

Chapter 17.

Passports Act 1982.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 17.

Passports Act 1982.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Passports Act 1982,

Being an Act to make provision for Papua New Guinea passports.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution* namely—

- (a) the right to privacy conferred by Section 49 of the *Constitution*; and
- (b) the right to freedom of movement conferred by Section 52 of the *Constitution*,

is a law that is made for that purpose.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“applicant” means an applicant for a Papua New Guinea passport, certificate of identity or other document of identity;

“approved person” means—

- (a) a lawyer; or
- (b) a registered medical practitioner; or
- (c) a Principal Magistrate; or
- (d) a Commissioner for Oaths; or
- (e) a member of a Local-level Government or community government; or
- (f) a member of the Police Force of or above the rank of Constable First Class; or

(g) a Provincial Administrator;

“**certificate of identity or other document of identity**” means documents of identity issued under Sections 9 and 10;

“**the commencement date**” means 18 April 1985, being the date on which the *Passports Act 1982* came into force;

“**entry permit**” has the same meaning as in the *Migration Act 1978*;

“**officer**” means—

- (a) an officer of the Department; or
- (b) a member of the Police Force; or
- (c) any person authorized by the Minister to exercise the powers conferred under this Act;

“**Papua New Guinea passport**” means a document issued under Section 5;

“**this Act**” includes the regulations.

3. PASSPORT TO BE IN THE NAME OF THE GOVERNMENT.

A Papua New Guinea passport shall be issued in the name of the Government of Papua New Guinea.

4. APPLICATION FOR PASSPORT.

(1) An application for, or for a renewal of, a Papua New Guinea passport, certificate of identity or other document of identity, shall—

- (a) be in such form as approved by the Minister; and
- (b) be accompanied by the prescribed fees; and
- (c) include any other matters or particulars as may be required by the Minister.

(2) Where an application is for a Papua New Guinea passport the application shall, in addition to the requirements under Subsection (1)—

- (a) be witnessed by an approved person; and
- (b) be accompanied by such matters as are prescribed.

5. ISSUE OF PASSPORT.

(1) The Minister or an officer authorized by the Minister, may issue to a citizen, a Papua New Guinea passport.

(2) A Papua New Guinea passport—

- (a) shall be issued for such period; and
- (b) may, subject to Section 8, be renewed for such further periods, as determined by the Minister or authorized officer.

(3) A Papua New Guinea passport shall be in such form as approved by the Minister.

6. ISSUE OF PASSPORT TO MINORS.

A person who is under the age of 17 years shall not be issued with a Papua New Guinea passport, unless the application for the passport is accompanied by evidence that the parents or legal guardian of the applicant have consented to the application.

7. CHILDREN MAY BE INCLUDED IN PASSPORT.

(1) Subject to Subsection (2), children under the age of 17 years may be included in the passport of either parent if the other parent has consented to the inclusion.

(2) The inclusion of a child in the passport of a parent who is a citizen does not of itself confer any right to citizenship on the child.

8. RENEWAL OF PASSPORT.

(1) Subject to Subsection (2), the Minister or an officer authorized by the Minister may, from time to time, renew a Papua New Guinea passport.

(2) A Papua New Guinea passport shall not be renewed if the space on it for entry permits is exhausted.

9. ISSUE OF CERTIFICATES OF IDENTITY, ETC., TO CITIZENS.

The Minister or an officer authorized by the Minister may issue to a citizen a certificate of identity or other document of identity for travel purposes in such form as the Minister approves.

10. ISSUE OF CERTIFICATES OF IDENTITY, ETC., TO NON-CITIZENS.

(1) The Minister or an officer authorized by the Minister may issue to a person—

- (a) who is a citizen of a country which is a member of the Commonwealth of Nations—a certificate of identity or other document of identity for travel purposes; or
- (b) who is stateless or unable to obtain a passport from a consular representative of the country of which he claims to be a citizen—a certificate of identity.

(2) A certificate of identity or other document of identity, as the case may be, issued under this section—

- (a) remains valid for such period, not exceeding six months from the date of issue; and

(b) may be renewed for such further periods, each not exceeding six months, as the Minister or the officer authorized by the Minister to whom the application is made, thinks fit.

11. POWER TO REFUSE ISSUE AND CANCELLATION OF CERTIFICATE OR OTHER DOCUMENT OF IDENTITY.

The Minister may—

- (a) refuse an application for, or for a renewal of, a certificate of identity or other document of identity; or
- (b) cancel a certificate of identity or other document of identity issued under this Act.

12. POWER TO REFUSE ISSUE AND CANCELLATION OF PASSPORT.

(1) Subject to Subsection (2), the Minister may—

- (a) refuse an application for, or for a renewal of, a Papua New Guinea passport; or
- (b) cancel a Papua New Guinea passport issued under this Act.

(2) The powers conferred on the Minister under Subsection (1) shall not be exercised unless the Minister is satisfied that the person—

- (a) intends, contrary to law, to take a minor or a person under disability out of Papua New Guinea; or
- (b) is the subject of a warrant of arrest or outstanding warrant of arrest issued under the *Arrest Act 1977* or any other law; or
- (c) has failed or refused to pay to the State, money owing to the State, in respect of expenses incurred by the State in, or in connection with, effecting his return to Papua New Guinea from a country outside of Papua New Guinea; or
- (d) is the subject of a court order prohibiting his departure from Papua New Guinea; or
- (e) has engaged in activities that have caused or are likely to cause, serious damage to the security of Papua New Guinea; or
- (f) has obtained or is reasonably suspected of having obtained a Papua New Guinea passport, by means of a false or misleading statement.

(3) Where the Minister has—

- (a) refused an application for, or a renewal of, a Papua New Guinea passport; or
- (b) cancelled a Papua New Guinea passport,

he shall give written notice of, and the reasons for, his decision to the person concerned.

