

THE ALIENS ACT
ARRANGEMENT OF SECTIONS

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SCHEDULES

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THE ALIENS ACT

[28th February, 1946.]

Cap. 9.
Acts
48 of 1964
S. 11,
25 of 1988.

PART I. *Preliminary*

1. This Act may be cited as the Aliens Act.

Short title.

2. In this Act—

Interpretation.

“embark” includes departure by any form of conveyance;

“Health Officer” means any registered medical practitioner appointed by the Governor-General to be a Health Officer for the purposes of this Act;

“keeper” where used in relation to premises where accommodation is provided for reward, includes any person who for reward receives any other person to lodge in the premises either on his own behalf or as a manager or otherwise on behalf of any other person;

“lands” includes arrival or entry by any form of conveyance, and references to landing shall, unless the context otherwise implies, be deemed to include references to attempting to land;

“member of a crew” means any person employed in the working or service of a vessel;

“passenger” means any person, other than a seaman, travelling or seeking to travel on board a vessel;

“port” includes any place where a person lands in or embarks from the Island;

“residence” means ordinary dwelling-place and, where an alien has more than one dwelling-place, each of such dwelling-places; and “resident” shall have a corresponding meaning;

“seaman” means an officer or member of the crew of a vessel;

“vessel” includes aircraft; and “master of a vessel” includes the pilot of an aircraft.

Retention
of nation-
ality.

3. For the purpose of this Act—

- (a) where an alien is recognized as a national by the law of more than one foreign State, or where for any reason it is uncertain what nationality (if any) is to be ascribed to an alien, that alien may be treated as the national of the State with which he appears to be most closely connected for the time being in interest or sympathy, or as being of uncertain nationality or of no nationality;
- (b) where a deportation order under the Aliens Admission and Deportation Regulation Law (now repealed) or under this Act is in force against any person, that person shall, unless the Minister otherwise directs, be deemed to retain his nationality as at the date of the order, notwithstanding any intervening naturalization, marriage or any other event.

Appoint-
ment of
immigration
officers.

4.—(1) The Governor-General may appoint a Chief Immigration Officer and also immigration officers for all or any specified parts of the Island for the purpose of carrying out the provisions of this Act and of any other enactment relating to immigration or deportation.

(2) Subject to any special or general instructions issued by the Minister, officers appointed under this Act shall have power to enter or board any vessel and to detain and examine any person arriving at or leaving any port in the Island who is reasonably supposed to be an alien, and to require the production of any documents by such person, and shall have such other powers and duties as are conferred

upon them by or under this Act or as may be prescribed for giving effect to this Act.

PART II. *Admission of Aliens*

5. Subject to such exemptions as may be made by the Minister under section 17, an alien coming from outside the Island shall not land in the Island except with the leave of an immigration officer.

Restriction
of landing of
aliens.

6. Leave shall not be given to an alien to land in the Island unless he complies with the following conditions, that is to say—

Eligibility for
admission.

- (a) he is in a position to support himself and his dependents;
- (b) if desirous of entering the service of an employer in the Island, he produces a permit in writing issued to him and in his name under the provisions of the Foreign Nationals and Commonwealth Citizen (Employment) Act;
- (c) he is not a person of unsound mind or a mentally defective person;
- (d) he is not the subject of a certificate given to the immigration officer by a Health Officer that for medical reasons it is undesirable that the alien should be permitted to land;
- (e) he has not been sentenced in a foreign country for any extradition offence within the meaning of the Extradition Act;
- (f) he is not the subject of a deportation order in force under this Act or under the Aliens Admission and Deportation Regulation Law (now repealed);
- (g) he has not been prohibited from landing by the Minister;

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- (h) he is in possession of a visa (unless he is a national of a country with which an agreement for the mutual abolition of visas is in force);
- (i) he fulfils such other requirements as may be prescribed.

Power to impose and vary conditions to grant of leave to alien to land.

