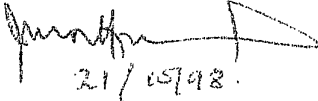
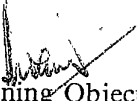


INTRODUCTION FILE

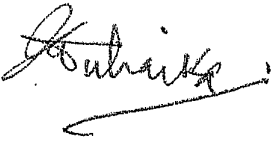
THE IMMIGRATION (AMENDMENT) BILL 1998 1998
.....
(NAME OF BILL)

CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)

FROM: Attorney General's Chambers 
21/10/98.

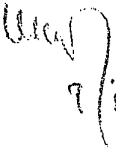
TO: Minister 
(for signing Objects & Reasons, Notice of Presentation and covering
letter to Clerk)

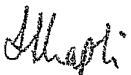
TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60
of Constitution)

TO: Clerk to National Parliament  21/10/98
(for certificate by Speaker)

TO: Attorney General's Chambers
(for printing)

TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed... 22/10/98... Act No. 9.....)

TO: Attorney General's Chambers 
(for checking before Assent) 9/11/99

TO: Governor-General  12/8/99
(for Assent)



**THE IMMIGRATION
(AMENDMENT)
ACT 1998
(NO.9 OF 1998)**



**THE IMMIGRATION (AMENDMENT)
ACT 1998
(NO.9 OF 1998)**

Passed by the National Parliament this twenty-second day of October 1998.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

Elizabeth Andresen
Elizabeth Andresen
Acting Clerk to National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this twelfth day of August 1999.

John Ini Lapli
Rev. John Ini Lapli
Governor-General

Date of commencement: see section 1

AN ACT To Amend the Immigration Act, No. 27 of 1978.

ENACTED by the National Parliament of Solomon Islands.

**THE IMMIGRATION (AMENDMENT)
ACT 1998
(NO.9 OF 1998)**

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 2 of Act No. 27 of 1978.
3. Deletion of title "Principal Immigration Officer" and substitution.
4. Amendment of section 4.
5. Amendment of section 5.
6. Amendment of section 7.
7. Repeal and replacement of section 8.
8. Amendment of section 9.
9. Amendment of section 11.
10. Insertion of new section 13A.
11. Insertion of new Part IIIA.
12. Amendment of section 14.
13. Insertion of new section 14A.
14. Amendment of section 17.
15. Amendment of section 18.
16. Amendment of section 19.

1. This Act may be cited as the Immigration (Amendment) Act, 1998, and shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

Short title and commencement

2. Section 2 of the Immigration Act (hereinafter referred to as the "principal Act") is hereby amended by inserting therein in proper alphabetical order the following new definitions -

Amendment of section 2 of Act No. 27 Of 1978.

"harbour" means to provide shelter and includes any act of intentionally assisting a person who attempts to breach or has breached any provision of this Act in any way whatsoever in order to evade or avoid detection or apprehension;

"immigration depot" means any place designated by the Director of Immigration for the examination, inspection, interrogation or detention of persons who are deemed to have breached any of the provisions of this Act or for the detention of persons who are declared as prohibited immigrants or undesirable immigrants or persons who transit by way of repatriation or deportation from another country;

"passenger" means any person other than a member of a crew or a seaman who embarks or disembarks from a vessel or aircraft;

"re-entry permit" means a permit issued to a valid holder of a permit to re-enter Solomon Islands;

"ship" includes yacht or canoe;

"stowaway" means a person who places himself on board a ship or aircraft without the consent of the master or of the person in charge of the ship or aircraft and includes a person who is arriving in or departing from Solomon Islands on board any ship or aircraft without the consent of the master or other person in charge of the ship or aircraft; and

"transit passenger" means any person who enters Solomon Islands on a ship or aircraft and who is continuing his journey or leaves Solomon Islands on the same ship or aircraft or on a different ship or aircraft, provided the

period of stay in Solomon Islands does not exceed seven days.

