

THE IMMIGRATION RESTRICTION
(COMMONWEALTH CITIZENS) ACT

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IMMIGRATION RESTRICTION

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SCHEDULE

THE IMMIGRATION RESTRICTION
(COMMONWEALTH CITIZENS) ACT.

Cap. 153.
Acts
8 of 1962
S. 16.
52 of 1968,
26 of 1988.

[27th December, 1945.]

1. This Act may be cited as the Immigration Restriction (Commonwealth Citizens) Act. Short title.

2.—(1) In this Act— Interpreta-
tion.

“Chief Immigration Officer” and “immigration officer” respectively mean the Chief Immigration Officer and any immigration officer appointed by the Governor-General under the Aliens Act;

“dependant” in relation to another person means—

- (a) the wife of such person if she is not living apart from him under a decree of a competent court or a deed of separation;
- (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 having been adopted by such person in a manner recognized by law;

“domicile” means 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 a Commonwealth citizen shall not be deemed to have a domicile within the Island for the purposes of this Act unless he has resided therein for at least two years otherwise than under terms of conditional or temporary residence permitted by this Act or any other enactment in force in the Island or as a person under detention

in a prison, reformatory, orphanage, mental hospital or leper asylum; and a Commonwealth citizen shall be deemed for the purposes of this Act to have lost his domicile within the Island if he voluntarily go and reside outside the Island (except for a special or temporary purpose) with the intention of making his home outside the Island; and "domiciled" shall have a corresponding meaning;

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

"immigrant" means a Commonwealth citizen who enters the Island from a place outside the Island, whether for the first or at any subsequent time;

"lands" includes arrival or entry by any form of conveyance, and references to landing, unless the context otherwise implies, includes references to attempting to land;

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

"passport" means a passport furnished with a photograph and duly issued to or renewed in favour of the person named therein not more than five years before the date of his arrival, or some other document establishing the identity and nationality of the immigrant to the satisfaction of the immigration officer;

"passenger" means any Commonwealth citizen, other than a seaman, travelling or seeking to travel on board a vessel;

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

"vessel" includes aircraft, and **"master of a vessel"** includes the pilot of an aircraft.

(2) For the purposes of this Act a Commonwealth citizen shall be deemed to belong to the Island if he—

- (a) was born in the Island or of parents who at the time of his birth were domiciled or ordinarily resident in the Island; or
- (b) is domiciled in the Island; or
- (c) has been ordinarily resident in the Island continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident in any other part of Her Majesty's dominions or any territory under the protection of Her Majesty continuously for a period of seven years or more; or
- (d) became a citizen of Jamaica by registration or by naturalization; or 8/1962
S. 16.
- (e) is a dependant of a person to whom any of the foregoing paragraphs applies.

(3) For the purposes of this Act a Commonwealth citizen shall be deemed to belong to a particular place outside the Island if he—

- (a) was born in that place or of parents who at the time of his birth were domiciled or ordinarily resident in that place; or
- (b) is domiciled in that place; or
- (c) has been ordinarily resident in that place continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident in any other place continuously for a period of seven years or more; or
- (d) is a dependant of a person to whom any of the foregoing paragraphs applies.

3. For the purpose of performing his duties under this Act an immigration officer shall have the powers of a constable and may board and search any vessel arriving in the Island. General
powers of
immigration
officers.

Prohibited
immigrants.

4.—(1) The following Commonwealth citizens (not being persons deemed to belong to the Island as defined by subsection (2) of section 2) are prohibited immigrants—

- (a) any person who is likely if he entered the Island to become a charge on public funds by reason of infirmity of body or mind or of ill-health or who is not in possession of sufficient means to support himself and such of his dependants as he shall bring with him to the Island;
- (b) any idiot or epileptic or any person who is insane or mentally deficient or any person who is deaf and dumb or deaf and blind, or dumb and blind, unless in any such case he or a person accompanying him or some other person gives security to the satisfaction of the Chief Immigration Officer for his permanent support in the Island or for his removal therefrom whenever required by the Chief Immigration Officer;
- (c) any person certified by a Health Officer to be suffering from a communicable disease which makes his entry into the Island dangerous to the community;
- (d) any person over sixteen years of age who by reason of deficient education is unable to fill up the prescribed form of declaration for immigrants in his own handwriting and is likely to become a charge on public funds;
- (e) any prostitute or any person who may be living on or receiving or may have lived on or received the proceeds of prostitution;
- (f) the children under the age of sixteen years being dependants of a prohibited immigrant;
- (g) any member of a class of persons deemed by the Minister on economic grounds or on account of

standard or habit of life to be undesirable immigrants and so declared by order published in the *Gazette*;

- (h) any person who, from information or advice which in the opinion of the Minister is reliable information or advice, is deemed by the Minister to be an undesirable inhabitant of or visitor to the Island;
- (i) any person who, not having received a free pardon, has been in any country convicted of an offence for which a sentence of imprisonment has been passed and who for this reason is deemed by the Minister to be an undesirable immigrant;
- (j) any person who is the subject of a deportation order in force under the Deportation (Commonwealth Citizens) Act.