7.—(1) An Immigration Officer, in accordance with general or special directions of the Minister, may attach such conditions as he may think fit to the grant of leave to an alien to land in the Island, and the Minister or the Chief Immigration Officer acting under the directions of the Minister may at any time vary such conditions in such manner as he thinks fit and the alien shall comply with the conditions so attached or varied.

(2) An immigration officer may require an alien, as a condition of granting him leave to land, to give the prescribed security, and the Chief Immigration Officer may require an alien, as a condition of granting a variation of a condition attached to the leave to land, to give the prescribed security.

(3) An alien who fails to comply with any condition attached to the grant of leave to land or imposed by way of variation of any condition so attached, or an alien who is found in the Island at any time after the expiration of the period limited by any such condition, shall for the purpose of this Act be deemed to be an alien to whom leave to land has been refused.

Furnishing of security

8.—(1) Whenever security has to be furnished by an alien under this Act such security shall be in the form of a deposit made with the Accountant-General and the amount thereof shall, according to the case be—

- (a) sixty dollars if he belongs to Colombia or Venezuela or a country forming part of the continent of America to the north of those countries,

or to any of the Islands of the North Atlantic Ocean;

- (b) one hundred dollars if he belongs to a country forming part of the continent of America to the south of Colombia or Venezuela, or to a country forming part of the continent of Europe or of Africa;
- (c) two hundred dollars if he belongs to any other country:

Provided that in special cases, to be approved by the Minister, the alien may give a security bond with one or more sureties acceptable to the Chief Immigration Officer.

(2) Any sum deposited under subsection (1) may be applied in meeting any charges incurred by public or parochial funds for the maintenance of the alien or his dependents or incurred otherwise in connection with him or them while in the Island or for his or their deportation or repatriation and the balance, if any, or the whole, if no part is applied as aforesaid, shall only be refunded upon the fulfilment of the conditions attached to the grant of leave to land or imposed by way of variation of such conditions, and upon the alien leaving the Island within the period limited by such conditions, or upon the cancellation of the conditions by the Minister.

9.—(1) An immigration officer or a Health Officer may inspect any alien seeking to land in the Island and any such inspection shall be made as soon as practicable after his arrival.

Inspection
and deten-
tion of
aliens.

(2) For the purpose of such inspection an alien may land temporarily and, provided he submits himself forthwith to such inspection, shall be deemed not to have landed. Any such alien may be detained in such manner as the Minister may direct and while so detained shall be deemed to be in legal custody.

(3) An alien landing in contravention of this Act and an alien seaman who, having been granted temporary shore leave during his vessel's stay in port, is reasonably suspected of having acted or of being about to act in contravention of this Act may, notwithstanding any intervening prosecution, be detained in such manner as the Minister may direct, until dealt with under subsection (5), or otherwise in accordance with the provisions of this Act, and whilst so detained shall be deemed to be in legal custody.

(4) Where leave to land is refused to an alien, the alien may, with the leave of an immigration officer, be placed temporarily on shore and detained at some place approved by the Minister, and whilst so detained shall be deemed to be in legal custody and not to have landed.

(5) (a) Any alien to whom this subsection applies shall be removed from the Island by the master of the vessel in which he arrived or, if directions for the purpose are given by the Minister or an immigration officer, by the owner or agents of that vessel, to the country of which he is a national or from which he embarked for the Island, or where, if a seaman, he was engaged.

(b) It shall be lawful (notwithstanding any intervening prosecution) for an immigration officer or any constable to place any alien to whom this subsection applies, on board the vessel in which he arrived in the Island or on board any vessel belonging to the same owners, for removal from the Island.

(c) This subsection shall apply to—

- (i) any alien to whom leave to land has been refused;
- (ii) any alien who, not having been granted leave to land, is found on shore in the Island;

- (iii) any alien seaman who having been granted temporary shore leave during his vessel's stay in port is reasonably suspected of having acted or of being about to act in contravention of this Act:

Provided that this subsection shall not apply if a period exceeding two months has elapsed since the date of the last arrival of the alien in the Island.

