

PASSPORTS BILL

EXPLANATORY NOTE

THIS Bill replaces and repeals the Passports Act 1946. It has 3 principal purposes:

- (a) To recognise New Zealand passports. The present Act makes no mention of such passports, the emphasis being placed on British passports:
- (b) To confer on New Zealand citizens a clear right to a passport, subject to defined circumstances. At present, the issue of a passport is entirely at the discretion of the Minister:
- (c) To remove from this legislation provisions relating to visas and other requirements on landing in New Zealand, as opposed to leaving New Zealand. To the extent that these requirements are still necessary they will be dealt with under the Immigration Act 1964 (as to which, see *clause 20* of this Bill).

Clause 1 relates to the Short Title and commencement.

Clause 2 is an interpretative provision.

Issue, Renewal, and Cancellation, of Passports and Certificates of Identity

Clause 3 sets out the general rule that a New Zealand citizen is entitled as of right to a New Zealand passport.

Clause 4 provides for the issue of passports. *Subclause (2)* is an important provision, as it sets out the only grounds on which the Minister may refuse to issue a passport to a New Zealand citizen. In brief, these are—

- (a) That the applicant is under 16 years of age and has not obtained his parent's consent to the issue of a passport;
- (b) That the applicant is a fugitive from justice, or is on bail, parole, or probation, or is required by a Court order to remain in New Zealand.
- (c) That the applicant already holds a New Zealand passport.

Clause 5 provides for the renewal, endorsement, and cancellation of passports. It is intended that the power to cancel a passport under this section be exercised for administrative purposes only: for example, the document may be so dog-eared that it needs to be replaced.

Clause 6 provides for the recall and cancellation of New Zealand passports on the grounds set out in *subclause (1)*.

Clause 7 provides for the issue and cancellation of certificates of identity, which term is defined in *clause 2* of this Bill.

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Clause 8 is an important provision. As a corollary of the right to a passport conferred by *clause 3* of this Bill, this clause provides a right of appeal to the Administrative Division of the High Court against any decision of the Minister under any of *clauses 4 to 7* of this Bill.

Clause 9 provides for a further appeal to the Court of Appeal on questions of law or general principle.

Offences Relating to Passports

Clause 10 prescribes certain crimes involving material used for official purposes relating to New Zealand passports, which crimes are punishable on conviction on indictment by imprisonment for a term not exceeding 2 years.

Clause 11 prescribes certain crimes involving the misuse of passports, which crimes are also punishable on conviction on indictment by imprisonment for a term not exceeding 2 years.

Clause 12 prescribes an offence involving making a false statement in relation to any matter under this Bill.

Miscellaneous Provisions

Clause 13 provides that all New Zealand passports, and all certificates of identity issued by the Government of New Zealand, belong to the Crown.

Clause 14 confers on the Minister power to delegate any of his powers under certain specified provisions of this Bill.

Clause 15 prescribes a maximum penalty of 3 months' imprisonment and a fine of \$500 for any offence against this Bill for which no other penalty is provided in this Bill. It also allows informations alleging offences against this Bill to be laid at any time within 2 years.

Clause 16 allows crimes against *clause 10* or *clause 11* to be tried summarily.

Clause 17 empowers the making of regulations for the purposes of this Bill.

Clause 18 saves existing passports and certificates of identity notwithstanding the repeal, by *clause 19*, of the Passports Act 1946.

Clause 20 amends the Immigration Act 1964. As explained above, the intention is that whatever requirements may be necessary for persons arriving in New Zealand shall be dealt with in future in the immigration legislation, and not the passports legislation.

In accordance with this policy, *subclause (1)* does 2 things. First, it takes over from section 4 of the Passports Act 1946 the power to issue and revoke visas. Secondly, it takes over from sections 10 and 11 of that Act the power to require the production and surrender of passports. However, this latter power

is now much more circumscribed, in recognition of the basic right to a passport or certificate of identity. In brief, unless an offence against the Immigration Act 1964 is alleged, the passport or certificate of identity must be returned to the holder within 28 days. It must also be returned to him if he leaves New Zealand.

