



PASSPORTS BILL 2011

(BILL NO: of 2011)



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BILL

Entitled

AN ACT TO MAKE NEW PROVISIONS FOR THE ISSUE OF SOLOMON ISLANDS PASSPORTS AND OTHER TRAVEL IDENTITY DOCUMENTS, REPEAL THE PASSPORTS ACT (CAP. 61) AND OTHER RELATED MATTERS.

ENACTED by the National Parliament of Solomon Islands.

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PASSPORTS BILL 2011

PART 1—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Passports Act 2011, and commences on a date appointed by the Minister, by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires –

“appropriate form” for any particular case means a form prescribed under section 29;

“competent authority” means-

- (a) The Attorney-General or the Minister for Justice and Legal Affairs;
- (b) the Commissioner of Police, a prescribed person or a person declared by the Minister by Notice in writing in the *Gazette* to be a competent authority;

“Director” means the Director of Immigration;

“guardian” means a legal or customarily recognised guardian;

“false document” means a document that –

- (a) has been made, or altered in a material way, by a person other than a person or agency lawfully authorised to make or issue the document; or
- (b) has been issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
- (c) is being improperly used by a person other than the rightful holder;

“immigration officer” means an immigration officer within the meaning of the Immigration Act 2011;

“Passport Officer” means a person appointed by the Minister to exercise the powers under this Act and includes –

- (a) any other person designated by the appointed Passports Officer as a Passports Officer;
- (b) an overseas representative of the Solomon Islands Government appointed by the Minister to exercise in that country all or any of the powers and functions of a Passport Officer under this Act;

“prescribed” means prescribed by regulation;

“Solomon Islands passport” means a passport issued under this Act (including a passport treated as having been issued under this Act by virtue of section 30(3));

“travel identity document” means any document issued under section 15 (including a travel document treated as having been issued under this Act by virtue of section 30(3)).

PART 2—SOLOMON ISLANDS PASSPORTS

3. A Solomon Islands passport may be –

- (a) an ordinary passport; or
- (b) a diplomatic passport; or
- (c) an official passport.

Classification of
passports

4. (1) The Passport Officer must issue an ordinary passport to a Solomon Islands citizen who the Passport Officer is satisfied meets the following conditions –

Issue of passports

- (a) the application condition in section 5(1);
- (b) the identity, age and citizenship condition in section 6;
- (c) the underage consent condition in section 7;
- (d) the law enforcement condition in section 8;

- (e) the no fraud condition in section 9;
- (f) any other prescribed conditions for the issue of an ordinary passport.

(2) The Passport Officer may issue a diplomatic or official passport to a person who the Passport Officer is satisfied meets the following conditions –

- (a) the applicant is the holder of an ordinary Solomon Islands Passport; or
- (b) the applicant meets the requirements of subsection (1).

(3) The Passport Officer must refuse to issue a passport to a person if –

- (a) the person does not meet the conditions for the issue of a passport under subsection (1) or (2); or
- (b) for a person who meets the conditions for the issue of a passport, a stop travel request by a competent authority is in force under section 14 in relation to the person.

Application
condition

5. (1) The application condition for an ordinary passport is that –

- (a) the applicant must apply for the passport in the appropriate form; and
- (b) the application must be witnessed by a prescribed person; and
- (c) the application must be accompanied by the prescribed fee.

(2) The application condition for a diplomatic or official passport is that –

- (a) the applicant must apply for the diplomatic or official passport in the appropriate form for a passport of the classification being applied for; and

- (b) the application is recommended by the Minister of Foreign Affairs.

6. The identity, age and citizenship condition is that the applicant must provide evidence to the satisfaction of the Passport Officer of the applicant's identity, age and Solomon Islands citizenship.

Identity, age and citizenship condition

7. The underage consent condition is that, if the applicant is aged under 18, the applicant must provide evidence to the satisfaction of the Passport Officer that –

Underage consent condition

- (a) consent to the applicant being issued a passport has been given by each person who is legally responsible as a parent or guardian for the applicant; or
- (b) a court has ordered that the applicant be issued a passport; or
- (c) there are special and urgent circumstances that mean that the applicant should be issued a passport and, in the circumstances, it is not reasonable to require consent under paragraph (a) or a court order under paragraph (b).

