

SCHEDULE 1A

Article 3

Provisions of the Immigration Act 1971 as extended to Jersey

Provision as extended to Jersey

PART I

REGULATION AND ENTRY INTO AND STAY IN JERSEY

General Principles

1.—(1) All those who are in this Act expressed to have the right of abode in Jersey shall be free to live in, and to come and go into and from, Jersey without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.

(2) Those not having that right may live, work and settle in Jersey by permission and subject to such regulation and control of their entry into, stay in and departure from Jersey as is imposed by this Act; and indefinite leave to enter or remain in Jersey shall, by virtue of this provision, be treated as having been given under this Act to those in Jersey at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).

(3) Arrival in and departure from Jersey on a local journey from or to the United Kingdom, Guernsey, the Isle of Man or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter Jersey on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act Jersey and those places, or such of them as are not so excluded, are collectively referred to as “the common travel area”.

(4) The rules laid down by the Minister as to the practice to be followed in the administration of this Act for regulating the entry into and stay in Jersey of persons not having the right of abode shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the rules, and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering Jersey.

(5) The Minister may by Order regulate the taking of employment by persons not having the right of abode who are given leave to enter Jersey.

(6) Before making an Order under subsection (5) the Minister must consult the Chief Minister.

Statement of right of abode in Jersey.

2.—(1) A person is under this Act to have the right of abode in Jersey if—

(a) he is a British citizen; or

(b) he is a Commonwealth citizen who—

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(i) immediately before the commencement of the British Nationality Act 1981 was a Commonwealth citizen having the right of abode in Jersey by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and

(ii) has not ceased to be a Commonwealth citizen in the meanwhile.

(2) In relation to Commonwealth citizens who have the right of abode in Jersey by virtue of subsection (1)(b) above, this Act, except this section, section 5(2) and section 25, shall apply as if they were British citizens; and in this Act (except as aforesaid) “British citizen” shall be construed accordingly.

Deprivation of right of abode

2A.—(1) The Minister may by order remove from a specified person a right of abode in Jersey which he has under section 2(1)(b).

(2) The Minister may make an order under subsection (1) in respect of a person only if the Minister thinks that it would be conducive to the public good for the person to be excluded or removed from Jersey.

(3) An order under subsection (1) may be revoked by order of the Minister.

(4) While an order under subsection (1) has effect in relation to a person—

(a) section 2(2) shall not apply to him, and

(b) any certificate of entitlement granted to him shall have no effect.

General provisions for regulation and control.

3.—(1) Except as otherwise provided by or under this Act, where a person is not a British citizen —

(a) he shall not enter Jersey unless given leave to do so in accordance with the provisions of, or made under, this Act;

(b) he may be given leave to enter Jersey (or, when already there, leave to remain in Jersey) either for a limited or for an indefinite period;

(c) if he is given limited leave to enter or remain in Jersey, it may be given subject to all or any of the following conditions, namely—

(i) a condition restricting his work or occupation in Jersey;

(ia) a condition restricting his studies in Jersey;

(ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds;

(iii) a condition requiring him to register with the police;

(iv) a condition requiring him to report to an immigration officer or the Minister; and

(v) a condition about residence.

(2) The Minister shall from time to time (and as soon as may be) present to the States statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act for regulating the entry into and stay in Jersey of persons required by this Act to have leave to enter, including any rules as to the period for which leave is to be given and the conditions to be attached in different circumstances; and section 1(4) above shall not be taken to require uniform provision to be made by the rules as regards admission of persons for a purpose or in a capacity specified in section 1(4) (and in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).

If a statement presented to the States under this subsection is disapproved by resolution passed at the sitting at which it is so presented or at the next following sitting of the States then the Minister shall make changes or further changes in the rules as appear to him to be required in the circumstances and the statement of those changes shall be presented to the States as soon as practicable after the said resolution was passed.

(3) In the case of a limited leave to enter or remain in Jersey,—

(a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the limit on its duration is removed, any conditions attached to the leave shall cease to apply; and

(b) the limitation on and any conditions attached to a person's leave (whether imposed originally or on a variation) shall, if not superseded, apply also to any subsequent leave he may obtain after an absence from Jersey within the period limited for the duration of the earlier leave.

