
CHAPTER 191

IMMIGRATION

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CHAPTER 191**IMMIGRATION****An Act to repeal and replace the Immigration Act.***[Assent 19th October, 1967]**[Commencement 2nd November, 1967]***PART I****INTRODUCTORY**

1. This Act may be cited as the Immigration Act.
2. (1) In this Act unless the context otherwise requires —
- “authorised port” means a port designated as an authorised port under the provisions of section 4.
- “Board” means the Board of Immigration constituted under this Act;
- “child” means a person under the age of eighteen years who is the child, stepchild, legitimated child or lawfully adopted child of any person; and “children” shall be construed accordingly;
- “Director of Immigration” means the person appointed to be Director of Immigration under section 7, and includes any person for the time being lawfully exercising the functions of the office of Director of Immigration;
- “deserter” means a member of the crew of a ship who, being permitted to land in The Bahamas in accordance with the provisions of section 21, fails to leave The Bahamas in accordance with the provisions of that section;
- “embark” means embark in a ship or aircraft and any reference to “embark” shall be construed as including a reference to attempting to embark;
- “engage in gainful occupation” means, subject to any exceptions which may be prescribed —

25 of 1967
 38 of 1968
 3 of 1970
 4 of 1970
 18 of 1973
 E.L.A.O., 1974
 26 of 1975
 5 of 1978
 12 of 1978
 7 of 1979
 5 of 1987
 6 of 1996
 4 of 1997
 46 of 2007
 23 of 2012
 3 of 2015

Short title.

Interpretation.
 26 of 1975, s. 3.

- (a) to take and continue in any employment; or
- (b) to practise any profession; or
- (c) to carry on any trade; or
- (d) to engage in business; or
- (e) to engage in such other form of occupation as may be prescribed, where such employment, profession, trade, or business is taken or continued, or is practised, carried on or engaged in, either directly or indirectly for reward, profit, or gain;

“Immigration Officer” includes the Director of Immigration, the Deputy Director of Immigration and any person appointed by the Governor-General under the provisions of this Act to be an Immigration Officer and also includes a Commissioner *ex officio*;

“land” means land from a ship or aircraft and any reference to “land” shall be construed as including a reference to attempting to land;

“lien” in relation to any ship means a maritime lien;

“member of the crew” in relation to a ship or aircraft, means any person actually employed in the working or service of the ship or aircraft, including the master of the ship or the commander of the aircraft;

E.L.A.O., 1974.

“Minister” means the Minister responsible for Immigration and Emigration;

“passenger” means any person arriving in or departing from The Bahamas in any ship or aircraft other than a member of the crew;

26 of 1975, s. 3 & Sch.

“permanent resident” means a person to whom a valid and subsisting permanent residence certificate granted under section 13 relates, and a wife or dependent child of such a person whose name is endorsed on the certificate under section 14;

29 of 1965.

“police officer” has the meaning ascribed thereto by section 2 of the Police Act*;

“port” includes airport;

* This Act (formerly Ch. 205) was repealed and replaced by the Police Force Act (No. 3 of 2009) – now Ch. 205.

“regulations” means regulations made under the provisions of section 45 from time to time in force;

“Reserve” means the Immigration Reserve established under section 12A; *3 of 2015, s.2.*

“reservist” means a person enlisted in the Reserve in accordance with section 12B. *3 of 2015, s.2.*

“section” means a section of this Act;

“ship” means every description of vessel used in navigation, however propelled;

“stop list” means the list maintained by the Board under section 24.

(2) Any reference in this Act to a power to detain any person shall be construed as a power to detain that person in any place approved by the Minister for that purpose, and such person shall, while so detained, be deemed to be in legal custody. *E.L.A.O., 1974.*

(3) Subject to the express provisions of this Act or of any other Act from time to time in force where the provisions of this Act are in conflict with any other Act the provisions of this Act shall prevail.

(4) Nothing in this Act shall be construed as derogating in any way from or abridging any of the provisions of the Quarantine Act or of any rules made thereunder by or which the movements of any person may be restricted. *Ch. 237.*

(5) Nothing in this Act shall be construed as derogating from or abridging the exercise of any power conferred upon the Minister by the Bahamas Nationality Act. *4 of 1970, s. 3.
5 of 1987, Sch.
Ch. 190.*

3. (1) Notwithstanding anything in any enactment to the contrary, any provision of any agreement to which this section applies, which constitutes or purports to constitute any undertaking on the part of the Government of The Bahamas to allow, subject or not to any conditions; *Certain provisions of agreements relating to immigration nullified.*

(a) the entry of any person or class of persons; or *4 of 1970, s. 2.*
(b) any person to bring any person or class of persons,

into The Bahamas for any purpose shall, with effect from the 6th day of March, 1970, be null and void for all purposes and, in particular, shall not be capable of affording a defence to any person charged with an offence under any enactment nor affect in any way whatsoever the application or construction of this Act or any other enactment; and any such agreement as aforesaid shall for all purposes be read and construed as though it did not contain such provision.

(2) This section applies to any agreement entered into by or on behalf of the Government of The Bahamas under the authority of any enactment other than an agreement made either —

- (a) with any country, or any international or similar organisation outside The Bahamas; or
- (b) pursuant to and in accordance with the provisions of any international convention applying to The Bahamas.

Authorised ports.
E.L.A.O., 1974.

4. The Minister may by notice in the *Gazette* declare that any port in The Bahamas shall be an authorised port for the purposes of this Act and may in any such notice specify in respect of any port so designated the limits of that port as an authorised port.

PART II BOARD OF IMMIGRATION

Constitution of
Board.

5. (1) For the purposes of this Act there shall be established a body to be called the Board of Immigration which shall consist of the persons for the time being holding office as Ministers.

(2) The Prime Minister shall preside over the proceedings of the Board but in his absence a member designated by him shall preside.

(3) The majority of the members of the Board shall constitute a quorum.

(4) Where on any question the members of the Board are not unanimous, the opinion of the majority shall prevail and in the event of an equality of votes the member presiding shall have and exercise a casting vote.

(5) Subject to the provisions of this Act the Board may make Standing Orders regulating its own procedure.

6. (1) The functions of the Board shall be —

Functions of
Board.

- (a) to exercise a general supervision and control over matters (hereinafter in this section referred to as “the designated matters”) concerning or connected with the entry of persons into The Bahamas, and the residence and occupation in The Bahamas of persons who are not citizens of The Bahamas or permanent residents;
- (b) to cause to be made such enquiries as it thinks expedient in respect of any matters concerning or connected with any of the designated matters or in regard to any other matters in respect of which the permission, approval or consent of any Immigration Officer or the Board is required under this Act;
- (c) in respect of matters connected with the designated matters, to cause such statistical data to be obtained and recorded, and such records or reports to be published, as it may think expedient;
- (d) to cause records to be kept and maintained of the entry of all persons into The Bahamas and of the departure of all persons from The Bahamas;
- (e) to exercise the powers and duties conferred upon the Board under the provisions of this Act.

26 of 1975, s. 3.

(2) For the purpose of the exercise of any function of the Board, the Board may authorise the Minister to exercise on its behalf any power, including any power to give directions, conferred upon the Board under the provisions of this Act other than a power which is expressed to be exercised by the Board in its absolute discretion and in such case the exercise of a power by the Minister so authorised shall be deemed to be for all purposes an exercise of the power by the Board.

(3) Without prejudice to anything in the Evidence Act any record required to be kept under the provisions of paragraph (d) of subsection (1) of this section shall be received in evidence in any court or in any tribunal whatsoever in The Bahamas as evidence *prima facie* of any entry or particulars entered therein.

Ch. 65.

PART III IMMIGRATION OFFICERS

Appointment of
Immigration
Officers.
E.L.A.O., 1974.

7. (1) The Governor-General acting in accordance with the advice of the Public Service Commission, shall appoint a person to be the Director of Immigration who shall be the executive officer of the Board and who shall, subject to the provisions of this Act, be charged with the general administration of this Act.

(2) The Governor-General acting in accordance with the advice of the Public Service Commission, shall appoint such number of persons to be Deputy Directors of Immigration and Immigration Officers for the purposes of this Act as may from time to time be authorised by Parliament.

3 of 2015, s.3.

