

# REPRINT

## PASSPORTS ACT (CAP. 61)

**As in force at: 5 February 2024**

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| <b>STATUS:</b> <b>CURRENT</b> |
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| For details see Endnotes |
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**AN ACT TO MAKE PROVISION FOR THE ISSUE OF PASSPORTS, FOR THE PRODUCTION OF PASSPORTS BY PERSONS LEAVING OR ENTERING SOLOMON ISLANDS AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.**

## **PASSPORTS ACT (CAP. 61)**

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# PASSPORTS ACT (Cap. 61)

As in force at: 5 February 2024

## 1 Short title

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

## 2 Interpretation

In this Act, unless the context otherwise requires:

**“appropriate form”** means a form approved by the Minister for use in any particular case pursuant to the provisions of this Act;

**“emergency certificate”** means a valid travel document issued pursuant to section 10 to a foreign national for the purpose of leaving Solomon Islands;

**“immigration officer”** means an immigration officer appointed under the provisions of any Act relating to immigration;

**“master”** includes the pilot of an aircraft;

**“overseas representative”** means a diplomatic or consular representative of Solomon Islands in any country and includes any person having authority to act as such on behalf of the Government of Solomon Islands;

**“passport”** means a current valid travel document which is issued by or on behalf of the Government of any country, containing a photograph and a personal description of the holder which purport to establish the identity and nationality or citizenship of the holder, or which gives a right of re-entry to that country;

**“Passport Officer”** means the person appointed by the Minister to exercise the powers conferred under this Act and includes any other person designated by the person so appointed;

**“vessel”** includes an aircraft;

**“visa”** means an entry or note on a passport, certificate, or other official travel document which is evidence of a person’s eligibility for entry into Solomon Islands for the period specified therein.

### **3 Classification of passports**

- (1) From and after 18th October 1985, passports issued to citizens of Solomon Islands shall be classified as:
  - (a) diplomatic passports;
  - (b) official passports; or
  - (c) ordinary passports.
- (2) The holder of an ordinary passport may, by virtue of the office he holds be eligible to possess one of the passports referred to in paragraphs (a) or (b) of subsection (1).
- (3) For the purpose of obtaining a diplomatic or official passport, a person referred to in subsection (2) may make application to the passport officer in the appropriate form with the recommendation of the Minister responsible for Foreign Affairs.
- (4) The Minister may by regulation prescribe the persons entitled to diplomatic or official passports; the conditions of issue, use, renewal and replacement of such passports.

### **4 Issue and cancellation of passports**

- (1) The Passport Officer shall, upon application made to him in the appropriate form, issue to any citizen of Solomon Islands who satisfies such conditions as may be prescribed, a passport in an approved form.
- (2) Any passport issued under the last preceding subsection may be withdrawn or cancelled by the Passport Officer upon an order of the Minister, in any of the circumstances referred to in paragraphs (a), (b), (c), (e) or (g) of section 14(3) of the *Constitution* and thereupon any such passport shall become void.

**5 Power to renew and endorse passports**

The Passport Officer shall, upon application made to him in the appropriate form, renew and endorse passports.

**6 Failure to deliver passport an offence**

Where a passport has been withdrawn or cancelled under the provisions of section 4, the Passport Officer may require the holder of such passport, by notice in writing served upon him personally, to deliver the passport within such reasonable time as may be specified in the notice and if he fails to do so without reasonable cause he shall be guilty of an offence.

**7 Obtaining passport by false statement**

Any person who, for the purpose of obtaining a passport, or a renewal or endorsement in respect thereto, makes any representation or statement which he knows to be false or calculated to mislead in a material particular, or recklessly makes any statement which is false or calculated to mislead in a material particular, shall be guilty of an offence.

**8 Power to take possession of passport**

- (1) It shall be lawful for the Passport Officer, any immigration officer or police officer to take and retain possession of any passport in any case where he has good reason to believe that the passport is in the wrongful possession of any person, or that the passport or a renewal or endorsement in respect thereto has been obtained by means of any false or misleading representation or of any statement that is false or calculated to mislead in a material particular.
- (2) Any person having in his possession or under his control any such passport shall, on demand, forthwith deliver such passport to the Passport Officer, immigration or police officer.
- (3) Any person who fails without reasonable excuse so to deliver any such passport upon demand shall be guilty of an offence.

**9 Power to issue certificates of identity or other travel documents**

- (1) Whenever it is not reasonably practicable to issue a passport, the Passport Officer may issue a certificate of identity or other travel document which shall be in the appropriate form.
- (2) The provisions of this Act relating to passports shall, subject to such modifications and adaptations as may be necessary, apply to certificates of identity or travel documents issued under the provisions of the last preceding subsection.

