

# REPRINT

## IMMIGRATION ACT (CAP. 60)

**As in force at: 25 March 2010**

**STATUS: REPEALED**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Repealed by the Immigration Act 2012 (No. 3 of 2012) from 6 August 2014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 CONTROL OF IMMIGRATION**



## **IMMIGRATION ACT (CAP. 60)**

### **Table of provisions**

|                  |                                                                                       |           |
|------------------|---------------------------------------------------------------------------------------|-----------|
| <b>PART I</b>    | <b>PRELIMINARY.....</b>                                                               | <b>1</b>  |
| 1                | Short title                                                                           | 1         |
| 2                | Interpretation                                                                        | 1         |
| <b>PART II</b>   | <b>APPOINTMENT AND POWERS OF<br/>IMMIGRATION OFFICERS.....</b>                        | <b>3</b>  |
| 3                | Appointment of Director of Immigration and other officers                             | 3         |
| 4                | Powers of immigration officers                                                        | 4         |
| <b>PART III</b>  | <b>ENTRY INTO SOLOMON ISLANDS.....</b>                                                | <b>6</b>  |
| 5                | Duties of Masters of ships, aircraft and passengers                                   | 6         |
| 6                | Control of entry into Solomon Islands                                                 | 8         |
| 7                | Persons entitled to enter without a permit                                            | 8         |
| 8                | Permit to enter and reside                                                            | 10        |
| 9                | Visitor's permit                                                                      | 12        |
| 10               | Student's permit                                                                      | 13        |
| 11               | Prohibited immigrants                                                                 | 14        |
| 12               | Issue of permits to be discretionary                                                  | 16        |
| 13               | Effect of expiration or cancellation of a permit                                      | 17        |
| 13A              | Additional powers                                                                     | 17        |
| <b>PART IIIA</b> | <b>EXAMINATION, INTERROGATION AND<br/>DETENTION OF PROHIBITED<br/>IMMIGRANTS.....</b> | <b>17</b> |
| 13B              | Power to detain ship                                                                  | 17        |
| 13C              | Restrictions in relation to boarding and leaving aircraft, ship,<br>etc.              | 18        |
| 13D              | Persons entering Solomon Islands at places other than<br>authorised ports of entry    | 18        |
| 13E              | Power to send persons to immigration depot                                            | 19        |
| 13F              | Power to detain prohibited Immigrant                                                  | 19        |
| 13G              | Power to make order for removal of person                                             | 19        |
| 13H              | Penalty                                                                               | 20        |

|                |                                                                                 |           |
|----------------|---------------------------------------------------------------------------------|-----------|
| <b>PART IV</b> | <b>MISCELLANEOUS.....</b>                                                       | <b>20</b> |
| 14             | Deportation                                                                     | 20        |
| 14A            | Recovery of expenses                                                            | 22        |
| 15             | Proof of documents                                                              | 22        |
| 16             | No suit or damages maintainable for things done in good faith<br>under this Act | 22        |
| 17             | Appeals                                                                         | 22        |
| 18             | Offences and penalties                                                          | 23        |
| 19             | Regulations                                                                     | 26        |

# IMMIGRATION ACT (Cap. 60)

As in force at: 25 March 2010

## PART I PRELIMINARY

### 1 Short title

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

### 2 Interpretation

In this Act unless the context otherwise requires:

**“authorised aerodrome”** means any area of land or water designed, equipped or set apart or commonly used for affording facilities for the landing and departure of aircraft, which has been declared by the Minister by notice to be an authorised aerodrome for the purpose of this Act;

**“entry”** with its grammatical variations means:

- (a) in the case of a person arriving by sea, disembarking in Solomon Islands from the vessel in which he arrives at a port of entry;
- (b) in the case of a person arriving by air at an authorised aerodrome, leaving the precincts of such aerodrome; and
- (c) in the case of a person arriving by air at any place other than an authorised aerodrome, landing in Solomon Islands;

Provided that it shall not include an entry:

- (i) made for the purpose of complying with this Act;
- (ii) expressly or impliedly sanctioned by an immigration officer for the purpose of any inquiry under the provisions of this Act; or
- (iii) caused solely by stress of weather or the condition of a

ship or aircraft, if all such measures as are reasonably practicable are taken forthwith to notify such entry to an immigration officer or other public officer.

**“family”** means wife and children under eighteen years of age;

**“harbour”** means to provide shelter and includes any act of intentionally assisting a person who attempts to breach or has breached any provision of this Act in any way whatsoever in order to evade or avoid detection or apprehension;

**“immigration depot”** means any place designated by the Director of Immigration for the examination, inspection, interrogation or detention of persons who are deemed to have breached any of the provisions of this Act or for the detention of persons who are declared as prohibited immigrants or undesirable immigrants or persons who transit by way of repatriation or deportation from another country;

**“immigration officer”** means an immigration officer appointed under the provisions of section 3 and includes the Director of Immigration;

**“Master”** means the person for the time being having the charge of a ship or aircraft;

**“member of a crew”** means any person employed in the working or service of a ship or aircraft;

**“passenger”** means any person other than a member of a crew or a seaman who embarks or disembarks from a vessel or aircraft;

