

SHORT TITLE  
NO. & YEAR

CERTIFIED

IN OPERATION

Migration Act 1978  
(No. 57 of 1978)

12.9.1978

29.5.1980

Migration (Amendment) Act 1982  
(No. 15 of 1982)

Migration (Amendment) Act 1989  
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8.8.1989

8.8.1989

Migration (Amendment) Act 1996  
(No. 15 of 1996)

18.9.96

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N.G8/97  
p. 3

*Consolidated  
Migration Act +  
Migration regulations*

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*David Whitehead copy*

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 16.

*Migration.*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Foreign Affairs at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in and in relation to this Chapter to—

“the Departmental Head” should be read as references to the Secretary for Foreign Affairs; and

“the Department” should be read as the Department of Foreign Affairs.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 16.

*Migration Act.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 16.

*Migration Act.*

Being an Act to repeal and re-enact the law relating to entry into the country.

1. Compliance with Constitutional requirements.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the Constitution, namely—

(a) the freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and

(b) the right to privacy conferred by Section 49 of the Constitution, is a law that is made for that purpose.

"(c) the right to liberty of the person conferred by Section 42 of the *Constitution*, is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.".

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1980

2. Interpretation.

In this Act, unless the contrary intention appears—

"'Administrator' means the Administrator of a relocation centre appointed under Section 15D;" and

"authorized person" means the person authorized by the Minister or Departmental Head to exercise a power or discharge a duty or function under this Act;

"child" includes a step child and lawfully adopted child;

"conveyance" means a vessel, aircraft and any other conveyance capable of being used to convey persons;

"dependant" means, in relation to a person, the spouse of that person, not living apart from that person under a decree of court or a deed of separation, and an unmarried child of that person under the age of 16 years;

"entry" means—

(a) in the case of a person arriving in the country by sea or air at a proclaimed port—leaving the precincts of that port; and

(b) in the case of any other arrival in the country—entry into the country by land, sea or air,

but does not include an entry—

(c) made for the purposes of complying with this Act; or

(d) expressly or impliedly sanctioned by an officer for the purposes of an enquiry or detention under this Act;

"entry permit" means an entry permit issued under Section 4—

(a) which has not expired, been cancelled or become invalid; and

(b) which was not obtained or issued in consequence of fraud or misrepresentation or the concealment or non-disclosure, whether intentional or inadvertent, of a material fact or circumstance;

"holder" means, in relation to an entry permit, a person permitted by that entry permit to enter the country;

"member of the crew" means a person employed in the working of a conveyance;

"officer" means—

- (a) the Departmental Head; or
- (b) an officer employed in the Migration and Citizenship Branch of the Department; or
- (c) an officer for the purposes of the *Customs Act*; or
- (d) a District Officer; or
- (e) a commissioned officer of the Police Force; or
- (f) a person authorized by the Minister to perform consular duties on behalf of the State outside the country;

"passenger" means a person carried in a conveyance, other than a member of the crew;

"passport" includes a document of identity issued from official sources, whether inside or outside the country, and having the characteristics of a passport;

"person in charge" means—

- (a) in relation to a vessel—the master or person (except a pilot) having for the time being control or charge; and
- (b) in relation to an aircraft—the pilot; and
- (c) in the case of any other conveyance—the person having for the time being control or charge;

"ports of the port" means that part of the port at which customs and immigration formalities are conducted;

"proclaimed port" means—

- (a) an aerodrome or a port within the meaning of the *Customs Act*; or
- (b) any place proclaimed by the Minister by notice in the National Gazette to be a proclaimed port;

"refugee" means a non-citizen—

- (a) permitted to remain in Papua New Guinea pending his settlement elsewhere; or
- (b) determined by the Minister to be a refugee;

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No. 10  
of 1989.

"relocation centre" means a place declared to be a relocation centre under Section 15B;

"repealed Act" means the Act specified in Schedule 1;

"removal order" means an order made under Section 12(1);

"this Act" includes the regulations.

"vessel" includes a ship or boat or other description of craft used in navigation.

### 3. PROHIBITION ON ENTRY WITHOUT ENTRY PERMIT.

No person, other than a citizen, shall enter the country unless—

- (a) he is the holder of an entry permit; or
- (b) he is a person, or a member of a class or description of persons, exempted by the Minister under Section 20 from the requirement to hold an entry permit."

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No. 15 of 1989

### 3. Prohibition on entry without entry permit.

No person, other than a citizen, shall enter the country unless he is the holder of an entry permit.

#### Issue of entry permit.

(1) A person seeking an entry permit shall apply for it in the prescribed manner.