(3) Subject to the provisions of this Act, the Board may from time to time give to the Director of Immigration, any Deputy Director of Immigration or Immigration Officer, general or special directions, not inconsistent with the provisions of this Act, as to the exercise or performance of any of their powers, discretions or functions under this Act and the Director of Immigration and all Deputy Directors of Immigration and Immigration Officers shall comply with any such general or special directions so given.

General powers
of Immigration
Officers.

8. (1) For the purpose of exercising his powers and functions and carrying out his duties under this Act, any Immigration Officer may —

- (a) board any ship within the territorial waters of The Bahamas or any aircraft which has landed in The Bahamas;
- (b) without a search warrant, search any such ship or aircraft or anything contained therein or any vehicle being landed in The Bahamas from any such ship or aircraft;
- (c) interrogate any person reasonably supposed not to be a citizen of The Bahamas or to be a permanent resident who —
 - (i) desires to enter or leave The Bahamas;
 - (ii) being in The Bahamas, is reasonably suspected of having entered without leave in contravention of section 19;

*18 of 1973,
Fourth Sch.;
26 of 1975,
s. 3 & Sch.*

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- (iii) having been granted leave to land in The Bahamas for a specified period is reasonably believed to have remained in The Bahamas in excess of that period;
 - (iv) being in The Bahamas is reasonably believed to be engaging, or to have engaged, in gainful occupation in The Bahamas without having been granted a permit permitting him so to do under section 30;
- (d) require any person who desires to enter or leave The Bahamas to make and sign any prescribed form of declaration.
 - (e) require any person who desires to enter The Bahamas to submit to be examined by a medical practitioner appointed in that behalf by the Minister for the time being responsible for Health and to undergo, and to assist in the carrying out of, any test or investigation which such medical practitioner may require; and
 - (f) require the master of a ship or captain of an aircraft arriving from or leaving for any place outside The Bahamas, or the agent of such ship or aircraft to furnish a list in duplicate signed by himself of the names of all persons in the ship or aircraft and such other information as may be required.

(2) Any Immigration Officer may, in writing, summon for the purposes of interrogation any person whom he is empowered by paragraph (c) of subsection (1) of this section to interrogate, and may require any such person to produce any document in his custody or possession or under his control relating to any matter upon which he may be interrogated.

(3) Any Immigration Officer investigating any offence or alleged or suspected offence under this Act or any regulations shall have all the powers, privileges, protections and authorities conferred by law on a police officer for and in relation to the investigation of an offence.

Powers of arrest.

*18 of 1973,
Fourth Sch.;
26 of 1975, s. 3 &
Sch.; 38 of 1968,
s. 263 & Sch.
3 of 2015, s.4.*

Ch. 91.

Penalties for
failing to answer
interrogations.

9. If any Immigration Officer or police officer has reasonable cause to suspect that any person, has committed an offence under this Act or any regulations and if it appears to him to be necessary to arrest such person immediately in order to secure that the ends of justice for the purposes of this Act shall not be defeated, he may arrest such person without warrant whereupon the provisions of section 18 of the Criminal Procedure Code Act shall apply in every such case.

10. Any person who —

- (a) having been summoned under the provisions of section 8(2) without reasonable excuse fails to attend at the time and place appointed; or
- (b) refuses or fails to answer fully and truthfully any question or enquiry lawfully put to him in the course of interrogation under the provisions of paragraph (c) of section 8(1); or
- (c) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or inquiry, as aforesaid; or
- (d) when required to produce any document under the provisions of section 8(2), refuses or fails to produce within a reasonable time any such document which it is in his power to produce, or, with the intention of misleading any Immigration Officer produces any document which he knows or has reasonable cause to believe to be false or misleading; or
- (e) otherwise knowingly misleads or attempts to mislead any Immigration Officer acting under the provisions of paragraph (c) of section 8(1) or section 8(2),

shall be guilty of an offence against this Act.

Admissibility of
answers given in
interrogation.

11. (1) All answers to questions lawfully put in interrogation under paragraph (c) of section 8(1) and all documents produced on requisition under section 8(2) shall be admissible in evidence, in relation to any matter arising under or connected with this Act or any regulations, in any proceedings to which this section applies.

- (2) This section shall apply to —
 - (a) any civil proceedings; and

(b) any criminal proceedings in respect of an offence under section 10 of this Act.

(3) Nothing in this section shall be construed as rendering any such answer or document inadmissible in evidence in any proceedings in which it would otherwise be admissible.

12. It shall be the duty of every police officer and customs officer to aid and assist generally in carrying out the provisions of this Act; and if any contravention of, or failure to comply with, any of the provisions of this Act or any regulations shall become known to any police officer or customs officer it shall be his duty to report the same forthwith to an Immigration Officer.

Duty of police and customs officer in administration of this Act.

PART IIIA IMMIGRATION RESERVE

3 of 2015, s.5.

12A. (1) There is established for the purposes of this Act a corps of officers to be known as the Immigration Reserve.

Establishment of Immigration Reserve.

(2) The Reserve shall consist of Bahamian citizens resident in The Bahamas who —

- (a) have attained the age of eighteen years;
- (b) volunteer for service in the Reserve; and
- (c) are enlisted as Reserve Immigration Officers.

(3) The Reserve may be employed in The Bahamas for assisting Immigration Officers in the exercise or performance of any of their powers, discretions, functions or duties under this Act.

12B. (1) Subject to subsections (2) and (3), the Director of Immigration may, with the prior approval of the Minister, enlist as many fit and proper persons as members of the Reserve as the Minister may from time to time authorise.

Enlistment of immigration reservists.

(2) Reservists enlisted pursuant to subsection (1) shall be under the direction and control of an Immigration Officer of at least the rank of Assistant Director of Immigration who is not himself a reservist.

(3) A reservist may be enlisted in the rank of Superintendent of Immigration, Chief Immigration Officer, Senior Immigration Officer, or Reservist provided that persons enlisted at the rank of Chief Immigration Officer and above shall be appointed by the Governor-General

acting in accordance with the advice of the Public Service Commission.

Promotion and dismissal.

12C. Appointees at the rank of Chief Immigration Officer and above may be promoted and dismissed by the Governor-General acting in accordance with the advice of the Public Service Commission and subordinate officers may be promoted and dismissed by the Director of Immigration with the prior approval of the Minister.

Powers and duties of reservists.

12D. (1) A reservist shall attend such periods of training, and perform such functions and duties, as the Director of Immigration may from time to time direct.

(2) A reservist while on duty —

- (a) shall have, exercise, and enjoy the same powers, authorities, advantages, and immunities as an Immigration Officer; and
- (b) is liable to the same duties, responsibilities and discipline as an Immigration Officer.

Mobilisation.

12E. (1) The Director of Immigration may, with the prior approval of the Governor-General, mobilise the Reserve or any part of the Reserve.

(2) Every member of the Reserve is, during a period of mobilisation, entitled to pay and allowances at the same rate as a gazetted Immigration Officer of equivalent rank.

Regulations.

12F. The Governor-General may make regulations for the Reserve and may, without prejudice to the generality of the foregoing, make particular regulations in relation to reservists providing for their —

- (a) ranks and remuneration;
- (b) terms of service and discipline;
- (c) training and administration;
- (d) duties and responsibilities;
- (e) uniform and equipment; and
- (f) standing orders.

PART IV CERTIFICATE OF PERMANENT RESIDENCE

Certificate of permanent residence.
26 of 1975, s. 2.

13. (1) The Board may, in its absolute discretion, upon application being made in the prescribed form and on payment of the prescribed fee, grant a permanent residence certificate to any person who —

- (a) is not less than eighteen years of age;
- (b) is of good character; and
- (c) in his application has stated his intention of residing permanently in The Bahamas.

(2) A certificate granted under subsection (1) of this section may be made subject to such conditions as the Board may impose, including, without prejudice to the generality of the foregoing, a condition that the applicant shall not engage in any gainful occupation without a permit issued in respect of that employment under section 29.

