



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Passports Legislation  
Amendment (Integrity) Bill 2015**

**Second Reading**

**SPEECH**

**Thursday, 4 June 2015**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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# SPEECH

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**Questioner**  
**Speaker** Morrison, Scott, MP

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**Mr MORRISON** (Cook—Minister for Social Services) (09:16): I move:

That this bill be now read a second time.

I am pleased to introduce the Passports Legislation Amendment (Integrity) Bill 2015 to the parliament.

The bill amends the Australian Passports Act 2005, the Foreign Passports (Law Enforcement and Security) Act 2005 and makes minor consequential amendments to a number of other acts. It also repeals the Australian Passports (Transitionals and Consequentials) Act 2005.

The bill is the result of a review of Australian passports legislation 10 years after it was enacted.

The bill seeks to refine and clarify the legislation and to strengthen the government's ability to respond to unlawful activity in relation to Australian travel documents.

The government is committed to maintaining the integrity and security of Australian travel documents in the interests of all Australians.

The Australian passport is the most valuable identity document used in Australia and is recognised as one of the most secure and trustworthy travel documents in the world.

The integrity of the Australian passport protects ordinary Australians from identity theft—which is a growing problem in Australia and internationally—and also continues to support our national security framework, which is a priority for this government.

The integrity of the Australian passport ensures that Australian travellers are accepted at borders across the world and gives other countries the confidence to allow Australians visa-free access to facilitate their travel.

The principal amendments to the passports act being introduced by this bill are that:

- (1) the bill will provide that a travel document may be issued to a person on the minister's own initiative, to facilitate a lawful requirement to travel;
- (2) the bill will align the definition of 'parental responsibility' more closely to that in the Family Law Act; the minister suspects, on reasonable grounds, that false or misleading statements, including information or documents have been given in relation to a travel document or an application for a travel document;
- (4) the bill will modify the existing offence framework and add a new offence to strengthen the government's ability to respond to the fraudulent use of Australian travel documents.

## **Issue travel documents without consent for a lawful requirement to travel**

The first of these key changes is to provide that a travel document may be issued to a person, on the minister's own initiative, to facilitate a lawful requirement for a person to travel.

This is limited to the following circumstances:

to remove or deport a person who is the subject of a lawful removal or deportation order, to or from Australia;

to extradite a person who is the subject of a lawful extradition request, to or from Australia; and

to effect an international prison transfer.

A person should not be able to delay or obstruct a lawful expulsion to or from Australia by refusing consent to the issue of a travel document.

There are already existing avenues for people to seek review of the substantive decision to extradite or remove them.

Australia is a contracting state to the International Civil Aviation Organization's Convention on International Civil Aviation. The convention stipulates that a contracting state shall issue a travel document to one of its citizens to facilitate their return to the contracting state within 30 days of a request by another state to do so.

Currently, we do not have a clear legal basis on which to issue documents in order to comply with the international standards set by this convention. Indeed, on occasion we have had to refuse requests from the contracting states to issue a travel document to an Australian citizen, because the person in question did not consent. The proposed amendments to the passports act will allow us to comply with the ICAO standards where contracting states request we issue travel documents to our citizens in the future.

### **Amending the definition of parental responsibility**

The second key change relates to the definition of parental responsibility for the purposes of determining who is required to consent to a child having a travel document.

Child passport applications are one of the most complex aspects of passport operations.

Due to the changing dynamic of family composition in Australia over the last 10 years, we have seen a noticeable increase in the number and complexity of child passport applications without full parental consent.

For a small number of applicants, the current requirements can cause unnecessary distress, delays and confusion.

The bill will ensure that the reference to parental responsibility in the passports act is consistent with the concept in the Family Law Act and remove any confusion as to who is required to consent to a child having a travel document.

The bill provides that the following persons are required to consent to a child having a passport:

parents (who have not had their parental responsibility removed by a court);

persons who, under a court order, have parental responsibility or with whom the child is to live; and

persons with guardianship, custody or parental responsibility for the child under an Australian law.

Those persons who have a court order to 'spend time with' or enable 'access to' a child but who do not have parental responsibility, will no longer be required to consent to a child having a passport.

It is inappropriate that the passport act, as it currently stands, accords a person more parental responsibility for a child than is permitted by the court.

It means that a parent who has been granted sole parental responsibility under a court order is no longer required to seek the consent of other persons who have 'access to' the child.

It is important to note that these amendments do not remove the legal requirement for a person travelling overseas with a child to seek consent to the child's travel from all persons who have court-awarded 'access to' or 'spend time with' orders for the child.

It remains an offence under the Family Law Act to take a child overseas without consent from all persons in whose favour a court order is made in relation to a child.

This information is clearly included in information booklets distributed to all passport holders, in the passport itself and on the passports website.