(2) Notwithstanding anything to the contrary in this Act contained, the Minister may exempt any Commonwealth citizen from the provisions of paragraphs (a) to (g) of subsection (1).

5.—(1) A Commonwealth citizen entering the Island without a passport shall be deemed to be a prohibited immigrant unless and until he explains why he has no passport, and establishes his identity and nationality, to the satisfaction of the immigration officer. Passports.

(2) The Minister may by regulation exempt any class of Commonwealth citizens entering the Island from the provisions of this section either unconditionally or subject to such conditions as may by such regulation be imposed.

6. The following Commonwealth citizens or classes of Commonwealth citizens shall not be prohibited immigrants for the purposes of this Act— Persons deemed not to be prohibited immigrants.

IMMIGRATION RESTRICTION

- (a) persons who belong to the Island as defined by subsection (2) of section 2;
- (b) persons in the service of the Government of the Island;
- (c) members of Her Majesty's regular naval, military or air forces;
- (d) persons who are duly accredited to the Government of the Island by or under the authority of Her Majesty or the Government of any foreign state, and the staff of any such persons;
- (e) the dependants of the persons enumerated in the previous paragraphs of this section;
- (f) any other persons or class of persons to whom this section may be applied by regulation.

Certificate of identity for re-entry.

7. The Chief Immigration Officer may in his discretion issue to any Commonwealth citizen who belongs to the Island, and who desires to proceed thereout with the intention of returning thereto a certificate of identity, when such Commonwealth citizen is for any reason apprehensive that he will be unable to prove on his return that he is not a prohibited immigrant.

Restriction on landing and inspection of immigrants.

8.—(1) Subject to such exemptions as may be made by the Minister under section 36, a Commonwealth citizen coming from outside the Island shall not land in the Island except with the leave of an immigration officer.

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

(3) For the purpose of such inspection a Commonwealth citizen may land temporarily and, provided he submits himself forthwith to such inspection, shall be deemed

not to have landed. Any such person may be detained in such manner as the Minister may direct and while so detained shall be deemed to be in legal custody.

(4) Where an immigration officer refuses leave to land to any Commonwealth citizen under subsection (1), he shall report the fact of such refusal together with the reasons therefor to the Minister within twenty-four hours of such refusal.

(5) Every Commonwealth citizen entering the Island shall truthfully answer all proper questions put to him by the immigration officer for the purposes of this Act, and shall also, if required by the immigration officer—

- (a) make and sign the prescribed declaration; and
- (b) submit to be examined by a Health Officer.

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

(7) Any person who contravenes or fails or refuses to comply with any of the provisions of this section when entering the Island shall be deemed to be a prohibited immigrant and may be dealt with as such.

9.—(1) The master of a vessel arriving from any place outside the Island or departing from the Island shall answer truthfully to the best of his ability all proper questions put to him by an immigration officer relating to the passengers, in so far as is necessary for the purposes of this Act, and, if so required, shall furnish the immigration officer with a list

Information
to be
furnished
by master.

in duplicate signed by himself of the names of all the passengers in the vessel, and such other information as may be prescribed, and every such passenger shall supply the information necessary for the purpose of the list.

(2) The master of a vessel arriving from any place outside the Island or departing from the Island shall furnish the immigration officer, in such manner as may be prescribed, with particulars of any members of the crew who are Commonwealth citizens.

(3) Any master of a vessel who fails or refuses to answer any question, or to furnish any list, information or particulars, when required so to do under the preceding subsections of this section, or who knowingly and wilfully supplies any false information in answer to any such question or in furnishing any such list, information or particulars, shall be guilty of an offence and be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding one hundred dollars.

(4) Any passenger intending to enter the Island who knowingly and wilfully supplies any false information in respect of any list required under this section or in answer to any question put to him by an immigration officer in respect of the particulars required for such list or otherwise for the purposes of this Act shall be guilty of an offence and be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding one hundred dollars.

Postpone-
ment of
decision.

10. An immigration officer may—

- (a) grant leave for an immigrant to land without prejudice to the question whether he is a prohibited immigrant;
- (b) for the purpose of making further enquiry, postpone deciding whether a Commonwealth citizen is

a prohibited immigrant for a period not exceeding sixty days.

11.—(1) An immigration officer may, with the consent of a Health Officer, grant leave for an immigrant suffering from a communicable disease to remain in the Island for medical or surgical treatment or for the purpose of transit through the Island to some other place, subject to such conditions as the Health Officer may deem necessary for the protection of the community.

Leave for sick persons to remain in Island.

(2) If leave is granted to the immigrant to remain in the Island for the purpose of treatment the immigrant shall, on the conclusion of his treatment or at such earlier time as may be specified or communicated to him by the immigration officer, present himself in person to the immigration officer for examination.

(3) The grant of leave under this section shall not prevent a subsequent decision that the immigrant is a prohibited immigrant on another ground.

12. The Minister, or by his direction, any immigration officer, may grant leave for a Commonwealth citizen who is a prohibited immigrant to enter and remain in the Island subject to such conditions as to duration and place of residence, occupation, security to be furnished, or any other matter or thing, whether similar to those enumerated or not, as the Minister may think expedient.

Leave for prohibited immigrant to remain in Island.