Subclause (2) amends section 17 of the Immigration Act 1964. That section prohibits a person from landing in New Zealand without an entry permit if he requires a permit to enter New Zealand. In practice, such persons are given visas rather than permits before arriving in New Zealand, and this amendment recognises that practice.

Hon. Mr Highet

PASSPORTS

ANALYSIS

Title	<i>Offences Relating to Passports</i>
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2. Interpretation	11. Misusing passport
	12. False representation
<i>Issue, Renewal, and Cancellation of Passports and Other Documents</i>	<i>Miscellaneous Provisions</i>
3. Citizen's right to passport	13. Passports property of New Zealand Government
4. Issue of passport	14. Minister may delegate powers
5. Renewal, endorsement, and cancellation of passport	15. Offences
6. Recall of passport	16. Indictable crimes triable summarily
7. Issue and cancellation of certificate of identity	17. Regulations
8. Appeal to High Court	18. Existing passports, etc., not affected by passing of this Act
9. Appeal to Court of Appeal in certain cases	19. Repeal
	20. Immigration Act 1964 amended

A BILL INTITULED

5 An Act to give proper recognition to New Zealand passports and to the right of New Zealand citizens to such passports, and to consolidate and amend the law relating to passports and certificates of identity

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 1. Short Title and commencement—(1) This Act may be cited as the Passports Act 1980.

(2) This Act shall come into force on the 1st day of January 1981.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Applicant”, in relation to an application for a passport, 5
means the person who will be the holder of the passport if the application is granted:

“Certificate of identity” means a certificate of identity or other document (other than a passport) issued 10
by the Government of any country to any person for the purposes of facilitating his entry into or his exit from any country, and purporting to establish the identity but not the nationality of that person:

“Conviction on indictment” has the same meaning as in the Crimes Act 1961: 15

“Holder”, in relation to a passport, means the person in whose name the passport has been issued:

“Minister” means the Minister of Internal Affairs:

“New Zealand passport” means a passport issued by or on behalf of the Government of New Zealand to a 20
New Zealand citizen:

“Officer” means an officer of the Department of Internal Affairs; and includes an overseas representative, an officer of Customs, and a member of the Police; and also includes a person or a member of a class of 25
persons authorised by the Minister to exercise the powers conferred on officers by this Act:

“Passport” means a document that is issued by or on behalf of the Government of any country, and that purports to establish the identity and nationality of 30
the holder:

“Prescribed” means prescribed by regulations made under this Act, or by the Minister.

Cf. 1946, No. 10, s. 2

*Issue, Renewal, and Cancellation of Passports and Other 35
Documents*

3. Citizen’s right to passport—Except as provided in this Act, every New Zealand citizen is entitled as of right to a New Zealand passport.

4. Issue of passport—(1) Except as provided in subsection (2) of this section, on an application to him in the prescribed form and manner by any New Zealand citizen, the Minister shall issue a New Zealand passport to the citizen.

5 (2) The Minister may refuse to issue a New Zealand passport in any of the following cases:

- (a) Where the applicant has not attained the age of 16 years and has not produced the written consent of one of his parents or guardians to the issue of a passport to him:
- 10 (b) Where there is reason to believe—
 - (i) That there is in force a warrant issued in New Zealand for the arrest of the applicant; or
 - 15 (ii) That the applicant is on bail or parole or probation, or is required by an order made by any New Zealand Court to remain in New Zealand or to refrain from obtaining a passport:
- (c) Where the applicant already holds a New Zealand passport and there is no sufficient reason why he
- 20 should have another passport issued to him.

Cf. 1946, No. 10, s. 3

5. Renewal, endorsement, and cancellation of passport—

(1) On the application of the holder of a New Zealand passport, the Minister may from time to time, in accordance with regulations made under this Act, renew any New Zealand passport.

(2) The Minister may from time to time, in accordance with regulations made under this Act, endorse any New Zealand passport in such manner as he thinks fit.

