

CHAPTER 14:02

IMMIGRATION ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Prohibited immigrants.
4. Immigration officers.
5. Person entering Guyana to have a passport.
6. Restrictions on the right to leave Guyana.
7. Entry of persons into Guyana.
8. List of passengers and members of the crew and matters in connection therewith.
9. Duty of person entering Guyana.
10. Departure of persons from Guyana.
11. Certificate that immigrant not a prohibited immigrant.
12. Permit to remain in Guyana for a temporary purpose.
13. Immigrant to be deemed prohibited immigrant if he fails to leave Guyana on or before the expiration of permit granted under section 12.
14. Postponement of decision by immigration officer.
15. Prohibited immigrant not to enter or remain in Guyana.
16. Powers of immigration officer in relation to prohibited immigrants.
17. Permits to prohibited immigrants.
18. Permit to immigrant to remain in Guyana pending the furnishing of security.
19. Finger-prints.
20. Detention in custody under this Act.
21. General provisions as to permits.
22. Conditions and restrictions relating to permits and certificates.
23. Notice and grounds of decision that immigrant is a prohibited immigrant.
24. Power of Chief Immigration Officer to annul or vary certain decisions of immigration officer.

LAWS OF GUYANA

4

Cap. 14:02

Immigration

SECTION

25. Where immigrant not discovered to be prohibited immigrant until after he enters Guyana.
26. Immigration officer to cause prohibited immigrants entering or found in Guyana to be removed therefrom.
27. Appeal from decision of immigration officer under section 23.
28. Orders for removal of prohibited immigrants from Guyana.
29. Warrant to convey deserting seaman, or stowaway or prohibited immigrant who lands in Guyana, back on board vessel.
30. Variation and revocation of orders made by the President or the Minister.
31. Detention in custody and places of detention.
32. Expenses of removal from Guyana of an immigrant.
33. Recovery of expenses.
34. Offences.
35. Evidence and burden of proof.
36. Re-entry permits.
37. Power to make regulations.
38. Power to prohibit the entry of aliens into Guyana.
39. Saving as to Cap. 14:05.

CHAPTER 14:02

IMMIGRATION ACT

1953 Ed.
c. 98

42 of 1947

An Act with respect to immigration and for purposes connected therewith.

[1ST JANUARY, 1948]

Short title.

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

Interpretation.
[2 of 1969
19 of 1990]

2. (1) In this Act—
“dependant” in relation to another person means—

(a) the spouse of such person unless that spouse is living apart from the other spouse under a deed of separation or the decree of a competent court;

(b) the child or step-child under the age of sixteen years, of such person;

(c) an adopted child under the age of sixteen years where such child is adopted by such person in a manner recognised by the law for the time being in force in the country where the adoption took place;

(d) any other relative of such person who is wholly dependent on such person for his subsistence;

“domicile” means, subject to subsection (2), the place in which a person has his present home or in which he resides or to which he returns as his place of present permanent abode and not for a mere special or temporary purpose, and “domiciled” shall have a corresponding meaning;

“immigrant” means a person who enters Guyana from a place outside Guyana, whether for the first or at any subsequent time;

“immigration officer” includes the Chief Immigration Officer, the Deputy Chief Immigration Officer, and any member of the police force authorised under section 4(4) to exercise and perform the powers, functions and duties of an immigration officer;

“master” means the person having command or charge of a vessel;

“vessel” means any steamship, ship, vessel, sloop, boat or other floating craft, and includes any description of aircraft.

(2) For the purposes of this Act—

(a) a person shall not be deemed to have acquired a domicile in Guyana unless he has resided therein for at least two years otherwise than—

LAWS OF GUYANA

6

Cap. 14:02

Immigration

(i) under terms of conditional or temporary residence permitted by this Act or any other law in force in Guyana; or

(ii) as a person under detention in a prison or other place for the reception of persons found guilty of criminal offences; or

(iii) as a person under detention in a mental hospital or a leprosy hospital; and

(b) a person shall be deemed to have lost his domicile in Guyana if he voluntarily goes and resides outside Guyana (except for a special or temporary purpose) with the intention of making his home outside Guyana.

(3) For the purposes of this Act a person shall be deemed to belong to Guyana if he is a citizen of Guyana or a dependant of any such citizen.

(4) For the purposes of this Act any person enters Guyana who—

(a) crosses a land frontier of Guyana; or

(b) arrives in Guyana by sea or air and disembarks in Guyana; or

(c) arrives in Guyana by sea or air with the intention of disembarking in Guyana.

Prohibited
immigrants.
[2 of 1969
4 of 1972]

3. (1) Except as otherwise provided in this section, every person who—

(a) is an idiot, or an epileptic, or of unsound mind, or mentally deficient, or deaf and dumb, or deaf and blind, or dumb or blind; or

(b) is suffering from any variety of leprosy, or from a communicable disease, as certified by a Government Medical Officer;

(c) is a prostitute; or

(d) lives on, or receives, or has lived on, or has received, the proceeds of prostitution; or

(e) is a member of a class of persons, or a person, specified in an order made by the Minister under subsection (3); or

(f) is not in possession of sufficient means to support himself and such of his dependants as he shall bring with him to Guyana; or

(g) is likely if he entered Guyana to become a charge on public funds by reason of infirmity of body or mind, or ill-health, or for any other reason; or

(h) is a dependant of a prohibited immigrant,

shall be a prohibited immigrant for the purposes of this Act; and every person who is deemed under this Act to be a prohibited immigrant may be dealt with as such.

