

Bahamas: Immigration Act

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Comments	This is an unofficial consolidation. The original Act, No. 25 of 1967, was assented to on 19 October 1967. Amendments included here are: - Immigration (Amendment) Act, 1970, No. 3 of 1970, entered into force 21 January 1970; - Bahamas Nationality Act, No. 18 of 1973, entered into force 10 July 1973; - Immigration (Amendment) Act, 1975, No. 26 of 1975, entered into force 27 October 1975; - Immigration (Amendment) (No. 2) Act, 1978, No. 12 of 1978, entered into force 24 November 1978.
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BE it enacted by the Governor and Commander-in-Chief in and over the Bahama Islands, by and with the advice and consent of the Senate and the House of Assembly of the said Islands, and by the authority of the same as follows:-

PART I Introductory

1.Short title and commencement.

This Act may be cited as The Immigration Act 1967, and shall come into force on such date as the Governor may by Notice in the *Gazette* declare.

2.Interpretation.

(1)In this Act unless the context otherwise requires-

"authorized port" means a port designated as an authorized port under the provisions of section 3;

"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 persons appointed to be Director of Immigration under section 6, 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 Colony in accordance with the provisions of section 18 fails to leave the colony 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-

(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 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;

"passenger" means any person arriving in or departing from the Colony in any ship or aircraft other than a member of the crew;

"permanent resident" means a person to whom a valid and subsisting permanent residence certificate granted under section 12 relates, and a wife or dependent child of such a person whose name is endorsed on the certificate under section 13; *[amended by Schedule of Act No 26 of 1975]*

"police officer" has the meaning ascribed thereto by section 2 of The Police Act 1965;

"port" includes airport;

"regulations" means regulations made under the provisions of section 41 from time to time in force;

"section" means 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 21.

(2) *[repealed by Schedule of Act No 26 of 1975]*

(3) *[repealed by Schedule of Act No 26 of 1975]*

(4) 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 Governor for that purpose, and such person shall, while so detained, be deemed to be in legal custody.

(5) 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.

(6) 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.

(7) Nothing in this Act shall be construed as derogating from or abridging-

(a) any provision of any agreement made under the authority of any Act whereby special provision is made with respect to admission into, residence or occupation in or departure from the Colony of certain persons or classes of persons mentioned in such agreement; or

(b) the exercise of any power conferred upon the Governor by The British Nationality Act 1948.

3. Authorized ports.

The Governor may by Notice in the *Gazette* declare that any port in the Colony shall be an authorized 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 authorized port.

PART II BOARD OF IMMIGRATION

4. Constitution of Board.

(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 Premier 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.

5. Functions of Board.

(1) The functions of the Board shall be-

(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 Colony, and the residence and occupation in the Colony of persons who are not citizens of the Bahamas or permanent residents. *[amended by Schedule of Act No 26 of 1975]*

(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 Colony and of the departure of all persons from the Colony;

(e) to exercise the powers and duties conferred upon the Board under the provisions of this Act.

(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 authorized 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 Colony as evidence *prima facie* of any entry or particulars entered therein.

PART III IMMIGRATION OFFICERS

6. Appointment of Immigration Officers.

(1) The Governor 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 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 authorized by the Legislature.

(3) Subject to the provisions of subsection (4) of this section, 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.

(4) In the discharge of his special responsibilities under the Constitution, the Governor acting in his discretion, may exercise any of the powers of the Board under subsection (3) of this section.

7. General powers of Immigration Officers.

(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 Colony or any aircraft which has landed in the Colony;
- (b) without a search warrant, search any such ship or aircraft or anything contained therein or any vehicle being landed in the Colony 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 [amended by Bahamas Nationality Act and Schedule of Act No. 26 of 1975]
- (i) desires to enter or leave the Colony;
- (ii) being in the Colony, is reasonably suspected of having entered without leave in contravention of section 16;
- (iii) having been granted leave to land in the Colony for a specified period is reasonably believed to have remained in the Colony in excess of that period;
- (iv) being in the Colony is reasonably believed to be engaging, or to have engaged, in gainful occupation in the Colony without having been granted a permit permitting him so to do under section 27;
- (d) require any person who desires to enter or leave the Colony to make and sign any prescribed form of declaration;
- (e) require any person who desires to enter the Colony 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 Colony, 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.

8. Powers of arrest.

If any Immigration Officer or Police Officer has reasonable cause to suspect that any person, other than a citizen of the Bahamas or a person who is a permanent resident, 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 45 of The Magistrates Act shall apply in every such case. [amended by Bahamas Nationality Act and Schedule of the Act No. 26 of 1975]

9. Penalties for failing to answer interrogations.

(1) Any person who

- (a) having been summoned under the provisions of section 7(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 7(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 7(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 7(1) of section 7(2),

shall be guilty of an offence against this Act.