13.—(1) Where a Commonwealth citizen desires to remain in the Island for a period not exceeding twelve months an immigration officer may, without deciding whether that person is or is not a prohibited immigrant, grant him leave to enter and remain in the Island subject to such conditions as to the duration of his stay as may be specified by the immigration officer :

Visitors.

Provided that an immigration officer shall not grant leave under this section for a period exceeding twelve months.

(2) The immigration officer may require a Commonwealth citizen to whom subsection (1) applies, as a condition of granting him leave, to give the prescribed security.

Intransit
passengers
and crew.

14. Where a Commonwealth citizen arrives in the Island as a passenger or seaman intending to continue his journey in the vessel by which he arrives, an immigration officer may, without deciding whether that person is or is not a prohibited immigrant, grant him leave to land and remain in the Island for the period of the vessel's stay in port and on condition that he leaves in that same vessel.

Extension of
leave to re-
main in
Island.

15.—(1) Where a Commonwealth citizen has been granted leave to remain in the Island under section 10, 11, 12, 13 or 14 for a period of less than twelve months the Chief Immigration Officer, acting under the directions of the Minister, may extend such period up to a maximum of twelve months from the date of entry.

(2) A Commonwealth citizen who fails to comply with any condition attached to the grant of leave to land or who is found in the Island at any time after the expiration of the period limited by any such condition shall be deemed to be a prohibited immigrant and may be dealt with as such.

Certificate
that person
is not a
prohibited
immigrant.

16. Where it is decided that a Commonwealth citizen is not a prohibited immigrant, the immigration officer shall, if so required, give that person a certificate to that effect.

Mistaken
decision.

17. A decision by an immigration officer that a Commonwealth citizen is not a prohibited immigrant given by mistake or in ignorance of any material facts or in consequence of any misrepresentation by the immigrant shall not affect the

liability of the immigrant to be dealt with as a prohibited immigrant.

18. Except where otherwise specially provided by this Act, no prohibited immigrant shall enter the Island, and an immigration officer shall cause a prohibited immigrant entering or found within the Island (having entered after the commencement of this Act) to be removed therefrom in the manner hereinafter provided.

Prohibition on entry of prohibited immigrant.

19. An immigration officer who decides that a Commonwealth citizen is a prohibited immigrant may in his discretion—

Order for immigrant to leave.

- (a) order him to leave the Island and proceed immediately in the same vessel in which he arrived or in a vessel of the same owners or agents;
- (b) order him to leave the Island within sixty days of his entering the Island and, if the immigration officer thinks fit, by a specified vessel; or
- (c) cause him to be arrested and brought before a Resident Magistrate with a view to an order being made for his removal.

20. Whenever leave to enter the Island is withheld by an immigration officer, or whenever any Commonwealth citizen is detained, restricted or arrested as a prohibited immigrant, notice of that fact and the grounds of refusal, detention, restriction or arrest shall be given by the officer to such person in the prescribed form. If such notice is given within seven days of the arrival of the immigrant the immigration officer giving such notice shall also inform, if known, the master or local agent or owner of the vessel by which the immigrant arrived that such notice has been given.

Notice to prohibited immigrant and master of vessel.

Temporary
leave
pending
security, etc.

21.—(1) Whenever—

- (a) security is required to be given in respect of an immigrant; or
- (b) an immigration officer postpones deciding whether a person is a prohibited immigrant; or
- (c) a prohibited immigrant is ordered to leave the Island,

the immigration officer may grant leave for the immigrant to remain in the Island for so long as the immigration officer considers necessary.

(2) In lieu of granting leave, or on revocation or expiration of the leave, the immigration officer may cause the immigrant to be arrested and brought before a Resident Magistrate who may either order the leave to be granted, restored or renewed and the immigrant to be released, or order the immigrant to be detained in custody until the matter is disposed of or until an opportunity occurs for him to leave the Island, as the case may require.

Endorse-
ment on
passport of
leave to land
or remain
in the Island.

22. Where leave to land or remain in the Island is granted to any immigrant under section 10, 11, 12, 13, 14 or 21, or where an extension of leave is granted under section 15, the fact of such grant or extension, as well as any conditions attaching to such grant or extension, shall be endorsed on the immigrant's passport.

Finger
prints.

23. A Commonwealth citizen held to be a prohibited immigrant, or to whom leave to land or remain in the Island is granted under section 10, 11, 12, 13, 14 or 21, shall, if so required by the immigration officer, submit to his finger prints being taken by the immigration officer.

Conditions
relating to
passports
and
certificates.

24.—(1) A Commonwealth citizen to whom leave to land or remain in the Island or any certificate under this Act has been granted shall at all times produce his passport or any

such certificate to any immigration officer or constable on demand, or within forty-eight hours after such demand, at such police station as may be specified by the person making the demand at the time of such demand, and shall not lend, transfer or assign it to any other person.

(2) No person shall borrow or make use of a passport belonging to any other person or a certificate granted transfer or assign it to any other person.

(3) A person having in his possession a passport appearing to have been endorsed by an immigration officer under this Act or a certificate appearing to have been granted under this Act shall answer all questions put to him by an immigration officer or constable for the purpose of establishing his identity with the person named in the passport or certificate, and shall, if so required by an immigration officer or constable, submit to his finger prints being taken for that purpose.