(4) A person's leave to enter or remain in Jersey shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to Jersey in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.

(5) A person who is not a British citizen is liable to deportation from Jersey if—

(a) the Minister deems his deportation to be conducive to the public good; or

(b) another person to whose family he belongs is or has been ordered to be deported.

(6) Without prejudice to the operation of subsection (5) above, a person who is not a British citizen shall also be liable to deportation from Jersey if, after he has attained the age of seventeen, he is convicted of an offence for which he is punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.

(7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on British citizens, British overseas territories citizens or British Overseas citizens when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not British citizens from embarking in Jersey, or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in Jersey; and Her Majesty may also make provision by Order in Council to enable those who are not British citizens to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.

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(8) When any question arises under this Act whether or not a person is a British citizen, or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.

(9) A person seeking to enter Jersey and claiming to have the right of abode there shall prove it by means of—

(a) a United Kingdom passport describing him as a British citizen,

(b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom, or

(c) a certificate of entitlement.

Irish citizens.

3ZA.—(1) An Irish citizen does not require leave to enter or remain Jersey, unless subsection (2), (3) or (4) applies to that citizen.

(2) This subsection applies to an Irish citizen if the Irish citizen is subject to a deportation order made under section 5(1).

(3) This subsection applies to an Irish citizen if—

(a) the Minister has issued directions for the Irish citizen not to be given entry to Jersey on the ground that the Irish citizen's exclusion is conducive to the public good,

(b) Minister has given the Irish citizen notice of the directions, and

(c) the directions have not been withdrawn.

(4) This subsection applies to an Irish citizen if the Irish citizen is an excluded person for the purposes of section 8B (persons excluded under international obligations etc).

(5) Where subsection (2), (3) or (4) applies to an Irish citizen, section 1(3) does not permit the Irish citizen to enter Jersey without leave on arriving Jersey on a local journey from any place in the common travel area.

Further provision as to leave to enter.

3A.—(1) The Minister may by Order make further provision with respect to the giving, refusing or varying of leave to enter Jersey.

(2) An Order under subsection (1) may, in particular, provide for—

(a) leave to be given or refused before the person concerned arrives in Jersey;

(b) the form or manner in which leave may be given, refused or varied;

(c) the imposition of conditions;

(d) a person's leave to enter not to lapse on his leaving the common travel area.

(3) The Minister may by Order provide that, in such circumstances as may be prescribed—

(a) an entry visa, or

(b) such other form of entry clearance as may be prescribed,

is to have effect as leave to enter Jersey.

(4) An Order under subsection (3) may, in particular—

(a) provide for a clearance to have effect as leave to enter—

(i) on a prescribed number of occasions during the period for which the clearance has effect;

(ii) on an unlimited number of occasions during that period;

(iii) subject to prescribed conditions; and

(b) provide for a clearance which has the effect referred to in paragraph (a)(i) or (ii) to be varied by the Minister or an immigration officer so that it ceases to have that effect.

(5) Only conditions of a kind that could be imposed on leave to enter given under section 3 may be prescribed.

(6) In subsections (3), (4) and (5) “prescribed” means prescribed in an Order made under subsection (3).

(7) The Minister may, in such circumstances as may be prescribed in an Order made by him, give or refuse leave to enter Jersey.

(8) An Order under subsection (7) may provide that, in such circumstances as may be prescribed by the Order, paragraphs 2, 4, 6, 7, 8, 9 and 21 of Part I of Schedule 2 to this Act are to be read, in relation to the exercise by the Minister of functions which he has as a result of the Order, as if references to an immigration officer included references to the Minister.

(9) Subsection (8) is not to be read as affecting any power conferred by subsection (10).

(10) An Order under this section may—

(a) contain such incidental, supplemental, consequential and transitional provision as the Minister considers appropriate; and

(b) make different provision for different cases.

(11) This Act and any provision made under it has effect subject to any Order made under this section.

Further provision as to leave to remain.

3B.—(1) The Minister may by Order make further provision with respect to the giving, refusing or varying of leave to remain in Jersey.