(3) Notwithstanding subsection (1), the Board may grant a certificate of permanent residence to a person who has not attained the age of eighteen years and who is entitled to apply for registration as a citizen pursuant to the Constitution. *3 of 2015, s.6.*

(4) The making of an application by the parent or guardian of a minor who comes within the provisions of subsection (3) for a certificate of permanent residence shall not prejudice any application previously made for registration of the minor as a citizen of The Bahamas nor shall the grant of permanent residence divest the minor of any entitlement for registration as a citizen of The Bahamas made on behalf of the minor in the future. *3 of 2015, s.6.*

14. Notwithstanding section 13 where a person applies under that section for a permanent residence certificate and that person, at the date of the application —

- (a) is married to, or is the surviving spouse of, a citizen of The Bahamas and, in case of a surviving spouse, the marriage was subsisting at the time of death of the other party;
- (b) is not a citizen of The Bahamas or a permanent resident;
- (c) is not living apart from the other party to the marriage under a decree of a competent court or under a deed of separation;
- (d) has lived continuously with the other party to the marriage for a period of not less than five years,

Certificate of permanent residence for spouse of Bahamian citizen.
12 of 1978, s. 2.
3 of 2015, s.7.

3 of 2015, s.7

the Board may, in its absolute discretion, grant a certificate under section 13 to the applicant and where a certificate is granted it shall not contain any condition restricting the right of the holder to engage in gainful employment.

Application for certificate of permanent residence by divorced spouse of, or spouse living apart from, a Bahamian citizen.
3 of 2015, s.8.

14A. (1) Notwithstanding section 14, a person may apply under section 13 for a permanent residence certificate where that person, at the date of the application —

- (a) is married to but living apart from a citizen of The Bahamas under a decree nisi of a competent court or under a deed of separation, or has obtained a decree absolute of a competent court; and
- (b) during the subsistence of the marriage, lived continuously with the other party to the marriage for a period of not less than five years.

(2) The Board may grant under section 13 a certificate of permanent residence to an applicant falling within this section.

(3) A certificate of permanent residence granted by the Board under section 13 to an applicant falling within this section shall not contain any condition restricting the right of the holder to engage in gainful employment.

Certificate of permanent residence for issue of Bahamian married woman.
4 of 1997, s. 2.

15. (1) Notwithstanding section 13, where a person applies under that section for a permanent residence certificate and that person —

- (a) was born legitimately, outside The Bahamas, to a married woman who is a citizen of The Bahamas but whose husband is not a citizen of The Bahamas; and
- (b) is eighteen years of age or over,

the Board shall grant a certificate under section 13 to the applicant and where any such certificate is granted, it shall not contain any condition restricting the right of the holder to engage in gainful occupation.

(2) An application made under subsection (1) by any person, for a certificate of permanent residence, shall not prejudice any application previously made by that person for registration as a citizen of The Bahamas.

Wives and children of permanent residents.
26 of 1975, s. 2.

16. (1) When a permanent residence certificate is granted under section 13, the Board may, in its absolute discretion, then, or on a subsequent application in the prescribed form, endorse the certificate to apply to the wife or any dependent child of that person ordinarily resident with him.

(2) Any endorsement under subsection (1) of this section may be made subject to such conditions as the Board may impose, including, without prejudice to the generality of the foregoing, a condition that the wife or dependent child, as the case may be shall not engage in any gainful occupation without a permit issued in respect of that employment under section 30.

17. A permanent residence certificate shall remain in force during the lifetime of the person to whom it is granted, unless and until it is revoked under section 18.

18. (1) Subject to subsection (3) of this section, the Board may revoke a permanent residence certificate on the ground that the person to whom it was granted —

- (a) has shown himself by act or speech to be disloyal or disaffected towards The Bahamas; or
- (b) has, during any war in which The Bahamas was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
- (c) has within five years of the grant of the certificate been imprisoned in any country for a criminal offence for a period of one year or more; or
- (d) has so conducted himself that in the opinion of the Board it is not in the public interest that he should continue to enjoy the privileges conferred by the certificate; or
- (e) subsequent to the grant of the certificate, has been ordinarily resident outside The Bahamas for a continuous period of three years; or
- (f) has obtained the certificate by means of fraud, false representation or the concealment of any material fact; or
- (g) being a person to whom section 14 applies —
 - (i) is living apart from the other party to the marriage under a decree of a competent court or a deed of separation; or
 - (ii) has ceased by reason of the dissolution or annulment of the marriage to be married to the spouse with whom he lived when the certificate was granted;

Duration of permanent residence certificate. *26 of 1975, s. 2.*
 Revocation of permanent residence certificates and endorsements. *26 of 1975, s. 2.*

12 of 1978, s. 3.

- (iii) subsequent to the death of the other party to the marriage, marries a person who is not a citizen of The Bahamas;
- (h) has at any time been convicted by a competent court in a Commonwealth country of treason;
- (i) has at any time been convicted by a competent court in any country of any criminal offence punishable by death or imprisonment for seven years or more;
- (j) has failed to observe any condition to which the certificate was made subject;
- (k) being a person to whom section 14A applies, is remarried to a person who is not a citizen of The Bahamas.

3 of 2015, s.9.

(2) Subject to subsection (3) of this section, the Board may revoke an endorsement on a permanent residence certificate on the ground that —

- (a) any condition to which the endorsement is subject has not been fulfilled; or
- (b) the person named, having been named as a wife —
 - (i) is living apart from her husband under a decree of a competent court or under a deed of separation; or
 - (ii) has ceased to be married to her husband by reason of dissolution or annulment of marriage.

12 of 1978, s. 3.

- (c) the person named having been named as a dependent child —
 - (i) has attained the age of eighteen years; or
 - (ii) being a child to whom Article 7 or 9 of the Constitution applies, has attained the age of twenty-one years or has had his application under Article 7 or 9 determined, whichever is earlier.

(3) Before the revocation of a certificate under subsection (1) of this section, or of an endorsement under subsection (2) of this section, the Board shall, in writing, inform —

- (a) the person to whom the certificate was granted; and
- (b) where it is proposed to revoke the endorsement of the name of the wife, the person so named,

of the grounds on which it is proposed to revoke the certificate or endorsement, as the case may be, and shall give any person so informed an opportunity to be heard.

PART V
ENTRY INTO THE BAHAMAS

19. (1) Subject to the provisions of this Act, a person shall not land in The Bahamas from any place outside The Bahamas or embark in The Bahamas for any destination outside The Bahamas —

Restriction on landing and embarking.

- (a) save with the leave of an Immigration Officer; and
- (b) elsewhere than at an authorised port or at such other place as an Immigration Officer may in any particular case allow;
- (c) in case of embarkation, unless in possession of a valid passport, visa, or other form of travel document entitling him to enter the country or place of destination.

3 of 2015, s.10.

(2) Any person landing or embarking in The Bahamas in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) The Director of Immigration may by order in writing direct the removal from The Bahamas of any person who has been convicted of an offence against the provisions of subsection (2) of this section and has been sentenced therefor to a term of imprisonment, and such person may, at any time before the expiration of his sentence, be placed on board any ship or aircraft about to leave The Bahamas and which is specified in the order and shall be deemed to be in legal custody until the departure of such ship or aircraft.

(4) The master of any ship or the captain of any aircraft and the owner and any agent of the owner of any ship or aircraft from or in which a person lands or embarks in contravention of the provisions of this section shall be guilty of an offence against this Act and liable —

- (a) on summary conviction to a fine of one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; or

- (b) on conviction upon information in the Supreme Court to a fine of five thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment:

Provided that it shall be a good defence in proceedings against any such master, captain, owner or agent, under this subsection for him to prove to the satisfaction of the court that he did not know and had no means of knowing that such person had so landed or embarked.

(5) In any proceedings under this section evidence that any person found in The Bahamas is not a citizen of The Bahamas and not a permanent resident and that there is no record of him having had the leave of any Immigration Officer to land in The Bahamas shall be evidence of his having landed in The Bahamas in contravention of this section, until the contrary is shown to the satisfaction of the court.

(6) Notwithstanding anything contained in any other Act concerning the time within which any prosecution must be commenced, a prosecution for an offence against this section may be commenced at any time.

20. (1) Notwithstanding any other provisions of this Act, a person shall be entitled to land or embark in The Bahamas and shall be permitted by any Immigration Officer so to land or embark, if he satisfies the Immigration Officer that he comes within any of the following categories —

- (a) citizens of The Bahamas;
- (b) permanent residents;
- (c) persons who are diplomatic or consular officers or representatives or officials duly accredited of a country other than The Bahamas, or of the United Nations or any of its agencies or of any inter-governmental organisation in which The Bahamas participates, coming to The Bahamas to carry out their officials' duties;
- (d) persons employed in the service of the Government of The Bahamas;
- (e) persons whom an Immigration Officer is authorised by the Board to treat as entitled to land in The Bahamas; and

*18 of 1973,
Fourth Sch.;
26 of 1975,
s. 3 & Sch.*

Persons entitled
to land and
embark.