**“permit”** includes any kind of permit issued under the provisions of this Act;

**“port of entry”** means a port as defined in section 2(1) of the *Customs and Excise Act*;

**“prohibited immigrant”** means a person declared to be a prohibited immigrant by section 11;

**“re-entry permit”** means a permit issued to a valid holder of a permit to re-enter Solomon Islands;

**“research”** has the same meaning as in the *Research Act*;

**“residence”** with its grammatical variations means residence in Solomon Islands which is not unlawful under this Act;

**“seaman”** means an officer or member of the crew of a ship;

**“ship”** includes yacht or canoe;

**“stowaway”** means a person who places himself on board a ship or aircraft without the consent of the master or of the person in charge of the ship or aircraft and includes a person who is arriving in or departing from Solomon Islands on board any ship or aircraft without the consent of the master or other person in charge of the ship or aircraft; and

**“transit passenger”** means any person who enters Solomon Islands on a ship or aircraft and who is continuing his journey or leaves Solomon Islands on the same ship or aircraft or on a different ship or aircraft, provided the period of stay in Solomon Islands does not exceed seven days.

**“visitor”** means a person arriving in Solomon Islands for an intended stay of any period not exceeding three months.

## **PART II                      APPOINTMENT AND POWERS OF IMMIGRATION OFFICERS**

### **3                      Appointment of Director of Immigration and other officers**

- (1) The Minister may appoint a Director of Immigration and such other immigration officers as he may consider necessary for the proper carrying out of the provisions of this Act.
- (2) The Director of Immigration may delegate in writing all or any of his powers, functions or duties under this Act either generally or in any area in Solomon Islands, or for such periods or purposes as he may specify, to any immigration officer, and may at any time revoke or vary any such delegation:

Provided that no such delegation shall be deemed to divest the Director of Immigration of all or any of his powers, functions or duties,

and he may, if he thinks fit, exercise and perform such powers, functions and duties, notwithstanding the fact that he has so delegated them.

- (3) The Minister may from time to time give to the Director of Immigration directions not inconsistent with the provisions of this Act as to the exercise of any powers, discretions or functions or the performance of any duties under this Act or any regulations made thereunder, and the Director of Immigration and all other immigration officers shall comply with any such directions.

#### **4 Powers of immigration officers**

- (1) For the purpose of exercising his powers and functions and carrying out his duties under this Act, an immigration officer may:
  - (a) without search warrant enter upon or into and search any ship, aircraft or vehicle in Solomon Islands;
  - (b) interrogate any person who desires to enter Solomon Islands, or any person whom he has reasonable grounds for believing to be a prohibited immigrant, or any person applying for extension of a permit or for exemption, or any person whom he reasonably believes can give material information regarding any such person as aforesaid, and may require any such person to produce such documents in his possession as may be necessary to enable the immigration officer to carry out his duties under this Act;
  - (c) require any person who desires to enter or leave Solomon Islands to make and sign any prescribed form of declaration unless such person has arrived on the same ship or aircraft which he is preparing to board;
  - (d) require any person who desires to enter Solomon Islands to submit to be examined by a Government medical officer and to undergo, and to assist in the carrying out of, any test or investigation which such medical officer may require;
  - (e) require a deposit or bond or other security to be made or given in respect of any person granted a permit and if any person who enters Solomon Islands by virtue of such permit, contravenes

or fails to comply with any of the terms and conditions of the permit, or to which it is subject, any immigration officer may, without prejudice to proceedings in respect of any offence thereby committed, forfeit any such deposit or in the name of the Director of Immigration sue and recover the amount secured by any such bond or other security; and any sum so forfeited or recovered shall be paid into the Consolidated Fund ;

- (f) where he has reasonable cause to believe that a person who disembarks or is about to disembark from any ship or aircraft is a prohibited immigrant, require such person to board the ship or aircraft on which he arrived and leave Solomon Islands. The immigration officer may further, if the circumstances so require, handcuff or detain such person so as to prevent any damage or harm to the ship or aircraft or its passengers and may use reasonable force to ensure that such person boards the ship or aircraft.
- (2) If any immigration officer or any police officer has reasonable cause to suspect that any person has committed an offence against this Act or that the presence of any person in Solomon Islands is unlawful, and if it appears to him to be necessary to arrest such person immediately in order to secure that the ends of justice or the purposes of this Act shall not be defeated, he may arrest such person without a warrant. The provisions of sections 20, 23 and 24 of the *Criminal Procedure Code Act* shall apply in such case and for the purpose of such application of the said sections an immigration officer shall be deemed to be a police officer:

Provided that where the person arrested is a person whom the immigration officer or police officer has reasonable cause to suspect of being a prohibited immigrant and such person is a passenger or seaman on a ship or aircraft, he may, if he consents, be handed over to the custody of the Master of the ship or aircraft until its departure from Solomon Islands.

- (3) Any person who:
- (a) refuses or fails to answer fully and truthfully any question or inquiry lawfully put to him in the course of interrogation under subsection (1)(b); or

- (b) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or inquiry as aforesaid; or
- (c) when required to produce any document under subsection (1)(b), refuses or fails to produce within a reasonable time any such document which it is in his power to produce, or produces any document which he knows or has reasonable cause to believe to be false or misleading,

shall be guilty of an offence.