(2) An Order under subsection (1) may, in particular, provide for—

(a) the form or manner in which leave may be given, refused or varied;

(b) the imposition of conditions;

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- (c) a person's leave to remain in Jersey not to lapse on his leaving the common travel area.
- (3) An Order under this section may—
 - (a) contain such incidental, supplemental, consequential and transitional provision as the Minister considers appropriate; and
 - (b) make different provision for different cases.
- (4) This Act and any provision made under it has effect subject to any Order made under this section.

Continuation of leave pending variation decision.

3C.—(1) This section applies if—

- (a) a person who has limited leave to enter or remain in Jersey applies to the Minister for variation of the leave,
- (b) the application for variation is made before the leave expires, and
- (c) the leave expires without the application for variation having been decided.
- (2) The leave is extended by virtue of this section during any period when—
 - (a) the application for variation is neither decided nor withdrawn, or
 - (b) an administrative review of the decision on the application for variation—
 - (i) could be sought, or
 - (ii) is pending.
- (3) Leave extended by virtue of this section shall lapse if the applicant leaves Jersey.
- (3A) Leave extended by virtue of this section may be cancelled if the applicant—
 - (a) has failed to comply with a condition attached to the leave, or
 - (b) has used or uses deception in seeking leave to remain (whether successfully or not).
- (4) A person may not make an application for variation of his leave to enter or remain in Jersey while that leave is extended by virtue of this section.
- (5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).
- (6) The Minister may make Orders determining when an application is decided for the purposes of this section; and such an Order—
 - (a) may make provision by reference to receipt of a notice,
 - (b) may provide for a notice to be treated as having been received in specified circumstances, and

(c) may make different provision for different purposes or circumstances.

(7) In this section—

“administrative review” means a review conducted under the immigration rules;

the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.

Administration of control.

4.—(1) The power under this Act to give or refuse leave to enter Jersey shall be exercised by immigration officers, and the power to give leave to remain in Jersey, or to vary any leave under section 3(3)(a) (whether as regards duration or conditions) or to cancel any leave under section 3C(3A), shall be exercised by the Minister; and, unless otherwise allowed by or under this Act, those powers shall be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by Order.

(2) The provisions of Schedule 2 to this Act shall have effect with respect to—

(a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;

(b) the examination of persons arriving in or leaving Jersey by ship or aircraft, and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and

(c) the exercise by immigration officers of their powers in relation to entry into Jersey, and the removal from Jersey of persons refused leave to enter or entering or remaining unlawfully; and

(d) the detention of persons pending examination or pending removal from Jersey;

and for other purposes supplementary to the foregoing provisions of this Act.

(3) The Minister may by Order make provision as to the effect of a condition under this Act requiring a person to register; and such Order may include provision—

(a) as to the body or person by whom registers are to be maintained, and as to the form and content of the registers;

(b) as to the body or person with whom and as to the place and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;

(c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;

and the Order may require anyone who is for the time being subject to such a condition to produce a certificate of registration to such persons and in such circumstances as may be prescribed by the Order.

(4) The Minister may by Order make such provision as appears to him to be expedient in connection with this Act for records to be made and kept of persons staying at hotels and other

premises where lodging or sleeping accommodation is provided, and for persons (whether British citizens or not) who stay at any such premises to supply the necessary information.

Procedure for, and further provisions as to, deportation.

5.—(1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the Minister may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering Jersey; and a deportation order against a person shall invalidate any leave to enter or remain in Jersey given him before the order is made or while it is in force.

(2) A deportation order against a person may at any time be revoked by a further order of the Minister, and shall cease to have effect if he becomes a British citizen.

(3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left Jersey after the making of the deportation order against him; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.

(4) For the purposes of deportation the following shall be those who are regarded as belonging to another person's family—

(a) where that other person is a man, his wife or civil partner, and his or her children under the age of eighteen; and

(b) where that other person is a woman, her husband or civil partner, and her or his children under the age of eighteen,

and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted, shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother; and "wife" includes each of two or more wives.

(5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from Jersey of persons against whom deportation orders are in force and with respect to the detention or control of persons in connection with deportation.

(6) Where a person is liable to deportation under section 3(5) or (6) above but, without a deportation order being made against him, leaves Jersey to live permanently abroad, the Minister may make payments of such amounts as he may determine to meet that person's expenses in so leaving Jersey, including travelling expenses for members of his family or household.