Deletion of title "Principal Immigration Officer" and substitution

3. The principal Act is hereby amended by deleting therefrom the words "Principal Immigration Officer" wherever those words appear in the principal Act and substituting therefor in each case the words "Director of Immigration".

Amendment of section 4.

4. Section 4 of the principal Act is hereby amended in the following respects -

(a) by deleting the full stop that appears at the end of paragraph (e) therein and substituting therefor a semi-colon; and

(b) by adding after paragraph (e) the following new paragraph as paragraph (f) -

" (f) where he has reasonable cause to believe that a person who disembarks or is about to disembark from any ship or aircraft is a prohibited immigrant, require such person to board the ship or aircraft on which he arrived and leave Solomon Islands. The immigration officer may further, if the circumstances so require, handcuff or detain such person so as to prevent any damage or harm to the ship or aircraft or its passengers and may use reasonable force to ensure that such person boards the ship or aircraft".

Amendment of section 5.

5. Section 5 of the principal Act is hereby amended in the following respects -

(a) in subsection (1) -

(i) by deleting the full stop that appears at the end of subparagraph (d)(iii) and inserting therefor a semi-colon; and

(ii) by inserting immediately after the semi-colon so inserted the following paragraphs as paragraphs (e), (f) and (g) respectively -

" (e) submit to such search of his ship or aircraft as may be required to establish the presence or absence of other persons whose names may not be included in the completed list delivered pursuant

to paragraph (a) or is a prohibited immigrant;

(f) if required to do so by the immigration officer produce any member of the crew or any passenger for inspection or interrogation;

(g) not discharge in Solomon Islands any of his seamen or a member of the crew unless the seaman or member of the crew -

(i) is a citizen of Solomon Islands;

(ii) if not a citizen of Solomon Islands, is in possession of a valid travel document and an onward ticket from Solomon Islands to some other country which he will be able to enter or of which he is a national or citizen; or

(iii) is in possession of a valid permit lawfully issued to him under this Act; or

(iv) needs to be discharged on humanitarian grounds to the satisfaction of the Director of Immigration.”; and

(b) by deleting from subsection (3) the words paragraphs (a), (b), (c) or (d), of subsection (1)”, and substituting therefor the words “paragraphs (a), (b), (c), (d), (e), (f) or (g) of subsection”.

6. Section 7 of the principal Act is hereby amended by inserting immediately after subsection (1) the following new subsections as subsections (2) and (3) respectively -

Amendment
of section 7.

(2) Where the Minister makes an order under paragraph (g) of subsection (1) he may prescribe in the order the period of time such person or class of persons may reside in Solomon Islands and such further conditions as he may deem fit.

(3) The Minister may by order revoke or vary any

order made under paragraph (g) of subsection (1)".

Repeal and
replacement
of section 8.

7. The principal Act is hereby amended by repealing section 8 and substituting therefor the following new section 8 -

"Permit
to enter
and
reside.

8. (1) Subject to the conditions specified in subsection (2), the Director of Immigration may issue a permit in the prescribed form authorising a person to enter and reside in Solomon Islands if -

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(a) such person has obtained a work permit from the Commissioner of Labour under section 68 of the Labour Act;

Act No. 9 of
1978.

(b) such person is not the subject of a deportation order under section 5 of the Deportation Act;

(c) such person has given reasons to the satisfaction of the Director of Immigration regarding his application for a permit under this section;

(d) such person has satisfied the Director of Immigration that his financial status is adequate;

(e) such person is an investor and the requisite Investment Board approval has been obtained;

(f) the nature of such person's business, profession or employment is such that it requires his presence in Solomon Islands;

(g) such person is the spouse or child over 18 years of a Solomon Islands citizen; or

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(h) such person is in possession of a valid research permit issued under the Research Act authorising him to carry out research.