(2) The expression “communicable disease” in subsection (1)(b) means a communicable disease which makes the entry into Guyana of a person suffering from it, dangerous to the community.

(3) Where the Minister is satisfied—

(a) that, on economic grounds or on account of standard or habits of life, the members of any class of persons are undesirable as immigrants; or

(b) on information or advice that any person is undesirable as an inhabitant of, or a visitor to, Guyana; or

(c) that, on the ground that a person has been convicted in any country of an offence for which a sentence of imprisonment has been passed and in respect of which he has not received a free pardon, such person is undesirable as an immigrant—

he may, by order published in the *Gazette*, declare the members of such class of persons or such person as the case may be to be prohibited immigrants or a prohibited immigrant, and may from time to time exempt any member of a class of persons from the operation of an order made under paragraph (a).

(4) The Minister may from time to time exempt any person from the provisions of subsection (1)(a), (b), (f), (g) or (h).

(5) The following persons or classes of persons shall not be prohibited immigrants for the purposes of this Act—

- (a) persons who are, within the meaning of section 2(3), deemed to belong to Guyana;
- (b) persons in possession of valid re-entry permits issued under section 36;
- (c) persons in the public service;
- (d) persons in the service of the Government of any Commonwealth territory;
- (e) members of the regular naval, military or air forces of any Commonwealth territory;
- (f) members of the mission in Guyana of a foreign sovereign Power, consular officers and consular employees in Guyana of a foreign sovereign Power, and members of their families forming part of their households;
- (g) any other persons or classes of persons who are declared by regulations made under this Act not to be prohibited immigrants for the purposes of this Act;
- (h) the dependants of any person under the foregoing paragraphs of this subsection;
- (i) the dependants of any person who is not a prohibited immigrant.

Immigration
officers.

4. (1) The Commissioner of Police shall be the Chief Immigration Officer for the purposes of this Act.

(2) A Deputy Chief Immigration Officer may be appointed and such officer shall have and may exercise all the powers, functions and duties of the Chief Immigration Officer under this Act.

(3) Immigration officers may be appointed for the purposes of this Act or for any specified part thereof.

(4) The Chief Immigration Officer may, by writing under his hand, authorise any member of the police force, subject to such directions as he may give to him from time to time, to exercise and perform in a specified part of Guyana, and any such authorised person shall have and may exercise and perform subject to such directions, all

the powers, functions and duties of an immigration officer; and the Chief Immigration Officer may at any time, by writing under his hand, cancel any such authorisation.

(5) Every appointment or authorisation under this section shall be published in the *Gazette*.

(6) For the purpose of performing his duties under this Act, every immigration officer shall have, and may exercise and perform, all the powers, functions and duties of a member of the police force.

5. (1) Except as otherwise provided in this section, every person entering Guyana without a passport shall be deemed to be a prohibited immigrant unless he explains why he has no passport and establishes to the satisfaction of the immigration officer his identity and national status.

Person
entering
Guyana to
have a
passport.
[2 of 1969]

(2) Subject to any order made under subsection (3), the expression “passport” in this section means a passport duly issued to the person named therein by or on behalf of the Government of the country of which he is a subject or citizen and for the time being in force, and containing a photograph of such person, and includes a certificate of identity or a travel permit and any other document establishing to the satisfaction of the immigration officer the identity and national status of the person entering Guyana.

(3) The Minister may, by order,—

(a) direct that no passport of a subject or citizen of any foreign country, or of any specified foreign country, shall be accepted as such under this section unless it bears a Guyana consular visa; and

(b) declare the circumstances or conditions under which such provision shall not apply.

LAWS OF GUYANA

10

Cap. 14:02

Immigration

(4) The President may, by order published in the *Gazette*, exempt from the provisions of this section any person or any class of persons entering Guyana, and such exemption may be general or subject to such conditions, restrictions, limitations or exceptions as are specified in the order.

Restrictions on
the right to
leave Guyana.
[2 of 1969
14 of 1997]

6. (1) The Minister may, by directions in writing, impose restrictions on the right of—

(a) any person to leave Guyana if he is satisfied that it is necessary so to do in the interests of defence, public safety or public order or for the purpose of preventing the subversion of democratic institutions in Guyana;

(b) persons generally or any class of persons to leave Guyana if he is satisfied that it is necessary so to do in the interests of defence, public safety, public order, public morality or public health or for the purpose of preventing the subversion of democratic institutions in Guyana.

c. 16:02

(2) Where any person is the subject of directions given by the Minister under subsection (1)(a), notice thereof in writing (together with a concise statement of the grounds for the imposition of the restrictions, so, however, that no defect of any kind in such statement shall invalidate the directions) shall be served on him by an immigration officer as soon as practicable after the directions have been given and his case shall be reviewed by the tribunal established by section 13 of the National Security (Miscellaneous Provisions) Act, and the said section 13 shall apply *mutatis mutandis* in relation to the review of the case of any such person as it applies to the review of the case of a person who is the subject of an order made under section 12 of that Act.

