



REPUBLIC OF NAURU

Asylum Seekers (Regional Processing Centre) (Amendment) Act 2015

Act No. 23 of 2015

An Act to amend the *Asylum Seekers (Regional Processing Act) 2012*

Certified: 23 October 2015

Table of Contents

1	SHORT TITLE	1
2	COMMENCEMENT	1
3	AMENDMENT OF ASYLUM SEEKERS (REGIONAL PROCESSING CENTRE) ACT 2012.....	1
4	AMENDMENT OF SECTION 3(1).....	1
5	AMENDMENT OF SECTION 7	1
6	REPEAL OF DIVISION 4	1
7	AMENDMENT OF SECTION 18A.....	1
8	AMENDMENT OF SECTION 18C	2
9	AMENDMENT OF SECTION 18D	2
10	AMENDMENT OF SECTION 19.....	3
11	AMENDMENT OF SECTION 19B.....	4
12	REPEAL SECTION 19E	4
13	REPEAL SECTION 23.....	4
14	AMENDMENT OF SECTION 24B.....	4

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Asylum Seekers (Regional Processing Centre) (Amendment) Act 2015*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Amendment of Asylum Seekers (Regional Processing Centre) Act 2012

The *Asylum Seekers (Regional Processing Centre) Act 2012* is amended by the provisions of this Act.

4 Amendment of section 3(1)

(1) Section 3(1) is amended by omitting the following definitions:

(a) **'Australian Act'** 'Australian Act' means the Migration Act 1958 of the Commonwealth of Australia;

(b) **'health and security clearance certificate'** means a certificate issued by the Secretary under section 10(3);

(2) The definition of 'protected person' is amended by omitting the current definition and replacing it with the following:

'protected person' means a person who is the holder of a Regional Processing Centre visa;

5 Amendment of section 7

Section 7 is amended by repealing section 7 (2) (c), (d) and (e).

6 Repeal of Division 4

Sections 10, 11 and 12 of Division 4 are hereby repealed.

7 Amendment of section 18A

Section 18A is hereby omitted and substituted with the following:

18A Removing items from or bringing items into the Centre

(1) It is an offence under this Act to:

(a) bring into the Centre any prohibited or controlled items; or

(b) remove any items, articles or property belonging to the Centre.

- (2) Any person suspected of breaching the provisions of subsection (1) may be subjected to a search under section 19 of this Act.
- (3) It is an offence under this Act for any person in a position of authority, power or trust to trade for services or favours, any consumables that are supplied to a protected person.
- (4) Subject to subsection (5), any person who contravenes subsection (1) is liable upon conviction to imprisonment for a period not exceeding three months or to a fine not exceeding \$100 or to both.
- (5) A person who is acting in the course of their official duty is not guilty of contravening subsection (1).

8 Amendment of section 18C

Section 18C is hereby omitted and substituted with the following:

18C Open Centre

- (1) There is hereby established an Open Centre.
- (2) The Open Centre shall remain open twenty four hours a day, seven days a week.
- (3) Subject to subsection (4), residents of the Centre may enter or leave the Centre at their will subject to the following conditions:
 - (a) that they provide their identification card upon re-entry to the Centre; and
 - (b) that if required, they are to subject themselves to the search provisions under section 19 of this Act.
- (4) Exceptionally, where a person poses a risk to public health, safety or security or is a risk of harm to him or herself or others, the Operational Manager may require the person to remain in the Centre for such time as the Operational Manager may determine.
- (5) In making a decision under subsection (4), the Operational Manager must consult with a medical practitioner to determine the level of risk that the person poses and the length of time that the person may be required to remain in the Centre.

9 Amendment of section 18D

- (1) Section 18D (1) (b) is omitted and replaced with the following:
 - (a) publish by any means whatsoever, a photograph of a protected person whether the protected person is inside or outside the Centre.

- (2) Section 18D (3) is amended by omitting the first occurrence of the words 'subsection (1)' and substituting with the words 'subsection (1) (a)'.
- (3) Section 18D (3) (a) is amended by omitting the words 'subsection (1) (a)'.
- (4) Section 18D (3) (d) is amended by omitting the words 'photographs or' as they appear in the provision.

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Amendment of section 19

Section 19 is hereby omitted and replaced with the following:

19 Power of authorised officers to search

- (1) An authorised officer may examine anything being brought into or taken out of the Centre, and may require any person who is in or about to enter the Centre to submit to a search for the purpose of detecting the presence of a prohibited or controlled item, or anything that jeopardises or is likely to jeopardise:
 - (a) the security or good order of the Centre; or
 - (b) the safety of persons in the Centre.
- (2) An authorised officer exercising his or her powers under this section may require a person to do any of the following:
 - (a) submit to a frisk search, a strip search or a scanning search;
 - (b) empty the contents of all pockets in the person's clothing and allow an examination of those contents;
 - (c) allow any bag or other receptacle carried by the person to be searched, whether by hand or by using an electronic or mechanical device.
- (3) An authorised officer who, during a search, finds a prohibited or controlled item or to whom a prohibited or controlled item is surrendered, may seize and retain that item.
- (4) If an item seized under subsection (3) is an item the possession of which would constitute an offence under any law of Nauru, the authorised officer must ensure that it is given to a police officer as soon as practicable.
- (5) Subject to subsection (4), any other item seized under subsection (3) must be handed over to the Operational Manager of the Centre to be retained and returned to the person upon him or her ceasing to reside at the Centre.

(6) If it is not practicable to comply with subsection (5), the Operational Manager, in consultation with the Secretary, may authorise the destruction or other disposal of the item.

(7) The Operational Manager must establish a register that records the details of each strip search conducted under subsection (1) and include:

- (a) the names of the persons present during the search;
- (b) the reasons why the search was conducted; and
- (c) details of anything seized during the search.

11 Amendment of section 19B

(1) Section 19B (1) is amended by:

- (a) omitting the first occurrence of the words 'or frisk'; and
- (b) Omit the numeral '18' and replace with the numeral '19'.

12 Repeal section 19E

Section 19E is hereby repealed.

13 Repeal section 23

Section 23 is hereby repealed.

14 Amendment of section 24B

Omit current section 24B and substitute with the following:

24B Powers in emergency

(1) This section applies regardless of whether section 24A has been activated.

(2) The Secretary may, in consultation with the police:

- (a) conclude that there is an existing emergency or imminent threat of emergency, including but not limited to a breach of the peace or order of the Centre; and
- (b) establish a blockade consisting of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles and persons to or from the Centre or any Centre facility; and
- (c) declare the immediate suspension of section 18C of this Act.

- (3) Any blockade erected as a result of subsection 2 (b) remains the responsibility of the Commissioner of Police or his nominee.
- (4) Once the Secretary, on reasonable grounds believes that there is no longer an existing emergency or imminent threat of emergency to the Centre, he shall declare section 18C of this Act to resume operation.