

[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE]

House of Representatives, 18 August 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Graeme Lee

PASSPORTS

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A BILL INTITULED

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, certificates of identity, and emergency travel documents 5

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Passports Act 1991.

2. Interpretation—In this Act, unless the context otherwise requires,— 10

“Applicant”, in relation to an application for a passport, certificate of identity, or emergency travel document means the person who will be the holder of the document if the application is granted: 15

“Certificate of identity” means a document (other than a passport or an emergency travel document) issued by the Government of any country to any person for the purposes of facilitating his or her entry into or exit from any country, and purporting to establish the identity but not the nationality of that person: 20

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

“Emergency travel document” means a document (other than a passport or a certificate of identity) issued, pursuant to section 23 of this Act, by or on behalf of the Government of New Zealand to any person who may be a New Zealand citizen for the purposes of urgently facilitating his or her entry into or exit from 25

any country, and purporting to establish the identity but not the nationality of that person:

“Holder”, in relation to a passport or a certificate of identity or an emergency travel document, means the person in whose name the document 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 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 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 the holder; but does not include such a document that has expired and is incapable of being renewed, or that has been cancelled:

“Secretary” means the Secretary for Internal Affairs:

“Surrendered passport” means a passport that has been surrendered under **section 12** of this Act:

“Temporary passport” means a passport issued under **section 13** of this Act.

Cf. 1980, No. 58, s. 2

PART I

ISSUE, RENEWAL, AND CANCELLATION OF PASSPORTS, CERTIFICATES OF IDENTITY, AND EMERGENCY TRAVEL DOCUMENTS

Issue, Renewal, and Endorsement of Passports

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.

Cf. 1980, No. 58, s. 3

4. Issue of passport—(1) Except as provided in **subsection (3)** of this section, the Minister shall issue a New Zealand passport to every New Zealand citizen who makes an application, or on whose behalf an application is made, for a New Zealand passport.

(2) Every such application shall be made to the Minister in the form provided by the Secretary.

(3) 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 or her parents or guardians to the issue of a passport to him or her: 5
- (b) Where—
- (i) There is in force a warrant issued in New Zealand for the arrest of the applicant; or 10
- (ii) The applicant is on bail or is subject to a sentence of supervision under the Criminal Justice Act 1985, or is subject to conditions of release under Part VI of that Act; or 15
- (iii) The applicant is required by an order made by any New Zealand Court to remain in New Zealand, or to refrain from obtaining a passport, or to surrender a passport:
- (c) Where the applicant already holds a New Zealand passport and there is no sufficient reason why another passport should be issued to him or her. 20

Cf. 1980, No. 58, s. 4 (1) and (2)

5. Life of passport—(1) Subject to subsection (2) of this section, every New Zealand passport shall be valid— 25

- (a) Where the person to whom the passport is issued has not attained the age of 16 years, for 5 years from the date of issue; or
- (b) Where the person to whom the passport is issued has attained the age of 16 years, for 10 years from the date of issue,— 30

unless it is sooner cancelled under this Act.

(2) Notwithstanding subsection (1) of this section, the Minister (*in the Minister's discretion, may, in any particular case, determine that any*) may, in any particular case if satisfied that good reasons exist and that it would be in the interests of the proper administration of this Act to do so, determine that any New Zealand passport shall be issued for a period shorter than that stated in that subsection. 35

Cf. 1980, No. 58, s. 4 (3) 40

6. Renewal of passport—(1) No New Zealand passport that was issued for a term of 10 years may be renewed.

(2) On the application of the holder of a New Zealand passport that was issued for a term of less than 10 years, the Minister may from time to time renew that passport, but so that the original period for which the passport was issued plus the renewed period does not exceed 10 years.

(3) Subject to **section 4 (3)** of this Act, in any case where the Minister refuses to renew a passport under (**subsection (1)**) **subsection (2)** of this section, the Minister shall, on the application of the holder of that passport, issue another New Zealand passport to replace that passport.