8. The law enforcement condition is that a stop travel request made by a competent authority under section 14 is not in force in relation to the applicant.

Law enforcement condition

9. The no fraud condition is that the Passport Officer is satisfied that there is no reason to believe that the application is based on false or misleading information.

No fraud condition

10. A passport ceases to be in effect if –

- (a) the passport is cancelled under section 11; or
- (b) the passport expires under section 12; or
- (c) the passport becomes invalid under section 13.

Cessation of passport

11. (1) The Passport Officer must cancel a passport held by a Solomon Islands citizen if –

Cancellation of passport

- (a) the citizen is issued another Solomon Islands passport of the same classification; or
- (b) the Officer becomes aware that the passport has been lost or stolen; or

(c) the Officer becomes aware that the citizen has died; or

(d) prescribed circumstances apply.

(2) The Passport Officer may, on the order of the Minister, cancel a passport held by a Solomon Islands citizen if –

(a) a stop travel request by a competent authority is in force under section 14 in relation to the citizen; or

(b) the Minister is satisfied that a condition referred to in section 4 has ceased to be met or was never met; or

(c) the Minister is satisfied that the passport holder also holds a passport issued by a foreign country; or

(d) prescribed circumstances apply.

Expiry of passport 12. A passport that has not been cancelled expires at the end of the prescribed period.

Passport rendered invalid by unauthorised action 13. A passport becomes invalid if any page is removed from the passport or if any alteration, addition, deletion or erasure is made to the passport.

Stop travel request 14. (1) A competent authority may, by notice in writing given to the Director, request that a person be stopped from travelling internationally if the authority is satisfied that –

(a) there is a warrant for the arrest of the person in relation to an offence against a law of Solomon Islands that is a felony; or

(b) a court order requires that the person be stopped from travelling internationally.

(c) prescribed circumstances apply.

(2) The competent authority may, by notice in writing given to the Director, withdraw the request at any time and must withdraw the request if the authority ceases to be satisfied that subsection (1)(a), (b) or (c) applies.

- (3) A request is in force from the time it is made until the time it is withdrawn.

PART 3—TRAVEL IDENTITY DOCUMENTS

15. The Passport Officer may, in prescribed circumstances, issue a person with one of the following travel identity documents –

Issue of travel
identity documents

- (a) if the person is a citizen, a certificate of identity;
- (b) if the person is a non-citizen seeking protection, or who has been granted protection, under the Refugee Status Determination Act, a Convention refugee travel document;
- (c) if the person is a non-citizen other than in (b), an emergency certificate.

16. A travel identity document cannot be renewed.

No renewal of
travel identity
documents

17. (1) A travel identity document ceases to be in effect if –

Cessation of travel
identity documents

- (a) the document is cancelled under subsection (2); or
- (b) the document expires under subsection (3); or
- (c) the document becomes invalid under subsection (5).

- (2) The Passport Officer may cancel a travel identity document held by a person if –

- (a) the Officer is satisfied that the person has ceased to meet, or never met, the conditions for the issue of the document; or
- (b) the Officer becomes aware that the document has been lost or stolen; or
- (c) the Officer becomes aware that the person has died; or
- (d) a stop travel request by a competent authority is in force under section 14 in relation to the person and the Officer has reason to believe that the person is in Solomon Islands; or

(e) prescribed circumstances apply.

(3) A travel identity document expires on the date specified in the document as the expiry date.

(4) The regulations may prescribe a maximum term for travel identity documents. If the regulations do so, the expiry date specified in any such document under subsection (3) must not exceed the maximum term.

(5) A travel identity document becomes invalid if any page is removed from the document or if any alteration, addition, deletion or erasure is made to the document.

PART 4—ENFORCEMENT PROVISIONS

Power to take
possession of
documents

18. (1) The Passport Officer or an immigration officer may take and retain possession of a Solomon Islands passport or a travel identity document if the officer is satisfied that –

- (a) the passport or travel identity document has ceased to have effect; or
- (b) the passport or travel identity document is a false document; or
- (c) the passport or travel identity document has been used in the commission of an offence against this Act.