(2) The conditions upon which a permit to enter and reside may be granted under subsection (1) are that

such person whilst in Solomon Islands -

(a) shall not behave in a manner prejudicial to the peace or good order of Solomon Islands;

(b) shall not engage in any business, profession or employment except that for which permission has been granted by the Commissioner of Labour or by the Investment Board, as the case may require;

(c) in the case of a spouse qualifying under paragraph (g) of subsection (1), such person shall not own, manage, invest or provide capital in any business undertaking of his spouse who is a Solomon Islands citizen, unless approval has been obtained from the Investment Board; and

(d) shall be subject to such other conditions which the Director of Immigration may impose which are consistent with the provisions of this Act.

(3) The Director of Immigration may cancel a permit to enter and reside issued to a person under this section if he is satisfied that such person -

(a) has breached any or all of the conditions of his permit to enter and reside;

(b) is engaged in any business or other business activity, in respect of which he was not granted a permit to enter and reside;

(c) has become a prohibited immigrant;

(d) has become incapable of supporting himself or his dependants;

(e) has behaved in a manner prejudicial to the peace or good order of Solomon Islands;

(f) has made false representation or has concealed some material facts in his application for a permit;

(g) has engaged or is employed in any business without the approval of the Investment Board or the Commissioner of Labour;

(h) has had his work permit cancelled by the Commissioner of Labour; or

(i) is a threat to the national security and sovereignty of Solomon Islands.”

Amendment
of section 9.

8. Section 9 of the principal Act is hereby amended by inserting immediately after the proviso to subsection (2) the following as subsection (2A.) -

“(2A) The proviso to subsection (2) shall apply only in respect of -

(a) an employee of any business outside Solomon Islands, which has a branch, subsidiary, shares, controlling interest or management responsibility for any business in Solomon Islands; and

(b) a part owner, managing director, director or owner of any business established or registered in Solomon Islands.”

Amendment
of section 11.

9. Section 11 of the principal Act is hereby amended in the following respects -

(a) in subsection (1) by deleting the words “his presence in Solomon Islands” and substituting therefor the words “his entry or presence in Solomon Islands”;

(b) in paragraph (f) of subsection (2) by deleting the words “within one year” and substituting therefor the words “in any period”;

(c) by inserting immediately after subsection (3) the following subsections as subsections (4) and (5) respectively -

“(4) Where the Minister has by order declared any person to be a prohibited immigrant or as an undesirable immigrant under subsection (2)(f), the order shall remain valid unless revoked

by the Minister.

(5) The power of the Minister to declare or order any person to be a prohibited immigrant or as an undesirable immigrant shall include the power to revoke, vary, waive or impose such conditions as he may deem fit."

10. The principal Act is hereby amended by inserting immediately after section 13 the following new section as section 13A-

Insertion of new section 13A.

"Additional powers.

13A. The Minister may -

(a) where he thinks fit, without prejudice to any penalty that may have been imposed on a person under section 18; or

(b) where no proceedings have been instituted under this Act for any breach and the Minister is satisfied that a prosecution was not instituted and proceeded with as a result of such person leaving Solomon Islands,

prohibit such person who has left Solomon Islands from re-entering for any period not less than two years."

11. The principal Act is hereby amended by inserting immediately after Part III the following new Part as Part IIIA thereof -

Insertion of new Part IIIA

"PART IIIA

EXAMINATION, INTERROGATION AND DETENTION OF PROHIBITED IMMIGRANTS

"Power to detain ship

13B. (1) The master of every ship arriving in or about to leave Solomon Islands shall if so required by an immigration officer anchor, berth or tie up his ship at such place as may be ordered and shall remain there until an immigration officer gives his permission for such ship to

enter or leave Solomon Islands, as the case may be.

(2) A master of any ship who without reasonable cause, contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence.

Restrictions in relation to boarding and leaving aircraft, ship, etc.

13C. (1) Except under and in accordance with any authority granted by an immigration officer, no person other than -

(a) the captain or master;

(b) any government officer boarding the ship, yacht or canoe;

(c) the owner, charterer or agent of the ship; or

(d) an accredited representative of a country to which the ship or aircraft belongs, or is registered or where the people on board such ship or aircraft are nationals or citizens of that country,

shall leave or board a ship or aircraft arriving in or departing from Solomon Islands until the ship or aircraft has been examined and cleared by an immigration officer on its arrival or prior to its departure, so however, that the aforesaid restriction shall not apply to a member of the crew.