**10 Emergency certificates**

- (1) Where the Passport Officer is reasonably satisfied that the passport of a foreign national is lost, misplaced, damaged or stolen in Solomon Islands, or that the circumstances so require, he may where reasonably practicable, issue to such foreign national an emergency certificate for the purpose of leaving Solomon Islands.
- (2) Notwithstanding the provisions of section 12, an emergency certificate issued pursuant to subsection (1), shall for the purposes of this Act be construed as a valid travel document issued by the Government of Solomon Islands to enable such foreign national to leave Solomon Islands.

**11 Issue of passports by overseas representatives**

- (1) The Minister may, from time to time, authorise any overseas representative to exercise in that country all or any of the powers and functions of the Passport Officer under this Act and in every such case the provisions of this Act shall, so far as they are applicable and with such adaptations and modifications as may be necessary, apply accordingly.
- (2) In the exercise of any such powers or functions every overseas representative shall act in accordance with such directions, general or special, not inconsistent with the provisions of this Act, as may from time to time be given by the Minister.
- (3) Any authority or directions under this section may be given to a specified person or to persons of a specified class, or may be given

to the holder or holders for the time being of a specified office or appointment or class of offices or appointments.

**12 Prohibition against leaving or entering Solomon Islands without passports**

- (1) Subject to the provisions of subsection (3), no person shall leave or enter Solomon Islands unless he is in possession of a valid passport, certificate of identity or other travel documents issued by or on behalf of the Government of a country of which he is a national or citizen to the satisfaction of the Passport Officer or an immigration officer.
- (2) Every person leaving or entering Solomon Islands shall, on demand by the Passport Officer or any immigration officer, produce his passport, certificate of identity or other travel documents.
- (3) The Minister may exempt, either conditionally or unconditionally, or upon or subject to such conditions as he may think fit to impose, any person or specified class of persons from compliance with the provisions of subsection (1).

**13 Power to order passports to be delivered**

- (1) Any person who is required to produce his passport, certificate of identity or other travel documents under the provisions of the last preceding section shall, if so required, and subject to such directions as may be given by the Minister deliver his passport to the Passport Officer or immigration officer before leaving the vessel in which he enters Solomon Islands or at any time while he is in Solomon Islands.
- (2) Any passport, certificate of identity or other travel documents delivered to the Passport Officer or immigration officer under the provisions of the last preceding subsection shall, subject to such directions as may be given by the Minister, be returned to the person who delivered it on such person leaving Solomon Islands.
- (3) Any person who fails without reasonable cause to deliver his passport, certificate of identity or other travel documents as and when required in accordance with the provisions of this section shall be guilty of an offence.

## **14 Visas**

- (1) No person other than a national or citizen of any country specified in an order made under the provisions of the next succeeding subsection shall enter Solomon Islands unless he is in possession of a valid and current visa.
- (2) The Minister may by order published in the *Gazette* specify countries, the nationals or citizens of which shall be exempted from obtaining a visa before entering Solomon Islands.
- (3) A stateless person or a national or citizen of any country not exempted under the provisions of the last preceding subsection shall not be allowed to enter Solomon Islands unless he has previously obtained a visa from the Passport Officer, an overseas representative or such other person as may be authorised by the Minister to issue visas on behalf of the Government of Solomon Islands.
- (4) Nothing in this section shall be construed as exempting any person entering Solomon Islands from compliance with any law relating to immigration in force at the time he enters Solomon Islands.

## **15 Alteration, etc., of passport**

- (1) Any person, other than the Passport Officer or any person acting under the authority of the Minister, who knowingly makes any alteration, addition, deletion or erasure to or in any passport or emergency certificate issued under the provisions of this Act shall be guilty of an offence.
- (2) A passport shall be invalid if any page has been removed therefrom or if any unauthorised alteration, addition, deletion or erasure has been made thereto or therein.

## **16 Offences, penalties, etc.**

- (1) Every person who is guilty of an offence against this Act, or contravenes any provision of this Act, for which no penalties have been prescribed, shall be liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

- (2) Any person who incites or aids and abets any other person to commit or harbours any person whom he knows or has reasonable grounds for believing to have committed an offence against this Act shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.
- (2A) The master, owner or agent of any vessel or canoe who knowingly carries or transports any person to Solomon Islands in contravention of section 12(1) or any regulations made under this Act shall be liable on conviction to a fine not exceeding five thousand penalty units and in addition shall be ordered to:
  - (i) receive such person on board his vessel or aircraft and to afford him free of charge passage to the port of embarkation;
  - (ii) pay for such person's repatriation or deportation expenses.
- (3) Where any person is tried for an offence against this Act, the offence shall be deemed to have been committed either at the place where the offence has actually been committed or at any place in which the offender may be found.
- (4) Every person who contravenes the requirements of sections 12(1) or (2) shall in addition to the penalties prescribed under this section be liable to be deported by order of the Minister and it shall be lawful for the Minister to order that any such person be detained either in prison or elsewhere for such period as may be necessary for the purpose of making arrangements for his deportation.
- (5) Any person who is ordered to be deported under the provisions of subsection (4) may be placed on board a suitable vessel by a police officer and may be lawfully detained on board in such manner as the master, owner or agent of the vessel deems necessary so long as the vessel is within the territorial waters of Solomon Islands.
- (6) Every person who contravenes section 12(1) and (2) may, where he agrees to voluntarily repatriate himself from Solomon Islands, in addition to the penalties prescribed under this section, be treated in the like manner as provided under subsections (4) and (5) of this section.