(6) The master of any vessel arriving at a port in the Island may detain on board any alien until inspected or landed for inspection under this section, and shall on the request of an immigration officer so detain any alien arriving in that vessel, whether seaman or passenger, to whom leave to land has been refused by an immigration officer, and any alien so detained shall be deemed to be in legal custody.

(7) Any alien landing or embarking at any place in the Island shall, on being required to do so by an immigration officer or constable acting under general or special directions of the Minister, make a declaration as to whether or not he is carrying or conveying any letters, written messages or memoranda, or any written or printed matter, including plans, photographs and other pictorial representations, and, if so required, shall produce to the officer any such letters, messages, memoranda or written or printed matter, and the officer may search any such alien and any baggage belonging to him or under his control with a view to ascertaining whether the alien is carrying or conveying any such letters, messages, memoranda or written or printed matter, and may examine and detain, for such time as he may think proper for the purpose of such examination, any letters, messages, memoranda or written or printed matter produced to him or found on such search.

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Master to
furnish
returns.

10.—(1) The master of any vessel landing or embarking passengers coming from or bound for a destination outside the Island at any port in the Island shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any passengers who are aliens, and every passenger shall furnish to the master of the vessel any information required by him for the purpose of the return.

(2) The master of any vessel arriving at any port in the Island from a port outside the Island shall furnish, to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any members of the crew who are aliens.

PART III. *Supervision and Deportation of Aliens*

Registra-
tion.

11.—(1) An alien shall comply with the following requirements as to registration—

- (a) he shall, as soon as may be, furnish to the registration officer of the registration district in which he is resident particulars as to the matters set out in the First Schedule, and shall, unless he gives a satisfactory explanation of the circumstances which prevent his doing so, produce to the registration officer either a passport furnished with a photograph and duly issued to him or renewed in his favour not more than five years previously or some other document satisfactorily establishing his nationality and identity;
- (b) he shall furnish to the registration officer of the registration district in which he is resident particulars of any circumstances affecting in any manner the accuracy of the particulars previously furnished by him for the purpose of registration within seven days after the circumstance has occurred, and generally shall supply to the regis-

First
Schedule.

- tration officer all information (including, where required by the registration officer, a recent photograph) that may be necessary for maintaining the accuracy of the register kept under this Act;
- (c) he shall, if he is about to change his residence, furnish to the registration officer of the registration district in which he is then resident particulars as to the date on which his residence is to be changed and as to his intended place of residence, and on effecting any change of residence from one registration district to another he shall, within forty-eight hours of his arrival in the registration district into which he moves, report his arrival to the registration officer of that district;
 - (d) if at any time he is absent from his residence for a period exceeding such period as may be prescribed by regulation, he shall report to the registration officer of the district of his residence his current address and every subsequent change of address including his return to his residence;
 - (e) he shall—
 - (i) on his registration, obtain from the registration officer a registration certificate;
 - (ii) on every subsequent alteration or addition of any entry in the register relating to his registration, produce the certificate to the registration officer in order that, if necessary, a corresponding alteration or addition may be made in the certificate;
 - (iii) produce the certificate upon demand to any police officer or immigration officer or any other person authorized by the Minister for the purpose.

(2) If an alien has no residence in the Island he shall attend at the office of a registration officer and, so far as possible, supply the particulars that would be required under this section if he were resident in the district of that officer, and shall report to the registration officer of any other district in which he stays for more than twenty-four hours. He shall also give notice to the registration officer to whom he has last reported of any intended change of address:

Provided that if any alien not having a residence in the Island shall supply to a registration officer the name and address of a Commonwealth citizen resident within the registration district of that officer and being a banker, solicitor, or the keeper, manager, or secretary, of a hotel or of a tourist or theatrical agency or otherwise, and a person who in the opinion of the registration officer is a person of respectability and good credit, the alien shall be deemed to be resident at that address, and the provisions of this section (other than subsection (1) (d) as to reporting the current address) shall apply accordingly, and it shall be the duty—

- (a) of any such alien to keep the Commonwealth citizen whose name and address has been so supplied informed as to his current address;
- (b) of the Commonwealth citizen on demand to furnish to any registration officer all information in his possession as to the alien.