25.—(1) Leave to land or remain in the Island granted under this Act may at any time be revoked by the Minister or by an immigration officer acting on the direction of the Minister, and may also be revoked when the conditions attached to such leave so provide. Revocation
of leave.

(2) Where such leave is revoked, the immigrant may be arrested and brought before a Resident Magistrate to be dealt with for any infringement of this Act in respect of which he may be charged:

Provided that the Resident Magistrate may, if the leave was not revoked by, or by the direction of the Minister, order the leave to be restored and the immigrant to be released.

26.—(1) If any Commonwealth citizen is considered by an immigration officer to be a prohibited immigrant, then, Removal
orders.

subject to the provisions of this Act and the conditions attached to any leave granted thereunder, any Resident 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 the Island and in the meantime to be detained in custody :

Provided that no application for such order shall be entertained in the case of a Commonwealth citizen (not being a person who entered the Island in contravention of subsection (1) of section 8) unless the application is made—

- (a) if he entered the Island in accordance with leave granted under section 10, 11, 12, 13 or 14, within six months of the expiry of the period limited by any condition attached to the grant of such leave;
- (b) in other cases, within six months of his arrival in the Island.

52/1968
S. 2.

(2) The Minister may by order declare a Commonwealth citizen who is not a citizen of Jamaica to be an undesirable person where—

- (a) he is satisfied that such person is or has been conducting himself so as to be dangerous to the peace, order and good government of Jamaica; or
- (b) on other grounds, he considers it in the public interest that an order should be made in relation to such person;

and notwithstanding anything to the contrary in this or any other enactment such person shall thereupon be a prohibited immigrant and the Minister may in the order aforesaid or, as the case may require, a subsequent order direct that he be removed from the Island and in the meantime be detained in custody :

Provided that where an order has been made pursuant to paragraph (b) and the Commonwealth citizen declared an undesirable person has been ordinarily resident in the Island continuously for a period of five years or more immediately prior to the making of the order—

- (i) such person shall have a right to make objection to the advisory tribunal established under section 27 against any direction aforesaid that he be removed from the Island; but such objection, if any, shall be made in writing within two weeks of the notification referred to in paragraph (ii) and shall specify the grounds of objection and a copy thereof shall be delivered to the Minister within the period aforesaid;
- (ii) the Minister shall so soon as may be practicable after directing the removal of such person from the Island notify him in writing accordingly and inform him as to the grounds on which the order was made and of his right to make objection against the direction to the advisory tribunal; and
- (iii) if pursuant to paragraph (i) objection has been made by a person to the advisory tribunal, the order directing the removal of such person from the Island shall not be executed until the Minister has received and considered the report of the advisory tribunal in the matter.

(3) The question of the validity of any order made by the Minister under subsection (2) shall not be enquired into in any court.

(4) An immigrant who is ordered to be removed from the Island shall, with the approval of the Minister, be removed—

- (a) to the place whence he came, or to any place to which he consents to be removed; or
- (b) to a place in some part of the Commonwealth to which he belongs.

(5) Where an immigrant who is ordered to be removed is 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 removal. In default of such directions, the immigrant shall be removed after completion of the sentence.

(6) An immigrant ordered to be removed may be placed on board a suitable vessel by any constable or immigration officer, and may be lawfully detained in custody on board until the vessel finally leaves the Island.

27.—(1) For the purposes of subsection (2) of section 26, there shall be established an advisory tribunal consisting of—

- (a) a person appointed by the Chief Justice from among the persons entitled to practise or to be admitted to practise in Jamaica as barristers or solicitors, who shall be chairman of the tribunal; and
- (b) two other persons appointed by the Governor-General.

(2) In the case of the temporary absence or inability to act of—

- (a) the chairman of the tribunal, the Chief Justice may appoint another person from among persons qualified as specified in paragraph (a) of subsection (1) to act as chairman of the tribunal;

Establishment of tribunal to review certain removal orders. 52/1968 S. 3.

(b) any other member of the tribunal, the Governor-General may appoint another person to act for that member.

(3) The appointment of any person to be a member of the tribunal shall be for such time and shall be subject to such conditions as may be determined by the person making the appointment and a person who ceases to hold office as a member of the tribunal shall be eligible for reappointment thereto.

(4) The tribunal shall have power to regulate its own proceedings.

(5) Every objection made pursuant to the proviso to subsection (2) of section 26 shall be heard by the tribunal at the earliest practicable time and any meeting held to consider any such objection shall be presided over by the chairman.

(6) Upon considering any objection made before it the advisory tribunal shall make a report thereon to the Minister; and the Minister shall take every such report into consideration but shall not be obliged to act in accordance with any recommendations contained therein.

28.—(1) Any Commonwealth citizen to whom leave to land in the Island has been refused shall be removed from the Island by the master of the vessel in which he arrived, and by that same vessel, or with the consent of an immigration officer he shall be removed, by the owner or agent of that vessel, by any other vessel, to the country to which he belongs or from which he embarked for the Island.

Liability of vessel to remove prohibited immigrant.

