



ANALYSIS

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An Act to amend the Entry, Residence and Departure Act 1971-72 to—

- (a) provide that a notice not to permit entry can be issued in respect of certain individuals; and
- (b) require officers in command of ships and aircraft to provide information about all people on board before arriving in the Cook Islands; and
- (c) provide for the sharing of information with certain overseas agencies.

(8th December 2017)

The Parliament of the Cook Islands enacts as follows—

- 1 Title**
This Act is the Entry, Residence and Departure Amendment Act 2017.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- 3 Principal Act amended**
This Act amends the Entry, Residence and Departure Act 1971-72.
- 4 Section 9 amended**
Section 9(1) is amended by inserting the following paragraph after paragraph (b):

“(ba) the person is subject to a notice issued by the Minister under section 9A and in force; or”.

5 New sections 9A and 9B inserted

The following sections are inserted after section 9:

“9A Notice not to permit entry

“(1) The Minister may issue a notice under this section in respect of any person outside the Cook Islands who the Minister has reason to believe is intending to travel to the Cook Islands and—

“(a) is likely to commit an offence in the Cook Islands that is punishable by imprisonment; or

“(b) is, or is likely to be, a threat or risk to the security of the Cook Islands, or to public order or the public interest.

“(2) A notice issued under this section in respect of a person must—

“(a) state the date on which the notice is issued; and

“(b) state the date on which the notice expires, which must be 2 years after its date of issue; and

“(c) contain sufficient information to accurately identify the person, including (to the extent practicable) the following:

“(i) the person’s full name;

“(ii) the person’s date of birth;

“(iii) the person’s gender;

“(iv) the person’s nationality;

“(v) the number of the person’s passport or certificate of identity.

“(3) A person in respect of whom a notice under this section applies—

“(a) may not lawfully enter the Cook Islands; and

“(b) must be denied entry into the Cook Islands.

“(4) A notice under this section may be given in electronic or paper form, and may be given to any person or organisation that the Minister considers has a role in ensuring that the person does not enter the Cook Islands.

“(5) A notice under this section—

“(a) remains in force until the expiry date stated in it; and

“(b) is not invalid just because some of the information about the person is incorrect or incomplete, provided the information is sufficient to accurately identify the person to whom it is intended to apply.

“9B Officers in charge to prevent person from entering Cook Islands

“(6) If the officer in charge of a ship receives a notice that is in force under section 9A about a passenger who is travelling, or is intending to travel, to the Cook Islands on the ship, the officer in charge must ensure that the person does not leave the ship at any time while the ship is in the Cook Islands.

“(7) If the officer in charge of an aircraft receives a notice that is in force under section 9A about a passenger who is travelling, or is intending to travel, to the Cook Islands on the aircraft, the officer in charge must,—

“(a) if the person has not yet boarded the aircraft, prevent the person from doing so; or

- “(b) if the person is on board the aircraft, prevent the person from disembarking in the Cook Islands, or allow the person to disembark only in accordance with the directions of an immigration officer.
- “(8) In subclause (1), **Cook Islands** has the same meaning as in section 4(1) of the Customs Revenue and Border Protection Act 2012.”

6 **New section 16A inserted**

The following section is inserted after section 16:

“16A Information about people on board to be provided to Minister

- “(1) The officer in charge of a ship that is en route to the Cook Islands must, at least 48 hours before the estimated time of arrival in the Cook Islands, provide or make available to the Minister the information listed in subsection (3) about every person on board.
- “(2) The officer in charge of an aircraft that is intending to fly to the Cook Islands must, at least 1 hour before the scheduled departure time of the aircraft, provide or make available to the Minister the information listed in subsection (3) about every person who intends to board the aircraft for the purpose of travelling to the Cook Islands.
- “(3) The information required is as follows:
 - “(a) the person’s name:
 - “(b) the person’s date of birth:
 - “(c) the person’s gender:
 - “(d) the person’s nationality:
 - “(e) the number of the person’s passport or certificate of identity:
 - “(f) the expiry date of the passport or certificate of identity:
 - “(g) the state or organisation that issued the person’s passport or certificate of identity.
- “(4) The information listed in subsection (3) must be as given in the person’s passport or certificate of identity.”

7 **New Part 5A inserted**

The following Part is inserted after section 28:

“Part 5A

“Disclosure of information to overseas agencies”

“28A Definitions used in this Part

“In this Part,—

“**overseas crime agency** means an overseas agency, body, or person whose functions include the prevention, detection, investigation, prosecution, or punishment of immigration or other offences

“**specified information** means any of the following:

- “(a) airline passenger and crew lists:
- “(b) craft movements (which may include passenger and crew lists):
- “(c) past travel movements of specified people:
- “(d) previous convictions of specified people:
- “(e) general history of specified people (which may include associates and networks):
- “(f) modus operandi of specified people:

- “(g) known currency and other financial transactions of relevant interest, including involvement in money laundering;
- “(h) intelligence analysis assessments and reports;
- “(i) details of communications interceptions;
- “(j) personal identification details (which may include photographs, biometric information, distinguishing features, and details of identity or travel documents);
- “(k) names and details of immigration personnel and transport personnel;
- “(l) details of known or suspected involvement of people in illicit activities;
- “(m) details of any visa held by a person.