Cf. 1980, No. 58, s. 6 (1), (4)

7. Endorsement of passport—(1) Where the Minister is satisfied that the particulars recorded in a New Zealand passport do not accurately state the identity or status of the holder, the Minister may endorse on the passport such alterations or additions as may be necessary to render the particulars accurate.

(2) Without limiting **subsection (1)** of this section, the Minister may agree to or require the addition to a New Zealand passport of a more recent photograph of the holder.

Cf. 1980, No. 58, s. 6 (2)

Recall of Passports

8. Cancellation of passport where holder ceases to be entitled to passport—(1) The Minister may, by (*writing under his or her hand*) notice in writing, 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 or her consent to the issue of the passport has written to the Minister withdrawing that consent:

(b) Where the passport was issued to the holder in the mistaken belief that the holder was, at the time of issue, a New Zealand citizen; or

(c) Where the New Zealand citizenship of the holder has lapsed under section 7 (2) of the Citizenship Act 1977; or

(d) Where the holder has renounced New Zealand citizenship under section 15 of that Act; or

(e) Where the holder has been deprived of New Zealand citizenship under section 16 or section 17 of that Act; or

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(f) Where 2 or more valid New Zealand passports are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case.

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(2) Where the Minister cancels a passport under this section, the Minister shall not issue another New Zealand passport to replace that passport.

9. Cancellation of passport on other grounds—(1) The Minister may, by (*writing under his or her hand*) notice in writing, recall any New Zealand passport, and cancel it or retain possession of it, where—

(a) It is produced in support of an application for the issue of another passport in substitution for the first one; or

(b) It has expired and is incapable of being renewed; or

(c) It has been so damaged or defaced as to render it, in the opinion of the Minister, unsuitable for use; or

(d) There is reasonable cause to believe that particulars recorded in it are (*false*) incorrect and, in the opinion of the Minister, it would not be appropriate to correct them by way of endorsement in accordance with **section 7** of this Act; or

(e) There is reasonable cause to believe 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.

(2) Subject to **sections 3 and 4** of this Act, where the Minister retains or cancels a passport under this section, the Minister shall, on the application of the holder of that passport, issue, as soon as practicable, another New Zealand passport to replace that passport.

10. Retention of passport by Minister on other grounds—(1) The Minister may, by (*writing under his or her hand*) notice in writing, recall any New Zealand passport and retain possession of it—

(a) Where there is in force a warrant issued in New Zealand for the arrest of the holder:

(b) Where there is reasonable cause to believe—

(i) That the passport is in the wrongful possession of any person other than the holder; or

(ii) That the passport is in the possession of a person who is not the holder, as a security, pledge, or deposit or other encumbrance entered into in contravention of **section 33 (3)** of this Act.

5 (2) Where the Minister has recalled a passport under **subsection (1) (a)** of this section, the Minister shall return that passport to the holder as soon as practicable after the warrant is executed or withdrawn.

10 (3) Where the Minister has recalled a passport under **subsection (1) (b)** of this section, the Minister shall, unless the holder has been issued with a new passport, forthwith return that passport to the holder.

11. Delivery of recalled passport—(1) Where the Minister recalls any passport under **section 8** or **section 9** or **section 10** of this Act, the holder or other person who has the passport in his or her possession or under his or her control shall, on demand by an officer, deliver the passport to the officer.

20 (2) Every person commits an offence against this Act who knowingly fails without reasonable excuse to comply with **subsection (1)** of this section.

*Surrender of Passports Where Proceedings for Deprivation of
Citizenship Commenced*

25 **12. Surrender of passport where proceedings for deprivation of citizenship commenced**—(1) Where the Minister gives a notice pursuant to section 19 (1) of the Citizenship Act 1977 to the holder of a New Zealand passport of his or her intention to make an order under section 16 or section 17 of that Act depriving that person of New Zealand citizenship, the Minister may give a notice to that person requiring the surrender of any New Zealand passport which that person holds.

