

No. 3 of 2021.

Immigration and Citizenship Service (Amendment) Act 2021.

Certified on : 10 JUN 2021



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No. of 2021.

AN ACT

entitled

Immigration and Citizenship Service (Amendment) Act 2021.

Being an Act to amend the *Immigration and Citizenship Service Act 2010*,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. OBJECTIVES OF THE AUTHORITY (AMENDMENT OF SECTION 4).

Section 4 of the Principal Act is amended by inserting, immediately after Paragraph (k), the following new paragraph:

“(l) manage certain aspects of the integrated work permit and employment entry visa system.”.

2. FUNCTIONS OF THE AUTHORITY (AMENDMENT OF SECTION 5).

Section 5 of the Principal Act is amended in Subsection (1), by repealing Paragraph (a), (b), (d) and (e) and replacing them with the following new paragraphs:

- “(a) to perform the functions and exercise the powers conferred on an authorized person or an officer under the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17) and the *Employment of Non-Citizens Act 2007*; and”;
- (b) to assist the Ministers responsible for the administration of the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17) and the *Employment of Non-Citizens Act 2007* in the performance of their functions under those Acts respectively; and”;
- (d) to collect fees, penalties and other revenue authorised under the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17), *Citizenship Act* (Chapter 12); and”;
- and
- (e) to administer the APEC Business Travel Card Scheme under the *Passport Regulation* (Chapter 17); and”.

3. INTERESTS OF THE STATE (AMENDMENT OF SECTION 7).

Section 7 of the Principal Act is amended by repealing Subsection (1), and replacing it with the following new subsection:

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“(1) Where in the opinion of the Minister, a State body has unduly affected the application, grant or consideration of any entry permit, work permit application, visa, passport or citizenship application or whose action has adversely affected the interest of the State, he may refer the matter to the Minister responsible for such State body.”.

4. ESTABLISHMENT OF THE BOARD (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended by repealing Subsection (2), and replacing it with the following new subsection:

“(2) The functions of the Board are to provide policy and strategic advice to the Minister and the Chief Migration Officer consistent with the Authority’s functions and objectives including the Authority’s legislative and administrative responsibilities under the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17), *Citizenship Act* (Chapter 12) and the *Employment of Non-Citizens Act 2007*.”.

5. MEMBERSHIP OF THE BOARD (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended in Subsection (1), by inserting, immediately after Paragraph (a), the following new paragraph:

“(aa) the departmental head of the Department responsible for Labour and Industrial Relations or his nominee *ex-officio*.”.

6. FINES AND FEES (AMENDMENT OF SECTION 35).

Section 35 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following new subsection:

“(1) All fees, fines and other imposts or charges payable under the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17), the *Citizenship Act* (Chapter 12), the *Employment of Non-Citizens Act 2007* or this Act shall be collected by the Authority on behalf of the State.”.

7. REPEAL AND REPLACEMENT OF SECTION 46.

Section 46 of the Principal Act is repealed and replaced with the following new section:

“46. AUTHORISED PERSONS OR OFFICERS.

The Chief Migration Officer and the Staff or employees of the Authority are deemed to be authorised persons or officers for the purposes of the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17) and the *Employment of Non-Citizens Act 2007*.”.

8. PROTECTION OF EMPLOYEES (AMENDMENT OF SECTION 47).

Section 47 of the Principal Act is amended by repealing Subsection (1), and replacing it with the following new subsection:

“(1) The Minister, the Chief Migration Officer or an employee of the Authority, including casual and temporary employees, is not personally liable for any matter or thing done or omitted to be done by him in good faith in the exercise of his powers or the performance of his duties under this Act, the *Migration Act* (Chapter 16), the *Passport Act* (Chapter 17), the *Citizenship Act* (Chapter 12) or the *Employment of Non-Citizens Act 2007*.”.

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9. REGULATIONS (AMENDMENT OF SECTION 50).

Section 50 of the Principal Act is amended by repealing Subsection (2), and replacing it with the following new subsection:

“(2) The regulation making powers under this Act apply only to this Act and do not extend to the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17), *Citizenship Act* (Chapter 12) or the *Employment of Non-Citizens Act 2007*.”

10. TRANSFER OF ASSETS AND LIABILITIES TO THE AUTHORITY (AMENDMENT OF SECTION 52).

Section 52 of the Principal Act is amended -

(a) by inserting, immediately after Subsection (1), the following new subsection:

“(1A) All assets used for the Authority’s services (other than land held by the State) which, immediately before the coming into operation of this Act, were held by the Department of Labour and Industrial Relations and which, by agreement between the Departmental Head of that Department and the Authority, are necessary to be transferred to the Authority for the purposes of the Authority, are, on that coming into operation, transferred to and become assets of the Authority.”.

