

# REPRINT

## DEPORTATION ACT (CAP. 58)

**As in force at: 1 October 2009**

**STATUS: REPEALED**

This version is that in force at the date stated above.

For list of amendments see Endnotes

Repealed by the Immigration Act 2012 (No. 3 of 2012) from 6 August 2014

**AN ACT TO MAKE PROVISION FOR THE DEPORTATION OF PERSONS WHO ARE NOT CITIZENS OF SOLOMON ISLANDS AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO**

## DEPORTATION ACT (CAP. 58)

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# DEPORTATION ACT (Cap. 58)

As in force at: 1 October 2009

## 1 Short title

This Act may be cited as the *Deportation Act*.

## 2 Interpretation

In this Act, unless the context otherwise requires:

**“convicted person”** means a person who has been convicted of an offence under the provisions of the Penal Code which would, in the opinion of the Minister, justify his deportation;

**“deportation order”** means an order in the prescribed form requiring the person therein named to leave Solomon Islands and not to return;

**“destitute person”** means a person who by reason of mental or bodily health or lack of means is unable to support himself and his dependants;

**“person charged”** means a person in respect of whom it is alleged that there are grounds for making a deportation order under this Act and includes a person in respect of whom such an order has been made;

**“prohibited immigrant”** means a person who has entered Solomon Islands in breach of any law relating to immigration other than under the *Passports Act*;

**“undesirable person”** means a person who is or has been conducting himself in a manner prejudicial to the peace, defence, public safety, public order, public morality, public health, security or good government of Solomon Islands.

## 3 Application

This Act shall not apply to persons who are citizens of Solomon

Islands or who would be entitled to citizenship in accordance with Chapter III of the *Constitution*.

#### **4 Power to make deportation orders**

Subject to the provisions of this Act, the Minister may, if he thinks fit, make a deportation order in such form as may be prescribed in respect of:

- (a) a convicted person; or
- (b) an undesirable person; or
- (c) a destitute person; or
- (d) a prohibited immigrant.

#### **5 Service of deportation orders and applications for review thereof**

- (1) Where a deportation order is made under the provisions of section 4, such order shall, within fifteen days of the making thereof, be served personally upon the person charged specifying the facts alleged against him with sufficient particulars as to give him reasonable information of the grounds upon which the order has been made against him.
- (2) Where for any sufficient reason, a deportation order cannot be served personally upon the person charged, service of the order may be effected by sending it by registered post addressed to the person at his last known place of abode or work, if known or can reasonably be ascertained; and such order shall be deemed to have been served on the person at the time at which it would be delivered in the ordinary course of post.
- (3) A person on whom a deportation order is served under the provisions of subsection (1) or subsection (2) may, within the period of seven days from the date of service of the order upon him, apply to the High Court for a review of the order, whose decision thereon shall be final. On such an application, the High Court may either cancel or affirm the order.

## **6 Detention in custody pending review**

- (1) Where a deportation order is in force against a person, the Minister may order that such person be detained in such manner as he may direct or, if the person is not to be detained, order that such person complies with such conditions as the Minister may impose on him.
- (2) Where a person has pursuant to section 5(3) made application to the High Court for review of the order, the High Court may, where it thinks fit order that the person be released from detention subject to such conditions as it may impose or vary the conditions imposed by the Minister.

## **7 Execution of orders**

- (1) Where an application has been made against a deportation order under subsection (3) of section 5 the operation of the order shall be suspended until the application is finally disposed of or abandoned.
- (2) Where a person against whom a deportation order is in force:
  - (a) has either not made application for review of the order to the High Court within the time prescribed in subsection (3) of section 5; or
  - (b) has made application for review of the order to the High Court within the time prescribed in subsection (3) of section 5, but has failed to have the order set aside,

the Minister may, if such person is not detained by an order made under section 6, order that the person against whom the deportation order is in force be detained in such manner as may be directed by the Minister and be placed on a ship or aircraft about to leave Solomon Islands and shall be deemed to be in lawful custody whilst so detained and until the ship or aircraft leaves Solomon Islands.

- (3) Where any person against whom a deportation order is in force has been placed on any ship or aircraft, the master of the ship or the commander of the aircraft shall, if so required by the Minister or by any person authorised by the Minister, take such steps as may be necessary for preventing such person from landing from the ship or aircraft before it leaves Solomon Islands and may for that purpose

detain such person in custody on board the ship or aircraft.