*26 of 1975, s. 3 &
Sch.
12 of 1978, s. 3.*

(f) wife and children of any person coming within the foregoing category (c) or (d) whether travelling with or separately from such person.

(2) The burden of proof that any person is a person to whom this section applies shall lie upon that person.

21. (1) Subject to the provisions of subsection (2) of this section the provisions of section 19 shall not apply to any person who —

Crew members
and persons in
transit.

(a) being a member of the crew of a ship at a port in The Bahamas, lands (otherwise than for the purpose of being discharged or after being discharged) at any time while the ship remains at that port; or

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(b) lands from an aircraft at an authorised port for the purpose only of embarking and leaving The Bahamas in an aircraft at that port and remains throughout the period between the landing and embarkation within such limits as may be approved for the purposes by an Immigration Officer.

(2) Notwithstanding anything contained in subsection (1) of this section, an Immigration Officer may at any time give notice to any person on board any ship or aircraft, other than a person entitled to land in The Bahamas under the provisions of section 20 prohibiting him from landing without the leave of an Immigration Officer and thereupon the provisions of section 19 of this Act shall apply to such person.

22. (1) Subject to the provisions of this Act an Immigration Officer may grant leave to any person to land and remain in The Bahamas for such period as he may determine in accordance with the provisions of subsection (2) of this section, upon being satisfied that that person —

Grant of leave to land.

- (a) has in his possession either a ticket, or some other means of travelling to some other country which he will be able to enter, or a valid permit, not having been obtained by fraud or misrepresentation, issued to him under section 30 permitting him to remain in The Bahamas for the period specified therein;
- (b) will not engage in any gainful occupation other than any occupation which may be specified in a valid permit, not having been obtained by fraud or misrepresentation, granted under section 30;
- (c) is not likely to behave in a manner prejudicial to the peace, order and good government of The Bahamas;
- (d) is not suffering from a mental disorder nor is a mental defective;
- (e) is not suffering from any contagious or infectious disease which, in the opinion of a medical practitioner appointed in accordance with the provisions of paragraph (e) of section 8(1) makes his presence in The Bahamas dangerous to the community;

-
- (f) is not a person who is reasonably believed to have come to The Bahamas for any immoral purpose, or who being a woman or a girl, is not reasonably believed to be a prostitute or to have come to The Bahamas for the purpose of prostitution;
 - (g) has not, since attaining the age of fourteen years, been convicted in any place of murder or an offence of a nature punishable in The Bahamas with imprisonment for a term of three years or more who by reason of such conviction is deemed by the Board or an Immigration Officer to be undesirable;
 - (h) is not a person whose name is for the time being entered in the stop list;
 - E.L.A.O., 1974.* (i) is not a member of a class of persons declared by Order, issued by the Minister, to be a prohibited class of persons for the purpose of this section;
 - E.L.A.O., 1974.* (j) is not a person whose presence in The Bahamas would in the opinion of the Board be undesirable and not conducive to the public good;
 - (k) is capable of supporting himself and his dependants during such time as he may be permitted to remain in The Bahamas; and
 - (l) is not the dependant of a person who is precluded from being granted leave to land by reason of any of the provisions of this section.

(2) The period for which an Immigration Officer may grant to any person leave to remain in The Bahamas under subsection (1) of this section shall be —

- (a) where such person produces a permit issued to him under section 30 permitting him to remain in The Bahamas, the period specified in that permit;
- (b) where such person does not produce to the Immigration Officer such a permit, such period not exceeding eight months as the Immigration Officer may, subject to any directions of the Board, determine.

(3) When a person has been granted leave to land and remain in The Bahamas for a period under the provisions of subsection (1) of this section the Director of Immigration may, for good cause, vary that period so however that

the total period during which such person is permitted to remain in The Bahamas does not exceed eight months from the date when he last landed in The Bahamas.

23. Where any person is not granted leave to land in The Bahamas by an Immigration Officer by reason of the provisions of section 22 the Director of Immigration may in his discretion, notwithstanding any other provisions of this Act, permit such person in writing to land and remain in The Bahamas for such period and subject to such conditions as may be prescribed or as the Director may deem fit to impose.

Special leave to land.

24. Where the Board is satisfied that any person who is not a citizen of The Bahamas or a permanent resident and who is for the time being outside The Bahamas —

Stop list.
18 of 1973,
Fourth Sch.;
26 of 1975,
s. 3 & Sch.

- (a) is a person who has, while in The Bahamas, conducted himself in a manner which is undesirable; or
- (b) is a person whose landing in The Bahamas appears undesirable in view of information or advice received from any source which the Board considers reliable,

then and in either case the Board may cause that person's name to be entered on a list to be called the "Stop List" to be maintained by the Board.

25. (1) Where leave to land is refused to any person under section 22 an Immigration Officer may, subject to subsection (2) of this section give directions —

Removal of persons refused leave to land.

- (a) to the master of the ship or commander of the aircraft in which such person arrived in The Bahamas, requiring him to remove that person from The Bahamas in that ship or aircraft;
- (b) to the owners or agents of such ship or aircraft, requiring them to remove such person from The Bahamas in any ship or aircraft specified in the directions, being a ship or aircraft of which they are owners or agents;
- (c) to such owners or agents, requiring them to make arrangements for the removal of such person from The Bahamas in any ship or aircraft bound for a country specified in the directions being either —

(i) a country of which such person is a national or in which he embarked for The Bahamas; or

(ii) a country to which there is reason to believe that such person will be admitted,

and for securing him a passage to that country.

(2) No directions shall be given under this section in respect of any person after the expiration of two months from the date on which he last arrived in The Bahamas.

(3) A person in respect of whom directions are given under paragraph (1) of this section may be placed, under the authority of an Immigration Officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.

(4) A person to whom leave to land is refused may be detained, under the authority of an Immigration Officer, pending the giving of directions in his case under paragraph (1) of this section and pending his removal in pursuance of directions so given; and where any such person is on board a ship or aircraft he may, under the like authority, be removed therefrom for such detention under this subsection.

Removal of
persons landing
unlawfully, etc.

26. (1) If any person —

(a) is found in The Bahamas after landing in contravention of this Act; or

(b) has been permitted to land in The Bahamas from a ship of which he was a member of the crew subject to a condition that he should leave The Bahamas by a specified ship or within a specified period, but fails to comply with that condition or is reasonably suspected of intending so to fail; or

(c) has landed in The Bahamas from a ship of which he was a member of the crew in accordance with section 21 without the leave of an Immigration Officer, but fails to leave with that ship from the port where he has landed, or is reasonably suspected of intending so to fail,

the provisions of section 25 shall apply to him as if he had been refused leave to land by an Immigration Officer:

Provided that in respect of any person to whom the provisions of paragraphs (b) or (c) of this subsection apply, the period of two months specified in subsection (2) of section 25 shall be extended to twelve months.

(2) If any person lands in The Bahamas from a ship on which he was a stowaway, section 25 shall thereupon apply to him as if he had been refused leave to land by an Immigration Officer:

Provided that in any such case —

- (a) subsection (2) of section 25 shall not apply; and
- (b) subsection (1)(c) of section 25 shall be deemed to include a reference to the country in which that person stowed away.

27. In any case where a person lands from a ship or aircraft in contravention of any of the foregoing provisions of this Part of this Act then, without prejudice to any other provisions of this Act, the local representative of such ship or aircraft shall be financially responsible for any public charges reasonably incurred in respect of such person's maintenance, including any detention, while in The Bahamas and his subsequent repatriation, removal or deportation therefrom.

Financial responsibility for persons landing illegally.

PART VI RESIDENCE AND EMPLOYMENT IN THE BAHAMAS

28. (1) No person other than a person entitled to land in The Bahamas in accordance with the provisions of section 20 shall remain in The Bahamas after the expiration of the period during which he is permitted to remain in The Bahamas by the Immigration Officer or the Director of Immigration under section 22 unless such person is in possession of a valid permit issued in accordance with the provisions of section 30 permitting him to so remain in The Bahamas.

Restrictions upon residence.

