

FIJI ISLANDS
PASSPORTS ACT 2002

ARRANGEMENT OF SECTIONS

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation

PART 2 ISSUE OF PASSPORTS

3. Issue of passports
4. Restrictions on issue of passports to unmarried minors
5. Passports not to be issued to certain persons
6. Passports not to be issued in certain circumstances
7. Endorsements of passports
8. Cancellation of passports
9. Issue of emergency passports
10. Prohibition against leaving or entering Fiji without passports

PART 3 OFFENCES AND PENALTIES

11. Failure to deliver passport an offence
12. Obtaining passports by false pretences
13. Power to take possession of passports
14. Passports, etc. to be delivered up
15. Alteration, etc. of passports
16. General penalty and offence

PART 4 APPEALS

17. Appeal to Minister
18. Notice of decision

PART 5 MISCELLANEOUS

19. Approved forms
 20. Designation of passport officers
 21. Regulations
 22. Repeal and savings
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ACT NO. 25 OF 2002

I assent

[L.S.]

J.I. ULUIVUDA
President

[24th October 2002]

AN ACT

TO MAKE FRESH PROVISION FOR THE ISSUE OF PASSPORTS, FOR THE PRODUCTION OF PASSPORTS BY PERSONS LEAVING OR ENTERING THE FIJI ISLANDS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Fiji Islands

PART 1 PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Passports Act 2002.
- (2) This Act commences on a date appointed by the Minister by notice in the *Gazette*.

Interpretation

2. (1) In this Act, unless the context otherwise requires-

"approved form" means a form approved under section 19;

"emergency passport" means a passport or other travel document issued under section 9;

"Fiji Islands passport" means a passport issued by a passport officer under this Act;

"immigration officer" has the meaning ascribed to it in the Immigration Act;

"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 purports 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 Director of Immigration and any other person designated under section 20 to exercise the powers conferred by this Act on a passport officer;

"regulations" means regulations made under section 21.

(2) A reference in this Act (other than section 8(2)(a)) to a passport includes a reference to an emergency passport.

(3) A reference in this Act to the exercise of a power or the performance of a duty by a passport officer includes a reference to the exercise of the power or the performance of the duty in an overseas country.

PART 2 **ISSUE OF PASSPORTS**

Issue of passports

3. Subject to sections 4, 5, 6 and 7, a passport officer must, upon application made in accordance with the regulations, issue a Fiji Islands passport to any citizen of the Fiji Islands.

Restrictions on issue of passports to unmarried minors

4. (1) In this section, "*unmarried minor*" means a person who has not reached the age of 21 years, or such lesser age as the Minister specifies under subsection (2), and who is not, and has never been, married.

(2) The Minister may, by notice in the *Gazette*, specify a lesser age as the specified age for an unmarried minor for the purpose of this section.

(3) A passport officer must not, unless otherwise directed by the Minister, issue a Fiji Islands passport to an unmarried minor unless the requirements of subsection (4) are met.

(4) A passport officer may issue a Fiji Islands passport to a citizen of the Fiji Islands who is an unmarried minor only if-

(a) the minor furnishes to the passport officer the consent in writing to the issue to the minor of the passport of each person who, under a law of the Fiji Islands, is entitled to custody or guardianship of, or access to, the minor;

(b) the minor furnishes to the passport officer a copy of an order of a court permitting the minor to leave the Fiji Islands;

(c) the passport officer is satisfied that-

(i) by reason of a family crisis, the minor urgently requires the passport to enable him or her to travel outside the Fiji Islands; and

(ii) if there is a person who, under a law of the Fiji Islands, is entitled to custody or guardianship of, or access to, the minor whose written consent

to the issue to the minor of the passport has not been obtained that person cannot be readily contacted; or

(d) the passport officer is satisfied that there are special circumstances warranting the issue of the passport and its issue would be in accordance with any guidelines issued under subsection (5).

(5) The Minister may issue written guidelines relating to the issuing of a Fiji Islands passport to an unmarried minor.

Passport not to be issued to certain persons

5. A passport officer must not, unless otherwise directed by the Minister, issue a Fiji Islands passport to a person if the passport officer has reason to believe that-

- (a) there is in force a warrant issued in the Fiji Islands for the arrest of the person; or
- (b) the person is required, by an order of a court, or under a condition of parole or of bail, to remain in the Fiji Islands or to refrain from obtaining a Fiji Islands passport.