30 (3) The Minister may from time to time, in accordance with regulations made under this Act, cancel any particular New Zealand passport issued to any person if the Minister considers it necessary or desirable to do so for the proper administration of this Act.

35 (4) Subject to sections 4 (2) and 6 of this Act, in any case where the Minister—

- (a) Refuses to renew a passport under subsection (1) of this section; or
- (b) Cancels a passport under subsection (3) of this section,—

40 he shall, on the application of the holder of that passport, issue another New Zealand passport to replace that passport.

Cf. 1946, No. 10, s. 4

6. Recall of passport—(1) The Minister may, by writing under his hand, recall any New Zealand passport, and cancel it or retain possession of it, in any of the following cases:

(a) Where the holder has not attained the age of 16 years and the parent or guardian who gave his consent to the issue of the passport has written to the Minister withdrawing that consent: 5

(b) Where there is reason to believe that there is in force a warrant issued in New Zealand for the arrest of the holder: 10

(c) Where the holder has renounced or been deprived of New Zealand citizenship under section 15 or section 16 of the Citizenship Act 1977:

(d) Where there is reason to believe—
 (i) That the passport, or any renewal or endorsement of the passport, has been obtained by means of any false representation or any statement that is false in a material particular; or 15

(ii) That the passport is in the wrongful possession of any person other than the holder. 20

(2) Where the Minister recalls any passport under this section, the holder or other person who has the passport in his possession or under his control shall, on demand by an officer, surrender the passport to the officer.

(3) Every person commits an offence against this Act who fails without reasonable excuse to comply with subsection (2) of this section. 25

Cf. 1946, No. 10, s. 6

7. Issue and cancellation of certificate of identity—(1) The Minister may, in accordance with regulations made under this Act, issue a certificate of identity to any person. 30

(2) The Minister may, in accordance with regulations made under this Act, cancel a certificate of identity issued to any person by or on behalf of the Government of New Zealand, in which case it shall cease to have effect. 35

(3) Where the Minister cancels any certificate of identity under subsection (2) of this section, the holder or other person who has the certificate in his possession or under his control shall, on demand by an officer, surrender the certificate to the officer. 40

(4) Every person commits an offence against this Act who fails without reasonable excuse to comply with subsection (3) of this section.

Cf. 1946, No. 10, s. 7

8. Appeal to High Court—(1) Any person who is dissatisfied with any decision of the Minister made under any of sections 4 to 7 of this Act may appeal to the High Court against that decision.

5 (2) Every appeal under this section shall be filed within 28 days after the date on which notice of the decision that is the subject of the appeal has been given to the person seeking to bring the appeal, or within such extended time as the Court may allow.

10 (3) Every appeal under this section shall be heard and determined by the Administrative Division of the High Court.

(4) On any appeal under this section, the Court may confirm, modify, or quash the decision that is the subject of the appeal, and may give all such directions (if any) to the Minister or any other person concerned as may be necessary to give
15 effect to the Court's decision.

(5) Subject to the foregoing provisions of this section, the procedure in respect of any appeal under this section shall be in accordance with rules of Court.

20 (6) Except as provided in section 9 of this Act, every decision of the Court on an appeal under this section shall be final.

9. Appeal to Court of Appeal in certain cases—(1) Any party to an appeal before the High Court under section 8 of this Act who is dissatisfied with any decision of the Court may,
25 with the leave of the Court or of the Court of Appeal, appeal to the Court of Appeal.

(2) The Court to which an application for leave to appeal is made under subsection (1) of this section shall not grant leave unless it is satisfied that a question of law or of general
30 principle is involved.

(3) On any appeal under this section, the Court of Appeal shall have the same powers as are conferred on the High Court by subsection (4) of section 8 of this Act in respect of appeals under that section.

35 (4) Subject to the foregoing provisions of this section, the procedure in respect of any appeal under this section shall be in accordance with rules of Court.

(5) Every decision of the Court of Appeal on an appeal under this section shall be final.