(4)

- (a) All answers to questions lawfully put in interrogation and all documents produced under subsection (1)(b) shall be admissible in evidence, in all proceedings under or relating to any matter arising under or connected with this Act.
- (b) Nothing in this subsection shall be construed as rendering any such answer or document inadmissible in evidence in any proceedings in which they would otherwise be admissible.

## **PART III                    ENTRY INTO SOLOMON ISLANDS**

### **5                    Duties of Masters of ships, aircraft and passengers**

- (1) The Master of every ship or aircraft entering Solomon Islands from some place outside Solomon Islands shall:
  - (a) deliver to the immigration officer a complete list in duplicate of all passengers and seamen on the ship or of all landing passengers or other persons on board the aircraft as the case may be;
  - (b) not permit any person to disembark from a ship or aircraft until disembarkation has been authorised by the immigration officer;
  - (c) inform the immigration officer if he knows or has reasonable cause for believing any person to be a prohibited immigrant or a stowaway and prevent such person from disembarking unless authorised by the immigration officer;

- (d) prevent, with such reasonable force as may be necessary, the disembarkation from a ship or aircraft of any person:
  - (i) who has been given into his custody under the proviso to section 4(2); or
  - (ii) in respect of whom to his knowledge a removal order made under section 13 or a deportation order under the *Deportation Act* is in force; or
  - (iii) in respect of whom he has been notified by the immigration officer that such person is prohibited from landing in Solomon Islands;
- (e) submit to such search of his ship or aircraft as may be required to establish the presence or absence of other persons whose names may not be included in the completed list delivered pursuant to paragraph (a) or is a prohibited immigrant;
- (f) if required to do so by the immigration officer produce any member of the crew or any passenger for inspection or interrogation;
- (g) not discharge in Solomon Islands any of his seamen or a member of the crew unless the seaman or member of the crew:
  - (i) is a citizen of Solomon Islands;
  - (ii) if not a citizen of Solomon Islands, is in possession of a valid travel document and an onward ticket from Solomon Islands to some other country which he will be able to enter or of which he is a national or citizen; or
  - (iii) is in possession of a valid permit lawfully issued to him under this Act; or
  - (iv) needs to be discharged on humanitarian grounds to the satisfaction of the Director of Immigration.
- (2) Every person entering Solomon Islands by sea or air from any place outside Solomon Islands shall appear before the immigration officer at such time and place as the immigration officer may direct and shall

furnish him with such information in such manner as the immigration officer may require or as may be prescribed.

- (3) If any Master of a ship or aircraft arriving in Solomon Islands contravenes or fails to comply with any of the provisions of paragraphs (a), (b), (c), (d), (e), (f) or (g) of subsection (1), or furnishes a list of passengers and seamen which he knows or has reasonable cause to believe to be false or misleading, he shall be guilty of an offence against this Act, and if the offence is failure to comply with the provisions of paragraph (b) or paragraph (d) the owner of the ship and any agent of such owner in Solomon Islands shall also be guilty of a similar offence.
- (4) The Minister may by order exempt the Master of any ship or the Masters of any class of ships or the Master of any aircraft or any person or group or class of persons from any or all the provisions of this section.

## **6 Control of entry into Solomon Islands**

- (1) No person shall enter Solomon Islands from any place outside Solomon Islands unless:
  - (a) he is in possession of a valid permit lawfully issued to him under this Act; or
  - (b) he is exempted from the provisions of this section under section 7.
- (2) Subject to the provisions of this Act no person shall remain in Solomon Islands after the expiry or cancellation of a permit.

## **7 Persons entitled to enter without a permit**

- (1) Subject to the provisions of this section, a person who satisfies the Director of Immigration that he comes into any of the following categories shall be entitled to enter, reside or work in Solomon Islands from any place outside Solomon Islands without having obtained a permit under this Act:
  - (a) any citizen of Solomon Islands and his children under the age of 18 years;

- (b) until the 7th day of July 1980 any person who is entitled to apply to be registered as a citizen of Solomon Islands under the provisions of section 21(1) of the *Constitution* and the family of such person under the age of 18 years;
- (c) any person who qualifies for citizenship within the terms laid down by section 20(1)(b) of the *Constitution*;
- (d) any person to whom immunities and privileges have been extended in Solomon Islands under the *Diplomatic Privileges and Immunities Act* or any other Act and the family of such person;
- (e) any person employed in the service of the Government of Solomon Islands or the Government of any country or territory of the Commonwealth entering Solomon Islands in the course of his duty;
- (f) the family of any person referred to in paragraph (e);
- (g) any other person or class of persons whom the Minister may be order specify;
- (h) any serving member of Her Majesty's Forces if the Director of Immigration is satisfied that responsibility for his repatriation has been accepted by the Service concerned;
- (i) a student of any age both of whose parents are, or whose only parent is resident in Solomon Islands who is entering Solomon Islands on vacation from or on completion of studies at a University, university college, school or other educational establishment:

Provided that any member of a family (including a student) who is entitled to enter Solomon Islands without a permit under this section and referred to in paragraphs (d), (f) and (i) who wishes to take up gainful employment other than in the service of Government must first comply with section 37 of the *Labour Act* and in default of so doing, in addition to the penalties prescribed under that section shall be deemed to be a prohibited immigrant in Solomon Islands for the purposes of section 14 of this Act.