(2) Where any person ceases to be a person entitled to land in The Bahamas in accordance with the provisions of section 20 the provisions of this section shall apply to that person upon the expiration of such period of time as

reasonably to allow for the departure of that person from The Bahamas as the Director of Immigration may in his discretion allow.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

Restriction upon engaging in gainful occupation.
5 of 1978, s. 2.

29. (1) No person shall engage in any gainful occupation in The Bahamas unless —

- (a) he is a citizen of The Bahamas;
- (b) he is a permanent resident whose certificate of permanent residence permits him to engage in gainful occupation;
- (c) he is within either of the categories specified in paragraph (c) or (d) of subsection (1) of section 20;
- (d) he is in possession of a valid permit issued in accordance with the provisions of section 30 permitting him to engage in such occupation;
- (e) he is a person or within a category of persons whom the Minister has by order specified as entitled to engage in gainful occupation.

(2) Any person who engages in any gainful occupation in contravention of the provisions of this section shall be guilty of an offence against this Act.

3 of 2015, s.11.

(3) Any person who, whether on his own behalf or on behalf of another, employs any person who, under the provisions of subsection (1) of this section, is prohibited from engaging in any gainful occupation, shall be guilty of an offence against this Act and on summary conviction shall be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

Permission to reside or to engage in gainful employment.

30. (1) Subject to the provisions of this section, upon application being made in the prescribed form the Director of Immigration may, in accordance with the provisions of any regulations and of any directions of the Board, grant a permit in accordance with the provisions of this Act and in the prescribed form to any person permitting such person —

- (a) to remain in The Bahamas for the period specified in the permit otherwise than for the purpose of engaging in any gainful occupation;
- or

- (b) to remain in The Bahamas for the period specified in the permit for the purpose of engaging in the gainful occupation specified in the permit; or
- (c) in the case of —
 - (i) any permanent resident, whose certificate of permanent residence, or the endorsement of such certificate, is made subject to a condition made under subsection (2) of section 13 or subsection (2) of section 16, as the case may be, restricting him from engaging in any gainful employment;
 - (ii) the wife and any child of any person to whom paragraphs (c) and (d) of subsection (1) of section 20 applies,

to engage in the gainful occupation specified in the permit.

(2) Notwithstanding subsection (1), where a person applies in the prescribed form for permission to remain in The Bahamas for the purpose of residing or engaging in gainful occupation and that person, at the date of the application — *4 of 1997, s. 3.*

- (a) is married to a citizen of The Bahamas;
- (b) is not a citizen of The Bahamas or a permanent resident; and
- (c) is not living apart from the other party to the marriage under a decree of a competent court or under a deed of separation,

the Board may, in its absolute discretion, grant a permit to that person (in this Act referred to as a “resident spouse”), permitting that resident spouse to remain in The Bahamas for the purpose of residing or engaging in gainful occupation, for a period commencing on the date of the grant of the permit. *23 of 2012, s.2.*

(3) Upon the receipt of any direction given by the Board pursuant to subsection (2), in respect of any resident spouse, the Director of Immigration, in accordance with those directions and the provisions of any regulations, shall grant a permit, in accordance with the provisions of this Act and in the prescribed form, to that resident spouse, permitting that resident spouse to remain in The Bahamas for the period, if any, specified in the permit for the purpose of residing or engaging in gainful occupation provided that such permit shall — *4 of 1997, s. 3.*
23 of 2012, s.2.
3 of 2015, s.12.

-
- (a) where there are children of the marriage —
 - (i) remain valid to its expiration date notwithstanding the death of the Bahamian spouse, or a decree of divorce of a competent court, or a deed of separation, from the Bahamian spouse;
 - (ii) where applicable, be extended for such further period as may be required pending the processing of an application for any other status; and
 - (b) where there are no children of the marriage, remain valid to its expiration date notwithstanding the death of the Bahamian spouse, or a decree of divorce of a competent court, or a deed of separation, from the Bahamian spouse.”

Grant of resident
belonger permit.
3 of 2015, s.13.

30A. (1) The Director of Immigration may, on application made in the prescribed form, and in accordance with the regulations and the directions if any of the Board, grant a resident believer permit in the prescribed form to a person —

- (a) born in The Bahamas to non-Bahamian parents who is entitled to apply for registration as a citizen of The Bahamas under Article 7 of the Constitution and is residing permanently in The Bahamas at the time the application is made;
 - (b) born legitimately outside The Bahamas to a Bahamian mother who is married to a non-Bahamian father (Article 9 of the Constitution); and
 - (c) born outside The Bahamas, to a father who is a citizen of The Bahamas by virtue of Article 3(2) or Article 8 of the Constitution and who is married to a non- Bahamian.
- (2) A resident believer permit —
- (a) may be granted for such term as the Director of Immigration, in accordance with the regulations and the directions if any of the Board, may determine and specify in the permit; and
 - (b) entitles the holder to reside and engage in gainful occupation in The Bahamas for the duration of the term of the permit.

(3) The grant of a resident believer's permit does not affect the right of a grantee of a resident believer's permit to apply for registration as a citizen of The Bahamas under Article 7 of the Constitution or preclude the Minister exercising his powers under The Bahamas Nationality Act.¹

(4) The making of an application by any resident spouse for permission to remain in The Bahamas for the purpose of residing or engaging in gainful occupation under subsection (3) of this section, shall not prejudice any application by that resident spouse for the grant of a permanent residence certificate under section 13, but a permit granted under subsection (3) of this section shall cease to have effect upon the grant to that resident spouse of any such permanent residence certificate. *4 of 1997, s. 3.*

(5) The provisions of this Act and of the regulations relating to permits granted under subsection (1), shall apply *mutatis mutandis* to permits granted under subsection (3). *4 of 1997, s. 3.*

(6) Without prejudice to any other provisions of this Act, any person applying for a permit under the provisions of this section may be required by the Director of Immigration —

- (a) to furnish him with such evidence of good character in respect of himself and his dependants as the Board may consider necessary;
- (b) to furnish him with medical certificates with respect to himself and his dependants certified by medical authorities acceptable to the Board and with such particulars as the Board may consider necessary;
- (c) to satisfy him that he is able to maintain himself and his dependants in The Bahamas;
- (d) to provide —
 - (i) in the case of a person wishing to remain in The Bahamas for purposes other than engaging in gainful occupation, an undertaking, in writing, that he will not engage in any gainful occupation in The Bahamas; or
 - (ii) in the case of a person wishing to remain in The Bahamas for the purposes of engaging in any gainful occupation, full particulars of such occupation;

¹ Vol. IV, (Ch. 190)

- (e) to give a bond for such sum and with such sureties as the Board may approve for securing payment of any public charges including any cost of transporting the applicant and his dependants to a country outside The Bahamas willing to receive them, that may be incurred in respect of the applicant or his dependants:

Provided that the Board shall cancel any such bond on the applicant subsequently acquiring a certificate under section 13 or 17 and may cancel any such bond at any time on being satisfied that the necessity for the bond no longer exists:

And provided further that in the case of a person who is to be employed by an employer in The Bahamas, the prospective employer shall be required to give such bond *in lieu* of the person himself;

- (f) to furnish such particulars (whether of the same kind as those hereinbefore referred to or not) as the Board may consider material to the consideration of any application.

31. (1) Any permit granted under the provisions of section 30 and section 30A —

- (a) may be limited in duration to a period specified in the permit;
- (b) may be granted subject to such conditions or restrictions, in addition to any conditions or restrictions which may be prescribed, as the Board may in any case direct; and
- (c) shall be subject to any special conditions or restrictions which the Board may impose in respect of any particular person;
- (d) may be cancelled by the Board in the event of the Board being satisfied that the person to whom it is granted has failed to comply with any condition or restriction to which the permit is subject; and
- (e) shall be cancelled by the Board forthwith upon a deportation order being made under section 40 in respect of the person to whom the permit is granted.

Conditions of permits.

3 of 2015, s.14.

E.L.A.O., 1974.

(2) Any condition or restriction imposed under the provisions of paragraph (b) or (c) of subsection (1) of this section shall be set out in the permit.

32. On application being made in the prescribed manner by the holder of a permit granted under the provisions of section 30 and section 30A, and subject to the provisions of this Act and the regulations made thereunder relating to such permit, the Board may vary the conditions and the period of validity, if any, specified in such permit.

Variations of conditions of permits.

