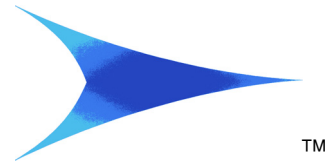


The Southern Cross Group

Promoting Mobility in the Global Community
www.southern-cross-group.org



Second Supplementary Submission to the Australian Senate's
Legal and Constitutional References Committee

Inquiry into Australian Expatriates

Citizenship and Passport Procedures

At

Australia's Overseas missions

Brussels and Canberra
6 April 2004

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The purpose of this submission is to draw to the attention of the Committee the comments we have made to the Passports Act Revision Team in the Department of Foreign Affairs and Trade (DFAT) regarding the proposed revision of the *Passports Act 1938*.

While generally having no objections to the proposed changes outlined in the background paper issued by DFAT on 17 February 2004, the Southern Cross Group has drawn attention to a number of concerns about the procedures currently in place at Australia's overseas missions for the processing of citizenship and passport applications.

As the comments made in the submission to DFAT have relevance to the wider terms of reference for the Committee's Inquiry into Australia's Expatriates, a copy of that submission is appended for the information of the Committee.

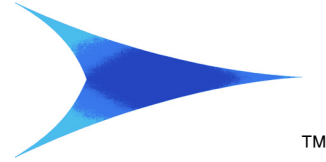
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the
Department of Foreign Affairs and Trade
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This submission is in response to the invitation to comment on the proposed revision of the *Passports Act 1938* (the Act) as outlined in the Minister's media release and associated background paper of 17 February 2004.

The Review team will be aware that, as intimated to the Team's manager Adrian White by the Southern Cross Group (SCG) representative, John MacGregor at their meeting in Canberra on 1 March 2004, the SCG issued an e-bulletin on 16 March 2004 to those on its mailing list regarding the work of the Review Team. Links were provided to the relevant information pages on the Department of Foreign Affairs and Trade (DFAT) website. We indicated several matters of concern previously voiced to us by expatriates in relation to the existing arrangements for the issue to, and renewal of passports for, overseas Australians.

The e-bulletin suggested that those who wished to provide comments could do so directly to the Review Team by e-mail to part@dfat.gov.au and, if they so desired, to provide the SCG with a cc copy of the message. Alternatively, we invited comments direct to the SCG to assist us in the preparation of this submission.

At present our e-bulletins are sent direct to some 5000+ addressees but, allowing for family and friends networks, and the on-forwarding of our bulletins by a large number of expatriate groups to their membership lists, our readership is several times larger than that. On this point the Department may wish to note that given the sporadic timing of newsletters issued by the various expatriate groups at least two months lead time should be allowed for the message to filter through and appropriate responses to be formulated.

We received a number of responses which have been taken into account in this submission. Incidentally, some of those who responded to us indicated that our message was the first indication that they had received of the proposed changes to the Act.

With the exception of one issue none of the comments we received were critical of the substantive changes to the Act foreshadowed in the Background Paper.

A number of people expressed concern about the impact of the proposed changes relating to lost or stolen passports. While accepting the need to protect their passports at all times several pointed out that by the nature of their occupations and the need for, and ease of travel, when living overseas, their passports were in much more constant use than would apply to those passports held by the large majority of passport holders resident in Australia.

The high level of use of expatriates' passports raises two concerns:

- in most overseas countries the passport needs to be carried constantly as a means of identification and thus the risk of loss or theft is many times greater than that of passports held in Australia, the majority of which would be held at home or other secure locations.
- the issue of limited validity passports and higher charges as a response to several losses or thefts in a short time frame could impact seriously on the freedom of movement necessary for Australians to pursue business responsibilities and opportunities across national borders as well as travel for other purposes.

Given the fact that there are an estimated eight million passports on issue and that DFAT estimates there are around one million Australians living permanently overseas, the SCG is of the view that careful consideration needs to be given to the proposed provisions on lost or stolen passports. The changes as now proposed could well be seen as placing overseas Australians at a distinct disadvantage when compared with Australians resident in Australia. At the very least the new Act needs to have flexible powers in the application of these provisions.

Existing procedures

While the assurance given by Mr White at the meeting on 1 March that for all practical purposes the actual processes for the issue and renewal of passports will be little changed under the new Act is reassuring, it is evident from the comments received by us that there are seen to be many problems with the existing overseas arrangements.

Our understanding is that:

In general:

- processed passport application forms are held by one of the Passport Issuing Offices in Canberra, London or Washington, either in paper or electronic form.
- each application form contains a passport photo of the passport holder from which biometric identification data may be generated.¹
- stored application forms and photos may be accessed electronically by any one of the Passport Offices should the need arise.²

¹ Australian Passports Act Revision Background Paper and discussion with Mr White.