(3) Notice of any directions given by the Minister under subsection (1)(b) shall be published in the *Gazette* and in one newspaper circulating in Guyana.

(4) Any person with respect to whom directions have been given pursuant to subsection (1)(a), or any member of a class of persons with respect to whom directions have been given pursuant to paragraph (b) of the said subsection—

(a) shall forthwith upon notice thereof being served on him, or upon publication thereof, as the case may be, surrender to the Chief Immigration Officer or any other immigration officer any valid passport issued to him by or on behalf of the Government of Guyana and the Chief Immigration Officer shall retain such passport so long as those directions continue in force; and if that person does not possess such a passport any application made by him for the purpose of procuring the issue to him of such a passport shall not be entertained so long as those directions continue in force;

(b) may, so long as those directions continue in force, be prevented by any immigration officer, member of the Police Force, or officer or soldier of the Guyana Defence Force, from leaving Guyana by any means whatever for any place outside Guyana and the immigration officer, member of the Police Force, or officer or soldier of the Guyana Defence Force may, for that purpose, take any necessary measures, including the use with any assistance of such force as is reasonably justifiable in the circumstances.

(5) Any person who contravenes or fails to comply with any of the provisions of this section or any directions given thereunder shall be liable on summary conviction to a fine of not less than twenty-five thousand dollars nor more than fifty thousand dollars and to imprisonment for two years.

[15 of 1998]

(6) In this section, the expression “passport” includes a certificate of identity or a travel permit and any other document establishing the identity and national status of the person in respect of whom it has been issued.

7. (1) No person shall enter Guyana by sea or by air except at a port of entry under this Act.

Entry of
persons into
Guyana.

LAWS OF GUYANA

12

Cap. 14:02

Immigration

(2) Where a person enters Guyana by crossing a land frontier of Guyana he shall forthwith present himself to the nearest immigration officer.

(3) No person arriving in Guyana by sea or air shall disembark without the consent of an immigration officer.

(4) The master of the vessel in which a person arrives in Guyana by sea or air shall not allow any such person to disembark from the vessel without the consent of an immigration officer.

(5) Any person who contravenes, or fails to comply with, any of the provisions of subsection (1), (2) or (3) shall be deemed to be a prohibited immigrant.

List of
passengers and
members of
the crew and
matters in
connection
therewith.
[48 of 1952]

8. (1) The master of a vessel arriving from any place outside Guyana or departing from Guyana shall—

(a) answer truthfully to the best of his ability all proper questions relating to the passengers and members of the crew, in so far as is necessary for the purposes of this Act, put to him by an immigration officer; and

(b) if required so to do, furnish the immigration officer with a list in duplicate, in the form from time to time approved by the Chief Immigration Officer, containing the names of the passengers and members of the crew arriving or departing as the case may be, and such other information as may be prescribed.

(2) Every passenger and member of the crew in a vessel arriving from any place outside Guyana or departing from Guyana shall supply the information necessary for the preparation of the list under subsection (1).

(3) Every immigration officer shall have the power to board and search any vessel at any time and at all places in Guyana.

- 9.** (1) Every person who enters Guyana by sea, air or land shall—
- Duty of person entering Guyana.
- (a) answer truthfully to the best of his ability all proper questions, in so far as is necessary for the purposes of this Act, put to him by an immigration officer; and
- (b) if required by an immigration officer so to do,—
- (i) make and sign the prescribed declaration; and
- (ii) submit to be examined by a Government Medical Officer.

(2) Any person who contravenes, or fails to comply with, any of the provisions of this section shall be deemed to be a prohibited immigrant.

10. (1) No person shall depart from Guyana by sea or by air except at a port of entry under this Act.

Departure of persons from Guyana.

(2) The master of a vessel departing from Guyana shall not allow any person to embark thereon without the consent of an immigration officer.

[2 of 1969
14 of 1997]

(3) Where a person desires to depart from Guyana by crossing a land frontier he shall, before departing, present himself to the nearest immigration officer.

- (4) Every person departing from Guyana shall—
- (a) answer truthfully to the best of his ability all proper questions, in so far as is necessary for the purposes of this Act, put to him by an immigration officer; and
- (b) make and sign the prescribed declaration.

(5) In the performance of his duties under this section, an immigration officer shall have the power to board and search any vessel at any time and place in Guyana and to detain any person who contravenes, or fails to comply with, any of the provisions of this section.

LAWS OF GUYANA

14

Cap. 14:02

Immigration

(6) Every person who—

(a) contravenes or fails to comply with any of the provisions of this section; or

(b) knowingly and wilfully gives an untrue answer to any of the questions referred to in subsection (4)(a); or

(c) knowingly and wilfully makes any false statement in the declaration referred to in subsection (4)(b),

[15 of 1998]

shall be liable on summary conviction to a fine of not less than twenty thousand dollars nor more than forty thousand dollars and to imprisonment for twelve months.

Certificate that immigrant not a prohibited immigrant

11. (1) Where an immigration officer decides that an immigrant is not a prohibited immigrant he may, and shall if required so to do, issue to the immigrant a certificate to that effect.

(2) The certificate shall be in such form as may from time to time be approved by the Chief Immigration Officer modified, if necessary, to suit the circumstances of any particular case.

(3) The certificate shall contain such particulars and marks, together with any finger-prints, as may be deemed necessary for the purpose of identification.