Passport not to be issued in certain circumstances

6. (1) If the Minister-

(a) has formed the opinion that, if a Fiji Islands passport were issued to a person, that person would be likely to engage in conduct that-

- (i) might prejudice the security of the Fiji Islands;
- (ii) might endanger the health or physical safety of other persons;
- (iii) might interfere with the rights and freedoms of other persons, as set out in the International Covenant on Civil and Political Rights; and

(b) considers that, in the circumstances, action to prevent that person engaging in that conduct should be taken by way of not issuing a Fiji Islands passport to that person,

the Minister may in writing declare that, by virtue of this section, a Fiji Islands passport must not be issued to the person.

(2) A passport officer must not issue a Fiji Islands passport to a person who is the subject of a declaration under subsection (1).

Endorsement of passports

7. (1) On issuing a Fiji Islands passport, or at any time after issuing a Fiji Islands passport, a

passport officer may endorse the passport in accordance with subsection (2).

(2) A passport officer may endorse a Fiji Islands passport-

- (a) to restrict the countries in respect of which it is valid;
- (b) to make the passport valid in respect of countries for which, except for the endorsement, it would not be valid; or
- (c) to specify particulars the passport officer thinks fit.

Cancellation of passports

8. (1) A Fiji Islands passport may be cancelled by the Director of Immigration and thereupon becomes void.

(2) Without limiting subsection (1), the Director of Immigration may cancel a Fiji Islands passport if the Director of Immigration-

- (a) becomes aware of circumstances which, if they had existed immediately before the passport was issued (whether or not they did exist at that time) may have or would have prevented the issue of the passport by virtue of section 4, 5 or 6;
- (b) becomes aware that the passport has been lost, stolen or destroyed; or
- (c) has formed an opinion that the person to whom the passport was issued is likely to engage in conduct that
 - (i) might prejudice the security of the Fiji Islands;
 - (ii) might endanger the health or physical safety of other persons; or
 - (iii) might interfere with the rights and freedoms of other persons, as set out in the International Covenant on Civil and Political Rights; and
- (d) considers that, in the circumstances, action to prevent the person engaging in that conduct should be taken by way of cancelling the passport.

Issue of emergency passport

9. (1) If it is not reasonably practicable to issue a Fiji Islands passport to a person who applies for and is entitled to one, a passport officer may issue an emergency passport or other travel document in the approved form.

(2) An application for an emergency passport or other travel document must be

- (a) made in the approved form; and
- (b) accompanied by the prescribed fee.

Prohibition against leaving or entering Fiji without passports

10. (1) Subject to the provisions of subsection (3), no person shall leave or enter the Fiji Islands unless he or she is in possession of a valid passport 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 the Fiji Islands shall, on demand by the passport officer or any immigration officer, produce his or her passport.

(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).

**PART 3
OFFENCES AND PENALTIES**

Failure to deliver passport an offence

11. If a Fiji Islands passport has been cancelled under section 8, a passport officer may require the holder of the passport, by notice in writing served on the holder personally, to deliver up the passport within a reasonable time specified in the notice and if the holder fails to do so without reasonable cause, the holder of the cancelled passport commits an offence and is liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

Obtaining passport by false pretences

12. A person who, for the purpose of obtaining a Fiji Islands passport or an endorsement of such a passport, makes any representation or statement which the person knows to be false or which is calculated to mislead in a material particular, or recklessly makes a statement which is false or calculated to mislead in a material particular, commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 12 months.

Power to take possession of passports

13. (1) A passport officer, an immigration officer or a police officer may take from a person and retain possession of a passport (whether a Fiji Islands passport or a passport issued by or on behalf of the government of a foreign country) that the officer reasonably suspects is in the wrongful possession of the person.

(2) A person who is in wrongful possession of a Fiji Islands passport or a passport issued by or on behalf of the government of a foreign country must, on demand, forthwith deliver the passport

to the passport officer, an immigration officer or a police officer.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence and is liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

Passports etc. to be delivered up

14. (1) In this section, "*prescribed document*" means-

(a) a passport (whether a Fiji Islands passport or a passport issued by or on behalf of the government of a foreign country) that has been obtained, or is reasonably suspected by a passport officer, an immigration officer or a police officer of having been obtained, by means of a false or misleading statement; or

(b) a passport (whether a Fiji Islands passport or a passport issued by or on behalf of the government of a foreign country) or other document that has been used, or is reasonably suspected by a passport officer, an immigration officer or a police officer of having been used, in, or in connection with, the commission of an offence under this Act.

(2) A person who is in possession or control of a prescribed document who fails, upon demand by a passport officer, an immigration officer or a police officer to forthwith deliver up the document to the passport officer, an immigration officer or any police officer commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 12 months.