- adult passports are normally issued for a period of ten years.
- child passports are normally issued for a period of five years.
- evidence of Australian Citizenship must be provided in support of a passport application.
- DFAT is an organisation to which the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) may disclose personal data held by DIMIA for the administration of the *Passports Act 1938* by DFAT.³
- the DFAT drive to encourage all Australians living overseas to register their details through the Online Registration for Australians Overseas system has been of limited success.

In Australia:

- it is possible to lodge an application for a new passport, whether it is for an adult or a child, at a local Post Office or at the Passport Office in Canberra. With more than 1700 Post Offices acting as passport agencies for most resident Australians very little travel or time is involved in attending a Post Office for interview.
 - passport application forms can be completed on-line and printed out for lodgement at the Post Office.
- when renewing a passport it is possible to telephone the Australian Passport Information Service using a 13 number to request a personalised renewal form.
- the delivery of passports by post or by collection in person at the Post Office is a simple and safe process.

Overseas:

- passport applicants in the following categories need to attend an Australian Embassy or Consulate for a personal interview:⁴

² Minister for Foreign Affairs, Media Release FA145 - 27 November 2003 – “New Passports to Boost National Security”.

³ DIMIA Form 993i “Safeguarding Your Personal Information”.

⁴ The categories of overseas applicants who must attend for interview has been deduced from the notes on completing an Application for an Australian Passport Overseas and the web sites of the Australian Embassies in Washington and Tokyo.

- a first adult passport since the applicant turned 18.
 - renewal of passports with a validity period of less than two years.
 - minors applying for their first Australian passport.
 - replacement of lost or stolen passports.
 - replacement of passports which expired more than twelve months previously
 - in other cases where the Consul considers a personal interview is required.
- where the evidence of Australian Citizenship submitted with a passport application must necessarily take the form of a Certificate of Australian Citizenship as is the case in seeking a first passport for an Australian Citizen by descent – i.e., all children born overseas to an Australian citizen – it is first necessary to apply to DIMIA for registration using DIMIA Form 118.
 - existing Australian Citizens who seek a Certificate of Australian Citizenship to submit as evidence of citizenship with passport applications must apply to DIMIA on DIMIA Form 119.
 - DIMIA Forms 118 and 119 may be lodged by post either at “... your nearest DIMIA office in Australia (GPO Box 9984 in your capital city) or at the nearest Australian mission if you are outside Australia”.⁵
 - the SCG suggests that there is some ambiguity about the method of lodgement required of overseas applicants. The instructions on the Forms 118 and 119 are open to an interpretation that lodgement in person at an overseas mission is required. An examination of the relevant pages on the websites of some overseas missions indicates that this ambiguity is also present in those sources.
 - except where a representative of DIMIA is present at a post all DIMIA Forms 118 and 119 are forwarded to another post where a DIMIA representative is present or returned to Australia for processing.
 - in some situations documentation required in support of the DIMIA Form 118 application requires the submission of a parent’s passport to establish

⁵ DIMIA Forms 118 and 119.

the parent's Australian citizenship and/or residence in Australia for a period of at least two years.⁶

- applications lodged with DIMIA on their Forms 118 and 119 take a lengthy period to be investigated and finalised.⁷
- there is seemingly a convention or observed practice at most of Australia's overseas missions that applications for passports for Australian Citizens by descent cannot be lodged until the DIMIA Form 118 has been processed and a Certificate of Australian Citizenship issued.
 - where the applicant determines, for whatever reason, that personal lodgement of both the DIMIA Form 118 or 119 and the passport application is necessary, this convention or practice requires the passport applicant to make two separate visits to the mission.
 - however, at least in one country, Japan, both the DIMIA Form 118 and the passport application form may be forwarded to the Embassy together for processing.⁸
- postal services in many countries are not as efficient or as secure as the Australian postal system.
- standard local charges apply when calling telephone contact numbers at most missions. At many missions callers are required to work their way through telephone trees and/or are frequently placed on hold for lengthy periods.

Some observations about existing overseas practices

It would seem to the SCG that existing practices at our overseas missions are deficient in that:

- compared to the ubiquitous presence of Post Offices in Australia, our overseas missions are thinly spread around the world and in country are

⁶ DIMIA Form 118 and the DIMIA "Citizenship By Descent Under 25 Years" information page on the website of the Australian High Commission, London.