(4) The certificate may be endorsed on the passport or other document establishing the identity and national status of the person to whom the certificate relates.

Permit to remain in Guyana for a temporary purpose.
[9 of 1992]

12. (1) An immigration officer, without deciding whether or not an immigrant is a prohibited immigrant, may, at the request of the immigrant, grant him a permit to enter and remain in Guyana for such period not exceeding three months as may be specified in the permit—

(a) as a passenger in transit; or

(b) for medical treatment; or

(c) as a visitor; or

(d) for purposes of employment; or

(e) for purposes of trade or business; or
(f) for any other purpose of a temporary nature,
where the immigration officer is satisfied that the immigrant's request for such permit is made in good faith.

(2) The immigration officer may, before granting a permit under this section, require the immigrant requesting the same to furnish the prescribed security.

(3) Where a permit under this section has been granted by an immigration officer, the Chief Immigration Officer may from time to time extend the period specified in the permit up to a maximum of three years from the date of entry into Guyana of the immigrant to whom the permit relates.

(4) The Chief Immigration Officer may, before extending the period specified in a permit under this section, require the immigrant requesting the extension to furnish, if not already furnished, the prescribed security.

(5) The Chief Immigration Officer, in extending the period specified in a permit under this section, may grant the extension subject to such conditions as to place of residence, occupation or any other matter or thing, as he may consider to be expedient.

(6) Whenever an immigrant desires to remain in Guyana after the expiration of the period for which a permit has been granted to or extended for him under this section, he shall before such expiration present himself in person to the Chief Immigration Officer and shall be dealt with, subject to subsection (3), as if he were an immigrant then entering Guyana.

(7) The President may, by order published in the *Gazette*, exempt from any of the provisions of this section any person or any class of persons, mentioned in Part A of the Schedule who are nationals of the countries mentioned in Part B of the Schedule, entering Guyana, where such person or class of persons is seeking to enter and remain in Guyana for a definite or indefinite period for the purpose of seeking employment

Schedule.

LAWS OF GUYANA

or otherwise in connection with his work or with sports, or of settling, and such exemption may be general or subject to such conditions, restrictions, limitations or exceptions as are specified in the order.

(8) The President may by order amend the Schedule.

Immigrant to be deemed prohibited immigrant if he fails to leave Guyana on or before the expiration of permit granted under section 12. Postponement of decision by immigration officer.

13. If an immigrant to whom a permit has been granted under section 12 fails to leave Guyana on or before the expiration of the period for which the permit has been granted, he shall, unless such period has been extended as provided in subsection (3) of that section, be deemed to be a prohibited immigrant.

14. An immigration officer may, for the purpose of making further inquiry and for such period as may be necessary therefor, postpone deciding whether an immigrant is or is not a prohibited immigrant and in any such case may, on such conditions as he may deem expedient, grant a permit to the immigrant to remain in Guyana:

Provided that-

- (a) the grant of such a permit shall not prejudice in any way the making of the decision as to whether the immigrant is or is not a prohibited immigrant, or the taking of any action under this Act as a consequence of such decision; and
- (b) no such action shall be taken while such permit is still in force.

Prohibited immigrant not to enter or remain in Guyana.

15. Except as otherwise provided by this Act, no person—

- (a) who is a prohibited immigrant; or
- (b) who being deemed under this Act to be a prohibited immigrant, is dealt with as such-

shall enter or remain in Guyana.

16. (1) An immigration officer who decides that an immigrant is a prohibited immigrant may in his discretion—

Powers of immigration officer in relation to prohibited immigrants. [8 of 1956]

(a) order him to leave Guyana and proceed immediately by the same vessel (or other means of transportation) by which he arrived;

(b) order him to leave Guyana within a specified period to be determined by the immigration officer; or

(c) cause him to be arrested and brought before a magistrate's court, with a view to an order being made for his removal from Guyana.

(2) The specified period in an order made under subsection (1)(b) may from time to time be extended by an immigration officer, and such extension may be granted after the expiration of the specified period.

(3) Where the immigrant to whom an order made under subsection (1)(b) relates, gives notice of appeal under section 27 he shall not, without his consent in writing, be removed from Guyana before the hearing and determination of the appeal.

17. (1) Subject to this Act, the President or an immigration officer may grant a permit, subject to such conditions as may be deemed expedient, to a prohibited immigrant to enter and remain in Guyana:

Permits to prohibited immigrants.

Provided that an immigration officer shall, in granting such permit, act subject to and in accordance with the general or special directions of the President.

(2) The expression "conditions" in subsection (1) means conditions as to duration, place of residence, occupation, or furnishing of security, and includes conditions as to any other matter or thing whether similar or not to the matters or things in this subsection specified.

LAWS OF GUYANA

18

Cap. 14:02

Immigration

Permit to immigrant to remain in Guyana pending the furnishing of security.

Finger-prints.

18. Where security is required to be furnished in respect of an immigrant, an immigration officer may grant, on such conditions as he may deem expedient, a permit to the immigrant to enter and remain in Guyana pending the furnishing of the security.

19. Where an immigration officer decides that an immigrant is a prohibited immigrant or grants or issues a permit or a certificate under this Act to an immigrant, the immigrant shall, if required by an immigration officer so to do, submit to his finger-prints being taken by the immigration officer or by any person on the direction of such officer.