(2) An officer or authorized person, on receipt of an application made under Subsection (1), may issue an entry permit.

An entry permit may be issued to a person before he has entered the country or after he has entered the country.

#### 5. Conditions of entry.

An officer or authorized person may—

- (a) issue an entry permit subject to conditions; and

- (b) during the currency of an entry permit—
- (i) make it subject to conditions; and
  - (ii) vary or cancel conditions to which it is subject.

#### 6. Cancellation of entry permit and Committee of Review.

(1) The Minister may cancel an entry permit by written notice under his hand served on the holder of the permit personally or by registered post.

(2) Subject to Subsection (8), where a notice served under Subsection (1) relates to an entry permit issued for a period of more than six months, the person on whom the notice was served may, within seven days of the receipt of the notice, by written application to the Minister, request that the cancellation of the entry permit be reviewed by a Committee of Review.

(3) On the receipt of an application made under Subsection (2), the Minister shall inform the Prime Minister of the application and the Prime Minister shall, as soon as practicable, appoint a Committee of Review, consisting of three Ministers, to consider the application.

(4) On the appointment of a Committee of Review under Subsection (3), the Minister shall submit to the Committee the application and all information relevant to the applicant, his entry and stay in the country, and the reasons for the cancellation of his entry permit.

(5) After considering the application and information submitted to it under Subsection (4), and after making any inquiries or investigations it considers necessary, the Committee of Review shall confirm the cancellation of the entry permit or recommend that its cancellation be revoked.

(6) A Committee of Review may recommend that the revocation of a cancellation of an entry permit be subject to conditions.

(7) A Committee of Review shall report its recommendations to the Minister who shall take all such action as may be necessary to implement those recommendations.

(8) Where the Minister in a notice served under Subsection (1) states that the cancellation of the entry permit is for a breach of a condition imposed following a recommendation made in accordance with Subsection (6), the person on whom the notice is served shall have no right to apply to have the cancellation reviewed under Subsection (2).

#### 7. Unlawful presence in country.

(1) Subject to Subsection (2), the presence of a person, other than a citizen, in the country, is unlawful if—

- (a) he is not the holder of an entry permit; or
- (b) he evaded an officer for the purposes of entering the country.

(2) The presence of a person in the country is not unlawful if he is leaving the country in accordance with Section 9(3).

#### 8. Power to refuse entry.

(1) Notwithstanding the possession of an entry permit, a person other than a citizen may, on arrival at the country or on reporting to an officer in accordance with Section 9(1), be refused entry if—

- (a) he is unable to satisfy an officer that he has the means to support himself, and any accompanying dependant during his proposed stay in the country; or

- (b) he is, in the opinion of an officer, suffering—
  - (i) from a mental illness; or
  - (ii) from a disease which would make his presence in the country a danger to the community; or
- (c) he refuses to submit to a medical examination after being required to do so under Subsection (2); or
- (d) he is not in possession of a valid passport.

(2) An officer may, for the purposes of forming an opinion under Subsection (1)(b), require a person seeking to enter the country to submit himself to a medical examination by a medical practitioner, or detain him for that purpose.

9. Duties of persons arriving in country.

(1) A person arriving at a proclaimed port from another country and seeking to enter the country shall appear before an officer.

(2) A person appearing before an officer in accordance with Subsection (1) shall give to that officer any information the officer may require.

(3) A person refused permission to enter the country after appearing before an officer in accordance with Subsection (1)—

- (a) if he arrived by vessel and is still aboard the vessel—shall not disembark; or
- (b) if he arrived by vessel and disembarked for the purpose of appearing before the officer—

- (i) shall return to the vessel; or
- (ii) if the vessel has sailed—

(A) shall not depart from the precincts of the port except to a place approved by an officer; and

(B) shall leave the country by the first available means in accordance with any instructions given by an officer.

(4) A person refused permission to enter the country after appearing before an officer in accordance with Subsection (1)—

- (a) if he arrived by aircraft—shall return to the aircraft; or
- (b) if he arrived by aircraft and the aircraft has departed or there is not room on it for him—

(i) shall not depart from the precincts of the port except to a place approved by an officer; and

(ii) shall leave the country by the first available means in accordance with any instructions given by an officer.

10. Prevention of unlawful presence.

(1) An officer shall prevent a person from entering or remaining in the country in contravention of this Act.

(2) Where a person has entered or remained in the country in contravention of this Act, an officer shall—

- (a) return that person to the conveyance in which he arrived in the country and keep him there until its departure from the country; or
- (b) obtain a removal order in respect of that person; or