**16A      Selling of passport an offence, etc.**

- (1) Any person other than a passport officer, or a person authorised by a passport officer who:
  - (a) sells or causes to be sold to another person a passport; or
  - (b) aids, abets, counsels, or procures another person to sell or causes to be sold to another person a passport,is guilty of an offence.
- (2) A passport officer or a person authorised by a passport officer who:
  - (a) for a reward or promise of such reward sells or causes to be sold to another person a passport; or
  - (b) for no reward gives or causes to be given to another person a passport in contravention of this Act,is guilty of an offence.
- (3) Any person who is convicted of an offence under subsection (1) or (2) is liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.
- (4) Any person who has in his possession a passport that is obtained in contravention of subsection (1) or (2) is guilty of an offence and is liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

**17      Masters and owners of vessels liable for expenses**

The master, owners and agents of any vessel from which any person lands in 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 deportation including all or part of the expenses incurred in the voluntary repatriation to the country of which the person is a national or citizen or from which he last embarks if the person repatriated has no money or property or insufficient money or property and such

expenses shall be recoverable as a debt due to the Crown from the master, owners and agents of such vessel.

**18 Master may prevent landing**

The master of a vessel may use all necessary and proper means, including force, to prevent any person landing in Solomon Islands contrary to the provisions of this Act.

**19 Expense of deportation a penalty**

- (1) When a deportation order is made by the Minister under the provisions of section 16 the master of the vessel in which the person is brought to Solomon Islands or the master of any vessel belonging to the same owners shall, if required in writing by the Minister, receive such person on board his vessel and afford him free of charge a passage to the port at which such person embarked.
- (2) If the master of a vessel fails to comply with the provisions of this section he shall be liable on summary conviction to a fine of ten thousand penalty units.

**20 Regulations**

- (1) The Minister may make regulations for carrying the provisions of this Act into effect.
- (2) In particular and without prejudice to the generality of the foregoing power such regulations may be made:
  - (a) prescribing the conditions to be satisfied for the issue of passports;
  - (b) regulating the issue, renewal or endorsement of passports;
  - (c) prescribing the procedure for replacing passports and the action to be taken in relation to lost or damaged passports;
  - (d) regulating the issue of visas;
  - (e) the imposition and recovery of fees in relation to the issue, renewal or endorsement of passports and grant of visas; and

- (f) exempting any class of persons or nationals or citizens of any country from payment of fees.

## 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 61 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

##### **Passports Act (Cap. 61)**

|                                 |                                    |
|---------------------------------|------------------------------------|
| <i>Constituent legislation:</i> | 15 of 1978 (Commenced 7 July 1978) |
|                                 | 3 of 1985                          |
|                                 | 2 of 1986                          |
|                                 | 1 of 1995                          |

##### **Passports (Amendment) Act 1998 (No. 7 of 1998)\***

|             |                 |
|-------------|-----------------|
| Assent date | 5 March 1999    |
| Gazetted    | 26 October 1999 |
| Commenced   | 26 October 1999 |

*[\*Note: This amendment Act of 1998 referred to certain sections in the Passport Act 1978. From 1 March 1996, the official version of the Passports Act had been numbered (Cap. 61) and the section numbers had been changed. Therefore, as the sections referred to in the amendment Act of 1998 were no longer extant, they fail. This has been rectified in the Legislation Amendment, Repeal and Validation Act 2023]*

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

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

Commenced 1 October 2009

*[\*Note: The Penalties Miscellaneous Amendments Act 2009 perpetuates the errors in reference to section numbers as in the Passports (Amendment) Act 1998, except in regard to the amendment of section 19(2) and the provision that all references to monetary penalties shall be converted to penalty units. These errors are corrected in the Legislation Amendment, Repeal and Validation Act 2023]*

**Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)**

|             |                  |
|-------------|------------------|
| Assent date | 29 December 2023 |
| Gazetted    | 29 December 2023 |
| Commenced   | 5 February 2024  |

### 3 LIST OF AMENDMENTS

|       |  |
|-------|--|
| s 12  | amd by Act No. 17 of 2023                  |
| s 13  | amd by Act No. 17 of 2023                  |
| s 16  | amd by Acts No. 14 of 2009; No. 17 of 2023 |
| s 16A | ins and amd by Act No. 17 of 2023          |
| s 17  | amd by Act No. 17 of 2023                  |
| s 19  | amd by Acts No. 14 of 2009; No. 17 of 2023 |