(2) If an immigrant in respect of whom notice has been given to the master or local agent or owner of a vessel as required by section 20 is ordered to be removed from or to leave the Island within sixty days of his arrival in the

Island, the master of the vessel in which the immigrant arrived or of any vessel belonging to the same owner or chartered by him shall at the request of an immigration officer and on production to him of the order, receive the immigrant (and any of his dependants whom he may have brought with him by the same vessel into the Island) on board and afford them a passage to the country to which the immigrant belongs or from which he embarked for this Island.

(3) In the event of the immigrant and his dependants being unable to defray the expenses of the passage required to be provided under subsections (1) and (2), the master shall nevertheless provide the immigrant (and any of his dependants whom he may have brought with him into the Island) with suitable accommodation and maintenance during the passage, free of charge to the public funds of the Island: saving nevertheless to the master the right to recover such expenses from the immigrant and his dependants.

(4) Except as provided in subsections (1), (2) and (3), the expenses of passage of a prohibited immigrant and his dependants shall be payable from the public funds of the Island in so far as they are not defrayed by the immigrant and his dependants.

Warrant to
convey pro-
hibited
immigrant
back on
vessel.

29. The master of any vessel may, on the desertion of any seaman, or the landing of any stowaway or prohibited immigrant from his vessel, apply to a Resident Magistrate for a warrant to arrest and convey back on board the vessel such seaman, stowaway, or prohibited immigrant, and the Resident Magistrate shall grant such application unless there are special reasons for not doing so, and such master shall be held harmless of all pains and penalties at law for anything done by virtue of such warrant.

30.—(1) Any master of a vessel who knowingly suffers any prohibited immigrant who arrives in such vessel to land therefrom contrary to the provisions of this Act shall be guilty of an offence.

Offences by prohibited immigrants and persons permitting prohibited immigrants to land.

(2) Any person who knowingly lands or procures to be landed or who aids or assists in landing any prohibited immigrant contrary to the provisions of this Act shall be guilty of an offence.

(3) Any prohibited immigrant who knowingly and wilfully lands or suffers himself to be landed contrary to the provisions of this Act shall be guilty of an offence.

(4) Any Commonwealth citizen who contravenes, or fails or refuses to comply with, any of the provisions of subsection (1) or (5) of section 8 shall be guilty of an offence.

(5) Any person guilty of an offence under this section shall, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment, and, in any case in which the offender has contravened or failed to comply with the provisions of subsection (1) of section 8, proceedings may, notwithstanding anything to the contrary in the Judicature (Resident Magistrates) Act, be brought at any time.

26/1988
S.2.

31. Any person who—

- (a) for the purpose of entering the Island, or of remaining therein, in contravention of this Act or any other enactment, or of assisting any other person so to enter or so to remain, fabricates or falsifies any passport, certificate or other document, or utters, uses, or attempts to use, any passport, certificate or other document which has not been issued by lawful authority or which though issued

Offences and penalties.

by lawful authority he is not entitled to use, or any fabricated or falsified passport, certificate or other document, knowing it to be fabricated or falsified;
or

- (b) makes a statement which to his knowledge is untrue in a declaration required to be made by an applicant for the issue of a passport or of a certificate of identity; or
- (c) obstructs, hinders or opposes any immigration officer or constable in the execution of his duty under this Act; or
- (d) without lawful excuse knowingly harbours or conceals any other person who is within the Island in contravention of the terms of this Act, or who having entered the Island in pursuance of leave granted as hereinbefore provided, has wilfully failed to observe any condition attached to the grant of such leave; or
- (e) fails to comply with or contravenes the conditions under which leave to land or remain in the Island has been granted to him or under which any certificate or other document has been issued to him under this Act; or
- (f) being a prohibited immigrant, lands in the Island without previously obtaining leave of an immigration officer as hereinbefore provided,

shall be guilty of an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding three years or to both such fine and imprisonment.

26/1988
S.2.

Place of
detention.

32.—(1) A Commonwealth citizen detained in custody under this Act, but not serving a sentence of imprisonment, may be detained either in prison or in any place appointed

for the purpose by the Minister, but if detained in prison he shall be treated as a person awaiting trial.

(2) The Minister may make regulations for the management, control and discipline of any place appointed by the Minister under subsection (1) for the detention of persons, for the diet of persons detained therein, and for the punishment of persons detained therein for any offences committed by them against such regulations.

33. In any proceedings under this Act—

- (a) the burden of proof that the person charged belongs to the Island or that he is not likely to become a charge on public funds shall be upon that person;
- (b) a document purporting to be a removal order made under this Act shall, until the contrary is proved, be presumed to be such an order; and
- (c) any order made under this Act shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

Evidence
and burden
of proof.

34.—(1) A Resident Magistrate who is satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment, or removal of a prohibited immigrant or his dependants may issue a warrant for the levy of the amount by distress and sale of any movable property belonging to the immigrant and order forfeiture of any moneys in his possession.

Recovery of
expenses.

(2) A warrant issued under subsection (1) may be executed in the same manner as a warrant for the levy of the amount of a fine.

(3) The partial recovery of expenses under this section shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant

under this section be a condition precedent to the liability of a surety.

Regulations.