The bill will also clarify the Department of Foreign Affairs and Trade's role in issuing travel documents by making consent relate to a child having a passport, rather than consent for a child to travel internationally.

The department issues travel documents. This is a point-in-time decision. Once issued, it has no control over where or when a child travels overseas. And, independent of any travel, a passport is an important identity document.

As such, it is more appropriate that consent relates to the child having a passport.

The bill will also address an anomaly in the current legislation to ensure that the child consent provisions cover children born outside of marriage in Western Australia.

This is because Western Australia has not referred its powers relating to ex-nuptial children to the Commonwealth.

These amendments will clarify the process for applying for a child passport where court orders are in place. They will protect and strengthen the rights of persons with parental responsibility to make decisions about their child.

### **Refuse to process a fraudulent travel document application**

The third key amendment in the bill is to provide that a passport application may not be processed if there are reasonable grounds to suspect fraud. This would be a reviewable decision.

It is an offence under the passports act to provide false or misleading information, statements or documents in relation to an application for an Australian travel document.

This provision may be used instead of, or in addition to, a criminal prosecution for these offences.

Fraudulent travel document applications threaten the security and integrity of the Australian passport system.

It is essential that the government send a clear message that any kind of fraud in relation to Australian travel documents will not be tolerated.

Fraud in a travel document application ranges from a person forging the signature of a guarantor for convenience to identity theft.

It is important to note that this provision does not prevent a person from being issued a travel document. But they must submit a fresh application with the correct information and supporting documents and meet all other eligibility requirements.

### **Revise existing offences and add offence for fraudulent use of travel documents**

The fourth and final key amendment in the bill is to revise a number of existing offences and add an offence to target the making and providing of false Australian travel documents.

These amendments will strengthen the government's ability to respond to the increasing threat of fraud.

Travel documents are a key enabler of serious crime.

Strong passports legislation helps protect Australia from the use of false identity and citizenship documents and related criminal activity, including people-smuggling, terrorism and drug smuggling.

This bill amends three offences relating to the provision of false or misleading information, statements or documents in relation to an application for an Australian travel document. The amendments provide that these offences also apply to the travel document itself and not just the application.

These amendments are designed to address, in part, cases where a person maliciously reports a passport as lost or stolen so that it will be cancelled to intentionally disrupt the travel of another person.

This amendment will also target persons who seek to fraudulently collect someone else's travel document using false identity documents.

The bill amends the existing offence for selling an Australian travel document to provide that it is also an offence to sell a false Australian travel document.

This bill also amends the existing offence for damaging or destroying an Australian travel document so that it is also an offence to manipulate or tamper or interfere with a travel document. To avoid any doubt, the amendments specify that this offence applies to the chip embedded in a travel document.

These amendments are intended to capture those who intentionally alter genuine Australian travel documents for fraudulent or criminal purposes as well as those who create counterfeit Australian travel documents.

The bill adds one new offence for making or providing false Australian travel documents with the intention that they will be used or accepted as genuine.

This offence mirrors an offence for making or providing a false foreign travel document in the foreign passports act.

The maximum penalty for this offence is imprisonment for 10 years or 1,000 penalty points, or both. These penalties are consistent with other offences in the passports act and foreign passports act and related offences in other Commonwealth acts.

They reflect the gravity of offences that threaten the integrity of Australia's premier identity document.

In summary, the amendments to the offence provisions in the passports act are necessary to deter and respond to the increasing fraudulent use of travel documents, and the wider implications of such activity in enabling serious crime and identity theft.

### **Refusing unacceptable names and signatures**

One further amendment to protect the integrity of the Australian passports system is a provision to enable a name or signature that would appear on an Australian travel document to be refused if it is unacceptable, inappropriate or offensive.

It is not appropriate that on Australia's most important identity document a person may use a name or signature that is, for example:

offensive or obscene; or

could mislead others into believing the bearer holds a title or an award.

While these situations rarely occur, it is important that a clear legal basis exists to refuse such names or signatures to protect the integrity of Australian travel documents.

### **Clarify and simplify the legislation**

In addition to these key amendments, the bill refines the current provisions by:

removing the need to refer to the Passports Determination to work out which provisions in the act apply to which travel documents;

combining related subsections to avoid duplication; and

clarifying existing provisions consistent with current practice.

### **Conclusion**

In conclusion, this bill seeks to refine and clarify the existing passports legislation that has stood us in good stead for the last 10 years.

It seeks to protect the Australian community by preventing and deterring the fraudulent use of Australian travel documents and related crimes.

The Australian passport is unquestionably the most important identity document in Australia. It is held in high regard around the world. It is critical that the government ensures that this does not change.

This bill helps us to do just that.

I commend this bill to the House.

Debate adjourned.