Offences Relating to Passports

10. Possession of unauthorised material—(1) Every person commits a crime who, without lawful authority or reasonable excuse, makes or uses or has in his possession or disposes of— 5

- (a) Any paper or other material that he knows is specially provided by the proper authorities for any purpose relating to New Zealand passports; or
- (b) Any paper or other material that he knows resembles or is intended to resemble or pass for any paper or other material to which paragraph (a) of this subsection applies. 10

(2) Every person who commits a crime against subsection (1) of this section is liable on conviction on indictment to imprisonment for a term not exceeding 2 years. 15

11. Misusing passport—(1) Every person commits a crime who,—

- (a) Except as may be permitted by or under regulations made under this Act, for purposes of travel and without reasonable excuse, uses a New Zealand passport that has expired or has been cancelled; or 20
- (b) For purposes of travel or identification and without reasonable excuse, uses a New Zealand passport that was issued to or in respect of another person; or
- (c) Being a person to whom a New Zealand passport has been issued, without reasonable excuse permits another person to use that passport for purposes of travel or identification; or 25
- (d) Without reasonable excuse, has in his possession or under his control, whether as purported security for any debt or other obligation or for any other purpose, a New Zealand passport that was not issued to him; or 30
- (e) Without reasonable excuse, has in his possession or under his control— 35
 - (i) A New Zealand passport that he knows or has reason to suspect has been falsified; or
 - (ii) A document (not being a New Zealand passport) that purports to be a New Zealand passport; or 40

(f) Without reasonable excuse, has in his possession or under his control within New Zealand—

5 (i) A passport issued by or on behalf of the Government of any country other than New Zealand, being a passport that he knows or has reason to suspect has been falsified; or

10 (ii) A document (not being a passport issued by or on behalf of the Government of any country other than New Zealand) that purports to be a passport issued by or on behalf of such a Government.

(2) Every person commits a crime who wilfully defaces or destroys a New Zealand passport.

15 (3) Every person who commits a crime against subsection (1) or subsection (2) of this section is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

20 **12. False representation**—Every person commits an offence against this Act who, for the purpose of procuring anything to be done or not to be done under any of sections 4 to 7 of this Act, whether for his own benefit or for the benefit of any other person, makes a statement that he knows to be false in a material particular, or recklessly makes a statement that is false in a material particular.

Cf. 1946, No. 10, s. 5

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Miscellaneous Provisions

13. Passports property of New Zealand Government—

30 (1) All New Zealand passports and certificates of identity issued by or on behalf of the Government of New Zealand, whether before or after the commencement of this Act, shall be the property of the Government of New Zealand.

35 (2) The right in a passport or certificate of identity conferred on the Government of New Zealand by subsection (1) of this section shall not be defeated or affected by any pledge, deposit, or encumbrance given or made in respect of the passport or certificate of identity by the holder or by any other person.

14. Minister may delegate powers—(1) The Minister may delegate to any person any of the powers conferred on him by sections 4 to 7 of this Act.

(2) The delegation of a power under this section may be made generally, or in respect of a particular case or class of cases.

(3) A power delegated under this section may be exercised by the person to whom it is delegated in the same manner and to the same extent as if it were conferred by this Act and not by delegation. 5

(4) The delegation of a power under this section shall not prevent the exercise of that power by the Minister.

15. Offences—(1) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$500. 10

(2) Notwithstanding section 14 of the Summary Proceedings Act 1957, an information in respect of any offence against this Act or any regulations made under this Act may be laid at any time within 2 years after the time when the matter of the information arose. 15

16. Indictable crimes triable summarily—Part II of the First Schedule to the Summary Proceedings Act 1957 is hereby amended by inserting, in the appropriate alphabetical order, the following item: 20

“The Passports Act	10		Possession of unauthor-	
1980	11		ised material	25
			Misusing passport.”	

17. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing the forms in which passports, certificates of identity, and other documents are to be issued under this Act: 30
- (b) Requiring the payment of fees, and prescribing the amount of such fees, in respect of applications for and the issue of passports, certificates of identity, and other documents under this Act, and for the renewal or endorsement of any such document: 35
- (c) Prescribing the circumstances in which and the conditions subject to which New Zealand passports may be renewed, endorsed, and cancelled under section 5 of this Act: 40

- (d) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and prescribing the amount of any fine that may be imposed in respect of any such offence, being an amount not exceeding \$200 and, where the offence is a continuing one, a further amount not exceeding \$20 for every day during which the offence has continued:
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- (e) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
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- Cf. 1946, No. 10, ss. 10, (1), 12

18. Existing passports, etc., not affected by passing of this Act—Without limiting section 20A of the Acts Interpretation Act 1924, every passport and certificate of identity, and every renewal or endorsement of a passport or certificate of identity, issued, granted, or made by or on behalf of the Government of New Zealand before the commencement of this Act shall continue to have effect as if it was issued, granted, or made under this Act.

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19. Repeal—The Passports Act 1946 is hereby consequentially repealed.

20. Immigration Act 1964 amended—(1) The Immigration Act 1964 is hereby amended by inserting in Part VI, before section 33, the following sections:

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“32A. Grant and cancellation of visas—(1) The Minister may, in accordance with regulations made under this Act, grant a visa in respect of any passport or certificate of identity that requires a New Zealand visa.

30 “(2) The Minister may, in accordance with regulations made under this Act, cancel a visa granted under subsection (1) of this section, in which case it shall cease to have effect.

“(3) Where the Minister cancels any visa under subsection (2) of this section, the holder or other person who has the passport or certificate of identity in respect of which the visa was granted in his possession or under his control shall, on demand by an officer, surrender the passport or certificate of identity to the officer for the purpose of the cancellation of the visa; and when the visa has been cancelled, the passport or certificate of identity shall be returned to the holder.

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“(4) Every person commits an offence against this Act who fails without reasonable excuse to comply with subsection (3) of this section.

Cf. 1946, No. 10, s. 4

“32B. **Production and surrender of passport**—(1) Except as 5
may be provided by or under regulations made under this Act, every person who lands in New Zealand from overseas shall, on demand by an officer authorised for the purpose under this Act, produce a passport, or a certificate of identity that complies with the requirements (if any) specified in any such regu- 10
lations, to enable the officer to determine whether or not the person is entitled to enter New Zealand with or without a permit under this Act.

“(2) If the person is denied entry to New Zealand, his passport or certificate of identity shall be returned to him on his 15
departure from New Zealand.

“(3) If the person is permitted to enter New Zealand, his passport or certificate of identity shall be returned to him as soon as the officer is satisfied of the matters referred to in sub- 20
section (1) of this section, being in no case later than 28 days after the person is permitted to enter New Zealand, or on his earlier departure from New Zealand.

“(4) If any officer believes on reasonable grounds that the holder of any passport or certificate of identity has committed 25
an offence against this Act, he may require the person who has that passport or certificate of identity in his possession or under his control to surrender it to the officer.

“(5) If, in any case to which subsection (4) of this section applies, no information for an offence against this Act is laid 30
against the holder of the passport or certificate of identity within 28 days after it is surrendered to the officer, the passport or certificate of identity shall be returned to the holder, but nothing in this subsection shall prevent the laying of such an information subsequent to the expiry of that period.

“(6) Notwithstanding subsection (4) of this section, if the 35
holder of any passport or certificate of identity that is surrendered under subsection (3) of this section leaves New Zealand, the passport or certificate of identity shall be returned to him on his departure.

“(7) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who fails without reasonable excuse to comply with subsection (1) or subsection (4) of this section.”

5 Cf. 1946, No. 10, s. 11

(2) Section 17 of the Immigration Act 1964 is hereby amended—

- (a) By omitting the words “a permit” where they first occur, and substituting the words “a visa”:
- 10 (b) By omitting the words “a permit in the prescribed form and for the time being in force”, and substituting the words “such a visa”.