Recommendations by court for deportation.

6.—(1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence unless the court commits him to be sentenced or further dealt with for that offence by another court.

(2) A court shall not recommend a person for deportation unless he has been given not less than seven days' notice in writing stating that a person is not liable to deportation if he is a British citizen, describing the persons who are British citizens and stating (so far as material) the effect of section 3(8) above and section 7 below; but the powers of a court to adjourn shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to

him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

(3) For purposes of section 3(6) above—

(a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation; and

(b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or persons who have not previously been sentenced to imprisonment;

and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.

(4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.

(5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made; but the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence.

(6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

Exemption from deportation for certain existing residents.

7.—(1) Notwithstanding anything in section 3(5) or (6) above but subject to the provisions of this section, a Commonwealth citizen or citizen of the Republic of Ireland who was such a citizen at the coming into force of this Act and was then ordinarily resident in Jersey—

(a) shall not be liable to deportation under section 3(5) if at the time of the Minister's decision he had for the last five years been ordinarily resident in the United Kingdom and Islands;

(b) shall not on conviction of an offence be recommended for deportation under section 3(6) if at the time of the conviction he had for the last five years been ordinarily resident in the United Kingdom and Islands.

(2) A person who has at any time become ordinarily resident in the United Kingdom or in any of the Islands shall not be treated for the purposes of this section as having ceased to be so by reason only of his having remained there in breach of the immigration laws.

(3) The "last five years" before the material time under subsection (1)(a) or (b) above is to be taken as a period amounting in total to five years exclusive of any time during which the person claiming exemption under this section was undergoing imprisonment or detention by virtue of a sentence passed for an offence on a conviction in the United Kingdom and Islands, and

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the period for which he was imprisoned or detained by virtue of the sentence amounted to six months or more.

(4) For purposes of subsection (3) above—

(a) “sentence” includes any order made on conviction of an offence; and

(b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence; and

(c) a person shall be deemed to be detained by virtue of a sentence—

(i) at any time when he is liable to imprisonment or detention by virtue of the sentence, but is unlawfully at large; and

(ii) (unless the sentence is passed after the material time) during any period of custody by which under any relevant enactment the term to be served under the sentence is reduced.

In paragraph (c)(ii) above “relevant enactment” means the Criminal Procedure (Jersey) Rules 2021 and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands.

(5) Nothing in this section shall be taken to exclude the operation of section 3(8) above in relation to an exemption under this section.

Exceptions for seamen, aircrews and other special cases.

8.—(1) Where a person arrives at a place in Jersey as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—

(a) there is in force a deportation order made against him; or

(b) he has at any time been refused leave to enter Jersey and has not since then been given leave to enter or remain in Jersey; or

(c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter Jersey at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

(2) The Minister may order that any person or class of persons be exempt, either unconditionally or subject to such conditions as the Minister may impose, from all or any of the provisions of this Act relating to those who are not British citizens.

An exemption under this section with respect to a class of persons must be made by Order to which Article 11 of the Legislation (Jersey) Law 2021 shall apply.

(3) Subject to subsection (3A) below, the provisions of this Act relating to those who are not British citizens shall not apply to any person so long as he is a member of a mission (within the meaning of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998), a person who is a member of the family and forms part of the household of such a member, or a

person otherwise entitled to the like immunity from jurisdiction as is conferred by that Law on a diplomatic agent.

(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1998 Law) is not to count as a member of a mission unless—

(a) he was resident outside Jersey, and was not in Jersey, when he was offered a post as such a member; and

(b) he has not ceased to be such a member after having taken up the post.

(4) The provisions of this Act relating to those who are not British citizens, other than the provisions relating to deportation, shall also not apply to any person who falls within Article 3(3) of the Armed Forces (Offences and Jurisdiction) (Jersey) Law 2017.

(5) Where a person having a limited leave to enter or remain in Jersey becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired or otherwise ceased to be in force;

and a person is not to be regarded for purposes of this Act as having been settled in Jersey at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or ordered under subsection (2) above.

(5A) An exemption ordered under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in Jersey for the purposes of section 1(1) of the British Nationality Act 1981.

Persons ceasing to be exempt.