- (2) Where the Minister makes an order under paragraph (g) of subsection (1) he may prescribe in the order the period of time such person or class of persons may reside in Solomon Islands and such further conditions as he may deem fit.
- (3) The Minister may by order revoke or vary any order made under paragraph (g) of subsection (1).

## **8 Permit to enter and reside**

- (1) Subject to the conditions specified in subsection (2), the Director of Immigration may issue a permit in the prescribed form authorising a person to enter and reside in Solomon Islands if:
  - (a) such person has obtained a work permit from the Commissioner of Labour under section 37 of the *Labour Act*;
  - (b) such person is not the subject of a deportation order under section 5 of the *Deportation Act*;
  - (c) such person has given reasons to the satisfaction of the Director of Immigration regarding his application for a permit under this section;
  - (d) such person has satisfied the Director of Immigration that his financial status is adequate;
  - (e) such person is an investor and the requisite Investment Board approval has been obtained;
  - (f) the nature of such person's business, profession or employment is such that it requires his presence in Solomon Islands;
  - (g) such person is the spouse or child over 18 years of a Solomon Islands citizen; or
  - (h) such person is in possession of a valid research permit issued under the *Research Act* authorising him to carry out research.
- (2) The conditions upon which a permit to enter and reside may be granted under subsection (1) are that such person whilst in Solomon Islands:

- (a) shall not behave in a manner prejudicial to the peace or good order of Solomon Islands;
  - (b) shall not engage in any business, profession or employment except that for which permission has been granted by the Commissioner of Labour or by the Investment Board, as the case may require;
  - (c) in the case of a spouse qualifying under paragraph (g) of subsection (1), such person shall not own, manage, invest or provide capital in any business undertaking of his spouse who is a Solomon Islands citizen, unless approval has been obtained from the Investment Board; and
  - (d) shall be subject to such other conditions which the Director of Immigration may impose which are consistent with the provisions of this Act.
- (3) The Director of Immigration may cancel a permit to enter and reside issued to a person under this section if he is satisfied that such person:
- (a) has breached any or all of the conditions of his permit to enter and reside;
  - (b) is engaged in any business or other business activity, in respect of which he was not granted a permit to enter and reside;
  - (c) has become a prohibited immigrant;
  - (d) has become incapable of supporting himself or his dependants;
  - (e) has behaved in a manner prejudicial to the peace or good order of Solomon Islands;
  - (f) has made false representation or has concealed some material facts in his application for a permit;
  - (g) has engaged or is employed in any business without the approval of the Investment Board or the Commissioner of Labour;
  - (h) has had his work permit cancelled by the Commissioner of

Labour; or

- (i) is a threat to the national security and sovereignty of Solomon Islands.

## **9 Visitor's permit**

- (1) The Director of Immigration may issue a visitor's permit in the prescribed form to a visitor if he is satisfied that the visitor has a ticket or other means of travelling from Solomon Islands to some other country which he will be able to enter and for which he has a valid passport or other travel document.
- (2) The conditions upon which a visitor's permit may be granted are that he, whilst in Solomon Islands, will not:
  - (a) behave in a manner prejudicial to peace or good order;
  - (b) engage in any business, profession or employment, whether for reward or not except with the approval of the Commissioner of Labour;
  - (c) engage in any religious vocation except with the approval of the Minister; and
  - (d) engage in research, except in accordance with the conditions of a research permit issued under the *Research Act*,

and such permit shall be subject to any other conditions which the Director of Immigration may impose consistent with the provisions of this Act:

Provided that a person to whom a visitor's permit has been issued may, during a period of thirty days immediately following the issue of such permit, notwithstanding the provisions of paragraph (b), engage in any business, profession or employment other than research in the course of duties arising from his normal employment outside Solomon Islands.

- (2A) The proviso to subsection (2) shall apply only in respect of:

- (a) an employee of any business outside Solomon Islands, which has a branch, subsidiary, shares, controlling interest or

management responsibility for any business in Solomon Islands; and

- (b) a part owner, managing director, director or owner of any business established or registered in Solomon Islands.
- (3) A visitor's permit shall, subject to the provisions of this Act, entitle a visitor to remain in Solomon Islands for any period, or periods in the aggregate, not exceeding three months in any period of twelve months:

Provided that the Director of Immigration may extend the period or aggregate periods for a further period or aggregate periods not exceeding three months if he is satisfied that there exist special circumstances justifying the extension.

- (4) An immigration officer may cancel a visitor's permit if he is satisfied that the visitor:
  - (a) is not a person to whom a visitor's permit ought to have been issued;
  - (b) has become a prohibited immigrant;
  - (c) has become incapable of supporting himself or his dependants;
  - (d) has behaved in a manner prejudicial to the peace and good order of Solomon Islands; or
  - (e) is in breach of any of the conditions of his permit or to which it is subject.

## **10 Student's permit**

- (1) The Director of Immigration may issue a student's permit in the appropriate form for such period as he may think fit to any person who wishes to enter Solomon Islands for the purpose of undergoing education, apprenticeship or technical instruction, and may at his discretion extend such permit for such further periods as he thinks fit:

Provided that if any such permit has been cancelled under the provisions of subsection (3) no extension of such permit nor any new

permit shall be issued to the student except with the prior approval of the Minister.