10. Admissibility of answers given in interrogation.

(1) All answers to questions lawfully put in interrogation under paragraph (c) of section 7(1) and all documents produced on requisition under section 7(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 9 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.

11. Duty of Police and Customs Officer in administration of this Act.

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.

PART IV Certificate of Permanent Residence

12. Certificate of permanent residence.

(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 27.

12A. Certificate of permanent residence for spouse of Bahamian citizen.

(1) Notwithstanding section 12 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 a citizen of The Bahamas;

(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) being a husband, has so lived continuously with the other party to the marriage for a period of not less than five years,

the Board may, in its absolute discretion, grant a certificate under section 12 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.

(2) A person may be granted a certificate of permanent residence under this section notwithstanding that he has not attained the age of eighteen years.

(3) The making of an application by a person who comes within the provisions of this section for a certificate of permanent residence under section 12 shall not prejudice any application previously made by that person for registration as a citizen of The Bahamas. *[inserted by Act No 12 of 1978]*

13. Wives and children of permanent residents.

(1) When a permanent residence certificate is granted under section 12, 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 27.

14. Duration of permanent residence certificate.

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 15.

15. Revocation of permanent residence certificates and endorsements.

(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 five 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 12A 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;

(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.

(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.

(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.

[amended by Act No. 12 of 1978]

PART V ENTRY INTO THE COLONY.

16. Restriction on landing and embarking.

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

(a) save with the leave of an Immigration Officer; and

(b) elsewhere than at an authorized port or at such other place as an Immigration Officer may in any particular case allow.

(2) Any person landing or embarking in the Colony 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 Colony of any person who has been convicted of an offence against the provision 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 Colony 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 Colony 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 Colony shall be evidence of his having landed in the Colony in contravention of this section, until the contrary is shown to the satisfaction of the court. *[amended by Bahamas Nationality Act and Schedule of Act No 26 of 1975]*

(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.

17. Persons entitled to land and embark.

(1) Notwithstanding any other provisions of this Act, a person shall be entitled to land or embark in the Colony 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 these 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

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

(g) persons whom an Immigration Officer is authorized by the Board to treat as entitled to land in the Colony; and

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

[amended by Schedule of Act No. 26 of 1975]

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

18. Crew members and persons in transit.

(1) Subject to the provisions of subsection (2) of this section the provisions of section 16 shall not apply to any person who □

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

(b) lands from an aircraft at an authorized port for the purpose only of embarking and leaving the Colony 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 Colony under the provisions of section 17 prohibiting him from landing without the leave of an Immigration Officer and thereupon the provisions of section 16 of this Act shall apply to such person.

19. Grant of leave to land.

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

(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 27 permitting him to remain in the Colony 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 27;

(c) is not likely to behave in a manner prejudicial to the peace, order and good government of the Colony;

(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 (d) of section 6(1) makes his presence in the Colony dangerous to the community;

(f) is not a person who is reasonably believed to have come to the Colony 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 Colony 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 Colony 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;

(i)is not a member of a class of persons declared by Order, issued by the Governor acting in his discretion in the exercise of his special responsibilities under the constitution to be a prohibited class of person for the purpose of this section;

(j)is not a person whose presence in the Colony would in the opinion of the Board (or the Governor acting in his discretion in the discharge of his special responsibilities under the Constitution) 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 Colony; 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 Colony under subsection (1) of this section shall be

(a) where such person produces a permit issued to him under section 27 permitting him to remain in the Colony, 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 Colony 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 Colony does not exceed eight months from the date when he last landed in the Colony.

20. Special leave to and.

Where any person is not granted leave to land in the Colony by an Immigration Officer by reason of the provisions of section 19 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 Colony for such period and subject to such conditions as may be prescribed or as the Director may deem fit to impose.

21. Stop list.

(1)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 Colony *[amended by Bahamas Nationality Act and Schedule of Act No. 26 of 1975]*

(a)is a person who has, while in the Colony, conducted himself in a manner which is undesirable; or

(b)is a person whose landing in the Colony 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.

(2)In the exercise of his special responsibilities under the Constitution, the Governor may, in his discretion, require the Board to include the name of any specified person in the Stop List and the Board shall forthwith comply with such requirement.

