection.

Exceptional circumstances

- (2) The Minister may refund a fee or part of a fee (including a fee for a matter mentioned in item 1 or 2 of the table in subsection 6(3) of the *Australian Passports (Application Fees) Determination 2015*, if applicable) if the Minister is satisfied that exceptional circumstances exist.

Priority processing fee

- (3) If the applicant has paid the additional fee for a matter mentioned in item 1 or 2 of the table in subsection 6(3) of the *Australian Passports (Application Fees) Determination 2015* in relation to an Australian travel document, the Minister may refund the additional fee if:
 - (a) the travel document is not issued within 2 business days after the Minister receives all the information requested by the Minister for the purpose of being satisfied of the identity, entitlement or eligibility of the person in order to issue the document; or
 - (b) the Minister is satisfied that there are compassionate grounds for the refund of the additional fee.

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

compassionate grounds include:

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

Overseas applications

- (5) The Minister may refund the additional fee for a matter mentioned in item 3 of the table in subsection 6(3) of the *Australian Passports (Application Fees) Determination 2015* (overseas applications) if:
 - (a) the Minister refunds the fee in relation to an Australian passport in circumstances mentioned in subsection (2) or (3); and

- (b) the applicant also paid the additional fee for the matter in relation to the Australian passport.

29 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) of the Act any or all of the Minister's powers and functions under the following provisions:
 - (a) subparagraph 6(4)(f)(ii);
 - (b) subparagraph 7(2)(e)(ii);
 - (c) paragraph 10(3)(h);
 - (d) paragraph 15(c);
 - (e) subparagraph 17(3)(b)(ii);
 - (f) paragraph 18(1)(b);
 - (g) paragraph 20(1)(c);
 - (h) paragraph 24(1)(b);
 - (i) subsection 25(10);
 - (j) section 25A;
 - (k) section 27;
 - (l) section 28.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

30 Review of decisions

A decision under subsection 25(10), 25A(1) or (3) or section 27 or 28 is reviewable under sections 49 and 50 of the Act as if it were a reviewable decision.

Part 5—Application and transitional provisions

31 Continued operation of the *Australian Passports Determination 2005*

Despite this determination and the repeal of the *Australian Passports Determination 2005* (the *old determination*), the old determination, as in force immediately before its repeal, continues to apply in relation to:

- (a) an application (including fees in relation to the application) to replace an Australian travel document that has been lost or stolen that is lodged before 1 January 2016; and
- (b) an application (including fees in relation to the application) for the issue of an Australian travel document in any other circumstance that is lodged before that repeal.

Schedule 1—Repeals

Australian Passports Determination 2005

1 The whole of the determination

Repeal the determination.