(2) The Minister shall be entitled to retain possession of any such surrendered passport until whichever is the sooner of—

35 (a) The expiry of 12 months from the date on which the passport is surrendered, or the expiry of any extension of that time in accordance with **section 14** of this Act; or

(b) The conclusion of the proceedings for deprivation of New Zealand citizenship.

40 (3) Every such notice shall inform the person on whom it is served—

(a) Of the effect of **subsection (2)** of this section; and

(b) That the person is entitled, on application to the Minister in the form provided by the Secretary, to a temporary New Zealand passport in accordance with **section 13** of this Act.

(4) Where the Minister requires the surrender of a passport under this section, the holder or other person who has the passport in his or her possession or under his or her control shall, on demand by an officer, surrender the passport to the officer. 5

(5) Every person commits an offence against this Act who knowingly fails without reasonable excuse to comply with **subsection (4)** of this section. 10

13. Issue of temporary passport where passport surrendered—(1) Every person who has surrendered a passport under **section 12** of this Act shall be entitled, on application to the Minister in the form provided by the Secretary, to a temporary New Zealand passport unless the surrendered passport has sooner expired or been cancelled or returned. 15

(2) Every temporary New Zealand passport shall be valid for 6 months from the date of issue, unless it is sooner cancelled under this Act. 20

(3) Subject to **section 4 (3)** of this Act, at the expiry of a temporary New Zealand passport, the Minister shall issue another temporary New Zealand passport to the holder unless the surrendered passport has been sooner returned or a new passport has been issued. 25

(4) No fee shall be payable in respect of any application for, or upon the issue of, any temporary New Zealand passport under this section. 30

14. Extension of time to hold surrendered passport—(1) Where the Minister has required the surrender of a New Zealand passport under **section 12** of this Act, the Minister may, at any time before the expiry of 12 months from the date on which the passport was surrendered, apply to the High Court for an order extending the time during which the Minister may retain the surrendered passport. 35

(2) Any such extension granted by the High Court shall be for a period of 6 months.

(3) The Minister may reapply for another extension at any time before the current extension expires. 40

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5 (3A) The High Court shall decline any application for a second or subsequent extension unless satisfied that there is good reason why the passport has not been returned by the time of the application.

10 (4) Where an application for an extension has been made by the Minister, but has not been determined by the date on which the Minister is required to return the passport due to lapse of time, an extension shall be deemed to have been granted until such time as the Court determines the application.

15. Return of surrendered passport if person not deprived of citizenship—(1) The Minister shall return a surrendered passport to the holder as soon as—

15 (a) A declaration is made under section 19 (2) of the Citizenship Act 1977 that there are insufficient grounds to justify the making of an order under section 16 or section 17 of that Act to deprive the person by whom the passport was surrendered of New Zealand citizenship; or

20 (b) The Minister is no longer entitled to retain possession of the passport under section 12 (2) of this Act,—
whichever first occurs.

New

25 (1A) Where the Minister returns a surrendered passport under this section, the holder or other person who has any temporary passport in his or her possession or under his or her control shall, on demand by an officer, deliver the temporary passport to the officer.

30 (1B) Every person commits an offence against this Act who knowingly fails without reasonable excuse to comply with subsection (1A) of this section.

(2) Nothing in this section shall apply if the surrendered passport has sooner expired.

35 *Issue, Renewal, and Endorsement of Certificates of Identity*

16. Issue of certificate of identity—The Minister may issue a certificate of identity to any person, not being a New

Zealand citizen, if the Minister is satisfied that the person is unable for any reason to obtain a travel document from the Government or other appropriate authority in the country of his or her nationality.

Cf. 1980, No. 58, s. 8 (1)

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17. Life of certificate of identity—A certificate of identity shall be valid for 4 years or such shorter time as the Minister may determine in a particular case.