(2) Any person who contravenes subsection (1) shall be

guilty of an offence and every such person referred to in subsection (1), shall if so required by an immigration officer return forthwith to the vessel and remain thereon, and the master, owner, charterer or agent of such ship or aircraft shall be bound to take such person on board.

Persons entering Solomon Islands at places other than authorised ports of entry.

13D. (1) Every person who enters Solomon Islands by sea or air at any place other than an authorised port of entry or authorised aerodrome shall forthwith proceed to, and appear before the nearest immigration officer.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Power to send persons to immigration depot.

13E. (1) Where an immigration officer has reasonable doubt as to the right of any person to enter or where he has reasonable grounds to believe that a person is a prohibited immigrant it shall be lawful for him to order or direct that person to proceed forthwith to an immigration depot and such person shall remain there until permitted to leave by that officer:

Provided that the person so detained shall be produced before a Magistrate in accordance with the provisions of the Criminal Procedure Code. Cap. 4.

(2) The Director of

Immigration may, in his discretion and pending the completion of inquiries regarding that person, release him from an immigration depot on such terms and conditions as he may impose on that person, so however, that he shall not release a person whom he reasonably believes to be a prohibited immigrant.

(3) Any person who refuses or fails to comply with any order given by an immigration officer under subsection (1), or who leaves an immigration depot in contravention of that subsection, shall be guilty of an offence and be liable to a fine of one thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

Power to
detain prohibited
Immigrant.

13F. If during the examination of any person arriving in Solomon Islands or at any time thereafter any person is found to be a prohibited immigrant, the Director of Immigration may, subject to the provisions of this Act, prohibit such person from disembarking or detain such person at any immigration depot or other place designated for the purpose until he is repatriated to the place from which he last embarked or to the country of which he is a national or citizen.

Power to make
order for removal
of person

13G. Any person who -

(a) is convicted for contravening any of the provisions of sections 5, 6, 8, 9, 10 or 18; or

(b) is deemed to be a

prohibited immigrant under any of the circumstances under section 13, without prejudice to any proceedings taken against him.

may be liable to be removed from Solomon Islands by order of the Minister.

Penalty

13H. Any person who, having been removed or otherwise lawfully deported from Solomon Islands, re-enters or resides in Solomon Islands without the written permission of the Minister, shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand dollars or to both such fine and imprisonment and shall in addition, be liable to be removed from Solomon Islands notwithstanding the provisions of section 14.”.

12. (1) Section 14 of the principal Act is hereby amended in the following respects -

Amendment
of section 14.

(a) by renumbering section 14 as subsection (1) thereof; and

(b) by inserting immediately after the subsection so renumbered the following new subsections as subsections (2), (3), (4), (5), (6), and (7) respectively -

“ (2) Where a person who has been declared a prohibited immigrant under any of the provisions of section 11(2) re-enters Solomon Islands, an immigration officer may arrest him without warrant and subject to the provisions of the Criminal Procedure Code place such person in prison or in police custody or in an immigration depot as the Court may order pending his repatriation on the earliest available ship or aircraft leaving Solomon Islands and he shall be deemed to be in

Cap. 4.

lawful custody whilst detained until the ship or aircraft leaves Solomon Islands.

(3) Where a person who is a prohibited immigrant or a member of a prohibited class consents to voluntarily place himself on the first available ship or aircraft is -

(a) destitute;

(b) unable to pay the cost of his passage or that of his family to the country of which he is a national or citizen; or

(c) likely to be or has become a charge on the public or on a charitable institution or organisation,

such person may apply to the Director of Immigration to meet the costs out of the Consolidated Fund for the voluntary repatriation of himself or his family.