- (2) A student's permit shall be subject to the condition that the student does not during his stay in Solomon Islands:
- (a) take up employment except as part of his education, apprenticeship or technical instruction, except with the prior approval of the Director of Immigration;
  - (b) behave in a manner prejudicial to peace, good order, good Government or public morality; or
  - (c) engage in research without a research permit issued under the *Research Act*,

and be subject to such other conditions as may be prescribed.

- (3) An immigration officer may cancel a student's permit if he is satisfied that there has been a breach of the conditions subject to which it was granted, or that the person concerned has ceased to be a student.

## **11 Prohibited immigrants**

- (1) Any person who:
- (a) is not a person entitled to enter Solomon Islands without a permit under the provisions of section 7; and
  - (b) is a member of any of the prohibited classes as defined in subsection (2) of this section,

shall be a prohibited immigrant and, save as otherwise hereinafter expressly provided, his entry or presence in Solomon Islands shall be unlawful, notwithstanding any permit he may hold.

- (2) The following persons are members of the prohibited classes:
- (a) any person who, not being exempt, is not the holder of a valid permit issued or deemed to have been issued under this Act;
  - (b) any person in respect of whom a deportation order under the *Deportation Act* or a removal order under this Act is in force;

- (c) any person who at the time of entry into Solomon Islands is unable to show that he has the means of supporting himself and his family and dependants (if any) or who is likely to become a pauper or a charge on the public;
- (d) any person:
  - (i) who refuses to submit to an examination by a Government medical officer after being required to do so under section 4(1)(d) or to undergo, or to assist in the carrying out of any test or investigation which such medical officer may require; or
  - (ii) who at the time of his entry into Solomon Islands is certified by the Government medical officer to be suffering from a contagious or infectious disease which makes his presence in Solomon Islands dangerous to the community; or
  - (iii) in respect of whom at the time of his entry into Solomon Islands the Government medical officer certifies that he is suffering from mental disorder or is a mental defective, and that his presence in Solomon Islands would be a danger to the community;
- (e) any person who, not having received a free pardon, has been convicted by a court outside Solomon Islands of an offence which, if committed within Solomon Islands is punishable with imprisonment for a term of more than two years and who in respect of such offence has been sentenced to imprisonment for a term of one year or more, or who has been convicted by courts outside Solomon Islands of two or more offences, which if committed within Solomon Islands would have been punishable by imprisonment, and in respect of such convictions has been sentenced to imprisonment for terms amounting in the aggregate to eighteen months or more:

Provided that the Director of Immigration with the prior approval of the Minister in his discretion, in the case of a person whose last sentence of imprisonment expired more than five years before the date upon which he desires to enter Solomon Islands may direct that such person shall be exempted from the

provisions of this paragraph and any person in respect of whom such exemption is granted shall not thereafter be held to be a prohibited immigrant by reason only of his having been so convicted and sentenced;

- (f) any person who prior to his entry in Solomon Islands or in any period thereafter in consequence of information received from any Government, through official or diplomatic channels, or from any other source deemed by the Minister in his discretion to be reliable, is declared by the Minister in his discretion to be an undesirable immigrant;
  - (g) any person who is a member of any class or group of persons declared by the Minister by order to be a prohibited class for the purposes of this section;
  - (h) any member of the family and any dependant of a prohibited immigrant, unless the Minister in his discretion declares that such member of the family or such dependent is not a member of this prohibited class.
- (3) The burden of proof that any person is not a prohibited immigrant shall lie upon that person. In any case where an immigration officer refuses to allow any person to enter Solomon Islands on the ground that such person is a prohibited immigrant he shall, if so requested by such person, inform him of the class of prohibited immigrant of which in the opinion of the immigration officer he is a member.
- (4) Where the Minister has by order declared any person to be a prohibited immigrant or as an undesirable immigrant under subsection (2)(f), the order shall remain valid unless revoked by the Minister.
- (5) The power of the Minister to declare or order any person to be a prohibited immigrant or as an undesirable immigrant shall include the power to revoke, vary, waive or impose such conditions as he may deem fit.

## **12 Issue of permits to be discretionary**

Subject to the provisions of this Act and to any directions issued by the Minister thereunder, the Director of Immigration shall have

complete discretion as to the persons to whom permits may be granted under this Act and to the extension of such permits.

**13 Effect of expiration or cancellation of a permit**

It shall be unlawful for any person to remain in Solomon Islands after the expiration or cancellation of any permit issued or deemed to be issued to or in respect of him under this Act unless he is otherwise entitled or authorised to remain in Solomon Islands under this Act and he shall be deemed to be a prohibited immigrant.

**13A Additional powers**

The Minister may:

- (a) where he thinks fit, without prejudice to any penalty that may have been imposed on a person under section 18; or
- (b) where no proceedings have been instituted under this Act for any breach and the Minister is satisfied that a prosecution was not instituted and proceeded with as a result of such person leaving Solomon Islands,

prohibit such person who has left Solomon Islands from re-entering for any period not less than two years.

**PART IIIA EXAMINATION, INTERROGATION AND  
DETENTION OF PROHIBITED IMMIGRANTS**

**13B Power to detain ship**

- (1) The master of every ship arriving in or about to leave Solomon Islands shall if so required by an immigration officer anchor, berth or tie up his ship at such place as may be ordered and shall remain there until an immigration officer gives his permission for such ship to enter or leave Solomon Islands, as the case may be.
- (2) A master of any ship who without reasonable cause, contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence.