Alteration, etc. of passports

15. (1) A person, other than a passport officer, who knowingly makes any alteration, addition, deletion, endorsement or erasure to or in any passport issued under this Act commits an offence.

(2) A passport is invalid if any page has been removed from it or if any unauthorised alteration, addition, deletion, endorsement or erasure has been made in it.

(3) A person who-

(a) without lawful authority or excuse, knowingly makes, uses or has in his or her possession-

- (i) any paper or other material that is specially produced for the purposes of Fiji Islands passports; or
- (ii) any paper or other material resembling, or apparently intended to resemble, paper or other material of the kind referred to in sub-paragraph (a)(i);

(b) falsifies a Fiji Islands passport;

(c) within the Fiji Islands falsifies a passport issued by or on behalf of the government of

another country;

(d) makes a false endorsement of a Fiji Islands passport or falsifies an endorsement of a Fiji Islands passport;

(e) makes a document that is false with intent that the false document should be used, acted on or accepted as if it were a Fiji Islands passport; or

(f) within the Fiji Islands, makes a document that is false with intent that the false document should be used, acted on or accepted as if it were a passport issued by or on behalf of the government of another country,

commits an offence and is liable, on conviction, to a fine of \$10,000 and to imprisonment for 5 years.

General penalty and offence

16. (1) A person convicted of an offence under this Act or the regulations for which no penalty is provided is liable to a fine of \$1,000 and to imprisonment for 6 months.

(2) A person who incites, aids and abets any other person to commit, or harbours any other person whom the person knows or has reasonable grounds for believing to have committed an offence against this Act commits an offence and is liable on conviction to a fine of \$1,000 and to imprisonment for 6 months.

**PART 4
APPEALS**

Appeal to Minister

17. (1) In this section, "*reviewable decision*" means-

(a) a decision of a passport officer under section 3, 4, 5 or 7;

(b) a decision of the Director of Immigration under section 8 to cancel a passport;

(c) a refusal of a passport officer to issue an emergency passport under section 9.

(2) When a reviewable decision is made, a person affected by the decision who is dissatisfied with it may, within 21 days after the day on which the decision was made, or within any further period the Minister (either before or after the expiration of the 21 days) allows, appeal to the Minister for a review by the Minister of the decision.

(3) An appeal under subsection (2) must-

(a) be in writing;

- (b) set out the grounds of the appeal;
- (c) be accompanied by the prescribed fee, unless the fee is waived under the Regulations; and
- (d) be lodged with the Director of Immigration.

(4) Upon receipt of the appeal, the Minister must review the reviewable decision and must within 21 days make a decision-

- (a) affirming it;
- (b) varying it; or
- (c) setting it aside and making a new decision in substitution of it.

(5) The Director of Immigration must notify the appellant of the Ministers decision as soon as practicable after it is made.

(6) Section 31 of the Interpretation Act applies to an appeal under this section.

Notice of decision

18. (1) When a reviewable decision within the meaning of section 17 has been made and notice of the making of the decision is given to the person or persons whose interests are affected by the decision, the notice must include a statement to the effect that a person affected by the decision may, if he or she is dissatisfied with it, appeal to the Minister for a review of the decision in accordance with section 17.

(2) A failure to comply with the requirements of subsection (1) when notifying a person of a decision does not affect the validity of the decision.

**PART 5
MISCELLANEOUS**

Approved forms

19. The Minister may, in writing, approve forms to be used for the purposes of this Act.

Designation of passport officers

20. The Director of Immigration may, in writing, designate a public officer or class of public officers to exercise any power of a passport officer under this Act, other than the power of cancellation under section 8.

Regulations

21. The Minister may make regulations for carrying into effect the provisions of this Act and in particular to provide for-

- (a) the conditions to be satisfied for the issue of Fiji Islands passports;
- (b) the issue or endorsement of Fiji Islands passports;
- (c) prescribe the procedure for replacing Fiji Islands passports and the action to be taken in relation to lost or damaged passports;
- (d) the fees and charges payable for the purposes of the Act or the regulations;
- (e) exempting a class of persons from the payment of fees;
- (f) the procedure for an appeal to the Minister under section 17.

Repeals and savings

22. (1) The Passports Act (Cap. 89) is repealed.

(2) At the commencement of this Act-

- (a) an application for a passport or for an endorsement of a passport made under the repealed Act, the processing of which had not been completed, is to be processed under this Act except as regards the fee payable;
- (b) any valid passport or endorsement of a passport issued under the repealed Act continues as if issued under this Act until expiry, or until it is cancelled under this Act.

Passed by the House of Representatives this 1st day of October 2002.

Passed by the Senate this 17th day of October 2002.