*5 of 1978, s.4.
3 of 2015, s.15.*

32A. (1) The Minister may —

(a) formulate and implement a sector policy detailing the manner of, and criteria for, the exercise of the Minister's discretion under this Part; and

Sector policy on exercise of Minister's direction.

3 of 2015, s. 16.

(b) publish the sector policy referred to in paragraph (a) in the *Gazette*, in two newspapers of general circulation in The Bahamas for two consecutive days, and on such websites as the Minister may determine, within seven days of the signing of the policy by the Minister.

(2) The Minister—

(a) may from time to time amend the sector policy; and

(b) shall publish each amended sector policy in accordance with the requirements of paragraph (b) of subsection (1).

(3) The sector policy shall take effect on first publication, whether in the *Gazette* or the newspapers or on the websites.

32B. (1) No person shall wilfully enter into a marriage with the intention of—

Fraudulent marriages.

(a) evading or avoiding any provision of this Act or the regulations; or

3 of 2015, s.16.

(b) obtaining for himself or another person a permit or other benefit under this Part.

(2) A marriage entered into for a purpose referred to in subsection (1) is a fraudulent marriage and a person wilfully entering into such a marriage commits an offence and shall be liable on summary conviction —

(a) where such person is a citizen or permanent resident, to a fine not exceeding ten thousand dollars, or to imprisonment for a term not

- exceeding five years, or to both such fine and imprisonment; or
- (b) where such person is not a citizen or permanent resident, to deportation.

PART VII
SUPPLEMENTARY PROVISIONS RELATING TO
IMMIGRATION CONTROL

Duty of local representative of ship or aircraft to give notice of arrival.

33. (1) It shall be the duty of the local representative of every ship or aircraft arriving in The Bahamas to give adequate and timely notification of the arrival of the ship or aircraft to the Director of Immigration and, if required, to furnish such particulars as he may then have in his possession regarding the passengers and crew on board such ship or aircraft.

(2) Any person who fails to comply with any of the provisions of this section, or with any requirements duly given thereunder, shall be guilty of an offence against this Act.

Inward passenger and crew manifests.

34. (1) The master of every ship or aircraft arriving in The Bahamas, and the local representative of any such ship or aircraft shall, if so required by an Immigration Officer, as soon as practicable after the arrival of such ship or aircraft and before any passenger or member of the crew has landed in The Bahamas, deliver to an Immigration Officer a list showing separately —

- (a) the names and particulars of the passengers on board the ship;
- (b) the names of the passengers whose journey by that ship or aircraft is to be completed in The Bahamas;
- (c) the names and particulars of any other person (including persons rescued at sea and stowaways) on board the ship or aircraft:

Provided that an Immigration Officer may allow any person on board the ship or aircraft to land, without prejudice to any other provision of this Act, before such lists are duly delivered.

(2) Any person who fails to comply with any requirement duly given under subsection (1) of this section shall be guilty of an offence against this Act.

35. (1) It shall not be lawful for the master of any ship to cause or allow any passenger or member of the crew or other person on board the ship to land in The Bahamas before permission generally to land has been given by an Immigration Officer.

Control of landing from ships.

(2) The master of any ship who contravenes any of the provisions of this section shall be guilty of an offence against this Act:

Provided that it shall be a good defence for a person charged with an offence under this section to prove that any such landing took place in emergency, and was, at the earliest time practicable, notified to an Immigration Officer.

36. (1) Every passenger arriving in or departing from The Bahamas shall complete and deliver to the person prescribed a declaration in the prescribed form.

Declaration on disembarkation and embarkation.

(2) It shall be the duty of the owner of the ship or aircraft in or from which any passenger embarks or disembarks to provide such passengers at such owner's expense with the prescribed form.

(3) Any person who in completing the prescribed declaration knowingly makes any false statement or representation shall be guilty of an offence against this Act.

36A. (1) Notwithstanding any other law or in addition thereto, the master of every (cruise) ship arriving or departing The Bahamas shall submit a landing card, or in lieu thereof transmit electronically a manifest, to the port or ports of every passenger and crew on board his ship in the prescribed form.

Electronic transmission of manifest.
46 of 2007, s. 2.

(2) The master of any ship who contravenes this section shall be guilty of an offence:

Provided that it shall be a good defence for a person charged with an offence under this section to prove that any such landing took place in an emergency, and was, at the earliest time practicable, notified to an Immigration Officer.

37. (1) Every person intending to land in, or as the case may be, depart from The Bahamas shall, if required to do so by an Immigration Officer produce for inspection any passport, visa, document evidencing nationality or identity or any document evidencing permission to enter any country, in his possession.

Duty of persons entering or departing to produce passport, etc.

(2) Any person who fails to comply with any such requirement shall be guilty of an offence against this Act.

(3) If any person without lawful authority, alters any certificate or document issued or made under this Act, or uses for the purpose of this Act or has in his possession for such use any forged, altered or irregular certificate, passport, visa or other document he shall be guilty of an offence against this Act.

Outward
passenger and
crew manifests.

38. (1) The local representative of every ship or aircraft departing from The Bahamas shall, if so required by an Immigration Officer, furnish to the Director of Immigration at the time of, or immediately after, the departure of the ship or aircraft, lists showing separately —

- (a) the names and particulars of the passengers on board the ship or aircraft;
- (b) the names and particulars of the members of the crew of the ship or aircraft; and
- (c) the names and particulars of any other person on board the ship or aircraft.

(2) Any person who fails to comply with any requirement duly made under subsection (1) of this section shall be guilty of an offence against this Act.

Distribution of
copies of stop
list, etc., to
shipping agents,
etc.

39. It shall be lawful for the Board to cause copies of the stop list, or notification of the entry in or removal of any name from the stop list, to be given to the representatives of ships or aircraft ordinarily calling at The Bahamas, or to *bona fide* travel agencies.

PART VIII - DEPORTATION AND PROVISIONS RELATING TO THE REMOVAL OF PERSONS FROM THE BAHAMAS

Procedure where
deportation is
desirable.
*18 of 1973,
Fourth Sch.;
26 of 1975
s. 3 & Sch.*

40. (1) If at any time after a person, other than a citizen of The Bahamas or a permanent resident, has landed in The Bahamas, it shall come to the knowledge of the Minister that such person —

- (a) has landed or remained in The Bahamas contrary to any provisions of this Act;
- (b) has been convicted of any offence against this Act or of any other offence punishable on indictment with death or imprisonment for two years or upwards; or
- (c) is a person whose presence in The Bahamas would in the opinion of the Board be undesirable and not conducive to the public good,

the Minister may make an order (hereinafter referred to as a “deportation order”) requiring such person to leave The Bahamas within the time fixed by the deportation order and thereafter to remain out of The Bahamas.

E.L.A.O., 1974.

(2) Where a deportation order is made in respect of a person who immediately before the making thereof was lawfully within The Bahamas under the provisions of this Act, a copy of the order shall be served upon him by an Immigration Officer or by any police officer and he shall be entitled within the period of seven days next following the date of such service to appeal in writing to the Governor-General against the making of the order.

41. (1) Subject to the provisions of subsection (5) of this section any person in whose case a order has been made may be placed, under the authority of the Governor-General, on board any ship or aircraft which is about to leave The Bahamas and the master of the ship or commander of the aircraft shall, if so required by an Immigration Officer, take such steps as may be necessary for preventing the person from landing from the ship or aircraft before it leaves The Bahamas, and may for that purpose detain the person in custody on board the ship or aircraft.

Removal of persons subject to deportation orders.

(2) The Governor-General or an Immigration Officer may give directions to the master of any ship or commander of any aircraft which is about to leave The Bahamas, requiring him to afford to any person in whose case a deportation order has been made, and to his dependants (if any), a passage to any port specified in the directions, being a port at which the ship or aircraft is to call in the course of its voyage, and proper accommodation and maintenance during the passage.

(3) The Governor-General, may, if he thinks fit, apply any money or property belonging to any such person as aforesaid in payment of the whole or any part of the expenses of or incidental to the voyage from The Bahamas and the maintenance until departure of the person and his dependants (if any).

(4) Subject to the provisions of subsection (3) of this section any person in whose case a deportation order has been made may be detained, under the authority of the Governor-General until he is dealt with under subsection (1) of this section; and a person in whose case a recommendation for deportation is in force under section 40 shall (unless the court, in a case where the person is not sentenced to imprisonment, otherwise directs) be detained until the Governor-General makes a deportation order in his case or directs him to be released.