18. Renewal of certificate of identity—(1) No certificate of identity that was issued for a term of 4 years may be renewed. 10

(2) On the application of the holder of a certificate of identity that was issued for a term of less than 4 years, the Minister may from time to time renew that certificate, but so that the original period for which the certificate was issued plus the renewed period does not exceed 4 years. 15

(3) Subject to **section 16** of this Act, in any case where the Minister refuses to renew a certificate under (*subsection (1)*) **subsection (2)** of this section, the Minister may, on the application of the holder of that certificate, issue another certificate of identity to replace that certificate. 20

19. Endorsement of certificate of identity—Where the Minister is satisfied that the particulars recorded in a certificate of identity do not accurately state the identity or status of the holder or dependents of the holder, the Minister may endorse on the certificate such alterations or additions as may be necessary to render the particulars accurate. 25

Recall of Certificates of Identity

20. Cancellation of certificate of identity—(1) The Minister may, by (*writing under his or her hand*) notice in writing, recall any certificate of identity issued to any person by or on behalf of the Government of New Zealand, and cancel it or retain possession of it, where— 30

- (a) The Minister issues to the holder another certificate of identity in substitution for the first one; or 35
- (b) The certificate has expired and is incapable of being renewed; or
- (c) The certificate has been so damaged or defaced as to render it, in the opinion of the Minister, unsuitable for use; or 40

- (d) There is reasonable cause to believe that any particulars recorded in it are *(false)* incorrect; or
- (e) There is reasonable cause to believe that the certificate of identity has been obtained by means of any false representation or any statement that is false in a material particular; or

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- (f) Two or more valid certificates of identity are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case.

(2) Subject to **section 16** of this Act, where the Minister retains or cancels a certificate of identity under any of **paragraphs (b) to (e)** of **subsection (1)** of this section, the Minister may, on the application of the holder of the certificate, issue another certificate of identity to replace that certificate.

21. Retention of certificate of identity by Minister on other grounds—(1) The Minister may, by *(writing under his or her hand)* notice in writing, recall any certificate of identity issued to any person by or on behalf of the Government of New Zealand, and retain possession of it—

(a) Where there is in force a warrant issued in New Zealand for the arrest of the holder:

(b) Where there is reasonable cause to believe—

(i) That the certificate of identity is in the wrongful possession of any person other than the holder; or

(ii) That the certificate of identity is in the possession of a person who is not the holder, as a security, pledge, or deposit or other encumbrance entered into in contravention of **section 33 (3)** of this Act.

(2) Where the Minister has recalled a certificate of identity under **subsection (1) (a)** of this section, the Minister shall return that certificate to the holder as soon as practicable after the warrant is executed or withdrawn.

(3) Where the Minister has recalled a certificate of identity under **subsection (1) (b)** of this section, the Minister shall, unless the holder has been issued with a new certificate, forthwith return that certificate to the holder.

22. Delivery of recalled certificate of identity—

(1) Where the Minister recalls any certificate of identity under **section 20** or **section 21** of this Act, the holder or other person who has the certificate in his or her possession or under his or her control shall, on demand by an officer, deliver the certificate to the officer. 5

(2) Every person commits an offence against this Act who knowingly fails without reasonable excuse to comply with **subsection (1)** of this section.

Issue and Cancellation of Emergency Travel Documents 10

23. Issue of emergency travel document—The Minister may, (*in the Minister's discretion,*) on application to the Minister in the form provided by the Secretary, issue an emergency travel document to any person where—

- (a) There is reasonable cause to believe that the person is or may be a New Zealand citizen; and 15
- (b) There is reasonable cause to believe that—
 - (i) The person's passport has been lost or stolen; or
 - (ii) The person has applied for the issue of a passport and cannot supply sufficient evidence of New Zealand citizenship; or 20
 - (iii) An emergency has affected the availability of the information necessary to ascertain whether or not that person is already the holder of a New Zealand passport; and 25
- (c) The person wishes to travel immediately, but for reasons of passport security and integrity, the Minister considers that it is not desirable to issue that person with a passport. 25