Detention in custody under this Act.

20. (1) An immigration officer may cause any immigrant (not being an immigrant as to whom an immigration officer has decided that he is not a prohibited immigrant), unless a permit has been granted to him under this Act, to be arrested and brought before a magistrate, and the magistrate shall, if satisfied that this section applies to the immigrant, order that he be detained in custody under this Act, and if not so satisfied he shall order his release.

(2) Where a person is detained in custody under this section he shall be released from such custody on a permit being granted to him to remain in Guyana.

General provisions as to permits.

21. (1) Every permit granted under this Act shall be in the form from time to time approved by the Chief Immigration Officer, modified if necessary in accordance with the facts of any particular case.

(2) The Chief Immigration Officer may direct that any permit, or any permit of a particular class, granted under this Act may be endorsed on the passport or other document establishing the identity and national status of the immigrant or in such other manner as the Chief Immigration Officer may think fit.

(3) Every permit granted under this Act shall contain such particulars and marks, together with any finger-prints, as may be deemed necessary for the purpose of identification.

(4) A permit granted under this Act may be revoked—

(a) where there is a contravention or failure to comply with the conditions of the permit; or

(b) at any time, by the President or by an immigration officer acting on the direction of the President.

(5) Where a permit is revoked, the immigrant to whom the permit related may be arrested and brought before a magistrate's court to be dealt with under section 20:

Provided that the court may, if the permit was revoked under subsection (4)(a) and the court is not satisfied that there was a contravention or failure to comply with the conditions of the permit, cancel the revocation of the permit and order the immigrant to be released.

22. (1) Every person to whom a permit or certificate under this Act has been granted shall at all times, if required so to do, produce the permit or certificate to any immigration officer or member of the police force.

Conditions and restrictions relating to permits and certificates.

(2) No person to whom a permit or certificate under this Act has been granted shall lend, transfer, assign, or part with the possession of, such permit or certificate to any other person.

(3) Where a person has in his possession a permit or certificate appearing to have been granted under this Act, he shall answer all questions put to him by an immigration officer or a member of the police force for the purpose of establishing his identity with the person named in the permit or certificate, as the case may be, and shall, if required by an immigration officer or member of the police force so to do, submit to his finger-prints being taken for that purpose.

23. Where an immigration officer decides that an immigrant is a prohibited immigrant, he shall give to the immigrant, in the prescribed form, notice of his decision and of the grounds thereof and at the same time inform him that he may, if he think fit, appeal to a magistrate's court; and where such notice is given within seven days of the arrival

Notice and grounds of decision that

LAWS OF GUYANA

20

Cap. 14:02

Immigration

immigrant is a prohibited immigrant.

of the immigrant in Guyana the immigration officer shall serve, or cause to be served, a copy of such notice on the master or agent or owner (if the identity and address of such person are known to the immigration officer and such person is in Guyana) of the vessel by which the immigrant arrived.

Power of Chief Immigration Officer to annul or vary certain decisions of immigration officer.

24. (1) Where an immigration officer decides that an immigrant is a prohibited immigrant, the Chief Immigration Officer may, if he thinks fit, whether or not the immigrant has given notice of appeal under section 23, annul that decision and either substitute therefor the decision that the immigrant is not a prohibited immigrant or remit the matter to the immigration officer for further consideration.

(2) An immigrant may appeal to the Chief Immigration Officer from any decision of an immigration officer refusing or revoking a permit, or imposing conditions in a permit, under this Act, and the decision of the Chief Immigration Officer shall be final.

Where immigrant not discovered to be prohibited immigrant until after he enters Guyana.

25. Subject to section 28, where a person enters Guyana without a permit under this Act and at the time he so enters is a prohibited immigrant, he shall not be exempt from the provisions of this Act or be deemed to have acquired a right to remain in Guyana or a domicile therein, by reason only—

(a) that he had not been informed that he could not enter or remain in Guyana; or

(b) that he had been allowed to enter or remain in Guyana—

(i) through the oversight of, or any mis-representation made to, an immigration officer; or

(ii) owing to the decision of an immigration officer that he is not a prohibited immigrant, where such decision was given by mistake or in ignorance of material facts; or

(iii) owing to the fact having been undiscovered that he was a prohibited immigrant.

LAWS OF GUYANA

Immigration

Cap. 14:02

21

26. Except as otherwise provided in this Act, an immigration officer shall cause to be removed from Guyana every prohibited immigrant, and every person deemed to be a prohibited immigrant and dealt with as such—

- (a) who enters Guyana; or
- (b) who having entered Guyana after the commencement of this Act is thereafter found within Guyana.

Immigration officer to cause prohibited immigrants entering or found in Guyana to be removed therefrom.

27. (1) Where notice under section 23 is given to an immigrant, the immigrant may appeal—

- (a) to the nearest magistrate's court, from the decision specified in the notice, by giving notice of appeal in the prescribed form to the immigration officer within seven days after the date on which the notice under section 23 was given to the immigrant; and

- (b) to a judge of the High Court sitting in Chambers, from the decision of the magistrate's court, by giving notice of appeal in the prescribed form to the immigration officer and to the clerk of the said magistrate's court within seven days (or within such extended period as may be allowed on an application made to a Judge of the High Court sitting in Chambers) after the date of the decision of the magistrate's court.