22. Removal of persons refused leave to land.

(1)Where leave to land is refused to any person under section 19 an Immigration Officer may, subject to paragraph (2) of this section give directions

(a)to the master of the ship or commander of the aircraft in which such person arrived in the Colony, requiring him to remove that person from the Colony in that ship or aircraft;

(b)to the owners or agents of such ship or aircraft, requiring them to remove such person from the Colony 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 Colony in any ship or aircraft bound for a country specified in the directions being either

(i) a country of which such person is national or in which he embarked for the Colony; 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 Colony.

(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.

23. Removal of persons landing unlawfully, etc.

(1) If any person

(a) is found in the Colony after landing in contravention of this Act; or

(b) has been permitted to land in the Colony from a ship of which he was a member of the crew subject to a condition that he should leave the Colony 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 colony from a ship of which he was a member of the crew in accordance with section 18 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 22 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 paragraphs (b) or (c) of this subsection apply, the period of two months specified in subsection (2) of section 22 shall be extended to twelve months.

(2) If any person lands in the Colony from a ship on which he was a stowaway, section 22 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 22 shall not apply; and

(b) subsection (1) (c) of section 22 shall be deemed to include a reference to the country in which that person stowed away.

24. Financial responsibility for persons landing illegally.

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 Colony and his subsequent repatriation, removal or deportation therefrom.

PART VI RESIDENCE AND EMPLOYMENT IN THE COLONY.

25. Restrictions upon residence.

(1) No person other than a person entitled to land in the Colony in accordance with the provisions of section 17 shall remain in the Colony after the expiration of the period during which he is permitted to remain in the Colony by the Immigration Officer or the Director of Immigration under section 19 unless such person is in possession of a valid permit issued in accordance with the provisions of section 27 permitting him to so remain in the Colony.

(2)Where any person ceases to be a person entitled to land in the Colony in accordance with the provisions of section 17 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 Colony 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.

26. Restrictions upon engaging in gainful occupation.

(1)No person to whom the provisions of this section apply shall engage in any gainful occupation in the Colony unless he is in possession of a valid permit issued in accordance with the provisions of section 27 permitting him to engage in such employment.

(2)This section shall apply

(a)to 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 12 or subsection (2) of section 13 as the case may be restricting him from engaging in any gainful employment, but shall apply only to the extent of that restriction;

(b)to the wife and any child of any person to whom paragraphs (c) and (d) of subsection (1) of section 17 applies.

[amended by Schedule of Act No. 26 of 1975]

(3)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.

(4)Any person who whether on his own behalf or on behalf of another engages in employment, or employs, a person to whom this section applies in gainful occupation shall be guilty of an offence against this Act unless the person so engaged or employed has first been granted a permit under section 27 permitting him to engage in that gainful occupation.

27. Permission to reside or to engage in gainful employment.

(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 Colony for the period specified in the permit otherwise than for the purpose of engaging in any gainful occupation; or

(b)to remain in the Colony 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 any person to whom section 26 applies to engage in the gainful occupation specified in the permit. *[amended by Schedule of Act No. 26 of 1975]*

(2)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 Colony;

(d)to provide-

(i)in the case of a person wishing to remain in the Colony for purposes other than engaging in gainful occupation, an undertaking, in writing, that he will not engage in any gainful occupation in the Colony; or

(ii)in the case of a person wishing to remain in the Colony for the purposes of engaging in any gainful occupation, full particulars of such occupation;

(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 Colony 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 12 or 14 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 Colony, 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.

(3) *[repealed by Schedule of Act No. 26 of 1975]*

(4) Notwithstanding any other provisions of this section, no permit under the provisions of subsection (1) of this section shall be granted to any person if the Governor in his discretion in the exercise of his special responsibilities under the Constitution, has notified the Board in writing that such a permit shall not be granted to such person.

28. Conditions of permits.

(1) Any permit granted under the provisions of section 27:-

(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 Governor in his discretion in the exercise of his special responsibilities under the Constitution may require the Board to 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 36 in respect of the person to whom the permit is granted.

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

PART VII. SUPPLEMENTARY PROVISIONS RELATING TO IMMIGRATION CONTROL.

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

(1) It shall be the duty of the local representative of every ship or aircraft arriving in the Colony 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.

30. Inward passenger and crew manifests.

(1) The master of every ship or aircraft arriving in the Colony, 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 Colony, deliver to an Immigration Officer a list showing separately

(a) the name 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 Colony;

(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.

31. Control landing from ships.

(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 Colony before permission generally to land has been given by an Immigration Officer.

(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 to 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.

32. Declaration on disembarkation and embarkation.

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

(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.

33. duty of persons entering or departing to produce passport, etc.

(1) Every person intending to land in, or as the case may be, depart from the Colony 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.

(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.

34. Outward passenger and crew manifests.

(1) The local representative of every ship or aircraft departing from the colony 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.