**13C        Restrictions in relation to boarding and leaving aircraft, ship, etc.**

- (1) Except under and in accordance with any authority granted by an immigration officer, no person other than:
- (a) the captain or master;
  - (b) any government officer boarding the ship, yacht or canoe;
  - (c) the owner, charterer or agent of the ship; or
  - (d) an accredited representative of a country to which the ship or aircraft belongs, or is registered or where the people on board such ship or aircraft are nationals or citizens of that country,

shall leave or board a ship or aircraft arriving in or departing from Solomon Islands until the ship or aircraft has been examined and cleared by an immigration officer on its arrival or prior to its departure, so however, that the aforesaid restriction shall not apply to a member of the crew.

- (2) Any person who contravenes subsection (1) shall be guilty of an offence and every such person referred to in subsection (1), shall if so required by an immigration officer return forthwith to the vessel and remain thereon, and the master, owner, charterer or agent of such ship or aircraft shall be bound to take such person on board.

**13D        Persons entering Solomon Islands at places other than authorised ports of entry**

- (1) Every person who enters Solomon Islands by sea or air at any place other than an authorised port of entry or authorised aerodrome shall forthwith proceed to, and appear before the nearest immigration officer.
- (2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

**13E      Power to send persons to immigration depot**

- (1) Where an immigration officer has reasonable doubt as to the right of any person to enter or where he has reasonable grounds to believe that a person is a prohibited immigrant it shall be lawful for him to order or direct that person to proceed forthwith to an immigration depot and such person shall remain there until permitted to leave by that officer:

Provided that the person so detained shall be produced before a Magistrate in accordance with the provisions of the *Criminal Procedure Code*.

- (2) The Director of Immigration may, in his discretion and pending the completion of inquiries regarding that person, release him from an immigration depot on such terms and conditions as he may impose on that person, so however, that he shall not release a person whom he reasonably believes to be a prohibited immigrant.
- (3) Any person who refuses or fails to comply with any order given by an immigration officer under subsection (1), or who leaves an immigration depot in contravention of that subsection, shall be guilty of an offence and be liable to a fine of one thousand penalty units or to imprisonment for one year or to both such fine and imprisonment.

**13F      Power to detain prohibited Immigrant**

If during the examination of any person arriving in Solomon Islands or at any time thereafter any person is found to be a prohibited immigrant, the Director of Immigration may, subject to the provisions of this Act, prohibit such person from disembarking or detain such person at any immigration depot or other place designated for the purpose until he is repatriated to the place from which he last embarked or to the country of which he is a national or citizen.

**13G      Power to make order for removal of person**

Any person who:

- (a) is convicted for contravening any of the provisions of sections 5, 6, 8, 9, 10 or 18; or

- (b) is deemed to be a prohibited immigrant under any of the circumstances under section 13, without prejudice to any proceedings taken against him,

may be liable to be removed from Solomon Islands by order of the Minister.

#### **13H      Penalty**

Any person who, having been removed or otherwise lawfully deported from Solomon Islands, re-enters or resides in Solomon Islands without the written permission of the Minister, shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand penalty units or to both such fine and imprisonment and shall in addition, be liable to be removed from Solomon Islands notwithstanding the provisions of section 14.

### **PART IV           MISCELLANEOUS**

#### **14           Deportation**

- (1) Any person who is a prohibited immigrant or a member of a prohibited class shall be dealt with in accordance with the procedure for making a deportation order under the provisions of the *Deportation Act* unless such person voluntarily places himself aboard the first available ship or aircraft leaving Solomon Islands and consents to remain in police custody during the interim.
- (2) Where a person who has been declared a prohibited immigrant under any of the provisions of section 11(2) re-enters Solomon Islands, an immigration officer may arrest him without warrant and subject to the provisions of the *Criminal Procedure Code* place such person in prison or in police custody or in an immigration depot as the Court may order pending his repatriation on the earliest available ship or aircraft leaving Solomon Islands and he shall be deemed to be in lawful custody whilst detained until the ship or aircraft leaves Solomon Islands.
- (3) Where a person who is a prohibited immigrant or a member of a prohibited class consents to voluntarily place himself on the first available ship or aircraft is:

- (a) destitute;
- (b) unable to pay the cost of his passage or that of his family to the country of which he is a national or citizen; or
- (c) likely to be or has become a charge on the public or on a charitable institution or organisation,

such person may apply to the Director of Immigration to meet the costs out of the Consolidated Fund for the voluntary repatriation of himself or his family.

- (4) Where the Director of Immigration is of the view that the person referred to in subsection (3) should not be dealt with in accordance with subsection (1) he may accept the application.
- (5) The Director of Immigration when accepting the application may request that:
  - (a) the person signs an undertaking that he shall not return to Solomon Islands without the sanction of the Director of Immigration, whose sanction shall only be exercised upon the person refunding to the Government all costs incurred by the Government in the repatriation of himself or his family; and
  - (b) he complies with any other conditions imposed by the Director of Immigration.
- (6) Any person repatriated at costs incurred by the Government who re-enters or attempts to re-enter Solomon Islands without the sanction of the Director of Immigration, or who having entered Solomon Islands with such sanction, fails or neglects to comply with any or such further conditions upon which the sanction was given shall be guilty of an offence.
- (7) Where any person is repatriated at costs incurred by the Government, the Director of Immigration may, notwithstanding the conditions imposed, recommend to the Minister to declare such a person to be a prohibited immigrant.