(2) The Passport Officer or an immigration officer may demand that a person surrender a passport or travel identity document to which subsection (1) applies.

(3) A person who refuses or fails to surrender a passport or travel identity document in accordance with a demand under subsection (2) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

Misleading the
Minister or Passport
Officer

19. (1) A person must not, in relation to a matter material to the exercise of a function or power of the Minister or Passport Officer under this Act, give the Minister or Passport Officer –

- (a) information that the person knows or has reasonable grounds to believe is false or misleading (including information that is misleading because of what it omits); or

- (b) a document that the person knows or has reasonable grounds to suspect is a false document.

(2) A person who contravenes subsection (1)(a) or (b) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

20. (1) A person must not use threats or dishonesty to obtain a Solomon Islands passport or travel identity document.

Obtaining a passport or travel identity document by threats or dishonesty

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

21. (1) A person must not –

- (a) make a false document that purports to be a Solomon Islands passport or travel identity document; or

Forging or unlawfully altering a passport or travel identity document

- (b) alter a Solomon Islands passport or travel identity document so that it becomes a false document.

(2) A person who contravenes subsection (1)(a) or (b) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

22. (1) A person must not possess, provide to another person or use a false document that purports to be a Solomon Islands passport or a travel identity document, if the person knows or has reasonable grounds to believe that the document is a false document.

Possessing, providing or using false document or another person's document

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

(3) A person must not possess a passport or travel identity document that is issued to another person without the consent of that person.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding

5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

(5) A person must not use a passport or travel identity document that is for another person or that has ceased to have effect.

(6) A person who contravenes subsection (5) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

Giving, lending etc., person's passport or travel identity document

23. (1) A person must not give, lend, sell or otherwise part with possession of a passport or travel identity document that applies to the person if the person knows or has reasonable grounds to believe that the document may be used by a person to commit an offence under section 21 or 22.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

Use of diplomatic or official passport

24. (1) The regulations may prescribe circumstances in which a diplomatic or official passport may be used.

(2) A person who holds a diplomatic or official passport

(a) commits an offence if the person uses the passport in circumstances that are not prescribed for the purposes of subsection (1); and

(b) is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

Sale of passport or travel identity document

25. (1) A person must not sell or cause to be sold to another person a Solomon Islands passport or travel identity document.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

Damage or destruction of passport or travel identity document

26. (1) A person must not wilfully damage or destroy a Solomon Islands passport or travel identity document that is in effect.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

27. (1) A person must notify the Passport Officer or an immigration officer as soon as practicable if the person's Solomon Islands passport or travel identity document is lost or stolen.

Notice of loss or theft of passport or travel identity document

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 2,000 penalty units.

28. (1) The Passport Officer must not exercise any influence that the Officer has in his or her capacity as the Passport Officer under this Act, or take any action in relation to the Officer's duties under this Act, with the intention of –

Abuse of office

- (a) dishonestly obtaining a benefit for himself or herself or any other person; or
- (b) dishonestly causing a detriment to another person.

(2) A person who contravenes subsection (1)(a) or (b) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

PART 5—MISCELLANEOUS

29. The Minister may make regulations that are necessary or convenient for carrying out or giving effect to this Act, and in particular make regulations prescribing the following matters –

Regulations and approved forms

- (a) matters required or permitted by this Act to be prescribed;
- (b) fees in relation to applications for or the issuing of passports or travel identity documents (including replacement passports or travel identity documents);
- (c) fees in relation to any services performed under this Act;
- (d) exempt persons from the payment of prescribed fees;

- (e) circumstances in which a passport may or must be surrendered to the Passport Officer and the duties of the Passport Officer in relation to surrendered passports;
- (f) approved forms for the purposes of this Act.

Repeal, saving and
transitional

30. (1) The Passports Act (Cap. 61) is repealed (“repealed Act”).
- (2) Any person who was a Passport Officer immediately before the commencement of this Act continues, on and from the commencement day, to be a Passport Officer as if that person had been appointed in accordance with this Act.
- (3) A Solomon Islands passport issued under the repealed Act or a document issued under section 9 or 10 of the repealed Act that was in effect immediately before the commencement day –
- (a) continues to be in effect on and after the commencement day, for the unexpired period of the passport or travel document, as if the passport or travel document had been issued under this Act; and
 - (b) is to be treated, for the purposes of this Act, as if it were a passport or travel document issued under this Act.
- (4) The Minister may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the repeal of the repealed Act and the commencement day.