(4) Where the Minister cancels a Papua New Guinea passport under Subsection (1), the passport is immediately void.

(5) An officer authorized by the Minister may take possession of a cancelled Papua New Guinea passport.

(6) A person who has in his possession or under his control a Papua New Guinea passport referred to in Subsection (5) must, on demand by an officer authorized by the Minister, immediately deliver it up to the officer.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

13. COMMITTEE OF REVIEW.

(1) A person may, within 28 days after the receipt of the notice under Section 12(3), by written application to the Prime Minister request that the decision of the Minister be reviewed by a Committee of Review.

(2) The Prime Minister shall, on the receipt of an application under Subsection (1), as soon as practicable, appoint a Committee of Review, consisting of three Ministers one of whom shall be appointed to be the Chairman, to consider the application.

(3) On the appointment of the Committee of Review, the Minister shall submit to the Committee the reasons for his decision and all information relevant to the applicant.

(4) The Committee of Review may, if it considers necessary, request or permit the applicant to appear or to make written representations before it.

(5) After considering the application and information submitted to it in accordance with Subsections (3) and (4), and after making any inquiries or investigations it considers necessary, the Committee of Review shall either confirm or revoke the decision of the Minister.

(6) The Committee of Review shall report its decision to the Prime Minister who shall inform the applicant accordingly.

(7) Where by its decision, the Committee of Review has revoked the decision of the Minister, the Minister shall, as soon as practicable take all such actions as may be necessary to implement it.

14. APPEAL AGAINST DECISION OF COMMITTEE.

Subject to Section 155(5) (*the national judicial system*) of the *Constitution*, a decision of the Committee of Review under Section 13 is not open to review or challenge in any court on any grounds.

15. POWER TO ORDER PASSPORT TO BE DELIVERED UP.

(1) A person who holds a Papua New Guinea passport that has been obtained, or is reasonably suspected by an officer of having been obtained, by means of any false or misleading statement must, on demand by an officer, deliver it up to the officer.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(2) A person who holds a passport bearing an entry permit that has been obtained, or is reasonably suspected by an officer of having been obtained, by means of any false or misleading statement shall, on demand by an officer, deliver it to the officer.

(3) A person entering Papua New Guinea who is required by law to be in possession of a passport must, if required, deliver up his passport, to an officer before leaving the vessel or aircraft in which he entered Papua New Guinea.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(4) If a person referred to in Subsection (2) is allowed to retain his passport, he must, if required by an officer at any time, deliver it up to the officer.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(5) A passport delivered up to an officer in accordance with this section may, subject to any directions of the Minister, be retained by or on behalf of the Department or be returned to the person who delivered it up, as the officer thinks fit.

16. FALSE STATEMENTS.

A person who—

- (a) for the purpose of obtaining a Papua New Guinea passport, a certificate of identity or other document of identity; or
- (b) in support of an application for or for renewal of, a Papua New Guinea passport, a certificate of identity or other document of identity for any other person,

makes a false or misleading statement, whether orally or in writing, is guilty of an offence.

Penalty: ¹A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both.

¹ Section 16: Penalty clause amended by *Passports (Amendment) Act 1996* (No 24 of 1996), s1.

17. LOST OR STOLEN PASSPORT.

(1) A person whose Papua New Guinea passport has been lost or stolen shall, as soon as he discovers its loss—

- (a) make every effort to recover it; and
- (b) report its loss to a member of the Police Force.

(2) An authorized officer shall not issue a replacement passport to a person whose Papua New Guinea passport has been lost or stolen unless he is satisfied that the person has made every effort to effect its recovery.

(3) An application for the replacement of a lost, stolen or damaged Papua New Guinea passport shall be made in the same manner as an application for the issue of a new passport.

18. EFFECT OF VALID PASSPORT IN RELATION TO THE MIGRATION ACT.

Without in any way limiting the operation of a passport, a Papua New Guinea passport, certificate of identity or other document of identity that is in force operates, in accordance with its tenor, as an entry permit under the *Migration Act 1978*.

19. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular—

- (a) for prescribing the matters or particulars to be accompanied with an application for a Papua New Guinea passport; and
- (b) for the granting of exemptions from payment of fees; and
- (c) for prescribing the fees to be charged in respect of the issue and renewal of a Papua New Guinea passport, certificate of identity or other document of identity; and
- (d)² for prescribing penalties, not exceeding K1,000.00 or imprisonment for a term not exceeding six months for breaches of the regulations.

20. TRANSITIONAL PROVISIONS.

(1) A Papua New Guinea passport, certificate of identity or other document of identity issued under the Act replaced by this Act and in force immediately before the commencement date shall continue in force for the period for which it was issued and shall have effect as if it were issued under this Act.

² Section 16(d) amended by *Passports (Amendment) Act 1996* (No 24 of 1996), s2.

(2) A person held in detention by virtue of an order made under a provision of the Act replaced by this Act immediately before the commencement date shall be deemed to be held in detention by virtue of an analogous order or provision of this Act.

(3) An officer authorized or given powers, duties or functions under the Act replaced by this Act shall be deemed to have been authorized or given those powers, duties or functions under this Act with such variations as may be necessary to be applicable under this Act.

(4) Where immediately before the commencement date, the Minister has, in accordance with the provisions of the Act replaced by this Act—

- (a) refused an application for, or a renewal of, a Papua New Guinea passport; or
- (b) cancelled a Papua New Guinea passport,

the provisions of this Act relating to the review of the decision of the Minister do not apply unless the applicant has within 28 days after the commencement date, submitted a written application to the Prime Minister requesting a review.

Office of Legislative Counsel, PNG