(5) A person in whose case a deportation order is made who is entitled in accordance with the provisions of subsection (2) of section 40 to appeal to the Governor-General against the making of the order, shall not be placed upon a ship or aircraft under the provisions of subsection (1) or detained under the provisions of subsection (4) of this section until the expiration of the period of seven days from the date of service upon him of a copy of the order or, in the event of his making such an appeal, until the decision of the Governor-General thereon is known.

Lien on ship or aircraft landing passengers contrary to this Act.

42. (1) If a passenger lands or attempts to land in The Bahamas, or does any act preparatory to landing in The Bahamas to the knowledge of the master of a ship or the captain of an aircraft by which such passenger arrived and such landing is, or would be, in contravention of any provision of this Act, such ship or aircraft shall be subject to a lien in favour of Her Majesty for the sum of fifteen hundred dollars in respect of each such passenger so landing, attempting to land or making preparation to land and the amount so charged may be sued for and recovered by the Director of Immigration in the Supreme Court.

(2) Any Immigration Officer or any police officer, acting under instructions of the Treasurer shall detain, by force if necessary, any ship or aircraft charged with the payment of any sum under this section, until the hour of six o'clock in the afternoon of the third day following the landing of the passenger in respect of which the same is charged:

Provided that such detainer shall cease upon payment to the officer detaining such ship or aircraft, or the person placed by him in actual charge of such ship or aircraft, of all sums charged upon such ship or aircraft under this section, or upon the ship or aircraft being arrested under the process of the Supreme Court issued in any action for the recovery of the sums last aforesaid.

(3) For the purposes of any action for the recovery of any sums charged upon an aircraft under the provisions of this section such aircraft shall be deemed to be a ship and the law relating to Admiralty actions *in rem* shall apply to such action accordingly.

(4) Where the sum charged upon a ship or aircraft under this section exceeds the value of such ship or aircraft it shall be lawful for the Supreme Court on the application of the Director of Immigration to order the destruction of the ship or aircraft.

43. If a passenger lands in The Bahamas from any ship or aircraft contrary to the provisions of this Act, and such passenger is, on the complaint of the master or captain, apprehended and conveyed on board such ship or aircraft, under the provisions of section 25 or 26 the lien arising under section 42 on the landing of such passenger shall cease to exist on his being so conveyed on board as aforesaid, but shall revive if such passenger again lands contrary to this Act.

Lien to cease if passenger returned on board.

44. In the event of any ship or aircraft becoming subject to a lien in respect of any passenger under section 42, the Governor-General may, either before or after any suit has been commenced for the recovery of such amount, remit the whole or such part thereof as he shall deem expedient, and order the release of such ship or aircraft on such terms and conditions as he shall think fit.

Power of Governor-General to remit lien.

PART IX

REGULATIONS: PROCEDURE: TRANSITIONAL

45. The Minister may make regulations for carrying this Act into effect and in particular and without prejudice to the generality of the foregoing power, for all or any of the following purposes —

Power to make regulations.
E.L.A.O., 1974.

- (a) prescribing anything which is to be, or may be prescribed under this Act;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) prescribing the fees to be paid in respect of any matter or thing prescribed under this Act or any regulations;
- (d) providing for the payment and recovery of any expenses incurred by the Government in connection with the detention, maintenance, medical treatment and removal from The Bahamas of any person under this Act;

*26 of 1975, s. 3 & Sch.
E.L.A.O., 1974.*

(e) prohibiting or restricting any ship or class of ships from entering or leaving The Bahamas otherwise than at certain specified ports, requiring any ship or class of ships to discharge cargo or disembark passengers at a specified port, prohibiting or restricting any ship or class of ships from entering or proceeding to, or discharging cargo or disembarking passengers at, any place or port other than a specified port imposing restrictions or conditions on any ship or class of ships entering any port within The Bahamas and requiring the master of any ship or such other person as may be specified in the regulations to undertake such obligations as may be deemed by the Minister necessary or expedient for giving effect thereto;

(f) prescribing penalties, not exceeding the penalty specified in section 49, for any offence against any regulations;

3 of 2015, s.17.

(g) establishing a detention centre at one or more locations within The Bahamas for the housing of persons detained —

(i) pursuant to Part VIII and against whom a deportation order has been made;

(ii) pursuant to any other law, or order of a court of competent jurisdiction, pending deportation from The Bahamas; or

(iii) in violation of any provision of this Act.

*Burden of proof.
3 of 1970, s. 2.*

46. (1) If any question arises in any proceedings under this Act or under any regulations or in reference to anything done or proposed to be done thereunder as to whether a ship or aircraft has come from a particular country or otherwise, the burden of proving that the ship or aircraft has not come from a particular country shall lie upon the person charged or, as the case may be, upon the person who, in those proceedings, is interested in proving that the ship or aircraft has not come from that particular country.

*3 of 1970, s. 2;
18 of 1973,
Fourth Sch.;
26 of 1975,
s. 3 & Sch.*

(2) In any proceedings under this Act, where evidence has been given that a person, other than a citizen of The Bahamas or a permanent resident, is or has been engaged or employed in The Bahamas by or on behalf of any other person in any form of occupation for which, in the ordinary course of conduct, remuneration in money or

in money's worth would be payable, it shall be presumed until the contrary is shown, that such first-named person is, or, as the case may be, has been, engaged or employed in gainful occupation by such other person in The Bahamas.

47. (1) Any person who —

- (a) knowingly assists any person to land in The Bahamas; or
- (b) connives in the landing in The Bahamas of any person; or
- (c) wilfully does any act preparatory to the landing in The Bahamas of any person,

Assisting illegal landing.

6 of 1996, s. 2.

where such landing is, or would be, from any ship entering or leaving The Bahamas otherwise than in accordance with any regulations made under paragraph (e) of section 45 applying to such ship, shall be guilty of an offence against this Act.

(2) Any person who —

- (a) assists an illegal passenger to depart from The Bahamas by a ship or aircraft leaving or that left The Bahamas; or
- (b) carries an illegal passenger on a ship or aircraft that left The Bahamas,

shall be guilty of an offence against this Act.

(3) For the purposes of subsection (2) —

- (a) “illegal passenger” means a person who prior to his departure from The Bahamas had not been given leave to land in The Bahamas or who is not in possession of any visa or other like document entitling him to enter the country for which the respective ship or aircraft was destined;
- (b) proof that an illegal passenger was found on a ship observed travelling in a direction that could culminate in its arrival at a country neighbouring The Bahamas should that ship not call in at a place in The Bahamas shall be *prima facie* proof that the ship was destined for a place outside The Bahamas;
- (c) “ship” or “aircraft” does not include a ship or aircraft, as the case may be, in respect of which particulars were furnished pursuant to subsection (1) of section 38;

3 of 2015, s.18.

3 of 2015, s.18.

- (d) proof that when a person was found on a ship or aircraft destined for a place outside The Bahamas no valid document was found in his possession showing that he had been given leave to land in The Bahamas or that a visa or other like document was validly issued to him by the country to which it is alleged the ship or aircraft was destined shall be *prima facie* proof that that person had not been given leave to —
- (a) land in The Bahamas; or
 - (b) enter the other aforesaid country as the case may be.

(4) The provisions of subsections (5) and (6) of section 19 shall, without prejudice to subsection (3) of this section, apply *mutatis mutandis* to any proceedings for an offence under this section.

(5) Any person who commits an offence under this section shall be liable —

- (a) if he is the owner or other person in charge of a ship or aircraft that is used in the commission of an offence, to a fine not exceeding five thousand dollars for each person with respect to whom the offence was committed; or
- (b) if he is a person other than to whom paragraph (a) applies, to a fine not exceeding three thousand dollars,

and to imprisonment for a period not exceeding two years and any ship or aircraft used in the commission of the offence shall be forfeited and shall be proceeded against and condemned in such manner as is prescribed by the Customs Management Act:

Ch. 293.

Provided that any such ship which is of or below five hundred net tons may be condemned by the Chief Magistrate upon proof to his satisfaction that the ship had been used in the commission of the offence.

Harbouring
illegal persons.
3 of 2015, s.19.

47A. (1) No person shall knowingly or recklessly or without reasonable cause —

- (a) provide housing, board or shelter of any kind to an illegal person;
- (b) conspire with another to provide housing, board or shelter of any kind to an illegal person.

