



## Passports Amendment Act 2014

Public Act 2014 No 71  
Date of assent 11 December 2014  
Commencement see section 2

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### The Parliament of New Zealand enacts as follows:

- Title**  
This Act is the Passports Amendment Act 2014.
- Commencement**  
This Act comes into force on 12 December 2014.

**3 Principal Act**

This Act amends the Passports Act 1992 (the **principal Act**).

**4 New cross-heading and sections 45 and 46 inserted**

After section 44, insert:

*“Application***“45 Application of temporary provisions in Schedule**

- “(1) The temporary provisions set out in the Schedule apply during the period—
- “(a) beginning on 12 December 2014; and
  - “(b) ending with the close of 31 March 2017.
- “(2) The temporary provisions have the following effect while they apply:
- “(a) clause 1 of the Schedule replaces section 4A:
  - “(b) clause 2 of the Schedule replaces section 8A:
  - “(c) clause 3 of the Schedule replaces section 20A:
  - “(d) clause 4 of the Schedule replaces section 25A:
  - “(e) clause 5 of the Schedule replaces section 27B:
  - “(f) clause 6 of the Schedule replaces section 27E:
  - “(g) clauses 7 to 9 of the Schedule supplement the provisions set out in the body of this Act.
- “(3) If a temporary provision replaces a provision in the body of this Act, the application of the replaced provision is suspended.
- “(4) If a temporary provision duplicates, modifies, supplements, or is inconsistent with a provision in the body of this Act, the temporary provision prevails.
- “(5) To avoid doubt,—
- “(a) any replaced provision continues to apply with respect to any relevant matter arising before the commencement of this section:
  - “(b) any cross-reference in this Act or any other enactment or document to a replaced provision is to be treated as a cross-reference to the corresponding replacement provision with respect to any relevant matter arising on or after the commencement of this section:
  - “(c) sections 28 and 29 apply to clauses 1 to 6 of the Schedule as if those clauses were in Part 1.

“(6) This section and the Schedule are repealed on 1 April 2017.

**“46 Transitional provision**

“(1) On or after 1 April 2017, any person whose New Zealand travel document was recalled under clause 2, 3, 4, or 6 of the Schedule (as inserted by the Passports Amendment Act 2014) may, 12 months after the date on which that person’s New Zealand travel document was recalled, apply for—

“(a) the return of that New Zealand travel document; or

“(b) a new New Zealand travel document.

“(2) This section is repealed on 1 April 2018.”

**5 New Schedule inserted**

After section 46 (as inserted by section 4 of this Act), insert the Schedule set out in the Schedule of this Act.

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**Schedule**

s 5

**New Schedule inserted****Schedule**

s 45

**Temporary provisions**

- 1 Refusal to issue passport on grounds of national security**
- (1) The Minister may refuse to issue a New Zealand passport to a person if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the refusal to issue a passport will prevent or effectively impede the ability of the person to carry out the intended action.
- (2) The Minister may also refuse to issue a New Zealand passport to a person if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and
  - (b) the danger to the security of that country cannot be effectively averted by other means; and
  - (c) the refusal to issue a passport will prevent or effectively impede the ability of the person to carry out the intended action.

- (3) To avoid doubt, the Minister may refuse to issue a New Zealand passport to a person who is outside New Zealand.
- (4) If the Minister refuses to issue a passport under this clause,—
  - (a) the Minister must notify the person in writing of the refusal, and the reasons for it; and
  - (b) the person is not entitled to obtain a New Zealand passport during the 12-month period starting with the date of the decision, unless the Minister’s decision under this clause is revoked by the Minister or by a court.
- (5) Despite subclause (4)(a),—
  - (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk;
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (6) Despite subclause (4)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister is satisfied that the person would continue to pose a danger to New Zealand or any other country.
- (7) If the period exceeds 12 months,—
  - (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person’s submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—
    - (i) inviting the person to make a written submission to the Minister about the decision; and
    - (ii) determining whether the decision should be revoked, having regard to the person’s submission (if any).
- (8) The Minister may, at any time before the expiry of the period referred to in subclause (4)(b) or (6), apply to a Judge of the High Court for an order to extend for a further period not ex-

ceeding 12 months the period during which the person is not entitled to obtain a New Zealand passport.