8A.—(1) A person is exempt for the purposes of this section if he is exempt from provisions of this Act as a result of section 8(2) or (3).

(2) If a person who is exempt—

(a) ceases to be exempt, and

(b) requires leave to enter or remain in Jersey as a result,

he is to be treated as if he had been given leave to remain in Jersey for a period of 90 days beginning on the day on which he ceased to be exempt.

(3) If—

(a) a person who is exempt ceases to be exempt, and

(b) there is in force in respect of him leave for him to enter or remain in Jersey which expires before the end of the period mentioned in subsection (2),

his leave is to be treated as expiring at the end of that period.

(4) References in this section to a person who ceases to be exempt do not include a person who ceases to be exempt by virtue of section 8B(3).

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Persons excluded from Jersey under certain instruments.

8B.—(1) An excluded person must be refused—

(a) leave to enter Jersey;

(b) leave to remain in Jersey,

(and any leave given to a person who is an excluded person is invalid).

(2) A person’s leave to enter or remain in Jersey is cancelled on his becoming an excluded person.

(3) Any exemption of a person from the provisions of this Act under section 8(1), (2) or (3) does not apply while the person is an excluded person.

(4) “Excluded person” means—

(a) a person named by or under, or of a description specified in, an instrument falling within subsection (5), or

(b) a person who is an excluded person in accordance with a provision falling within subsection (A5).

(5) An instrument falls within this subsection if it is a resolution of the Security Council of the United Nations and it—

(a) requires that a person is not to be admitted to Jersey (however that requirement is expressed); or

(b) recommends that a person should not be admitted to Jersey (however that recommendation is expressed).

(A5) A provision falls within this subsection if it is a provision of an Order under Article 3 of the Sanctions and Asset-Freezing (Jersey) Law 2019 under which a person is an excluded person for the purposes of this section.

(5A) Subsection (1), (2) or (3) does not apply to a person if—

(a) the application of that subsection to that person would be contrary to the obligations by which Jersey is bound under—

(i) the Human Rights Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or

(ii) the Refugee Convention (within the meaning given by that provision), or

(b) the person is within subsection (4)(a) and not within subsection (4)(b) and has been exempted from the application of subsection (1), (2) or (3), as the case may be, under a process applying by virtue of the instrument falling within subsection (5).

(5B) In relation to any person within subsection (4)(b), subsections (1) to (3) are subject to any exception created under, or direction given by virtue of, a provision falling within subsection (A5).

Further provisions as to common travel area.

9.—(1) Schedule 4 to this Act shall have effect for the purpose of taking account in Jersey of the operation in the United Kingdom, Guernsey or the Isle of Man of the immigration laws there.

(2) Persons who lawfully enter Jersey on a local journey from a place in the common travel area after having either—

(a) entered the United Kingdom, Guernsey or the Isle of Man or the Republic of Ireland on coming from a place outside the common travel area; or

(b) left Jersey while having a limited leave to enter or remain which has since expired;

if they are not British citizens or Irish citizens (and are not to be regarded under Schedule 4 to this Act as having leave to enter Jersey), shall be subject in Jersey to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register as provided under section 4(3) above or both, as may be imposed by an Order of the Minister and may be applicable to them.

(3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an Order under subsection (2) above as if the provisions of the Order applicable to him were terms on which he had been given leave under this Act to enter Jersey.

(4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not a British citizen or an Irish citizen may not by virtue of section 1(3) enter Jersey without leave on a local journey from a place in the common travel area if either—

(a) he is on arrival in Jersey given notice by an immigration officer stating that, the Minister having issued directions for him not to be given entry to Jersey on the ground that his exclusion is conducive to the public good, he is accordingly refused leave to enter Jersey; or

(b) he has at any time been refused leave to enter Jersey and has not since then been given leave to enter or remain in Jersey.

(5) The Minister may by Order exclude Guernsey or the Isle of Man from section 1(3) above for such purposes as may be specified in the Order where, by reason of differences between the immigration laws of the United Kingdom and the relevant island, the Secretary of State has done so, and references in this Act to the Islands shall apply to the island so excluded so far only as is provided by the Order.

(6) The Minister shall also have power by Order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the Order.

Construction of references to entry, and other phrases relating to travel.