PASSPORTS BILL 2011

OBJECTS AND REASONS

The objects of this Bill are –

- (a) to repeal the current Passports Act (Cap.61); and
- (b) to establish new requirements for the issuance and management of Solomon Islands passports and other travel identity documents and other related matters.

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MINISTER FOR COMMERCE, INDUSTRY, LABOUR
AND IMMIGRATION

EXPLANATORY MEMORANDUM

Clause 1 provides for the short title and the arrangements for determining the deferred commencement date of Act.

Clause 2 sets out definitions of the key terms used in the Act.

Clause 3 sets out the different categories of passports that may be issued under the Act, namely ordinary, diplomatic and official passports.

Clause 4 provides for the obligation to issue any class of passport if the applicant meets the conditions set out in the Act. The conditions include identity, age, citizenship requirement, national interest, etc. A passport application must be refused if the required conditions are not met.

Clause 5 sets out the application condition, such as form, witness and fee.

Clause 6 imposes an obligation on the applicant to provide evidence of identity, age and citizenship.

Clause 7 sets out the special requirements to be met for persons under the age of 18 years. These include consent of the parent or legal guardian.

Clause 8 provides for the law enforcement conditions relating to overseas travel to be considered, such as a warrant for a felony or serious crime.

Clause 9 sets out the no fraud conditions such as false information or document.

Clause 10 sets out the rules for cessation of passports (cancellation, expiration or invalid).

Clause 11 sets out the duty to cancel a passport, if the holder acquires another passport of the same class or dies or the passport is lost or stolen.

Clause 12 provides for determining the expiry date of passports by regulation. The intended prescribed periods are 5 years for persons under 18 years and 10 years for others.

Clause 13 provides that a passport is invalid if a page has been removed or other alterations have been made to the passport.

Clause 14 empowers a competent authority of the Solomon Islands Government to give written notice to the Director requesting that travel to another country be prohibited.

Clause 15 empowers the Passport Officer to issue other travel identity document in the form of a certificate of identity, a Refugee Convention travel document or an emergency certificate as appropriate.

Clause 16 provides that renewal of a travel identity document is prohibited.

Clause 17 sets out circumstance under which a travel identity document may be terminated.

Clause 18 empowers the Passport Officer to take and retain possession of a Solomon Islands passport or travel identity document. Circumstances include that the document has expired, it was obtained fraudulently or has been misused by the holder. Provision is also made for penalties for offences committed.

Clause 19 is the duty imposed on persons not to mislead the Minister or Passport Officer in seeking a travel document and provides for penalties for misleading actions.

Clause 20 creates the offence of use of threats or dishonesty in obtaining a passport or travel identity document and the penalty for such action.

Clause 21 creates the offence of forging or altering a passport or travel identity document together with the penalty for such activity.

Clause 22 prohibits a person from possessing a passport or travel identity document or providing it to another person if the document is a false or altered document and provides penalty for such action.

Clause 23 prohibits the holder of a passport or travel identity document from providing their travel document to a third party if the holder has reason to believe that the document may be used by a person to commit an offence under clause 21 or 22.

Clause 24 provides for prescribed circumstances for use of diplomatic or official passport along with the penalty for any misuse.

Clause 25 prohibits a person from selling a passport or travel identity document and the penalty for such action.

Clause 26 prohibits a person from damaging or destroying a Solomon Islands passport or travel identity document and the penalty for such abuse.