(b) by inserting, immediately after Subsection (2), the following new subsection:

“(2A) All land in Papua New Guinea in the name of the State held under a Certificate of Occupancy or set aside for use by the Department of Labour and Industrial Relations, for the purpose of providing work permit processing services, immediately before the coming into operation of this Act, is, on and from the coming into operation, deemed to have been transferred to and to have become the property of the Authority.”.

11. REPEAL AND REPLACEMENT OF SECTION 53.

Section 53 of the Principal Act is repealed and replaced with the following new section:

“53. CONTRACTS.

(1) All contracts and agreements entered into, made with or addressed to -

(a) the State, through the Department of Foreign Affairs and Trade; or

(b) the Immigration and Citizenship Service,

in so far as they relate to the functions of the Authority under this Act, are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the Department of Foreign Affairs and Trade are on that coming into operation, binding on and of full force and effect against or in favour of the Authority as fully and effectually as if instead of the State or the Department of Foreign Affairs and Trade, the Authority has been a party to them or bound by them or entitled to the benefits of them.

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- (2) All contracts and agreements entered into, made with or addressed to -
- (a) the State, through the Department of Labour and Industrial Relations; or
 - (b) the Immigration and Citizenship Service,

in so far as they relate to the functions of the Authority under this Act, are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the Department of Labour and Industrial Relations are on that coming into operation, binding on and of full force and effect against or in favour of the Authority as fully and effectually as if instead of the State or the Department of Labour and Industrial Relations, the Authority has been a party to them or bound by them or entitled to the benefits of them.”.

12. REPEAL AND REPLACEMENT OF SECTION 54.

Section 54 of the Principal Act is repealed and replaced with the following new section:

“54. ACTIONS, ETC., NOT TO ABATE.

(1) Where, immediately before the commencement date, any arbitration, action or proceedings was pending or existing by, against or in favour of -

- (a) the Department of Foreign Affairs and Trade that relate to the Immigration and Citizenship Service; or
- (b) the Papua New Guinea Immigration and Citizenship Service, it does not, on the commencement date, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Authority.

(2) Where, immediately before the commencement date of this Act, any arbitration, action or proceedings was pending or existing by, against or in favour of the Department of Labour and Industrial Relations that relate to the functions of the Authority, it does not, on the commencement date, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the Authority.”.

13. STAFF (AMENDMENT OF SECTION 55).

Section 55 of the Principal Act is amended by inserting immediately after Paragraph (b), the following new paragraph:

- “(c) an office in the Foreign Employment Division of the Department of Labour and Industrial Relations shall, on the coming into operation of this Act, hold a similar office under this Act until such time as appointments are made under this Act.”.

14. APPLICATION OF ACTS, ETC. (AMENDMENT OF SECTION 56).

Section 56 of the Principal Act is amended -

- (a) by inserting immediately after Subsection (1), the following new subsection:

“(1A) Where -

- (a) any act, or subordinate legislation other than this Act; or

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(b) any document or instrument wherever made or executed, contains a reference, express or implied, to the Department of Labour and Industrial Relations (or the Department responsible for work permit processing matters) that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to the Authority and in such cases, references in other Acts to the Departmental Head and Departmental officers are taken to be references to the Chief Migration Officer and Employees of the Authority.”.

(b) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) Nothing in this Act affects the validity of anything done under the *Migration Act* (Chapter 16), *Passport Act* (Chapter 17), *Citizenship Act* (Chapter 12) or the *Employment of Non-Citizens Act 2007*.”.

15. NEW SECTION 59.

The Principal Act is amended by inserting immediately after Section 58, the following new section:

“59. TRANSFER NOTICE.

(1) The Minister may, by gazette notice (a transfer notice), do any supplemental matter the Minister considers necessary to facilitate the transfer of a function mentioned in Subsection (1).

(2) A transfer notice has effect despite any other law of instrument.

(3) A transfer notice -

(a) has effect on the day it is published in the gazette or another day stated in the notice; and

(b) may have retrospective operation to a day not earlier than the day this Act commences.

(4) A transfer notice must not be made after 3 months from the commencement of this Act.”.

I hereby certify that the above is a fair print of the *Immigration and Citizenship Service (Amendment) Act 2021*, which has been made by the National Parliament.

Clerk of the National Parliament.
10 JUN 2021

I hereby certify that the *Immigration and Citizenship Service (Amendment) Act 2021*, was made by the National Parliament on 21 April 2021.

Speaker of the National Parliament.
10 JUN 2021