(3) If an alien who is required under this section to register or report is lodging with, or living as the member of the household of, any other person, it shall be the duty of that person to take steps, either by giving notice to the registration officer of the presence of the alien in his household or otherwise, to secure compliance with the terms of this Act in respect of the registration of or reporting by the alien.

(4) A registration certificate shall be in such form and shall contain such particulars as may be prescribed.

(5) An alien registered in accordance with the provisions of the Aliens Restriction (Defence) Regulations, 1940, at the time of the coming into force of this Act shall be deemed to be registered at that time in accordance with the provisions of this section.

(6) The provisions of this section shall not apply to—

- (a) any person under the age of sixteen years;
- (b) any alien not resident in the Island who has been in the Island for a period not longer than such period as may be prescribed by regulation;
- (c) any alien seaman not resident in the Island whose vessel remains at a port in the Island and who does not land in the Island for discharge;
- (d) any person of Chinese, Syrian or Lebanese nationality who was ordinarily resident in the Island during the two years next preceding the third day of September, 1939, except the Minister shall in any particular case or by order otherwise direct.

12.—(1) It shall be the duty of the keeper of any premises to which this section applies to keep a register of all persons staying at the premises who are aliens not being under the age of sixteen years.

Particulars to be furnished by hotel-keepers and others.

(2) The keeper of any premises to which this section applies shall, on the arrival of any alien not being under the age of sixteen years at the premises, ascertain and enter or cause to be entered in the register kept for the purpose the name and nationality of such alien, together with the date of his arrival and the address from which he last came; and on the departure of any such alien the keeper of the premises shall enter or cause to be entered in the register the date of departure and destination on departure of the alien, and if

required by the Minister he shall also ascertain and enter in the register from time to time such other particulars concerning the alien as the Minister may direct.

(3) The keeper of any premises to which this section applies shall also, if directions for the purpose are issued by the Minister, make to the registration officer of the registration district in which the premises are situated, such returns concerning the persons staying at the premises, at such times or intervals and in such form, as may be specified in such directions.

(4) It shall be the duty—

- (a) of every person (whether an alien or not) staying at any premises to which this section applies to sign, when so required, a statement as to his nationality and, if an alien, to furnish and sign a statement of the particulars required under this section;
- (b) of the keeper of any premises to which this section applies to require any person who stays at the premises to sign the statement and furnish the particulars required from him under this section and to preserve such statements (including any statements supplied under this section to any previous keeper of the premises) for a period of two years from the date when the statements were signed.

(5) Every register kept, and all particulars furnished, under this section, shall at all reasonable hours be open for inspection by any officer of police or by any immigration officer or by any person authorized by the Minister.

(6) The Minister may prescribe the form in which a register is to be kept or statements furnished under this section.

(7) This section applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

13.—(1) There shall be provided and maintained by the Chief Immigration Officer under the directions of the Minister a central register of aliens in which there shall be registered such particulars in such form as may be prescribed.

Registration authorities and officers.

(2) (a) For the purposes of this Act the Chief Immigration Officer shall be the registration officer for the parish of Kingston and the chief officer of police of every other parish shall be the registration officer for that parish, and each parish shall be a registration district;

(b) A registration officer shall—

- (i) keep for his registration district a register of the aliens resident therein and required to be registered under this Act, and enter in the register particulars as to the matters set out in the First Schedule and such other particulars and in such form as may be prescribed; and
- (ii) furnish to the Chief Immigration Officer for the purposes of the central register at such times and in such manner as may be prescribed, copies of all entries in the register or such of them as may be prescribed; and
- (iii) supply registration certificates to aliens in accordance with the provisions of this Act and on such terms as to payment or otherwise as may be prescribed.

First Schedule.

Special
restrictions.

14. The Minister may by order impose on any alien or class of aliens such restrictions (either in addition to or in substitution for the other restrictions imposed by this Act) as to residence, reporting to the police, registration, the use or possession of any machine, apparatus, arms and explosives, or other articles, or otherwise, as he may deem to be necessary in the public interest, and any alien in relation to whom any such order is made shall comply with the terms of the order.