## **8 Persons undergoing sentence**

If a person against whom a deportation order is in force has been sentenced to any term of imprisonment such sentence shall be served before the order is carried into effect.

## **9 Expenses**

- (1) Where a deportation order is made, the Minister may if he thinks fit, apply any money or property of the person charged in payment of the whole or any part of the expenses of or incidental to his deportation from Solomon Islands and his maintenance until departure.
- (2) Subject to the provisions of the last preceding subsection, any such expenses shall be payable out of the Consolidated Fund.
- (3) Any person in possession of money or property belonging to or standing to the credit of a person charged shall, if so required by notice in writing signed by or under the authority of the Minister, deliver such money or property to such person as may be specified in the notice who may sell or convert into money any such property for the purpose of defraying any such expenses or the cost of maintenance of the person charged.

## **10 Offences and penalties**

- (1) If a person in respect of whom a deportation order is in force is at any time found within Solomon Islands or returns or attempts to return to Solomon Islands in contravention of the provisions of such order he shall be guilty of an offence and, on conviction, shall be liable to a term of imprisonment not exceeding three years and to a fine not exceeding two penalty units.
- (2) Any conviction under the provisions of the last preceding subsection shall not affect the original deportation order and the person charged may be deported in pursuance of such order without the necessity of complying with the provisions of section 5.
- (3) Any person who, without lawful excuse, assists, harbours or

conceals any person who is within Solomon Islands in contravention of the terms of a deportation order shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding eighteen months and to a fine not exceeding one thousand penalty units.

- (4) Any person who fails to comply with any notice issued under subsection (3) of the last preceding section shall be guilty of an offence and shall be liable on conviction:
- (a) in the case of an individual, to a term of imprisonment not exceeding one year and to a fine not exceeding two hundred penalty units; and
  - (b) in the case of a body corporate to a fine not exceeding one thousand penalty units.

## **11 Evidence**

In any proceedings under this Act:

- (a) the burden of proof that the person charged is a citizen of Solomon Islands or entitled to citizenship in accordance with section 3 shall be upon that person:
- (b) a document purporting to be a deportation order under this Act shall, until the contrary be proved, be presumed to be such an order;
- (c) any deportation order shall, until the contrary be proved, be presumed to have been made on the date upon which it purports to have been made.

## **12 Regulations**

The Minister may make regulations for carrying into effect the provisions of this Act.

## ENDNOTES

### 1

#### KEY

|                       |                               |
|-----------------------|-------------------------------|
| amd = amended         | Pt = Part                     |
| Ch = Chapter          | rem = remainder               |
| Div = Division        | renum = renumbered            |
| exp = expires/expired | rep = repealed                |
| GN = Gazette Notice   | Sch = Schedule                |
| hdg = heading         | Sdiv = Subdivision            |
| ins = inserted        | SIG = Solomon Islands Gazette |
| lt = long title       | st = short title              |
| LN = Legal Notice     | sub = substituted             |
| nc = not commenced    |                               |

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 58 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

### 2

#### LIST OF LEGISLATION

##### ***Deportation Act (Cap. 58)***

*Constituent legislation:* 9 of 1978 (Commenced: 7 July 1978)

##### ***Deportation (Amendment) Act 1999 (No. 9 of 1999)***

|             |                  |
|-------------|------------------|
| Assent date | 10 December 1999 |
| Gazetted    | 29 December 1999 |
| Commenced   | 29 February 2000 |

##### ***Penalties Miscellaneous Amendments Act (No. 14 of 2009)***

|             |                |
|-------------|----------------|
| Assent date | 29 July 2009   |
| Gazetted    | 1 October 2009 |
| Commenced   | 1 October 2009 |

##### ***Repealed by Immigration Act 2012 (No. 3 of 2012)***

|             |               |
|-------------|---------------|
| Assent date | 9 March 2012  |
| Gazetted    | 12 March 2012 |
| Commenced   | 6 August 2014 |

### 3

#### LIST OF AMENDMENTS

s 5 sub by Act No. 9 of 1999



|      |                           |
|------|---------------------------|
| s 6  | sub by Act No. 9 of 1999  |
| s 7  | amd by Act No. 9 of 1999  |
| s 10 | amd by Act No. 14 of 2009 |
| s 11 | amd by Act No. 9 of 1999  |