Appeal from decision of immigration officer under section 23. [2 of 1969]

(2) Where a notice of appeal is given under subsection (1)(b) to the clerk of the magistrate's court, the clerk shall forthwith transmit to the Registrar of the Supreme Court four copies of the notice of appeal, the notes of proceedings in the magistrate's court, the documentary exhibits, the decision of the magistrate and his reasons therefor (if available).

(3) No fee shall be charged for the hearing of any appeal under this section, or for the filing of any documents in relation thereto.

(4) Where an immigrant gives notice of appeal under subsection (1)(b), an immigration officer may apply to a magistrate of the magisterial district in which the magistrate's court is situate, or to a judge of the High

Court sitting in Chambers, for an order requiring the immigrant to furnish the prescribed security within a time to be fixed by the magistrate or judge as the case may be; and the magistrate or Judge shall, if the circumstances so warrant, make an order accordingly.

(5) If an immigrant fails to furnish the required security within the time fixed by an order made under subsection (4), the notice of appeal under subsection (1)(b) shall cease to have effect and the appeal to a judge of the High Court sitting in Chambers shall be deemed to have been abandoned.

(6) On the hearing of an appeal under this section—

(a) an order made under section 3(3)(a) shall be conclusive evidence that an immigrant who is one of the members of the class of persons declared by the order to be prohibited immigrants, is a prohibited immigrant;

(b) an order made under section 3(3)(b) or (c) shall be conclusive evidence that the person declared by the order to be a prohibited immigrant, is a prohibited immigrant.

(7) On the hearing of an appeal under this section oral evidence may be adduced before the magistrate's court, and a judge of the High Court sitting in Chambers shall have power to take oral evidence.

(8) No order for the removal from Guyana as a prohibited immigrant of the person to whom a notice of appeal under subsection (1)(a) or (b) relates shall be issued before the hearing and determination of the appeal, and where such order is issued it shall not be enforced before such hearing and determination.

28. (1) If any immigrant is a prohibited immigrant, then, subject to the provisions of this Act and the terms of any permit granted thereunder, any magistrate may, on the application of an immigration officer or of any person deputed in writing by the Chief Immigration Officer for the purpose of making such application, order the immigrant to be removed from Guyana and in the meantime to be detained in custody.

(2) Where an order is made under this section for the removal of an immigrant from Guyana, he shall be removed therefrom at such time and in such manner as the Chief Immigration Officer may direct, and in giving such directions the Chief Immigration officer shall have regard to the place from which the immigrant came when he entered Guyana, the country of which he is a subject or citizen, the place therein to which he is alleged to belong, the country which is willing to receive him, and the wishes and the means of the immigrant.

(3) Where an order is made under this section for the removal of an immigrant from Guyana and the immigrant is at the time of the making of the order serving a sentence of imprisonment, the Minister may give directions as to whether the whole or what part of the sentence is to be served before such removal and in default of such directions the immigrant shall be removed after completion of his sentence.

(4) Where an order is made under this section for the removal of an immigrant from Guyana, the immigrant may be placed on board a suitable vessel by any immigration officer or member of the police force and may be lawfully detained in custody on board such vessel so long as the vessel is within the territorial waters of Guyana.

(5) In this section the expression "immigrant" includes the dependants of the immigrant.

29. The master of a vessel may, on information in writing made by him on oath before any magistrate, apply for a warrant to arrest and convey back on board the vessel-

- (a) any seaman who has deserted the vessel; or
- (b) any stowaway or prohibited immigrant who has landed from the vessel,

and the magistrate may, unless there are special reasons for not so doing, issue a warrant accordingly.

Warrant to convey deserting seaman, or stowaway or prohibited immigrant who lands in Guyana back on board vessel.

LAWS OF GUYANA

24

Cap. 14:02

Immigration

Variation and revocation of orders made by the President or the Minister.
[2 of 1969]

Detention in custody and places of detention.

30. Any order or direction made or given by the President or by the Minister under this Act may be varied or revoked by him.

31. (1) Where a person is detained in custody under this Act, he may be so detained in a prison or in any place from time to time appointed by the Minister for the purpose of such detention in custody:

Provided that where any such person is detained in a prison he shall be treated in the same manner as if he were a person awaiting trial.

(2) Any person in charge of a prison, and any member of the police force, may, on the written order of an immigration officer, accept custody of any person, and detain such person in custody under this Act.

(3) No person shall be so detained in custody for any longer period than is necessary for the purpose of any inquiry under this Act, or for the completion by the immigration officer of arrangements for the removal of such person (being a prohibited immigrant) from Guyana at the first reasonable opportunity.

(4) The production to any person in charge of a prison or of a place of detention under this Act of an order of removal shall be sufficient authority to such person in charge to deliver the person named therein to the escort appointed to bring such person from the prison or place of detention for the purpose of his removal from Guyana in terms of such order.

Expenses of removal from Guyana of an immigrant.

32. (1) Except as otherwise provided in this section, the expenses of the removal from Guyana of a prohibited immigrant, in so far as they are not defrayed by the immigrant, shall be payable out of moneys provided by Parliament.