- 35.—(1)** The Minister may make regulations prescribing—
- (a) the powers and duties of immigration officers;
 - (b) the steps to be taken to prevent the entrance of a prohibited immigrant into the Island;
 - (c) the ports of entry and the times, places and conduct of the inquiry or examination, medical or otherwise, of persons entering or desiring to enter the Island, or who being found in the Island are suspected of being prohibited immigrants;
 - (d) the means to be taken for the identification of any person believed to be a prohibited immigrant, including the taking of photographs and finger prints;
 - (e) lists of communicable diseases, the affliction with which will render a person a prohibited immigrant;
 - (f) the procedure for and the manner of the detention of prohibited immigrants pending their removal from the Island and the procedure necessary for and the manner of such removal;
 - (g) the certificates which may be issued under this Act, the terms of any condition which may be attached to the grant of leave to land or remain in the Island, the conditions upon which any such certificate or condition may be issued or attached, the circumstances in which they may be cancelled and the fees which may be charged for any certificate; and the amount and nature of the security to be furnished for the due carrying out of any conditions which may be attached to the grant of leave to enter and reside in the Island to a prohibited immigrant;

- (h) the forms of warrants, certificates or other documents to be issued or used or of the declarations to be made or of the books to be kept for the purposes of this Act, and the particulars to be inserted in any such document, declaration or book;
- (i) generally for the better carrying out of the objects and purposes of this Act.

(2) The Minister may by regulations require a Commonwealth citizen (not being a citizen of Jamaica) coming from outside the Island to be in possession of a visa for the purpose of entering Jamaica and any regulations made under this subsection may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.

26/1988
S. 3.

(3) Until varied or revoked by regulations made under this section, the regulations and forms contained in the Schedule shall be in force.

26/1988
S. 3.
Schedule

36. The Minister may direct that any Commonwealth citizen or class of Commonwealth citizen shall be exempt, either unconditionally or subject to such conditions as the Minister may impose, from all or any of the provisions of this Act.

Exemptions.

(Section 35)

SCHEDULE

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS)
REGULATIONS

Short title.

1. These Regulations may be cited as the Immigration Restriction (Commonwealth Citizens) Regulations, and shall be read as part of and subject to the Immigration Restriction (Commonwealth Citizens) Act, hereinafter referred to as the Act.

2. [*Revoked by L.N. 24 of 2007.*]

3. [*Revoked by L.N. 24 of 2007.*]

Examination of passengers.

4. The examination of persons in accordance with section 8 of the Act shall be conducted by an immigration officer on the vessel by which such persons arrived, or at any other place convenient for the purpose as the immigration officer may direct. Every such person before being permitted to enter or remain in the Island shall, if so required to do by the immigration officer, complete a declaration in the Form "C", and the immigration officer may require every such person to declare thereto before him and shall satisfy himself, where he has any doubt, that the signatory thereto is sufficiently educated to understand such declaration; or, if such person be unable to fill in such form, the officer shall question him, through an interpreter if necessary, and shall himself fill in or cause to be filled in the form of declaration, and shall thereupon require such person to sign such declaration.

Evidence of identity of wife and child.

5. The Immigration officer may require, for the purpose of an application of a wife or child of an immigrant to enter the Island, a properly authenticated copy of the certificate of the marriage or of the birth, as the case may be; or, if no copy of such marriage certificate or birth certificate can be produced, the immigration officer may require evidence to satisfy him that that person is such a wife or child as alleged and of the identity of the person and that such wife or child is exempted from being considered a prohibited immigrant.

Security to be furnished and evidence of means.

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

- (a) sixty dollars if the immigrant belongs to one of the Commonwealth countries in the Caribbean or to Guyana or British Honduras;

- (b) one hundred dollars if the immigrant belongs to a country forming part of the Continent of America, of Europe or of Africa, or to any of the Islands of the North Atlantic Ocean other than those specified in sub-paragraph (a);
- (c) two hundred dollars if he belongs to any other country:

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

(2) A person on a temporary visit to the Island shall, if required to do so by an immigration officer, produce evidence to the satisfaction of the immigration officer—

- (a) of being in employment elsewhere and intent to return thereto; or
- (b) of possession of a return ticket; or
- (c) of the possession of a sum of money sufficient to enable him to maintain himself during the period of his visit and to provide for his return fare, or of its immediate availability.

(3) The immigration officer may accept as sufficient evidence that the immigrant is not likely to become a public charge if (not being a person suffering from infirmity of body or mind, or ill health) he is satisfied that *bona fide* employment is awaiting the immigrant in the Island; the evidence to support such contention shall show the nature and period of the employment and the proposed wage, and be supported as to the ability of the prospective employer to carry out his undertaking and include an undertaking by the employer to repatriate the immigrant if the engagement is terminated within two years from the time he landed in the Island.

(4) The security bond required for the purposes hereof may be given in the Form "D", with such modifications as the circumstances require.

7.—(1) The Health Officer appointed by the Minister for the purpose shall, when necessary and required, be present at the examination of persons entering or seeking to enter the Island, and shall indicate to the

Medical
examina-
tion.

immigration officer any person who ought, in the opinion of such Health Officer, to be medically examined. The immigration officer may require such Health Officer to make a medical examination of any such person and of any other person entering or found within the Island who is required to submit to such medical examination.