#### **14A Recovery of expenses**

The owner, charterer, master or agent of any vessel or aircraft from which any prohibited immigrant or any person who is currently of a prohibited class enters Solomon Islands contrary to the provisions of this Act shall be jointly and severally liable for all expenses incurred by the Government in detaining and maintaining such person pending (and including) his voluntary repatriation or removal or deportation and such expenses shall be recovered as a debt due to the Crown from the master, owner, charterer and agent of such vessel or aircraft.

#### **15 Proof of documents**

Every document purporting to be a delegation, order, permit, declaration or cancellation under or in pursuance of the provisions of this Act and to be executed by the Minister, the Director of Immigration or an immigration officer shall be received in evidence and shall without further proof be deemed to have been executed by the Minister, the Director of Immigration or the immigration officer, as the case may be, unless the contrary is shown.

#### **16 No suit or damages maintainable for things done in good faith under this Act**

No suit or other legal proceedings for damages shall be instituted in any court of law against the Government or any immigration officer or any other officer of the Government or any other person for or on account of or in respect of any act, matter or thing done or omitted to be done or purported to be done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act; and the provisions of this section shall extend to the protection from liability as aforesaid of any person deputed by delegation under this Act or under any other law for the time being in force to perform or exercise any such duty or power as aforesaid.

#### **17 Appeals**

- (1) Any person aggrieved by a decision of an immigration officer under the provisions of this Act may appeal therefrom by petition in writing to the Minister who may in his discretion uphold, vary or revoke such

decision:

Provided that no such appeal shall lie from decisions made by an immigration officer acting in accordance with the directions of, or instructions given in respect of any particular case by, the Minister:

Provided further that an appeal against a decision of an immigration officer made pursuant to an application for a permit under sections 8, 9 and 10, which application was made after a permit previously granted to such person had expired, shall not preclude the Director of Immigration or any immigration officer from investigating or prosecuting a person for any offence committed under section 18. Where a person is prosecuted for the purposes of this section the period in respect of which the prosecution commences shall be the date from which the valid permit expired notwithstanding that a new permit has been issued or a petition of appeal has been lodged.

- (2) The Director of Immigration may grant to any person, not being a prohibited immigrant, and to any member of his family, who intends to appeal to the Minister under the provisions of subsection (1) or who seeks to take action available to him before a court, to obtain redress against the decision of an immigration officer, an interim permit allowing him to enter or to remain in Solomon Islands pending the determination of such appeal or action:

Provided that any such appeal or action is lodged or commenced within fourteen days of such decision.

- (3) No permit shall be granted under this section unless the Director of Immigration is satisfied that the person concerned is unlikely to become a charge on the public during the currency of the permit. Any such permit may be cancelled by the Director of Immigration if the person concerned appears likely to become a charge on the public or if the appeal or action is not prosecuted within such period of fourteen days, and if not cancelled, shall expire on the giving of a decision of the Minister.

## **18 Offences and penalties**

- (1) Any person who:
  - (a) for the purpose of obtaining for himself or for any other person

or of assisting any other person to obtain any permit, exemption or other advantage under this Act or with intent to deceive any immigration officer, makes any oral declaration or makes or causes or omits to make or cause to be made any statutory declaration, return, statement, application or other writing which he knows or has reasonable cause to believe to be false or misleading; or

- (b) otherwise than with the authority of the Director of Immigration (the burden of proof whereof shall be upon the accused person) alters, or wilfully defaces, any permit made under or in pursuance of the provisions of this Act, or any official or certified copy of any such permit; or
- (c) resists, hinders or obstructs any immigration officer or other officer or person in the lawful execution of his duty, or in the lawful exercise of his powers, under this Act; or
- (d) knowingly misleads or attempts to mislead any immigration officer in relation to any matter material to the performance or exercise by any immigration officer of any duty, function, power or discretion under this Act; or
- (e) unlawfully uses or without lawful authority (the burden of proof whereof shall be upon the accused person) has in his possession any forged or unlawfully altered permit or other document issued or purported to have been issued under this Act or any forged or unlawfully altered birth certificate, marriage certificate or other document purporting to establish age, status or identity; or
- (f) knowingly uses or has in his possession any unlawfully issued or otherwise irregular permit or other document issued or purported to have been issued under this Act; or
- (g) refuses or fails to submit to a medical examination, or to undergo or assist in carrying out any test or investigation in connection with a medical examination when so required under section 4(1)(d); or
- (h) having arrived in Solomon Islands or is about to depart therefrom as a passenger by sea or air from any place outside

Solomon Islands fails to appear before an immigration officer as directed by him; or