- (9) The Judge must make the order applied for if satisfied that—
- (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that subclause (1) or (2) still applies in relation to the person concerned.

## **2 Cancellation of passport on grounds of national security**

- (1) The Minister may, by notice in writing, recall any New Zealand passport, and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the cancellation of the passport, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (2) The Minister may also, by notice in writing, recall any New Zealand passport, and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and

- (b) the danger to the security of that country cannot be effectively averted by other means; and
  - (c) the cancellation of the passport, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (3) To avoid doubt, the Minister may recall, cancel, or retain possession of a New Zealand passport for a person who is outside New Zealand.
- (4) If the Minister cancels or retains possession of a passport under this clause,—
  - (a) the Minister must notify the person in writing of the cancellation or retention, and the reasons for it; and
  - (b) the person is not entitled to obtain that passport or another New Zealand passport during the 12-month period starting with the date of the decision, unless the Minister's decision under this clause is revoked by the Minister or by a court.
- (5) Despite subclause (4)(a),—
  - (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk:
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (6) Despite subclause (4)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister is satisfied that the person would continue to pose a danger to New Zealand or any other country.
- (7) If the period exceeds 12 months,—
  - (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person's submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—

- (i) inviting the person to make a written submission to the Minister about the decision; and
  - (ii) determining whether the decision should be revoked, having regard to the person's submission (if any).
- (8) The Minister may, at any time before the expiry of the period referred to in subclause (4)(b) or (6), apply to a Judge of the High Court for an order to extend for a further period not exceeding 12 months the period during which the person is not entitled to obtain the passport or another New Zealand passport.
- (9) The Judge must make the order applied for if satisfied that—
  - (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that subclause (1) or (2) still applies in relation to the person concerned.

### **3 Cancellation of certificate of identity on grounds of national security**

- (1) The Minister may, by notice in writing, recall any certificate of identity issued to any person by or on behalf of the New Zealand Government, and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
  - (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the cancellation of the certificate of identity, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.

- (2) The Minister may also, by notice in writing, recall any certificate of identity issued to any person by or on behalf of the New Zealand Government, and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and
  - (b) the danger to the security of that country cannot be effectively averted by other means; and
  - (c) the cancellation of the certificate of identity, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (3) To avoid doubt, the Minister may recall, cancel, or retain possession of a certificate of identity for a person who is outside New Zealand.
- (4) If the Minister cancels or retains possession of a certificate of identity under this clause,—
- (a) the Minister must notify the person in writing of the cancellation or retention, and the reasons for it; and
  - (b) the person is not entitled to obtain that certificate of identity or another New Zealand travel document during the 12-month period starting with the date of the decision, unless the Minister’s decision under this clause is revoked by the Minister or by a court.
- (5) Despite subclause (4)(a),—
- (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk;
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (6) Despite subclause (4)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister

is satisfied that the person would continue to pose a danger to New Zealand or any other country.

- (7) If the period exceeds 12 months,—
- (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person's submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—
    - (i) inviting the person to make a written submission to the Minister about the decision; and
    - (ii) determining whether the decision should be revoked, having regard to the person's submission (if any).
- (8) The Minister may, at any time before the expiry of the period referred to in subclause (4)(b) or (6), apply to a Judge of the High Court for an order to extend for a further period not exceeding 12 months the period during which the person is not entitled to obtain the certificate of identity or another New Zealand travel document.
- (9) The Judge must make the order applied for if satisfied that—
- (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that subclause (1) or (2) still applies in relation to the person concerned.

#### **4 Cancellation of emergency travel document on grounds of national security**

- (1) The Minister may, by notice in writing, recall any emergency travel document issued to any person (other than a journey-specific emergency travel document issued under section 23(3)), and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—

- (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the cancellation of the emergency travel document, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (2) The Minister may also, by notice in writing, recall any emergency travel document issued to any person (other than a journey-specific emergency travel document issued under section 23(3)), and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and
  - (b) the danger to the security of that country cannot be effectively averted by other means; and
  - (c) the cancellation of the emergency travel document, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (3) To avoid doubt, the Minister may recall, cancel, or retain possession of an emergency travel document for a person who is outside New Zealand.
- (4) If the Minister cancels or retains possession of an emergency travel document under this clause,—
- (a) the Minister must notify the person in writing of the cancellation or retention, and the reasons for it; and

