

1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 19 October 1988

*(Minister representing the Minister for Immigration, Local Government
and Ethnic Affairs)*

A BILL

FOR

An Act to amend the *Migration Act 1958*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title etc.

5 1. (1) This Act may be cited as the *Migration Amendment Act (No. 2) 1988*.

 (2) In this Act, "Principal Act" means the *Migration Act 1958*¹.

Commencement

 2. (1) Sections 1 and 2, subsection 3 (1) and section 11 commence on the day on which this Act receives the Royal Assent.

10 (2) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

Interpretation

15 3. (1) Section 5 of the Principal Act is amended by omitting from subsection (1) the definition of "entry permit" and substituting the following definition:

“‘entry permit’ means an entry permit granted under subsection 6 (2) or 6B (1);”.

(2) Section 5 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of “the holder”;

(b) by inserting the following definitions:

“‘certified printout’ means a printout certified by an authorised officer to be a printout of information kept in the movement records;

‘data base’ means a discrete body of information stored by means of a computer;

‘holder’, in relation to an entry permit or visa, means the person to whom the permit or visa was granted, or a person who is taken to be included in the permit or visa;

‘movement records’ means information stored in a notified data base;

‘notified data base’ means a data base declared to be a notified data base under section 65AB;

‘pre-cleared flight’ means a flight declared under subsection 6AA (6) to be a pre-cleared flight;

‘printout’ means a mechanically or electronically made reproduction of part or all of the movement records;”.

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Heading to Division 1 of Part II

4. The heading to Division 1 of Part II of the Principal Act is amended by omitting “*Permits*”.

5. After section 5C of the Principal Act the following section is inserted in Division 1 of Part II:

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Prohibited non-citizens

“5D. On entering Australia, a non-citizen becomes a prohibited non-citizen unless:

(a) he or she is the holder of an entry permit that is in force; or

(b) he or she is the holder of a visa that is in force and the entry was made under subsection 6AA (1) or (2).”.

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Entry permits

6. Section 6 of the Principal Act is amended by omitting subsection (1).

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7. After section 6 of the Principal Act the following section is inserted:

Entry permitted by visa

“6AA. (1) The holder of a visa granted on or after the commencement of this section, being a visa that is in force, may enter Australia after disembarkation at a proclaimed airport as if he or she were the holder of an entry permit.

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“(2) If the holder of a visa granted on or after the commencement of this section, being a visa that is in force:

- (a) travelled to Australia on a pre-cleared flight; and
- (b) did not land in any other country after leaving the country of embarkation of that pre-cleared flight and before arriving in Australia;

the holder may enter Australia as if he or she were the holder of an entry permit.

“(3) When the holder of a visa enters Australia under subsection (1) or (2), the visa has effect, on and after the holder’s entry, for all purposes, as if it were an entry permit granted subject to any conditions, and any limitation as to the time the holder is authorised to remain in Australia, that are specified in the visa.

“(4) Except as otherwise provided by subsection (1) or (2), a visa, whether granted before or after the commencement of this section, does not entitle the holder of the visa to enter Australia or be granted an entry permit.

“(5) Nothing in this section shall be taken to authorise a statutory visitor to enter Australia.

“(6) The Minister may, by instrument in writing, declare a specified flight by an aircraft on a specified day between a specified foreign country and Australia to be a pre-cleared flight for the purposes of this section.”.

Conditions on which entry permits may be granted to statutory visitors after entry into Australia

8. Section 6B of the Principal Act is amended by inserting in subsection (5) “5D,” after “sections”.

Certain instruments not to entitle person to enter Australia

9. Section 11 of the Principal Act is amended by omitting paragraph (2) (a).

Visas

10. Section 11A of the Principal Act is amended:

- (a) by omitting from paragraph (2) (c) “and”;
- (b) by adding at the end of subsection (2) the following word and paragraph:

“; and (e) may be granted subject to any conditions, or any limitation as to the time the holder of the visa is authorised to remain in Australia, that are specified in it.”;

- (c) by inserting after subsection (2) the following subsection:

“(2A) There shall be such classes of visas as the Minister determines from time to time by instrument in writing.”.

Persons entering Australia to be prohibited non-citizens in certain circumstances

11. Section 16 of the Principal Act is amended:

- (a) by omitting from sub-subparagraph (1) (b) (i) (A) “a permit” and substituting “an entry permit”;
- (b) by inserting in paragraph (1AA) (a) “an entry permit granted under section 6B, or” before “a further entry permit”.

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Proof of certain matters

12. Section 57 of the Principal Act is amended by inserting after paragraph (1) (ca) the following paragraphs:

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“(cb) a notation in a person’s passport specifying a proclaimed airport and date (being a notation made by an authorised officer in a form approved by the Minister) is *prima facie* evidence that the person entered Australia from that airport on that date;

(cc) a notation in a person’s passport to the effect that the person departed on a specified pre-cleared flight from a specified foreign country on a specified date (being a notation made by an authorised officer in a form approved by the Minister) is *prima facie* evidence that the person entered Australia from that pre-cleared flight;

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(cd) for the purpose of proving that a person entered Australia from, or left Australia in, an aircraft (whether or not the person travelled to Australia on a pre-cleared flight), a certified printout of the relevant movement records is *prima facie* evidence of the matters contained in the printout;”.

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13. After section 65 of the Principal Act the following sections are inserted:

Tampering with movement records

“65AA. (1) A person (other than an authorised officer carrying out duties or performing functions under or for the purposes of this Act) shall not read or examine, or reproduce by any means, any part of the movement records.

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Penalty: \$5,000 or imprisonment for 2 years, or both.

“(2) A person (other than an authorised officer carrying out duties or performing functions under or for the purposes of this Act) shall not:

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- (a) delete, alter or add to any part of the movement records;
- (b) alter any computer program connected with making, transferring or keeping movement records; or
- (c) in any other way tamper with a notified data base.

Penalty: \$20,000 or imprisonment for 10 years, or both.

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Notified data bases

5 “65AB. The Minister may, by notice in the *Gazette*, declare a data base containing information kept for the purposes of this Act in relation to the entry of persons into, and departure of persons from, Australia to be a notified data base for the purposes of this section.”.

NOTE

1. No. 62, 1958, as amended. For previous amendments, see No. 87, 1964; No. 10, 1966; Nos. 16 and 216, 1973; Nos. 37 and 91, 1976; Nos. 117 and 118, 1979; Nos. 89 and 175, 1980; No. 61, 1981; No. 51, 1982; Nos. 73 and 112, 1983; Nos. 22, 72 and 123, 1984; Nos. 71, 102 and 168, 1986; Nos. 86, 104, 133 and 141, 1987; and Nos. 5, 38 and 49, 1988.