“28B Disclosure to agencies processing international passengers or engaged in border security

- “(1) The Principal Immigration Officer may, in accordance with an agreement made under this section, disclose any specified information to an overseas agency, body, or person whose functions include—
 - “(a) the processing of international passengers; or
 - “(b) border security.
- “(2) The Principal Immigration Officer must not enter into an agreement under this section unless satisfied that it is justified—
 - “(a) to help prevent, identify, or respond to violations of Cook Island law; or
 - “(b) in the case of an agreement with an international agency or body, to help prevent, identify, or respond to the kinds of actions that the agency or body has a function of preventing, identifying, or responding to; or
 - “(c) in any other case, to help prevent, identify, or respond to violations of the law of the state concerned.
- “(3) An agreement under this section must be in writing and state—
 - “(a) criteria for the disclosure of information; and
 - “(b) the use the agency, body, or person may make of the information; and
 - “(c) either—
 - “(i) that the agency, body, or person must not disclose it to any other agency, body, or person; or
 - “(ii) the other agencies, bodies, or persons to which the agency, body, or person may disclose it, and the extent to which and any conditions to which the agency, body, or person may do so.
- “(4) The agreement may state the form and method by which the information may be disclosed.
- “(5) Any agreement under this section may be varied.

“28C Disclosure to overseas crime agencies

- “(1) The Principal Immigration Officer may disclose specified information to an overseas crime agency—
 - “(a) in accordance with an agreement with the overseas crime agency made under section 28B; or

- “(b) if the disclosure complies with the requirements of this section.
- “(2) The Principal Immigration Officer must not disclose information under section (1)(b) unless satisfied that it is justified—
 - “(a) to help prevent, identify, or respond to violations of Cook Island law; or
 - “(b) in the case of an agreement with an international overseas crime agency, to help prevent, identify, or respond to the kinds of actions that the agency has a function of preventing, identifying, or responding to; or
 - “(c) in any other case, to help prevent, identify, or respond to violations of the law of the state concerned.
- “(3) Every disclosure under section (1)(b) must be made subject to conditions stating—
 - “(a) the use the overseas crime agency may make of it; and
 - “(b) either—
 - “(i) that the overseas crime agency must not disclose it to any other agency, body, or person; or
 - “(ii) the other agencies, bodies, or persons to which the overseas crime agency may disclose it, and the extent to which and conditions subject to which the agency, body, or person may do so.
- “(4) The Principal Immigration Officer must make and keep a record of—
 - “(a) any information disclosed under section (1)(b); and
 - “(b) the overseas crime agency to which it was disclosed; and
 - “(c) the conditions subject to which it was disclosed.

“28D Disclosure under this Part not to affect other disclosures

- “(1) Nothing in this Part prevents or limits any disclosure of information that may be required or authorised by or under law, or by or under any treaty, agreement, or arrangement concluded by the Government of the Cook Islands.
- “(2) To avoid doubt, nothing in this Part affects any right, duty, or power of the Principal Immigration Officer to disclose information to the Cook Islands police or the Cook Islands public service.”

8 New section 31A inserted

The following section is inserted after section 31:

“31A Deportation of person subject to section 9A notice

- “(1) This section applies to a person in respect of whom a notice under section 9A not to permit entry (a **section 9A notice**) is in force.
- “(2) Nothing in section 26 or 30 applies to a person to whom this section applies.
- “(3) If any person to whom this section applies is found in the Cook Islands, any police officer may arrest the person and detain him or her in prison or police custody pending deportation.
- “(4) The person must be deported from the Cook Islands as soon as practicable.”

- “(5) The cost of deportation is payable out of the public revenues of the Cook Islands, but is recoverable as a debt due to the Crown from any or all of the following, at the discretion of the Minister:
- “(a) the person who is deported:
 - “(b) any person who, knowing that the person was subject to a section 9A notice, allowed the person to enter the Cook Islands:
 - “(c) any person who, knowing that the person was subject to a section 9A notice, enabled or helped the person to enter or remain in the Cook Islands.
- “(6) A person deported from the Cook Islands under this section is not permitted to enter the Cook Islands for 5 years following the date of deportation, except with the written permission of the Minister.”

9 Transitional provisions

Section 16A of the principal Act (as inserted by this Act) does not apply to the officer in charge of any ship or aircraft that intends to arrive in the Cook Islands on the date that section 16A comes into force.

10 Consequential repeal

The Undesirable Immigrants Exclusion Act 1919 No 44 (NZ) is repealed.

This Act is administered by the Ministry of Foreign Affairs and Immigration
Printed under the authority of the Cook Islands Parliament—2017.