⁷ Question 1 on the Frequently Asked Questions on the Australian Citizenship page on the DIMIA Citizenship website at <http://www.citizenship.gov.au/faq.htm#1> indicates that applications can take up to 90 days to process.

⁸ Passports information page on the website of the Consular Office in Japan at <http://www.consular.australia.or.jp/passports.html>

centrally located.

- where an applicant for a passport who is not resident in the metropolitan area in which a mission is located is required to attend for a personal interview, considerable costs in terms of time, lost work attendance, travel and accommodation may be imposed on the applicant or the applicant's parent(s).
- in some cases visits to an Australian mission require travel across national borders to the country in which the mission is located.
 - this poses the question as to how a person without an Australian passport or the passport of another country is able to cross the border to attend the interview in all cases other than travel between countries in Europe covered by the Schengen Agreement. If an existing passport is retained at the mission in support of an application following an interview, it raises another question as to how that passport holder is able to return to the place of residence.
- if two or more interview visits are involved, the costs to the applicant increase proportionately.
- the temporary absence of a passport lodged by post or in person and held in support of DIMIA Forms 118 or 119 and/or the passport application will seriously inconvenience many Australian expatriates in terms of travel prohibitions and the lack of a suitable identification document. In some cases it may place the expatriate in breach of the laws of the country of residence.
- an examination of the passports and citizenship information pages of the websites of a number of Australian overseas missions discloses a mixed bag. There is a lack of uniformity in the information presented and the way in which it is presented. In some cases the link on the website drops straight through to the DIMIA citizenship or DFAT passport websites in Canberra which does little to provide local consular knowledge to those living in the area for which the mission is responsible.
 - It is particularly frustrating when one has been checking the relevant Australian website and is referred to a link for the overseas mission where a link purporting to provide more information returns you to the Australian site from which you have come.

Overall, the SCG is led to the conclusion that in relation to citizenship and passport matters, Australian Citizens living overseas are seen to be, and are treated differently to, their fellow citizens residing in Australia. There is a perception that they provide a greater security risk than those living in Australia

and that the additional cost and marked inconvenience for some citizenship and passport applicants is of little consequence to the Government.

Opportunities for change

The SCG urges the Review Team and the Government to take the opportunity presented by the current review to improve the processes for the issue of passports overseas. Logically, it would not seem necessary to await the passing of a new *Passports Act* before making such changes.

Some ways in which improvement might be achieved include:

- reduce the requirement for applicants to travel to missions for the purpose of passport interviews.
 - with the availability of past passport applications and the advent of biometric identification processes it should be possible for parents seeking registration of their children as Australian citizens and the subsequent issue of a child's passport to be suitably identified by the postal lodgement of their own passport-sized photo, together with photocopies of the personal details page of their passport(s).
 - where possible appoint local Australian Citizens who are well known and trusted by the responsible mission to attest to the validity of photos and copies of other supporting material.
 - introduce a system of regular "circuit visits" by consular staff to locations considered to be reasonably distant from the mission's location for the purpose of conducting citizenship and passport interviews and other appropriate consular activity. Such tours could be arranged as a regular event well publicised through the channels of local expatriate groups. Alternatively, the tours could be arranged in response to a log of requests made by prospective applicants. This process would reflect the fact that for most applicants the need for a Certificate of Citizenship and/or a passport is not normally in the "must have tomorrow" category.
 - amend the instructions on DIMIA Forms 118 and 119 and on the relevant websites in Australia and overseas to indicate clearly that such applications may be lodged by post rather than in person at the closest overseas mission. Here again some procedure would need to be introduced to enable the use of certified copies of documents where lodgement of originals is not a reasonable or feasible requirement. DIMIA access to relevant copies of processed

passport applications held by DFAT would also seem appropriate.

- establish arrangements whereby both DIMIA Forms 118 or 119 and passport applications may be lodged together at all overseas missions. The Certificate of Citizenship once issued by DIMIA would then be forwarded to the passport issuing office and returned to the applicant with the passport once issued.
- develop, in collaboration between DFAT and DIMIA, consistent and informative instructions to be printed on the relevant DIMIA forms, DFAT passport forms and on the departmental and overseas websites so as to remove all doubts for expatriates as to how the application processes work.
- consideration be given to linking the voluntary registration of expatriates on the Online Registration for Australians Overseas system with the provision of evidence in support of citizenship and passport applications.

Copies of this submission are being forwarded to the Secretary of DIMIA and the Senate Legal and Constitutional Committee's Inquiry into Australian Expatriates for their information.

Southern Cross Group
Brussels and Canberra

6 April 2004