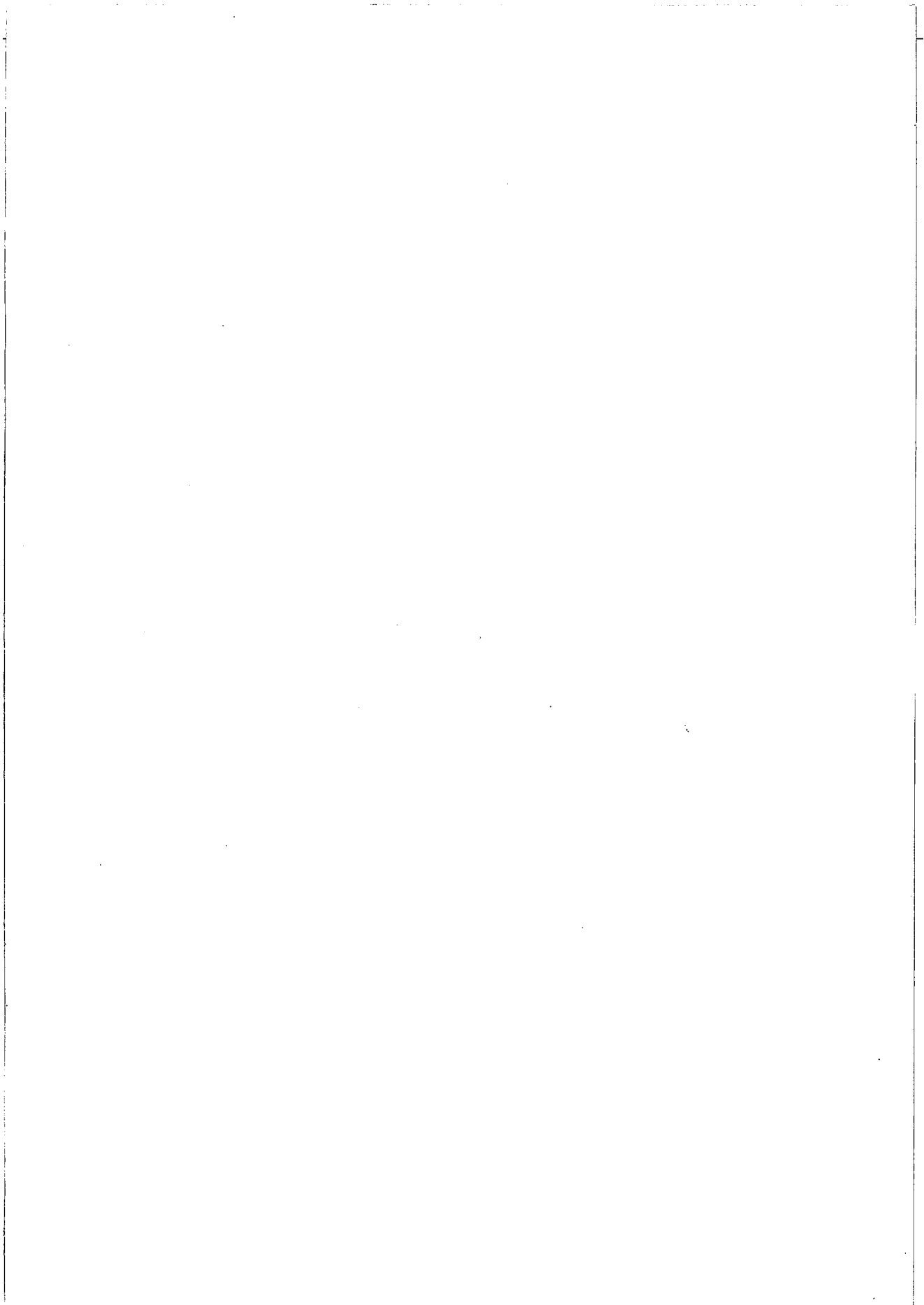
Clause 27 provides a duty to inform the Passport Officer if a Solomon Islands passport or travel identity document is lost or stolen along with the penalty for non compliance.

Clause 28 prohibits a Passport Officer from abusing their office through dishonestly obtaining benefit or causing detriment to another person.

Clause 29 is the power for the Minister to make regulations to give effect to the Act. Such matters that Regulations may prescribe include; forms, fees and administrative arrangements consistent with the intent of the Act.

Clause 30 provides for the repeal, savings and transitional provisions. These include the continuation of a person as a Passport Officer, the continuation in effect of passports and travel documents issued under the repealed Act and the making of regulations to facilitate the transition to the new Act.

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**MINISTER FOR COMMERCE, INDUSTRY, LABOUR AND
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