



Migration Act 1958

Part 2 - Control of arrival and presence of non-citizens

Division 12 - Offences in relation to entry into, and remaining in, Australia

Subdivision B - Offences relating to abuse of laws allowing spouses etc. of Australian citizens or of permanent residents to become permanent residents

237 Reason for Subdivision

This Subdivision was enacted because:

- (a) under the regulations, a person satisfies a criterion for certain visas that give, or might lead to, authorisation for the person's permanent residence in Australia if the person is the spouse or de facto partner of, and has a genuine and continuing relationship, involving a shared life to the exclusion of all others with, either an Australian citizen or a permanent resident of Australia; and
- (c) some persons attempt to get permanent residence under the regulations by:
 - (i) entering into a married relationship that is **not intended to be a genuine and continuing relationship** involving a shared life to the exclusion of all others; or
 - (ii) **pretending** to be a de facto partner of another person.

238 Interpretation

In this Subdivision:

critterion includes part of a criterion.

preliminary visa, means a visa that is usually applied for by persons applying, or intending to apply, for a permanent visa.

stay visa means:

- (a) a permanent visa; or
- (b) a preliminary visa.

239 Application of Subdivision

- (1) This Subdivision applies **in and outside** Australia.
- (2) This Subdivision applies to marriages solemnized **outside Australia as well** as those solemnized in Australia.

Section 240 - Offence to arrange marriage to obtain permanent residence

(1) A person (*имеется в виду любой человек* включая:

- *миграционных агентов MARA;*
- *работников различных служб знакомств;*
- *организаторов и администраторов интернет-ресурсов «знакомств на расстоянии»;*
- *регистраторов брачных отношений;*
- *любых консультантов и советников, включая «закулисных»;*
- *горе-знатоков и болтунов различных Интернет-форумов;*
- *и тому подобные категории граждан;*
- *а также возможно любых людей дающих официальное заявление (statutory declaration) в подтверждение наличия обоюдных семейных отношений между основным заявителем и его спонсором (номинатором),)*

must not arrange a marriage between other persons with the intention of assisting one of those other persons to get a stay visa by satisfying a criterion for the visa because of the marriage.

(2) Subsection (1) applies **whether or not** the intention is achieved.

(3) It is a defence to an offence against subsection (1) if the defendant proves that, although one purpose of the marriage was to assist a person to get a stay visa, the defendant believed on reasonable grounds that the marriage would result in a genuine and continuing marital relationship.

Penalty: \$100,000 or imprisonment for 10 years, or both.

Note: A defendant bears a legal burden in relation to the matter in subsection (3) (see section 13.4 of the *Criminal Code*).

Criminal Code Act 1995

Schedule The Criminal Code

Chapter 2 General principles of criminal responsibility

Part 2.6 Proof of criminal responsibility

Division 13

Section 13.4 Legal burden of proof—defence

A burden of proof that a law imposes on the defendant is a legal burden if and only if the law expressly:

- (a) specifies that the burden of proof in relation to the matter in question is a legal burden; or
- (b) requires the defendant to prove the matter; or
- (c) creates a presumption that the matter exists unless the contrary is proved.

241 Offence to arrange pretended de facto relationship to obtain permanent residence

(1) If a person knows or believes on reasonable grounds that 2 other persons are not de facto partners of each other, the person (*имеется в виду любой человек* включая:

- *миграционных агентов MARA;*
- *работников различных служб знакомств;*
- *организаторов и администраторов интернет-ресурсов «знакомств на расстоянии»;*
- *регистраторов брачных отношений;*
- *любых консультантов и советников, включая «закулисных»;*
- *горе-знатоков и болтунов различных Интернет-форумов;*
- *и тому подобные категории граждан;*
- *а также возможно любых людей дающих официальное заявление (statutory declaration) в подтверждение наличия обоюдных семейных отношений между основным заявителем и его спонсором (номинатором),)*

must not make arrangements that make, or help to make, it look as if those other persons are such de facto partners with the intention of assisting one of those other persons to get a stay visa by appearing to satisfy a criterion for the visa because of being such de facto partners.