(2) The medical examination of any person entering or seeking to enter or found in the Island shall take place at such place as may be convenient, and as soon as possible after the arrival of such person, or after the person is found, and a report as to the result of such examination shall be rendered to the immigration officer and shall accompany that officer's record of proceedings furnished to the Chief Immigration Officer if any such person be found to be a prohibited immigrant.

Certificate of identity.

8.—(1) A certificate of identity issued in terms of section 7 of the Act, to persons who belong to the Island, may be in the Form "E", and subject to the conditions therein set out, or to any modifications required in the particular circumstances; and every such certificate shall contain such particulars as may be deemed necessary for the purpose of identification.

(2) No certificate of identity shall be issued unless there be lodged with the immigration officer satisfactory documentary evidence as to the identity of the applicant and of his claim that he belongs to the Island, and of the particulars required.

Conditions of leave to land or remain in Island.

9. Unless in any individual case the giving of security is considered unnecessary by the immigration officer, the immigrant who applies for leave to land or remain in the Island shall be required to deposit the amount appropriate to his case or give a security bond for such amount as provided by regulation 6(1) as a security for the observance by him of the conditions attached to the grant of the leave. The deposit shall only be refunded upon the fulfillment of such conditions and upon such person leaving the Island within the period for which the leave was granted, or upon the cancellation of the conditions by the Minister.

Provisional restriction.

10. The immigration officer, after commencing his examination of any person who has not satisfied him that he is not a prohibited immigrant, may provisionally restrict the admission to the Island of such person, or cause his detention in custody, and may cause such enquiries to be made, or await such further information as may be necessary, before finally informing any person in accordance with section 20 of the Act that he is a prohibited immigrant.

Removal order.

11. Any order which may be issued under the Act for the removal of a prohibited immigrant from the Island shall be in Form "F".

12.—(1) Save as is otherwise provided in the Act, any person detained in custody thereunder may be detained at any place at which persons under arrest awaiting trial are liable to be detained. Detention.

(2) Any gaoler or immigration guard shall accept custody of any person on the order of the immigration officer, or on the order of a Resident Magistrate issued at the request of the immigration officer but no person shall be so detained in custody for any longer period than is necessary for the purpose of any prescribed enquiry or for the completion by the immigration officer of arrangements for the removal of such person from the Island at the first reasonable opportunity.

(3) The production of an order of removal shall be sufficient authority to any gaoler or other officer to deliver the person named therein to the escort appointed to bring such person to any place for the purpose of removal in terms of such order.

13. Any person employed by the Government to have custody and control of any person detained as a prohibited immigrant shall carry out such duties as are assigned to him by an immigration officer. Duties of person in charge of prohibited immigrant.

14. For the purpose of administering the Act and these Regulations, all officers appointed hereunder are hereby authorized and empowered to board any vessel at any time and at all places in the Island. Authority to board vessels.

15. Any person who fails to comply with the provisions of these Regulations, with which it is his duty to comply, or who otherwise contravenes these Regulations, shall be guilty of an offence and shall, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding fifty dollars. Penalties.

FORMS

Form "A" — [*Revoked by L.N. 24 of 2007.*]

Form "B" — [*Revoked by L.N. 24 of 2007.*]

IMMIGRATION RESTRICTION

L.N.
32B/2005.

FORM "C"

(Regulation 4)

Welcome to Jamaica Bienvenido		Admission No. 1234567
Jamaica Immigration Service / Servicio de Inmigración Complete ALL Questions (1-25) and sign form / Complete todas las preguntas y firme. Please print using black or blue ink / Complete con letras en negro o azul.		
ARRIVAL RECORD / REGISTRO DE LLEGADA		
1. Last Name / Apellido		
2. First Name / Nombre		
3. Middle Name / Segundo Nombre		
4. Date of Birth / Fecha de Nacimiento		
5. Sex / Sexo		
6. I.D. No. or Passport No. / Número de identidad o pasaporte		
7. Country of Birth / País de Nacimiento		
8. Country of Citizenship / País de ciudadanía		
9. Occupation / Ocupación		
10. Home Address / Dirección Particular (Street Address/Apt/ Unit Number / Calle/Apto)		
11. City/Town / Ciudad/Pueblo		
12. Zip/Postal Code / Código Postal		
13. Country / País		
14. Flight Number / Número de Vuelo		
14a. Name of Vessel / Nombre del buque		
15. Boarded At / Punto de Salida		
16. Countries visited during last six weeks / Países visitados durante las últimas seis (6) semanas		
17. Intended address in Jamaica / Dirección en que radicará en Jamaica (Hotel/Street Address/Apt/ Unit Number / Hotel / Calle/Apto)		
18. City / Town / Ciudad / Pueblo		
19. Intended length of stay (nights) / Tiempo de estadía (noches)		
20. Purpose of visit (visitors only) / Propósito de su visita		
21. Last Name / Apellido		
22. First Name / Nombre		
23. Middle Name / Segundo Nombre		
24. Date of Birth / Fecha de Nacimiento		
25. I.D. No. or Passport No. / Número de identidad o pasaporte		
26. Nationality / Nacionalidad		
27. Sex / Sexo		
28. Flight Number / Número de Vuelo		
28a. Name of Vessel / Nombre del buque		
29. Departure Date / Fecha de Salida		
Signature / Firma		