- (i) unlawfully enters or is unlawfully present within Solomon Islands in contravention of the provisions of this Act; or
- (j) refuses or fails to comply with any notice issued to him under the provisions of this Act or any regulations made thereunder, with which he is required by this Act or such regulations to comply; or
- (k) refuses or fails to comply with any lawful term or condition subject to which any permit is or has been issued to him under this Act and with which he is required by this Act to comply; or
- (l) not being a person exempt under the provisions of section 7 nor the holder of a permit to do so, engages in any business, profession or employment, whether for reward or not or engages in any religious vocation without the approval of the Director of Immigration or under the proviso to section 9(2); or
- (m) employs or continues to employ any person who is neither exempt under the provisions of section 7 nor the holder of a permit to work; or
- (n) harbours or assists any person whom he knows or has reasonable cause to believe to be a person whose presence in Solomon Islands is unlawful; or
- (o) uses any certificate, permit or exemption issued to or in respect of any other person as if it had been issued to or in respect of himself; or
- (p) gives, sells, lends or parts with possession of any certificate, permit or exemption in order that, or intending or knowing or having reasonable cause to believe that, it may be used in contravention of the provisions of paragraph (o) of this subsection; or
- (q) re-enters Solomon Islands after having been declared or made a prohibited immigrant under any of the paragraphs of section 11(2); or

- (r) unlawfully refuses or fails to comply with any lawful order of an immigration officer acting under any of the provisions of this Act to have a person declared to be a prohibited immigrant carried to the place to which he has embarked; or
- (s) knowingly causes, conveys or transports any person who has been declared a prohibited immigrant to enter Solomon Islands,

shall be guilty of an offence.

- (2) For the purposes of any proceedings for an offence under paragraph (a) of subsection (1), any declaration, return, statement, application or other writing to which that paragraph relates shall be deemed to have been made, or, as the case may be, the causing thereof to be made shall be deemed to have been done, at the time and place at which the same was received by the officer or person to whom it was addressed.
- (3) Any person convicted of an offence against the provisions of this Act for which no penalty is specified shall be liable to a fine not exceeding one thousand penalty units or to imprisonment for three years or to both such fine and such imprisonment.
- (4) Where any person is convicted of an offence under paragraph (a) of subsection (1) the court may, in addition to any penalty imposed for such offence, cancel any permit which was issued in consequence of such false declaration, return or statement as is mentioned in that paragraph.
- (5) Where any person is convicted of an offence under this section the Minister may, in addition to any penalty imposed by any court for such an offence, cancel his permit.
- (6) In paragraphs (r) and (s) of subsection (1), reference to any person also includes owners, charterers, masters or agents of any ship or aircraft.

## **19 Regulations**

The Minister may make regulations prescribing anything which may be prescribed under the provisions of this Act and for the better carrying out of the purposes and provisions thereof and in particular

and without prejudice to the generality of the foregoing power such regulations may prescribe:

- (a) the forms to be used for the purposes of this Act;
- (b) the fees to be charged upon the application and issue of any permit or waiver thereof under this Act;
- (c) the procedure to be followed and the fees to be charged or the waiver thereof in respect of any appeals;
- (d) the period for which permits issued under this Act shall be valid;
- (e) conditions subject to which any person may be granted a permit; or
- (f) other authorities other than an immigration officer or Director of Immigration who may issue permits under 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 60 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 25 March 2010.

### 2

#### LIST OF LEGISLATION

##### ***Immigration Act (Cap. 60)***

|                                 |                                          |
|---------------------------------|------------------------------------------|
| <i>Constituent legislation:</i> | 27 of 1978 (Commenced 29 September 1978) |
|                                 | 9 of 1982                                |
|                                 | 8 of 1986                                |
|                                 | 19 of 1987                               |
|                                 | 20 of 1988                               |
|                                 | 12 of 1989                               |

##### ***Immigration (Amendment) Act 1998 (No. 9 of 1998)***

|             |                 |
|-------------|-----------------|
| Assent date | 12 August 1999  |
| Gazetted    | 26 October 1999 |
| Commenced   | 1 November 1999 |

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

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

##### ***The Interpretation and General Provisions Act (Cap. 85) – Immigration Act (Correction of Errors) Order 2010 – LN 18 of 2010***

|           |               |
|-----------|---------------|
| Gazetted  | 25 March 2010 |
| Commenced | 25 March 2010 |

***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 2       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 3       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 4       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 5       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 7       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 8       | sub by Act No. 9 of 1998; <i>[Note: the 1998 Act was corrected by the Legislation Amendment, Repeal and Validation Act 2023 to read section 37 in s8(1)(a) instead of section 68];</i> amd by LN 18 of 2010 |
| s 9       | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 10      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 11      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 12      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 13A     | ins by Act No. 9 of 1998                                                                                                                                                                                    |
| Part IIIA | ins by Act No. 9 of 1998                                                                                                                                                                                    |
| s 13D     | amd by Act No. 14 of 2009                                                                                                                                                                                   |
| s 13E     | amd by Act No. 14 of 2009                                                                                                                                                                                   |
| s 13H     | amd by Act No. 14 of 2009                                                                                                                                                                                   |
| s 14      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 14A     | ins by Act No. 9 of 1998                                                                                                                                                                                    |
| s 15      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 17      | amd by Act No. 9 of 1998                                                                                                                                                                                    |
| s 18      | amd by Acts No. 9 of 1998; No. 14 of 2009                                                                                                                                                                   |
| s 19      | amd by Act No. 9 of 1998                                                                                                                                                                                    |