(4) Where the Director of Immigration is of the view that the person referred to in subsection (3) should not be dealt with in accordance with subsection (1) he may accept the application.

(5) The Director of Immigration when accepting the application may request that -

(a) the person signs an undertaking that he shall not return to Solomon Islands without the sanction of the Director of Immigration, whose sanction shall only be exercised upon the person refunding to the Government all costs incurred by the Government in the repatriation of himself or his family; and

(b) he complies with any other conditions imposed by the Director of Immigration.

(6) Any person repatriated at costs incurred by the Government who re-enters or attempts to re-enter Solomon Islands without the sanction of the Director of Immigration, or who having entered Solomon Islands with such sanction, fails or neglects to comply with any or such further conditions upon which the sanction was given shall be guilty of an offence.

(7) Where any person is repatriated at costs incurred by the Government, the Director of Immigration may, notwithstanding the conditions imposed, recommend to the Minister to declare such a person to be a prohibited immigrant.”.

13. The principal Act is hereby amended by inserting after section 14 the following new section as section 14A -

Insertion of new section 14A.

“Recovery of expenses.

14A. The owner, charterer, master or agent of any vessel or aircraft from which any prohibited immigrant or any person who is currently of a prohibited class enters Solomon Islands contrary to the provisions of this Act shall be jointly and severally liable for all expenses incurred by the Government in detaining and maintaining such person pending (and including) his voluntary repatriation or removal or deportation and such expenses shall be recovered as a debt due to the Crown from the master, owner, charterer and agent of such vessel or aircraft.”.

14. Section 17 of the principal Act is hereby amended in subsection (1) by -

Amendment of section 17.

(a) deleting the full stop that appears at the end of the proviso and substituting therefor a colon; and

(b) inserting immediately after the colon so inserted a further proviso as follows;

“ Provided further that an appeal against a decision of an immigration officer made pursuant to an application for a permit under sections 8, 9 and 10, which application was made after a permit previously granted to such person had expired, shall not preclude the Director of Immigration or any immigration officer from investigating or prosecuting a person for any offence committed under section 18. Where a person is prosecuted for the purposes of this section the period in respect of which the prosecution commences shall be the date from which the valid permit expired notwithstanding that a new permit has been issued or a petition of appeal

has been lodged.”

Amendment
of section 18.

15. Section 18 of the principal Act is hereby amended by -

(a) deleting the comma that appears at the end of paragraph (p) of subsection (1) and substituting therefor a semi-colon and the word “or”; and

(b) inserting immediately after paragraph (p) of subsection (1) the following new paragraphs as paragraphs (q), (r) and (s) respectively -

“ (q) re-enters Solomon Islands after having been declared or made a prohibited immigrant under any of the paragraphs of section 11(2); or

(r) unlawfully refuses or fails to comply with any lawful order of an immigration officer acting under any of the provisions of this Act to have a person declared to be a prohibited immigrant carried to the place to which he has embarked; or

(s) knowingly causes, conveys or transports any person who has been declared a prohibited immigrant to enter Solomon Islands;” and

(c) inserting immediately after subsection (5) the following new subsection as subsection (6) -

“ (6) In paragraphs (r) and (s) of subsection (1), reference to any person also includes owners, charterers, masters or agents of any ship or aircraft.”

Amendment
of section 19.

16. Section 19 of the principal Act is hereby amended by deleting the full stop appearing at the end of that section and inserting thereafter the words -

“ and in particular and without prejudice to the generality of the foregoing power such regulations may prescribe -

(a) the forms to be used for the purposes of this Act;

(b) the fees to be charged upon the application and issue of any permit or waiver thereof under this Act;

(c) the procedure to be followed and the fees to be charged or the waiver thereof in respect of any appeals;

(d) the period for which permits issued under this Act shall be valid;

(e) conditions subject to which any person may be granted a permit; or

(f) other authorities other than an immigration officer or Director of Immigration who may issue permits under this Act.”

Honiara, Solomon Islands
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