24. Life of emergency travel document—An emergency travel document shall be valid for such a time as (*the Minister may determine in a particular case, being the time that*), in the opinion of the Minister, will be sufficient to enable the person to leave and return to New Zealand, or to return to New Zealand, or to complete his or her specified journey, as the case may require. 30 35

25. Cancellation of emergency travel document—

- (1) The Minister may, by (*writing under his or her hand*) notice in writing, recall any emergency travel document, and cancel it or retain possession of it, where— 40
- (a) The Minister issues to the holder a passport; or

- (b) The Minister issues to the holder another emergency travel document in substitution for the first one; or
- (c) It has expired; or
- 5 (d) It has been so damaged or defaced as to render it, in the opinion of the Minister, unsuitable for use; or
- (e) There is reasonable cause to believe that any particulars recorded in it are *(false)* incorrect; or
- 10 (f) There is reasonable cause to believe that it has been obtained by means of any false statement or any statement that is false in a material particular; or

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- 15 (g) Two or more valid New Zealand emergency travel documents are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case.

(2) Subject to **section 23** of this Act, where the Minister retains or cancels an emergency travel document under any of **paragraphs (c) to (f) of subsection (1)** of this section, the Minister may, on the application of the holder of the document, issue another document to replace that document.

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26. Retention of emergency travel document by Minister on other grounds—(1) The Minister may, by *(writing under his or her hand)* notice in writing, recall any emergency travel document, and retain possession of it—

- 25 (a) Where there is in force a warrant issued in New Zealand for the arrest of the holder:
- (b) Where there is reasonable cause to believe—
- 30 (i) That it is in the wrongful possession of any person other than the holder; or
- (ii) That it is in the possession of a person not the holder, and is used as a security, pledge, or deposit or other encumbrance in contravention of **section 33 (3)** of this Act.

(2) Where the Minister has recalled an emergency travel document under **subsection (1) (a)** of this section, the Minister shall return that document to the holder as soon as practicable after the warrant is executed or withdrawn.

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(3) Where the Minister has recalled an emergency travel document under **subsection (1) (b)** of this section, the Minister shall, unless the holder has been issued with a new document, forthwith return that document to the holder.

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27. Delivery of recalled emergency travel document—

(1) Where the Minister recalls any emergency travel document under **section 25** or **section 26** of this Act, the holder or other person who has the document in his or her possession or under his or her control shall, on demand by an officer, deliver the document to the officer. 5

(2) Every person commits an offence against this Act who knowingly fails without reasonable excuse to comply with **subsection (1)** of this section.

PART II

10

MISCELLANEOUS PROVISIONS

28. Appeal to High Court—(1) Every person who, being—

(a) The applicant for the issue, renewal, or endorsement of a New Zealand passport; or

(b) The applicant for the issue, renewal, or endorsement of a *(New Zealand)* certificate of identity; or 15

(c) The applicant for the issue of an emergency travel document; or

(d) The holder of a New Zealand passport or certificate of identity or emergency travel document,— 20

is dissatisfied with any decision of the Minister made in relation to the application or passport or certificate of identity or emergency travel document under **Part I** of this Act may appeal to the High Court against that decision.

(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)* received by the person seeking to bring the appeal, or within such extended time as the Court may allow. 25

(3) 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 effect to the Court's decision. 30

(4) Where the appeal relates to a matter within the discretion of the Minister, the Court may substitute its own discretion for that of the Minister. 35

(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. 40

(6) Except as provided in **section 29** of this Act, every decision of the Court on an appeal under this section shall be final.

Cf. 1980, No. 58, s. 9

5 **29. Appeal to Court of Appeal in certain cases**—(1) Any party to an appeal before the High Court under **section 28** of this Act who is dissatisfied with any decision of the Court may, with the leave of the Court (*or of the Court of Appeal*), or if that Court refuses leave, with the leave of the Court of Appeal, appeal to the Court of Appeal.