- (b) the person is not entitled to obtain that emergency travel document or another New Zealand travel document (other than a journey-specific emergency travel document issued under section 23(3)) during the 12-month period starting with the date of the decision, unless the Minister's decision under this clause is revoked by the Minister or by a court.
- (5) Despite subclause (4)(a),—
  - (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk:
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (6) Despite subclause (4)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister is satisfied that the person would continue to pose a danger to New Zealand or any other country.
- (7) If the period exceeds 12 months,—
  - (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person's submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—
    - (i) inviting the person to make a written submission to the Minister about the decision; and
    - (ii) determining whether the decision should be revoked, having regard to the person's submission (if any).
- (8) The Minister may, at any time before the expiry of the period referred to in subclause (4)(b) or (6), apply to a Judge of the High Court for an order to extend for a further period not exceeding 12 months the period during which the person is not entitled to obtain the emergency travel document or another New Zealand travel document.

- (9) The Judge must make the order applied for if satisfied that—
- (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that sub-clause (1) or (2) still applies in relation to the person concerned.

**5 Refusal to issue refugee travel document on grounds of national security**

- (1) The Minister may refuse to issue a New Zealand refugee travel document to a person if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the refusal to issue a refugee travel document will prevent or effectively impede the ability of the person to carry out the intended action.
- (2) The Minister may also refuse to issue a New Zealand refugee travel document to a person if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and
  - (b) the danger to the security of that country cannot be effectively averted by other means; and

- (c) the refusal to issue a refugee travel document will prevent or effectively impede the ability of the person to carry out the intended action.
- (3) To avoid doubt, the Minister may refuse to issue a New Zealand refugee travel document to a person who is outside New Zealand.
- (4) If the Minister refuses to issue a New Zealand refugee travel document under this clause,—
  - (a) the Minister must notify the person in writing of the refusal, and the reasons for it; and
  - (b) the person is not entitled to obtain a New Zealand refugee travel document during the 12-month period starting with the date of the decision, unless the Minister's decision under this clause is revoked by the Minister or by a court.
- (5) Despite subclause (4)(a),—
  - (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk;
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (6) Despite subclause (4)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister is satisfied that the person would continue to pose a danger to New Zealand or any other country.
- (7) If the period exceeds 12 months,—
  - (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person's submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—
    - (i) inviting the person to make a written submission to the Minister about the decision; and

- (ii) determining whether the decision should be revoked, having regard to the person's submission (if any).
- (8) The Minister may, at any time before the expiry of the period referred to in subclause (4)(b) or (6), apply to a Judge of the High Court for an order to extend for a further period not exceeding 12 months the period during which the person is not entitled to obtain a New Zealand refugee travel document.
- (9) The Judge must make the order applied for if satisfied that—
  - (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that subclause (1) or (2) still applies in relation to the person concerned.

## **6 Cancellation of refugee travel document on grounds of national security**

- (1) The Minister may, by notice in writing, recall any New Zealand refugee travel document, and cancel it or retain possession of it, if the Minister believes on reasonable grounds that—
  - (a) the person is a danger to the security of New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; or
    - (iii) any unlawful activity designed or likely to cause devastating or serious economic damage to New Zealand, carried out for purposes of commercial or economic gain; and
  - (b) the danger to the security of New Zealand cannot be effectively averted by other means; and
  - (c) the cancellation of the New Zealand refugee travel document, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (2) The Minister may also, by notice in writing, recall any New Zealand refugee travel document, and cancel it or retain pos-

