

(c) the words "Red Cross" or "Geneva Cross" or any words so nearly resembling those words as to be capable of being understood as referring to the emblem mentioned in paragraph (b) of this sub-section.

Penalty: Ten pounds.

(2.) Any goods upon or in connexion with which any design, emblem or words are used in contravention of this section shall be forfeited to the King.

(3.) Nothing in this section shall apply to a trade mark registered before the twenty-third day of December, One thousand nine hundred and thirty-one, and consisting of or containing any such design as is mentioned in paragraph (a) of sub-section (1.) of this section, and where a person is charged with using such a design for any purpose and it is proved that he used it otherwise than as or as part of a trade mark so registered, it shall be a good defence for him to prove—

(a) that he lawfully used the design for that purpose before that date; or

(b) in a case where he is charged with using the design upon goods, that the design had been applied to the goods before he acquired them by some other person who had manufactured or dealt with the goods in the course of trade, and that that other person lawfully used the design upon similar goods before that date.

(4.) Where an offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5.) Proceedings under this Act shall not be instituted without the consent in writing of the Attorney-General.

PASSPORTS.

No. 15 of 1938.

An Act relating to Passports.

[Assented to 5th July, 1938.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Passports Act 1938*.

Short title.

2. This Act shall commence on a date to be fixed by Proclamation.

Commencement.

Repeal.

3. The *Passports Act* 1920 is repealed :

Provided that any passport issued under the *Passports Act* 1920 and held immediately prior to the commencement of this Act shall, subject to this Act, continue in force as if issued under this Act.

Extension of
Act to
Territories.

4. This Act shall extend to the Territories of the Commonwealth.

Definitions

5.—(1.) In this Act, unless the contrary intention appears—

“ Administrator ”, in relation to a Territory, means the person charged with the duty of administering the Government thereof on behalf of the Commonwealth :

“ Australian passport ” means a passport issued under this Act ;

“ British passport ” means a passport issued by or on behalf of the Government of any part of His Majesty’s dominions and includes an Australian passport ;

“ British subject ” includes—

- (a) a person who in Australia or in any Territory of the Commonwealth is entitled to all political and other rights, powers and privileges to which a natural-born British subject is entitled ; and
- (b) an aboriginal native of any Territory of the Commonwealth or of any country under the protection of His Majesty ;

“ officer ” means any officer of the Department of the Interior, and includes any officer of Customs, any officer of the Investigation Branch of the Attorney-General’s Department, any member of the Police Force of a State or Territory of the Commonwealth, and any person authorized by the Minister to exercise the powers conferred on officers by this Act ;

“ passport ”, for the purpose of sections eight to twelve (inclusive) of this Act, includes a document of identity issued from official sources, whether within or outside Australia, and having the characteristics of a passport ;

“ this Act ” includes any regulations made thereunder.

(2.) Any reference in this Act—

- (a) to an officer shall be deemed to include a reference to a person authorized by the Administrator of a Territory, who holds a delegation from the Minister under section six of this Act, to exercise, in and in relation to that Territory, the powers conferred on officers by this Act or the Regulations ; and

(b) to a Territory shall be deemed to be a reference to a Territory not being part of the Commonwealth.

6.—(1.) The Minister may, in relation to any Territory, by writing under his hand delegate to the Administrator of that Territory all or any of his powers or functions under this Act or the Regulations (except this power of delegation) so that the delegated powers or functions may be exercised, in and in relation to that Territory, by the delegate with respect to the matters specified in the instrument of delegation.

Administration
of Act in
Territories.

(2.) Any delegation under the last preceding sub-section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Minister.

7.—(1.) Subject to the regulations, any officer authorized in that behalf by the Minister may issue Australian passports to British subjects.

Issue of
Australian
passports.

(2.) Australian passports shall be issued in the name of the Governor-General, and shall be in the prescribed form.

8.—(1.) An Australian passport may be cancelled by the Minister, or by an officer authorized in that behalf by the Minister, and the passport shall thereupon become void, and any person having in his possession or under his control any such passport shall, on demand by an officer, forthwith deliver it up to the officer.

Power to cancel
Australian
passports.

Penalty: Fifty pounds or imprisonment for three months.

(2.) Any visé, renewal or endorsement of a passport granted or made in pursuance of this Act or in pursuance of the Act repealed by this Act may be cancelled by the Minister, or by an officer authorized in that behalf by the Minister, and thereupon the visé, renewal or endorsement shall be void.

(3.) Any officer may take possession of any passport bearing a visé, renewal or endorsement which has been cancelled, and any person having in his possession or under his control any such passport shall, on demand by an officer, forthwith deliver it up to the officer.

Penalty: Fifty pounds or imprisonment for three months.

9.—(1.) Any person who holds any passport which has been obtained, or is reasonably suspected by an officer of having been obtained, by means of any false or misleading statement, shall, on demand by an officer, forthwith deliver it up to the officer.

Power to order
passport
to be delivered
up.

Penalty: Fifty pounds or imprisonment for three months.

(2.) Any person entering the Commonwealth or any Territory of the Commonwealth, who is required by or under any law of the Commonwealth or of the Territory to be in possession of a passport,

shall, if required, deliver up his passport to an officer, before leaving the vessel or aircraft in which he entered the Commonwealth or the Territory.

Penalty : Fifty pounds or imprisonment for three months.

(3.) If any person specified in the last preceding sub-section is allowed to retain his passport, he shall, if required by an officer at any time, deliver it up to the officer.

Penalty : Fifty pounds or imprisonment for three months.

(4.) Any passport delivered up to an officer in accordance with the provisions of this section may, subject to any direction of the Minister, be retained by the officer or be returned to the person who delivered it up, as the officer thinks fit.

Penalty for making false statements.

10. Any person who—

- (a) for the purpose of obtaining an Australian passport or a visé, renewal or endorsement of a passport : or
- (b) in support of an application for a passport for any other person, or for a visé, renewal or endorsement of a passport of any other person,

makes any false or misleading statement, whether orally or in writing, shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for three months.

Where proceedings may be instituted.

11. Proceedings in a court of summary jurisdiction for any offence against this Act may be instituted either in the State or Territory where the offence was committed or in the State or Territory in which the defendant is found.

Power to make regulations.

12. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular—

- (a) for empowering the Minister, or officers authorized in that behalf by the Minister, to issue certificates of identity or other documents of identity for travel purposes ;
- (b) for empowering officers authorized in that behalf by the Minister to renew and endorse British passports, and to grant visés on any passports requiring British visés ;
- (c) for prescribing the fees to be charged in respect of the issue, renewal, endorsement or visé of passports ;
- (d) for empowering the Minister to grant exemptions from the payment of fees ; and
- (e) for prescribing penalties not exceeding Fifty pounds, or imprisonment for a term not exceeding three months, for breaches of the regulations.