(2) The expenses of the passage from Guyana of a prohibited immigrant removed therefrom under this Act shall be borne by the vessel in which the immigrant arrived in Guyana or by the owner or agent thereof—

(a) where the immigrant is so removed in consequence of an order made under section 16(1)(a);

(b) where the immigrant is so removed in consequence of an order made under section 16(1)(b):

Provided that this provision shall not apply where the specified period in the order as originally made or extended exceeds sixty days;

(c) where the immigrant is so removed in consequence of proceedings taken under section 16(1)(c):

Provided that this provision shall not apply where the immigrant was not brought before a magistrate's court within fourteen days after his arrival in Guyana.

(3) The liability of the vessel or of the owner or agent thereof under subsection (2) shall not be affected by reason only of the fact that the immigrant has appealed under section 27 against the decision of the immigration officer that he is a prohibited immigrant.

(4) Nothing in this section shall be construed as affecting the liability (if any) of the immigrant to pay the expenses of his passage from Guyana, to the master, owner or agent of the vessel in which he arrived in Guyana.

(5) In this section the expression "immigrant" includes the dependants of the immigrant.

33. (1) Where a magistrate is satisfied, by information in writing made on oath—

Recovery of expenses.

(a) that expenses have been or will be incurred by or on behalf of the Government in connection with the

LAWS OF GUYANA

26

Cap. 14:02

Immigration

maintenance, medical treatment, or removal from Guyana, of an immigrant or of his dependants, and

(b) as to the amount or the estimated amount of such expenses—

the following provisions shall apply—

(i) the magistrate may issue a warrant for the levy of the amount as aforesaid by distress and sale of any movable property of the immigrant; and

(ii) for the purposes of the recovery of the amount as aforesaid, the magistrate may order forfeiture of any moneys in the possession of the immigrant.

c. 10:02

(2) A warrant issued under subsection (1) may be executed in the same manner as a warrant of distress issued under the Summary Jurisdiction (Procedure) Act for the levy of a sum of money adjudged to be paid by an order.

(3) The partial recovery of expenses under subsection (1) (i) or (ii) shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant or the forfeiture of moneys under this section be a condition precedent to the liability of any surety or to the enforcement of such liability.

Offences.
[48 of 1952
14 of 1997]

34. (1) Any person who—

(a) enters Guyana by sea or by air, except at a port of entry under this Act; or

(b) having entered Guyana by crossing a land frontier of Guyana, does not forthwith present himself in person to the nearest immigration officer; or

(c) having arrived in Guyana, by sea or air, disembarks without the consent of an immigration officer; or

(d) being the master of a vessel arriving in Guyana by sea or air, allows any person who arrives in such vessel to disembark therefrom without the consent of an immigration officer; or

(e) being the master of a vessel arriving from any place outside Guyana or departing from Guyana—

(i) refuses to answer any of the questions referred to in section 8(1)(a); or

(ii) knowingly and wilfully gives an untrue answer to any such question; or

(iii) refuses to furnish the immigration officer with the list referred to in section 8(1)(b); or

(f) being a passenger intending to enter or entering Guyana, or a member of the crew of a vessel arriving from any place outside Guyana or departing from Guyana—

(i) knowingly and wilfully supplies any false information for the preparation of the list referred to in section 8(1)(b); or

(ii) knowingly and wilfully gives an untrue answer to any of the questions referred to in section 9(1)(a); or

(iii) knowingly and wilfully makes any false statement in the declaration referred to in section 9(1)(b)(i); or

(g) not being a person as to whom an immigration officer has decided that he is not a prohibited immigrant, disembarks in Guyana or otherwise enters Guyana without previously obtaining a permit under this Act; or

(h) aids, assists or procures a prohibited immigrant who has not obtained a permit under this Act to enter Guyana, knowing him to be such, to disembark in Guyana or otherwise to enter Guyana; or

(i) assaults, resists, obstructs, or hinders any immigration officer or member of the police force in the execution of his duty under this Act; or

(j) without lawful excuse knowingly harbours or conceals—

(i) any other person who is within Guyana in contravention of this Act; or

LAWS OF GUYANA

28

Cap. 14:02

Immigration

(ii) any other person who having entered Guyana under the authority of a permit issued under this Act has contravened, or failed to comply with, any condition subject to which the permit is granted; or

(k) contravenes, or fails to comply with, any of the provisions of sections 19 or 22; or

(l) contravenes, or fails to comply with, any of the conditions subject to which any permit has been granted under this Act,

[15 of 1998]

shall be liable on summary conviction to a fine of not less than thirty thousand dollars and to imprisonment for twelve months.

(2) A complaint for an offence under subsection (l)(a), (b), (c) or (d) may be made at any time.

(3) Any person who for the purpose of entering Guyana or of remaining therein or of assisting any other person to enter Guyana or to remain therein, in contravention of the provisions of this Act—

(a) fabricates or falsifies any passport, permit, certificate, or other document; or

(b) uses, utters, or attempts to use or utter—

(i) any passport, permit, certificate, or other document which has not been issued by lawful authority or which he is not entitled to use or utter; or

(ii) any fabricated or falsified passport, permit, certificate, or other document, knowing the same to have been fabricated or falsified,

[15 of 1998]

shall be liable on summary conviction to imprisonment for twelve months.