11.—(1) A person arriving in Jersey by ship or aircraft shall for purposes of this Act be deemed not to enter Jersey unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter Jersey so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer; and a person who has not otherwise entered

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Jersey shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act or section 62 of the Nationality, Immigration and Asylum Act 2002.

(2) In this Act “disembark” means disembark from a ship or aircraft, and “embark” means embark in a ship or aircraft; and, except in subsection (1) above –

(a) references to disembarking in Jersey do not apply to disembarking after a local journey from a place in Jersey or elsewhere in the common travel area; and

(b) references to embarking in Jersey do not apply to embarking for a local journey to a place in Jersey or elsewhere in the common travel area.

(3) Except in so far as the context otherwise requires, references in this Act to arriving in Jersey by ship shall extend to arrival by any floating structure, and “disembark” shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.

(4) For purposes of this Act “common travel area” has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which—

(a) in the case of a journey to a place in Jersey, began its voyage from, or has during its voyage called at, a place not in the common travel area; or

(b) in the case of a journey from a place in Jersey, is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.

(5) A person who enters Jersey lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter Jersey.

PART III

CRIMINAL PROCEEDINGS

Illegal entry and similar offences.

24.—(1) A person who is not a British citizen shall be guilty of an offence punishable with a fine of not more than level 3 on the standard scale or with imprisonment for not more than six months, or with both, in any of the following cases—

(a) if contrary to this Act he knowingly enters Jersey in breach of a deportation order or without leave;

(b) if, having only a limited leave to enter or remain in Jersey, he knowingly either—

(i) remains beyond the time limited by the leave; or

(ii) fails to observe condition of the leave;

(c) if, having lawfully entered Jersey without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);

(d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;

(e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence, as to his employment or occupation or as to reporting to the police or to an immigration officer;

(f) if he disembarks in Jersey from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from Jersey;

(g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

(1A) A person commits an offence under subsection (1)(b)(i) above on the day when he first knows that the time limited by his leave has expired and continues to commit it throughout any period during which he is in Jersey thereafter; but a person shall not be prosecuted under that provision more than once in respect of the same limited leave.

(4) In proceedings for an offence against subsection (1)(a) above of entering Jersey without leave—

(a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved;

(b) proof that a person had leave to enter Jersey shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

Deception.

24A.—(1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him—

(a) he obtains or seeks to obtain leave to enter or remain in Jersey; or

(b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.

(2) “Enforcement action”, in relation to a person, means—

(a) the giving of directions for his removal from Jersey (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;

(b) the making of a deportation order against him under section 5 of this Act; or

(c) his removal from Jersey in consequence of directions or a deportation order.

(3) A person guilty of an offence under this section is liable to imprisonment for a term not exceeding two years or to a fine, or to both.

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Assisting unlawful immigration.

25.—(1) A person commits an offence if he—

(a) does an act which facilitates the commission of a breach or attempted breach of the immigration laws by an individual who is not a person to whom subsection (2) applies,

(b) knows or has reasonable cause for believing that the act facilitates the commission of a breach or attempted breach of the immigration laws by the individual, and

(c) knows or has reasonable cause for believing that the individual is not a person to whom subsection (2) applies.

(2) This subsection applies to—

(a) a British citizen;

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in Jersey; or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.

(3) Subsection (1) applies to things done whether inside or outside Jersey.

(4) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding 14 years, to a fine or to both.

Helping asylum-seeker to enter Jersey.

25A.—(1) A person commits an offence if—

(a) he knowingly and for gain facilitates the arrival or attempted arrival in, or the entry or attempted entry into, Jersey of an individual, and

(b) he knows or has reasonable cause to believe that the individual is an asylum-seeker.

(2) In this section “asylum-seeker” means a person who intends to claim that to remove him from or require him to leave Jersey would be contrary to the United Kingdom’s obligations on behalf of Jersey under—

(a) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (interpretation)), or

(b) the Human Rights Convention (within the meaning given by that section).

(3) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—

(a) aims to assist asylum-seekers, and

(b) does not charge for its services.

(4) Subsections (3) and (4) of section 25 apply for the purpose of the offence in subsection (1) of this section as they apply for the purpose of the offence in subsection (1) of that section.

Forfeiture of vehicle, ship or aircraft.