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10 (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 principle is involved.

15 (3) On any appeal under this section, the Court of Appeal shall have the same powers as are conferred on the High Court by **section 28 (3)** and **(4)** of this Act in respect of appeals under that section.

(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.

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

Cf. 1980, No. 58, s. 10

Offences

25 **30. Possession of unauthorised material**—(1) Every person commits a crime who, without lawful authority or reasonable excuse, makes or uses or has in his or her possession or disposes of any paper or other material that he or she knows is specially provided by the proper authorities for any purpose relating to New Zealand passports, certificates of identity, or emergency travel documents.

30 (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.

Cf. 1980, No. 58, s. 11

35 **31. Other offences**—(1) Every person commits a crime who—

(a) For purposes of travel and without reasonable excuse, uses a New Zealand passport, certificate of identity, or emergency travel document that he or she knows

- or has reasonable cause to suspect has expired or has been cancelled; or
- (b) For purposes of travel or identification and without reasonable excuse, uses a New Zealand passport, certificate of identity, or emergency travel document that he or she knows or has reasonable cause to suspect was issued to or in respect of another person; or
- (c) Being a person to whom a New Zealand passport, certificate of identity, or emergency travel document has been issued, without reasonable excuse permits another person to *(use that document for purposes of travel or identification)* have possession of that document in circumstances where he or she knows or has reasonable cause to suspect that the person intends to use it for purposes of travel or identification; or
- (d) Without lawful authority or reasonable excuse, takes or retains in his or her possession or under his or her control a New Zealand passport, certificate of identity, or emergency travel document against the will of the holder; or
- (e) Without reasonable excuse, has in his or her possession or under his or her control—
- (i) A New Zealand passport, certificate of identity, or emergency travel document that he or she knows or has reason to suspect has been falsified or has been obtained by false representation; or

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- (ii) A document (not being a New Zealand passport) that purports to be a New Zealand passport; or
- (iii) A document (not being a certificate of identity issued by or on behalf of the Government of New Zealand) that purports to be a certificate of identity that has been so issued; or
- (iv) A document (not being an emergency travel document issued by or on behalf of the Government of New Zealand) that purports to be an emergency travel document that has been so issued; or

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- 5 (ii) A document purporting to be a New Zealand passport that he or she knows or has reasonable cause to suspect is not a New Zealand passport; or
- (iii) A document purporting to be a certificate of identity issued by or on behalf of the Government of New Zealand that he or she knows or has reasonable cause to suspect is not such a certificate; or
- 10 (iv) A document purporting to be an emergency travel document issued by or on behalf of the Government of New Zealand that he or she knows or has reasonable cause to suspect is not such a document; or

- 15 (f) Without reasonable excuse, has in his or her possession or under his or her control within New Zealand—
- (i) A passport issued by or on behalf of the Government of any country other than New Zealand, being a passport that he or she knows or has reason to suspect has been falsified or has been obtained by false representation; or
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- 25 (ii) A document (not being a passport issued at any time 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.

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- 30 (ii) A document purporting to be a passport issued by or on behalf of the Government of any country other than New Zealand that he or she knows or has reason to suspect is not such a passport.

(2) Every person commits a crime who (*wilfully*) intentionally defaces or destroys a New Zealand passport, certificate of identity, or emergency travel document.

(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.

Cf. 1980, No. 58, s. 12

32. False representation—Every person commits an offence against this Act who, for the purpose of procuring a New Zealand passport, certificate of identity, or emergency travel document, or a renewal or endorsement of a New Zealand passport or certificate of identity, whether for his or her benefit or for the benefit of any other person, makes a written or oral statement that he or she knows to be false or misleading in a material particular, or recklessly makes a written or an oral statement that is false or misleading in a material particular.

Miscellaneous Provisions

33. Passports, etc., are property of New Zealand Government—(1) All New Zealand passports and certificates of identity and emergency travel documents 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.