Deporta-
tion orders.

15.—(1) The Minister may, if he thinks fit, in any of the cases mentioned in subsection (6) make an order (in this Act referred to as a deportation order) requiring an alien to leave and to remain thereafter out of the Island.

(2) A deportation order may be made subject to any condition which the Minister may think proper.

(3) An alien with respect to whom a deportation order is made shall leave the Island in accordance with the order and shall thereafter so long as the order is in force remain out of the Island.

(4) An alien, with respect to whom a deportation order is made or a certificate is given by a court with a view to the making of a deportation order, may be detained in such manner as may be directed by the Minister and may be placed on board a vessel about to leave the Island, and shall be deemed to be in legal custody whilst so detained and until the vessel finally leaves the Island.

(5) The master of a vessel about to call at any port outside the Island shall, if so required by the Minister or by an immigration officer, receive an alien against whom a deportation order has been made and his dependants, if any, on board the vessel, and afford him and them a passage to that port and proper accommodation and maintenance during the passage.

(6) A deportation order may be made in any of the following cases—

- (a) if any court certifies to the Minister that the alien has been convicted, either by that court or by any inferior court from which the case of the alien has been brought by way of appeal, of any of the offences specified in the Second Schedule and that the court recommends that a deportation order should be made in his case either in addition to or in lieu of sentence;
- (b) if a court certifies to the Minister that the alien has been convicted by that court of an offence under this Act;
- (c) if the alien has become a charge on public or parochial funds or if the Mayor of the Kingston and St. Andrew Corporation or the Chairman of a Parish Council or the Commissioner of Police certifies to the Minister that the alien has been found wandering without ostensible means of subsistence or has been living in insanitary conditions due to overcrowding;
- (d) if the Minister deems it to be conducive to the public good to make a deportation order against the alien.

Second
Schedule.

(7) Where any case in which a court has made a recommendation for deportation is brought by way of appeal against conviction or sentence before a higher court and that court certifies to the Minister that it does not concur in the recommendation, such recommendation shall be of no effect but without prejudice to the power of the Minister to make an order of deportation under paragraph (d) of subsection (6).

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Expenses of
deportation.

16. Where a deportation order is made in the case of any alien the Minister may, if he thinks fit, apply any money or property of the alien in payment of the whole or any part of the expenses of or incidental to the voyage from the Island and of the maintenance until departure of the alien and his dependants (if any).

PART IV. *General*

Power to
grant
exemptions.

17. The Minister may direct that any person or class of persons shall be exempt either unconditionally or subject to such conditions as the Minister may impose from all or any of the provisions of this Act.

Documents
of identity
and furnish-
ing of
informa-
tion.

18.—(1) Every person landing in the Island shall be in possession of a passport furnished with a photograph and duly issued or renewed not more than five years before the date of his arrival, or some other document establishing his nationality and identity to the satisfaction of the immigration officer.

(2) Every person landing or embarking in the Island shall furnish to an immigration officer such information in such manner as may be prescribed.

Revocation
and varia-
tion of
orders, etc.

19. Any order made, directions or instructions given, or conditions imposed by the Minister or by an immigration officer or other person under this Act may be revoked or varied either wholly or in part by any subsequent order, direction, instruction, or condition.

Offences
and
penalties.

20.—(1) (a) If any person acts in contravention of, or fails to comply with, any provisions of this Act or any order or regulations made or conditions imposed or directions given thereunder; or

(b) if any alien, having landed in the Island in contravention of section 5, is at any time found within the Island, he shall be guilty of an offence against this Act.

(2) If any person aids or abets any person in any contravention of this Act, or knowingly harbours any person whom he knows or has reasonable ground for believing to have acted in contravention of this Act, he shall be guilty of an offence against this Act.

(3) Where a person lands in contravention of this Act, the master of the vessel from which he lands shall, unless he proves the contrary, be deemed to have aided and abetted the offence.