(2) A person who knowingly or recklessly does an act referred to in paragraphs (a) and (b) of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars, or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(3) For the purposes of this section, “illegal person” means a person who has landed in The Bahamas in contravention of the provisions of this Act or the regulations.

48. Where any officer of the Defence Force or any customs officer or police officer has reasonable grounds for believing that any person on board any vessel which is in the territorial waters of The Bahamas is landing or preparing to land in The Bahamas in contravention of the provisions of this Act, he may board such vessel and exercise the powers conferred on an Immigration Officer under section 8.

Boarding of
vessels.
7 of 1979, Sch.

49. Any person who commits or attempts to commit an offence under this Act or any regulations made thereunder shall, except where any other penalty is provided, be liable on summary conviction to a fine of three thousand dollars or imprisonment for two years or to both such fine and imprisonment and any ship used in the commission of the offence shall be liable to forfeiture in the manner prescribed in subsection (5) of section 47.

General penalty.
*26 of 1975, s. 3 &
Sch.
6 of 1996, s. 3.*

(2) In any proceedings under this Act for the condemnation of a ship or aircraft, the Supreme Court, Chief Magistrate or stipendiary and circuit magistrate may order the destruction of the ship or aircraft.

6 of 1996, s. 3.

(3) Without prejudice to section 9 of the Penal Code and notwithstanding anything to the contrary in any other law an offence under subsection (2) of section 47 shall be deemed to have been committed in The Bahamas by a person on a ship regardless of the position of the ship when it was detained and an illegal passenger found thereon and any magistrate in the place to which the ship or the defendant was first brought or charged may exercise or have jurisdiction over that ship or the offence alleged against that defendant.

6 of 1996, s. 3.

50. (1) Notwithstanding the repeal of the Immigration Act, 1963, (hereinafter in this section referred to as “the repealed Act”) —

Saving and
transitional.
65 of 1963.

- (a) any certificate of permanent residence granted to any person under the provisions of the repealed Act and in force at the date of commencement of this Act shall have effect as though it had been granted under the corresponding provisions of this Act;
- (b) any entry permit permitting any person to remain in The Bahamas for the purpose of engaging in gainful occupation or otherwise in force at the date of commencement of this Act shall have effect as though it were a permit granted under section 30;
- (c) any notice, form, order, rule, regulation, or direction prescribed, made, issued or given under the repealed Act shall continue in force as if it has been prescribed, made, issued or given under this Act and may be repealed, revoked, varied or amended accordingly.

(2) The provisions of section 28 shall not apply in respect of any person who before the commencement of this Act was permitted to land in The Bahamas as a *bona fide* visitor under the provisions of the repealed Act until the expiry of such period as such person would have been entitled to remain in The Bahamas under the provisions of the repealed Act.

51. (1) This section shall apply to any person who possessed Bahamian Status on the ninth day of July, 1974, under this Act as then in force who —

- (a) is ordinarily resident in The Bahamas; and
- (b) is not a citizen of The Bahamas.

(2) Notwithstanding section 13 of this Act, where a person to whom this section applies makes application under that section for a certificate of permanent residence, and does so before the first day of May, 1976, or such later date as the Minister may by notice in the *Gazette* appoint, the Board shall grant a certificate to the applicant unless for any reason of public policy it is satisfied that it is not conducive to the public good that the certificate should be granted, and where the certificate is granted —

- (a) no fee shall be payable for the grant of the certificate; and
- (b) the certificate granted shall not contain any condition restricting the right of the holder to reside and engage in any gainful employment.

Transitional provisions for possessors of Bahamian Status. 26 of 1975, s. 4.

(3) Where a certificate of permanent residence is granted to a person to whom this section applies, any endorsement of that certificate relating to the wife or any dependent child of that person made under section 15(1) of this Act, shall not contain any condition restricting the right of the wife or child of that person to reside and engage in any gainful employment.

(4) Any person to whom this section applies shall have the same status (other than the right to vote in any election) which he enjoyed immediately before the twenty seventh day of October, 1975¹ by virtue of his possession of Bahamian Status until —

- (a) in the case of a person who makes due application under this section —
 - (i) where a certificate is granted, the date on which the certificate is granted;
 - (ii) where a certificate is not granted, a date three months after the date on which the Board serves notice in writing on the person concerned in accordance with section 6 of this Act that a certificate has not been granted to him;
- (b) in the case of a person who does not make application under this section, the first day of May, 1976 or such later date as the Minister may appoint under subsection (2) of this section.

(5) Notwithstanding subsection (4) of this section, a person to whom this section applies who has applied for registration as a citizen of The Bahamas before the twenty seventh day of October, 1975² shall have the same status (other than the right to vote in any election) which that person formerly enjoyed as a person possessing Bahamian Status until —

- (a) where the application is granted, the date on which that person is registered as a citizen of The Bahamas;
- (b) where the application is not granted, a date three months after the date on which the Minister responsible for Nationality and Citizenship serves notice in writing on the person concerned in accordance with section 51 of this Act that citizenship has not been granted to him.

¹ Date of commencement of Act No. 26 of 1975.

² See note Ch. 191 – 38 *ante*.

(6) For so long as a person to whom this section applies continues by virtue of subsection (4) or subsection (5) of this section to enjoy the same status (other than the right to vote in any election) which that person formerly enjoyed as a person possessing Bahamian Status, his wife and dependent children shall continue to enjoy the same status (excluding the right to vote in any election) enjoyed by them immediately before the twenty-seventh day of October, 1975 by virtue of that person's former possession of Bahamian Status.

(7) The making of an application by a person to whom this section applies for a certificate of permanent residence under section 13 of this Act shall not prejudice any application previously made by that person for registration as a citizen of The Bahamas.

Transitional provisions relating to service of notice on certain possessors of Bahamian status. 26 of 1975, s. 5.

52. (1) For the purposes of subsections (4) and (5) of section 51 of this Act notice may be served —

- (a) by delivering it to the person on whom it is to be served;
- (b) by leaving it at the address given by the person in his application;
- (c) by sending it by post addressed to the person on whom it is to be served —
 - (i) to any post office box given by the person in his application; or
 - (ii) in care of the Post Office (for general delivery)
 - A. in the case where such person has no post office box and has given in his application an address in New Providence, at East Hill Street, Nassau; or
 - B. in the case where such person has no post office box and has given in his application an address in an Out Island, at a district post office or sub-post office in that Out Island.

(2) For the purpose of subsection (1) “post” means registered or unregistered post.

(3) Any notice sent by post in accordance with paragraph (c) of subsection (1) shall be deemed to have been served on the person to whom it is addressed upon the expiration of three days after the posting of the notice.

(4) Service effected by delivery pursuant to paragraph (a) of subsection (1) shall have effect from the date of delivery.

(5) Service effected otherwise than —

- (a) by delivery; or
- (b) by post,

shall be deemed to have effect three days after the steps, not amounting to delivery or dispatch by post, allowed by the provisions of paragraph (b) of subsection (1) have been taken.

53. (1) This section shall apply to any person in respect of whom a certificate of permanent residence, granted under section 17 (now repealed and replaced) of this Act, was in force immediately before the twenty-seventh day of October, 1975.

Transitional provisions for existing permanent residents.
26 of 1975, s. 6.

(2) The certificate of a person to whom this section applies shall have effect after the twenty-seventh day of October, 1975, as if it were a certificate granted under section 13 of this Act, and, notwithstanding subsection (2) of that section —

- (a) where that person was immediately before the twenty-seventh day of October, 1975, lawfully entitled to engage in gainful employment without a permit issued under section 30 of this Act, that certificate shall be read and construed as a certificate which does not contain any condition restricting that person from engaging in any gainful employment;
- (b) any permit granted to that person under section 30 of this Act, which was in force immediately before the twenty-seventh day of October, 1975, shall have effect after that day according to its terms until its expiration.

(3) Any endorsement on the certificate of any person to whom that section applies regarding his wife or any dependent child, which had effect immediately before the twenty-seventh day of October, 1975, shall have effect after that day as if it had been made under section 16 of this Act, and, notwithstanding subsection (2) of that section, any such endorsement shall be read and construed as being made on conditions no less favourable than those applying to the endorsement immediately before the twenty-seventh day of October, 1975.