(4) Any person who makes a statement which is to his knowledge untrue for the purpose of procuring a re-entry permit under section 36 shall be liable on summary conviction to imprisonment for twelve months.

[15 of 1998]

35. In any proceedings under this Act—

Evidence and burden of proof.

(a) the burden of proof that the person charged belongs to Guyana or that he is not likely to become a charge on public funds shall be upon that person;

(b) any document purporting to be a removal order made under this Act shall be deemed, until the contrary is proved, to be such an order;

(c) any order or direction made or given under this Act shall be deemed, until the contrary is proved, to have been validly made or given and to have been made or given on the date on which it purports to have been made or given.

36. (1) Where any person, who is deemed under section 2(3) to belong to Guyana, proposes to depart from Guyana with the intention of returning thereto, the Chief Immigration Officer, or an immigration officer, shall have, subject to regulations made under this Act, power to issue a re-entry permit to such person.

Re-entry permits.

(2) Every re-entry permit issued under this section shall be valid for a period of two years from the date thereof.

(3) Where the person to whom a re-entry permit relates returns to Guyana at any time within two years from the date of the permit and produces the same to an immigration officer, the immigration officer shall accept the re-entry permit as conclusive evidence that such person belongs to Guyana for the purposes of this Act.

(4) A re-entry permit issued under this section may be endorsed on the passport, as defined in section 5(2) of the person to whom the re-entry permit relates.

37. Subject to negative resolution of the National Assembly, the Minister may make regulations—

Power to make regulations.
[2 of 1969]

(a) prescribing the diseases which are communicable diseases for the purpose of section 3(1)(b);

(b) declaring the persons, or the classes of persons, who

shall not, under section 3(5)(g) be prohibited immigrants;

(c) prescribing the powers, functions and duties of immigration officers;

(d) declaring ports of entry for the purposes of section 7;

(e) prescribing the steps to be taken to prevent prohibited immigrants from entering Guyana;

(f) prescribing the time, place and manner of the inquiry and examination under section 9 in relation to persons entering Guyana;

(g) prescribing the conditions subject to which permits may be issued under section 12(1), and section 14, and section 18, and the fees to be charged for any permit granted under this Act;

(h) prescribing the amount and the nature of the security to be furnished under this Act;

(i) prescribing the manner in which an order made under section 16(1)(a) or (b) may be carried into effect;

(j) prescribing the time, place and manner of the inquiry and examination of persons who having entered Guyana after the commencement of this Act are found in Guyana and are suspected to be prohibited immigrants within the meaning of this Act;

(k) prescribing the practice and procedure in an appeal under section 27, and in any application or other proceeding connected therewith or incidental thereto;

(l) prescribing the means to be taken, including the taking of photographs and finger-prints, for the identification of any person believed to be a prohibited immigrant;

(m) prescribing the procedure for the carrying into effect of an order made under section 28 for the removal from Guyana of a prohibited immigrant, and for his detention in custody pending such removal;

(n) for the management, control and discipline of any place appointed by the Minister under section 31 for the detention of persons in custody, for the diet of persons detained in any such place, and for the punishment of persons detained therein where they commit any offence against such regulations;

(o) prescribing the procedure on the making of an

application under section 36 for the issue of a re-entry permit, the evidence to be required in relation thereto, and the fee to be charged on application for and on issue of the same;

(p) prescribing the forms of, and the particulars to be inserted in, applications, declarations, notices given by immigration officers, notices of appeal, orders made by immigration officers, or other documents made, kept, issued or used under or for the purposes of this Act;

(q) generally for the carrying out of the objects and purposes of this Act.

38. Anything to the contrary contained in this Act notwithstanding, the President may in his absolute discretion prohibit the entry of any alien into Guyana.

Power to prohibit the entry of aliens into Guyana.

39. Nothing in this Act shall be deemed to affect the operation of the Expulsion of Undesirables Act.

Saving as to c. 14:05

SCHEDULE

[9 of 1992
O. 15/1992]

PART A

- (a) graduates of the University of the West Indies;
- (b) graduates of the University of Guyana;
- (c) other skilled and professional personnel;
- (d) contract workers on a seasonal basis;
- (e) persons engaged in the visual and performing arts;
- (f) persons engaged in sports;
- (g) persons engaged in the media.

PART B

1. Antigua and Barbuda
2. The Bahamas
3. Barbados
4. Belize
5. Dominica

6. Grenada
7. Jamaica
8. Montserrat
9. Saint Christopher and Nevis
10. Saint Lucia
11. St. Vincent and the Grenadines
12. Trinidad and Tobago

Free entry of
graduates.

A person mentioned in paragraph (a) or (b) in Part A of this Schedule who is a national of a country mentioned in Part B of this Schedule shall be permitted by an immigration officer to enter and remain in Guyana either for a definite or an indefinite period subject to the following conditions—

(a) he must satisfy the requirement specified in the Immigration (Alternative to Passports) Order 1992 in relation to the production of his driver's licence or his identification card; or produce his passport to the immigration officer;

(b) he must produce evidence satisfactory to the immigration officer that—

(i) he is a graduate of the University of the West Indies or University of Guyana;

(ii) he is a national of a country mentioned in Part B of this Schedule;

(c) he must inform the immigration officer of his intention to seek employment or to settle in Guyana.