(2) Subsection (1) applies **whether or not** the intention is achieved.

Penalty: \$100,000 or imprisonment for 10 years, or both.

243 Offences relating to application for permanent residence because of marriage or de facto relationship

(1) A person (*имеется в виду основной заявитель (the primary applicant) подающий иммиграционное заявление в Департамент Иммиграции Австралии (DIAC) с просьбой о грантовании одной из «partner» виз*) must not apply for a stay visa on the basis of satisfying a criterion for the visa because of being the spouse or de facto partner of another person if, at the time of the application, the applicant does not intend to live permanently with the other person in a married relationship (within the meaning of subsection 5F(2)) or de facto relationship (within the meaning of subsection 5CB(2)), as appropriate.

(2) A non-citizen in Australia convicted of an offence under subsection (1) **becomes an unlawful non-citizen**. (*другими словами, основной заявитель (the primary applicant) подавший такое иммиграционное заявление в Департамент Иммиграции Австралии (DIAC) будет просто лишен всех виз, включая постоянных, и будет депортирован из страны*)

(3) A person (*имеется в виду спонсор основного заявителя (the primary applicant) подающий иммиграционное заявление в Департамент Иммиграции Австралии (DIAC) с просьбой о грантовании одной из «partner» виз*) must not nominate an applicant for a stay visa on the basis of the applicant satisfying a criterion for the visa because of being the spouse or de facto partner of the person if, at the time of the application, the person does not intend to live permanently with the applicant in a married relationship (within the meaning of subsection 5F(2)) or de facto relationship (within the meaning of subsection 5CB(2)), as appropriate.

Penalty: Imprisonment for 2 years.

245 Offences of making false or unsupported statements

- (1) A person (*имеется в виду любой человек, дающий официальное заявление (statutory declaration) в подтверждение наличия обоюдных семейных отношений между основным заявителем и его спонсором (номинатором)*) must not make a statement, or give information, in writing, to an officer in relation to the consideration for the purposes of this Act or the regulations of any of the following questions:
- (a) whether or not other persons are in a married relationship (within the meaning of subsection 5F(2));
 - (b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;
- if:
- (d) the person knows that the statement or information is false or misleading in a material particular; and
 - (e) the statement is made, or the information is given, in a document that describes, and shows the penalty for, an offence against this subsection.

Penalty: Imprisonment for 12 months.

Однако, тоже самое действие считается преступлением Section 11 of the Statutory Declaration Act 1959 и наказывается лишением свободы на срок 4 года.

- (3) A person (*имеется в виду любой человек, дающий официальное заявление (statutory declaration) в подтверждение наличия обоюдных семейных отношений между основным заявителем и его спонсором (номинатором)*) must not make a statement, or give information, in writing, to an officer in relation to the consideration for the purposes of this Act or the regulations of any of the following questions:
- (a) whether or not other persons are in a married relationship (within the meaning of subsection 5F(2));
 - (b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;
- if:
- (d) the statement or information is false or misleading in a material particular; and
 - (e) the person making the statement, or giving the information, did not make appropriate inquiries to satisfy himself or herself that the statement or information was neither false nor misleading; and
 - (f) the statement is made, or the information is given, in a document that describes, and shows the penalty for, an offence against this subsection.

Penalty: \$12,000.

Однако, тоже самое действие считается преступлением Section 11 of the Statutory Declaration Act 1959 и наказывается лишением свободы на срок 4 года.

Если написанное выше по тексту не дошло до Вашего сознания – то берите словарь и читайте написанное по складам ещё раз, ПОЖАЛУЙСТА !

Если Вы считаете то, что:

- упомянутые Законы не работают в Австралии; или
- указанное в них к Вам не относится или Вас не коснется,

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безумству «храбрых» поём мы песню !