(4) Any person shall be guilty of an offence against this Act if, in reply or in relation to any immigration officer, registration officer, or other person lawfully acting in the execution of the provisions of this Act, he—

- (a) makes or causes to be made any false return, false statement, or false representation; or
- (b) alters any certificate or copy of a certificate or any entry made in pursuance of this Act; or
- (c) obstructs or impedes that person in the exercise of his powers or duties under this Act; or
- (d) without lawful authority uses or has in his possession any forged, altered, or irregular certificate, passport, or other document or any passport or document on which any visa or endorsement has been altered or forged.

(5) Any person who is guilty of an offence against this Act shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment with or without hard labour for a term not exceeding three years, and the Resident Magistrate before whom he is convicted may either in

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addition to or in lieu of any such punishment require such person to enter into recognizances with or without sureties to comply with the provisions of this Act or such provisions as the Resident Magistrate may direct.

(6) If any person fails to comply with an order of the Resident Magistrate requiring him to enter into recognizances, the Resident Magistrate, or any Resident Magistrate sitting for the same place, may order him to be imprisoned with or without hard labour for any term not exceeding six months.

(7) Proceedings for an offence under this Act which consists of making or of causing to be made any false statement, false representation, false return or false information, or of furnishing or of causing to be furnished any false particulars, may be instituted at any time within two months after the statement, representation, return, information, or particulars, as the case may be, was or were discovered to be false.

(8) For the purpose of the trial of a person for any offence under this Act, the offence shall be deemed to have been committed either at the place in which the same actually was committed or at any place in which the offender may be.

(9) Where any offence under this Act consists of failure to comply with any of the provisions of this Act requiring any particulars to be furnished, or any report or return to be made, or any notice to be given, the offence shall, for the purposes of this Act, be deemed to have continued so long as such failure continues, whether or not any time is specified at or within which the particulars, report, return or statement are to be furnished, made or given.

21. Any person who acts in contravention of this Act, or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an immigration officer or by any constable.

Powers of
arrest.

22.—(1) The Minister may make regulations for prescribing anything which is by this Act to be prescribed and generally for carrying the purposes or provisions of this Act into effect.

Regula-
tions.

(2) Without prejudice to the generality of the power conferred by subsection (1), regulations may be made under this section authorizing the taking in relation to any alien who is in custody of all such steps as may be necessary for photographing, measuring, taking the finger-prints of, or otherwise identifying, that person in such manner as may be provided by the regulations.

23. Nothing in this Act shall be construed as imposing any restriction or disability on any duly accredited foreign consul or vice-consul and the wife and child of any such consul or vice-consul or any member of his official staff.

Saving for
consuls, etc.

FIRST SCHEDULE (Sections 11 and 13)

Particulars to be furnished of Registration

1. Name in full and sex.
2. Present nationality and how and when acquired and previous nationality (if any).
3. Date and country of birth.
4. Profession or occupation.
5. Date, place and mode of arrival in the Island.
6. Address of residence in the Island.
7. Address of last residence outside the Island.
8. Photograph (which, if not furnished by the alien, may be taken by the registration officer).
9. Government services, name of country served, nature and duration of service, and rank or appointments held.
10. Particulars of passport or other document establishing nationality and identity.
11. Signature (which, if required, shall be in the characters of the alien's nationality) and finger-prints if required.
12. Any other matters of which particulars are required by the registration officer.

SECOND SCHEDULE (Section 15)

*Offences in respect of which a Court may recommend a
Deportation Order*

1. Any offence for which the Court has power to impose imprisonment without the option of a fine.
2. Any offence—
 - (a) under the Seditious Meetings Act;
 - (b) under the Riot Act;
 - (c) under any law for the time being in force relating to sedition or to seditious publications.
3. Any offence under the Libel and Slander Act.
4. Any offence under, or other breach of, the provisions of the Bankruptcy Act.
5. Any offence under section 38 or 44 of the Betting, Gaming and Lotteries Act.
6. Any offence under any enactment for the time being in force relating to the sale of drugs and poisons or relating to ganja or other dangerous drugs.