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

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 Colony, or to bona fide travel agencies.

PART VIII DEPORTATION AND PROVISIONS RELATING TO THE REMOVAL OF PERSONS FROM THE COLONY.

36. Procedure where deportation is desirable.

(1) If at any time after a person, other than a citizen of the Bahamas or a permanent resident has landed in the Colony, it shall come to the knowledge of the Governor that such person *[amended by Bahamas Nationality Act and Schedule of Act No. 26 of 1975*

(a) has landed or remained in the Colony 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 Colony would in the opinion of the Board or of the governor acting in his discretion in the exercise of his special responsibilities under the constitution, be undesirable and not conducive to the public good,

the governor may make an order (hereinafter referred to as a "deportation order") requiring such person to leave the Colony within the time fixed by the deportation order and thereafter to remain out of the Colony.

(2) In the exercise of the powers conferred upon him by subsection (1) of this section, the governor may act in his discretion in any matter where he deems it necessary to do so for the proper discharge of his special responsibilities under the Constitution.

(3) Where a deportation order is made in respect of a person who immediately before the making thereof was lawfully within the colony 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 against the making of the order.

37. Removal of person subject to deportation orders.

(1) Subject to the provisions of subsection (5) of this section any person in whose case a deportation order has been made may be placed, under the authority of the Governor, on board any ship or aircraft which is about to leave the Colony 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 colony, and may for that purpose detain the person in custody on board the ship or aircraft.

(2) The Governor or an Immigration Officer may give directions to the master of any ship or commander of any aircraft which is about to leave the Colony, 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, 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 Colony 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 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 36 shall (unless the court, in a case where the person is not sentenced to imprisonment, otherwise directs) be detained until the Governor 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 (3) of section 36 to appeal to the Governor 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 thereon is known.

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

(1) If a passenger lands or attempts to land in the Colony, or does any act preparatory to landing in the Colony 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.

39. Men to lease if passenger returned on board.

If a passenger lands in the Colony 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 22 or 23 the lien arising under section 38 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.

40. Power to Governor to remit lien.

In the event of any ship or aircraft becoming subject to a lien in respect of any passenger under section 38, the Governor 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.

PART IX REGULATIONS: PROCEDURE: REPEAL

41. Power to make regulations.

(1) The Governor 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:-

- (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 Colony of any person under this Act;
- (e) prohibiting or restricting any ship or class of ships from entering or leaving the Colony 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 Colony 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 Governor necessary or expedient for giving effect thereto; *[amended by Schedule of Act No 26 of 1975]*
- (f) prescribing penalties, not exceeding the penalty specified in section 45, for any offence against any regulations.

42. Burden of proof

(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.

(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 Bahama Islands 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 employed in gainful occupation by such other person in the said Islands. *[amended by Act No. 3 of 1970, Bahamas Nationality Act, and Schedule of Act No. 26 of 1975]*

43. Assisting illegal landing.

(1) Any person who-

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

where such landing, is, or would be, from any ship entering or leaving the Colony otherwise than in accordance with any regulations made under paragraph (e) of section 41 applying to such ship, shall be guilty of an offence against this Act.

(2) Any person who commits an offence under this section or who contravenes any regulations shall be liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and imprisonment, and any vessel found in the Colony in contravention of any regulations shall be liable to forfeiture and shall be proceeded against and condemned in such manner as is prescribed by The Customs Regulations Act:

Provided that any such vessel which is of or below one hundred net tons may be condemned by the Chief Magistrate or by a Stipendiary and Circuit Magistrate upon proof to his satisfaction that such vessel has been used in contravention of such regulations.

(3) In any proceedings under this section for the condemnation of a vessel found in the Colony in contravention of any regulations, the Supreme Court, Chief Magistrate or Stipendiary and Circuit Magistrate having jurisdiction therein may order the destruction of such vessel.

44. Boarding of vessels.

Where any officer of the Royal Navy 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 Colony is landing or preparing to land in the Colony in contravention of the provisions of this Act, he may board such vessel and exercise the powers conferred on an Immigration Officer under section 7.

45. General penalty.

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. *[amended by Schedule of Act No. 26 of 1975]*

46. Repeal.

The Immigration Act is repealed.

47. Saving and transitional.

(1) Notwithstanding the repeal of The Immigration Act (hereinafter in this section referred to as "the repealed Act")-

(a) any certificate that a person belongs to the Bahama Islands and any certificate 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 Colony 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 27;

(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 25 shall not apply in respect of any person who before the commencement of this Act was permitted land in the Colony 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 Colony under the provisions of the repealed Act.