FORM "C", *contd.*

OFFICIAL USE ONLY

REMARKS:

DOCUMENT PRESENTED OTHER THAN PASSPORT

IMMIGRATION OFFICER'S STAMP

B	CUL	DIP	E
H	M	NE	PR
RR	RRV	S	SI
T	UL	UN	V

8391276949

9125513152

OFFICIAL USE ONLY

IMMIGRATION OFFICER'S STAMP

B	CUL	DIP	E
H	M	NE	PR
RR	RRV	S	SI
T	UL	UN	V

IMMIGRATION RESTRICTION

FORM "D"

(Regulation 6 (4))

JAMAICA

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS) ACT

Security Bond

JAMAICA.

KNOWN ALL MEN BY THESE PRESENTS that I, of
.....

in the Island of Jamaica (hereinafter referred to as the Surety) am held and firmly bound unto the Accountant-General for the time being of the said Island in the sum of.....dollars to be paid to the said Accountant-General for which payment well and truly to be made I hereby bind myself, my heirs, executors and administrators by these presents.

Dated this.....day of.....19.....

WHEREAS.....(hereinafter referred to as the Immigrant) who lately arrived in this Island by the vesselis a prohibited immigrant (or as the case may be) within the meaning of the Immigration Restriction (Commonwealth Citizens) Act.

AND WHEREAS the said Surety desires to enable the said Immigrant to land in the Island:

NOW THE ABOVE WRITTEN OBLIGATION is conditioned to be void if the said Surety do on demand pay to the Accountant-General any charges together with any expenses of repatriation (if any) which within two years from the date of these presents may be incurred by the Government of the Island in respect of the said Immigrant.

Signed and delivered by the above-named in the presence of

Signature of Surety

Signature of Witness:
Address:
Occupation:

FORM "E"

(Regulation
8 (1))

JAMAICA

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS) ACT

Certificate of Identity

It is certified that.....holding
passport No.....issued by.....
having appeared before..... for
the purpose of supplying the means of identification which are now
specified herein, and having intimated that he/she is about to absent
himself/herself from the Island of Jamaica for a period of.....
on a visit to..... this document is issued to
.....and, subject to the conditions
specified hereunder or endorsed hereon and to the verification of the
marks of identification, will be accepted by the examining immigration
officer without further evidence as proof of the identity of the said
.....on his/her return within a
period of two years.

Date

Place.....

Immigration Officer

CONDITIONS UNDER WHICH THE CERTIFICATE IS ISSUED

1. That, on the return of the person referred to herein to the Island, this certificate shall be surrendered to the examining immigration officer.

2. That, if the person referred to herein seeks to re-enter the Island after a period of two years has elapsed from the date hereof, or if he/she seeks to re-enter the Island after having lost the status of a Commonwealth citizen, the protection afforded by this certificate shall be deemed to have lapsed, and he/she shall be required to satisfy the requirements of the Act.

3. This certificate may be held to be invalidated if the person named herein is shown to the immigration officer to have made a false declaration in a material particular when applying for a certificate.

IMMIGRATION RESTRICTION

IDENTIFICATION MARKS

(Regulation
11)

FORM "F"

JAMAICA

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS) ACT

Order for the Removal of a Prohibited Immigrant

TO

WHEREAS.....has rendered himself/herself liable to removal from the Island of Jamaica by reason that in terms of section.....of the Immigration Restriction (Commonwealth Citizens) Act, the said..... is a prohibited immigrant:

You are hereby authorized to cause the said..... to be removed from the Island under proper escort and subject to necessary detention in custody as provided under the Act.

Dated at.....thisday of19.....

Resident Magistrate

FORM "E"

(Regulation 8 (1))

JAMAICA

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS) ACT
Certificate of Identity

It is certified that.....holding
passport No.....issued by.....
having appeared before.....for
the purpose of supplying the means of identification which are now
specified herein, and having intimated that he/she is about to absent
himself/herself from the Island of Jamaica for a period of.....
on a visit to.....this document is issued to
.....and, subject to the conditions
specified hereunder or endorsed hereon and to the verification of the
marks of identification, will be accepted by the examining immigration
officer without further evidence as proof of the identity of the said
.....on his/her return within a
period of two years.

Date.....

Place.....

Immigration Officer

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3. This certificate may be held to be invalidated if the person named herein is shown to the immigration officer to have made a false declaration in a material particular when applying for a certificate.

IMMIGRATION RESTRICTION

IDENTIFICATION MARKS

(Regulation 11)

FORM "F"

JAMAICA

THE IMMIGRATION RESTRICTION (COMMONWEALTH CITIZENS) ACT
Order for the Removal of a Prohibited Immigrant

TO

WHEREAS.....has rendered himself/herself liable to removal from the Island of Jamaica by reason that in terms of section.....of the Immigration Restriction (Commonwealth Citizens) Act, the said..... is a prohibited immigrant:

You are hereby authorized to cause the said..... to be removed from the Island under proper escort and subject to necessary detention in custody as provided under the Act.

Dated at.....thisday of19.....

Resident Magistrate