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

(3) No holder or any other person shall give, make, or accept as a security, pledge, or deposit, or otherwise encumber, a New Zealand passport or certificate of identity or emergency travel document issued by or on behalf of the Government of New Zealand, and any term of an agreement which would otherwise have that effect shall be void.

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(4) Any agreement to give, make, or accept as a security, pledge, or deposit, or to otherwise encumber, a New Zealand passport or certificate of identity or emergency travel document issued by or on behalf of the Government of New

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Zealand, shall be void and of no effect to the extent that it contravenes the provisions of **subsection (3)** of this section.

Cf. 1980, No. 58, s. 14

5 **34. Minister may delegate powers**—(1) The Minister may delegate to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices, any of the powers conferred on him or her by **Part I** of this Act.

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

15 (3) A power delegated under this section may be exercised by the person or persons, or the holder or holders for the time being of a specified office or specified class of offices, 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.

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

20 Cf. 1980, No. 58, s. 15

25 **35. Disclosure of information to Comptroller of Customs**—(1) The Secretary may disclose to the Comptroller of Customs, for the purpose of facilitating, at international airports in New Zealand, border security and the processing of passengers, the information specified in **section 37** of this Act in respect of the holders of New Zealand passports, certificates of identity, and emergency travel documents.

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30 (2) The disclosure of any such information shall be in accordance with arrangements made in writing from time to time between the Secretary and the Comptroller of Customs or their authorised representatives.

35 (3) The information so disclosed may be supplied in such a form and by such a method as is determined by agreement between the Secretary and the Comptroller of Customs or their authorised representatives.

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- (2) The disclosure of any such information shall be in accordance with an agreement in writing made between the Secretary and the Comptroller of Customs.
- (3) Any such agreement— 5
- (a) Shall state the use that the Customs Department may make of the information:
- (b) Shall state that the information is not to be disclosed by the Customs Department other than— 10
- (i) To the New Zealand Police; or
- (ii) To any other person in accordance with a statutory authority in any other Act:
- (c) Shall state the use that the New Zealand Police or any other person to whom **paragraph (b)** of this subsection applies may make of the information: 15
- (d) Shall state that the information is not to be disclosed by the New Zealand Police other than for the purpose of law enforcement:
- (e) May determine the form in which and the method by which the information may be disclosed: 20
- (f) May be varied from time to time.
- (4) The Secretary shall ensure that the agreement, and any variations of the agreement, are approved by the Privacy Commissioner.
- (5) The Secretary and the Comptroller of Customs shall— 25
- (a) Review the agreement, and the arrangements for disclosure made pursuant to the agreement, at intervals of no more than 12 months; and
- (b) Report the result of any such review to the Privacy Commissioner as soon as practicable after conducting 30 the review.

36. Disclosure of information to Australian Department—(1) The Secretary may disclose to the Department of Immigration, Local Government and Ethnic Affairs of Australia, for the purpose of facilitating, at international airports in Australia, border security and the processing of holders of New Zealand passports, certificates of identity, and emergency travel documents, the information specified in **section 37** of this Act in respect of the holders of such documents. 35 40

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(2) The disclosure of any such information shall be in accordance with arrangements made in writing from time to time between the Secretary and the Secretary of the Department of Immigration, Local Government and Ethnic Affairs of Australia or their authorised representatives.

(3) The information so disclosed may be supplied in such a form and by such a method as is determined by agreement between the Secretary and the Secretary of the Department of Immigration, Local Government and Ethnic Affairs of Australia or their authorised representatives.

New

(2) The disclosure of any such information shall be in accordance with an agreement in writing made between the Secretary and the Secretary of the Department of Immigration, Local Government and Ethnic Affairs of Australia.