- session of it, if the Minister believes on reasonable grounds that—
- (a) the person is a danger to the security of a country other than New Zealand because the person intends to engage in, or facilitate,—
    - (i) a terrorist act within the meaning of section 5 of the Terrorism Suppression Act 2002; or
    - (ii) the proliferation of weapons of mass destruction; and
  - (b) the danger to the security of that country cannot be effectively averted by other means; and
  - (c) the cancellation of the New Zealand refugee travel document, or its retention by the Minister, will prevent or effectively impede the ability of the person to carry out the intended action.
- (3) If the Minister cancels or retains possession of a New Zealand refugee travel document under this section,—
- (a) the Minister must notify the person in writing of the cancellation or retention, and the reasons for it; and
  - (b) the person is not entitled to obtain that New Zealand refugee travel document or another New Zealand refugee travel document during the 12-month period starting with the date of the decision, unless the Minister's decision under this section is revoked by the Minister or by a court.
- (4) Despite subclause (3)(a),—
- (a) the Minister may defer notifying the person for a period not exceeding 30 days if the Minister is satisfied that giving notice sooner would prejudice an ongoing investigation or put the security or safety of any person at risk;
  - (b) notice is to be treated as given if the Minister has taken all practicable steps to provide it.
- (5) Despite subclause (3)(b), the Minister may specify a longer period in the notice, not exceeding 36 months, if the Minister is satisfied that the person would continue to pose a danger to New Zealand or any other country.
- (6) If the period exceeds 12 months,—

- (a) the person may, within 30 days after the date on which the notice was issued, make a written submission to the Minister about the length of the period and, if a submission is made, the Minister must review the length of the period, having regard to the person's submission; and
  - (b) the Minister must, every 12 months after the date on which the notice was issued (if yet to expire), review the decision by—
    - (i) inviting the person to make a written submission to the Minister about the decision; and
    - (ii) determining whether the decision should be revoked, having regard to the person's submission (if any).
- (7) The Minister may, at any time before the expiry of the period referred to in subclause (3)(b) or (5), apply to a Judge of the High Court for an order to extend for a further period not exceeding 12 months the period during which the person is not entitled to obtain the New Zealand refugee travel document or another New Zealand refugee travel document.
- (8) The Judge must make the order applied for if satisfied that—
  - (a) the information presented in support of the application is credible, having regard to its source or sources; and
  - (b) the information reasonably supports a finding that subclause (1) or (2) still applies in relation to the person concerned.
- (9) Nothing in this section authorises the Minister to cancel a New Zealand refugee travel document at a time when its holder is outside New Zealand.

## **7 Temporary suspension of New Zealand travel documents**

- (1) The Minister may suspend a person's New Zealand travel document for a period not exceeding 10 working days if the Minister is satisfied that—
  - (a) a report is, in respect of clause 2, 3, 4, or 6, being prepared regarding the danger that the person presents to the security of New Zealand or another country; and
  - (b) the person is likely to travel before the report is prepared.

- (2) If, during the preparation of the report, it becomes apparent that the grounds for cancellation (as specified in clause 2, 3, 4, or 6) cannot be established,—
- (a) the Minister must be notified immediately; and
  - (b) the suspension lapses when the Minister is notified.

### **8 Proceedings where national security involved**

- (1) Sections 29AA to 29AC also apply to—
- (a) any application for judicial review of a decision made under clause 1, 2, 3, 4, 5, 6, or 7; and
  - (b) any other proceedings that challenge a decision made under this Act that involves matters of security.
- (2) With respect to section 29AA, if a decision, which may be made at any time, is made to withdraw any classified security information,—
- (a) the classified security information—
    - (i) must be kept confidential and must not be disclosed by the court; and
    - (ii) must be returned to the relevant agency; and
  - (b) the court must continue to make the decision or determine the proceedings—
    - (i) without regard to that classified security information; and
    - (ii) in the case of an appeal or a review of proceedings, as if that information had not been available in making the decision subject to the appeal or review.

Compare: 2009 No 51 s 37(4), (5)

### **9 Limitation of Crown liability**

- (1) This clause applies to any decision made under clause 1, 2, 3, 4, 5, 6, or 7.

- (2) The Crown is not liable to any person for any loss or damage as a result of, or in connection with, a decision referred to in subclause (1) unless the person or persons taking those actions, or any employee of the Crown performing any function directly or indirectly connected with those actions, has not acted in good faith or has been grossly negligent.

Compare: 1996 No 27 s 280E(1), (2)

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### **Legislative history**

9 December 2014	Divided from Countering Terrorist Fighters Legislation Bill (Bill 1–2), third reading
11 December 2014	Royal assent

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This Act is administered by the Department of Internal Affairs.

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