(3) Any such agreement—

(a) Shall state the use that the Department of Immigration, Local Government and Ethnic Affairs of Australia may make of the information:

(b) Shall state that the information is not to be disclosed by that Department to a person other than a law enforcement authority in Australia:

(c) Shall state the use that any such law enforcement authority may make of the information:

(d) Shall state that the information is not to be disclosed by any such law enforcement authority other than for the purpose of law enforcement:

(e) May determine the form in which and the method by which the information may be disclosed:

(f) May be varied from time to time.

(4) The Secretary shall—

(a) Ensure that the agreement, and any variations of the agreement, are approved by the Privacy Commissioner; and

(b) Review the agreement, and the arrangements for disclosure made pursuant to the agreement, at intervals of no more than 12 months; and

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| (c) Report the result of any such review to the Privacy Commissioner as soon as practicable after conducting the review. | |
| (5) References in this section— | 5 |
| (a) To the Department of Immigration, Local Government and Ethnic Affairs of Australia include that Department acting under any new name and any Department which takes over that Department's responsibilities in relation to immigration: | 10 |
| (b) To a law enforcement authority in Australia include the Australian Customs. | |

- 37. Information that may be disclosed**—(1) The information that may be disclosed under section 35 and section 36 of this Act is as follows:
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| (a) The holder's full name: | |
| (b) The holder's date of birth: | |
| (c) The holder's sex: | |
| (d) The holder's eye colour: | |
| (e) The holder's height: | 20 |
| (f) The holder's endorsements if any: | |
| (g) The photograph of the holder: | |
| (h) The place of birth of the holder: | |
| (i) The document type: | |
| (j) The passports database key number: | 25 |
| (k) The passport or document number: | |
| (l) The date of issue of the passport or document: | |
| (m) The date of expiry of the passport or document: | |
| (n) The place of issue of the passport or document: | |
| (o) The status of the passport or document. | 30 |

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| (2) Every application form for a New Zealand passport, certificate of identity, or emergency travel document that is printed after the date of commencement of this Act shall include a statement that that information may be so disclosed. | 35 |
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- 38. Penalties**—(1) Every person who commits an offence under this Act in respect of which either—

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(i) Applications for and the issue of passports, certificates of identity, and emergency travel documents; and

(ii) Applications for the renewal or endorsement of any such document; and 5

(iii) Applications for a set of additional pages for any such document,—

which fees may differ depending on the time and place at which an application is lodged and depending on whether or not a special service is provided: 10

(c) 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. 15

Cf. 1980, No. 58, s. 18

Repeals

41. Repeals—The following enactments are hereby repealed:

New

(a) The Passports Act 1980: 20

(b) So much of the First Schedule to the Criminal Justice Act 1985 as relates to the Passports Act 1980:

(c) So much of the Fourth Schedule to the Immigration Act 1987 as relates to the Passports Act 1980: 25

(d) The Passports Amendment Act 1987:

(e) The Passports Amendment Act 1991.

Transitional Provisions

42. Provisions relating to endorsement of name of child on passport of parent or guardian—(1) Where, prior to the commencement of this Act, the name of a child was endorsed on the passport of a parent or guardian, that endorsement shall continue to have effect until either— 30

(a) The child attains the age of 16 years; or

(b) Upon application by the parent or guardian, a separate passport is issued in the name of the child,— 35

whichever first occurs, and the Minister shall then cancel the endorsement.

5 (2) For the purposes of the cancellation of any endorsement, the holder or other person who has the endorsed passport in his or her possession or under his or her control, shall, on demand by an officer, deliver the passport to the officer.

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

10 *Saving*

43. Existing passports, etc., to continue in force— 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, 15 issued, granted, or made by or on behalf of the Government of New Zealand before the commencement of this Act shall continue in full force and effect as if it were issued, granted, or made under this Act, and the provisions of this Act shall apply to it accordingly.

20 *New*

Validation

44. Validation of certain prescribed fees—The imposition and recovery of fees under regulation 8 of the Passports Regulations 1981 in respect of a set of additional 25 pages are hereby validated and deemed to have been lawfully imposed and recovered.