25C.—(1) This section applies where a person is convicted of an offence under section 25 or 25A.

(2) The court may order the forfeiture of a vehicle used or intended to be used in connection with the offence if the convicted person—

- (a) owned the vehicle at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the vehicle,
- (c) was at that time in possession of the vehicle under a hire-purchase agreement,
- (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
- (e) was driving the vehicle in the course of the commission of the offence.

(3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—

- (a) owned the ship or aircraft at the time the offence was committed,
- (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft,
- (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement,
- (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
- (e) was at that time a charterer of the ship or aircraft, or
- (f) committed the offence while acting as captain of the ship or aircraft.

(4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—

- (a) in the case of a ship, if subsection (5) or (6) applies;
- (b) in the case of an aircraft, if subsection (5) or (7) applies.

(5) This subsection applies where—

- (a) in the course of the commission of the offence, the ship or aircraft carried more than 20 illegal entrants, and
- (b) a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under section 25 or 25A.

(6) This subsection applies where a ship's gross tonnage is less than 500 tons.

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(7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.

(8) Where a person who claims to have an interest in a vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the ship, aircraft or vehicle unless the person has been given an opportunity to make representations.

(9) In the case of an offence under section 25, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to an individual who is a passenger for the purpose of section 145 of the Nationality, Immigration and Asylum Act 2002 (traffic in prostitution).

(10) In the case of an offence under section 25A, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to—

(a) an asylum-seeker (within the meaning of that section), and

(b) an individual who is a passenger for the purpose of section 145(1) of the Nationality, Immigration and Asylum Act 2002.

Detention of ship, aircraft or vehicle.

25D.—(1) If a person has been arrested for an offence under section 25 or 25A, a senior officer or a police officer may detain a relevant ship, aircraft or vehicle—

(a) until a decision is taken as to whether or not to charge the arrested person with that offence; or

(b) if the arrested person has been charged—

(i) until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or

(ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle.

(2) A ship, aircraft or vehicle is a relevant ship, aircraft or vehicle, in relation to an arrested person, if it is one which the officer or police officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 25C.

(3) A person (other than the arrested person) may apply to the court for the release of a ship, aircraft or vehicle on the grounds that—

(a) he owns the ship, aircraft or vehicle,

(b) he was, immediately before the detention of the ship, aircraft or vehicle, in possession of it under a hire-purchase agreement, or

(c) he is a charterer of the ship or aircraft.

(4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the ship, aircraft or vehicle on condition that it is made available to the court if—

- (a) the arrested person is convicted; and
- (b) an order for its forfeiture is made under section 25C.

(5) “Court” means —

- (a) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, the Magistrate’s Court;
- (b) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.

(6) “Senior officer” means an immigration officer not below the rank of chief immigration officer.

General offences in connection with administration of Act.

26.—(1) A person shall be guilty of an offence punishable with a fine of not more than level 3 on the standard scale or with imprisonment for not more than twelve months, or with both, in any of the following cases—

- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
- (b) if, without reasonable excuse, he refuses to furnish or produce any information in his possession, or any documents in his possession or control, which he is on an examination under that Schedule required to furnish or produce;
- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of a relevant enactment a return, statement or representation which he knows to be false or does not believe to be true;
- (d) if, without lawful authority, he alters any certificate of entitlement, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, certificate of entitlement, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false;
- (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any Order under Schedule 2 to this Act;
- (f) if, without reasonable excuse, he fails to comply with any requirement of an Order under section 4(3) or of an Order under section 4(4) above;
- (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.

(2) “Relevant enactment” means—

- (a) this Act;

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- (b) the Immigration Act 1988;
- (c) the Immigration and Asylum Act 1999; or
- (d) the Nationality, Immigration and Asylum Act 2002.

Registration card.

26A.—(1) In this section “registration card” means a document which—

- (a) carries information about a person (whether or not wholly or partly electronically), and
- (b) is issued by the Minister to the person wholly or partly in connection with a claim for asylum (whether or not made by that person).

(2) In subsection (1) “claim for asylum” means a claim by a person that to remove him from or require him to leave Jersey would be contrary to the United Kingdom’s obligations in respect of Jersey under—

- (a) the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol, or

- (b) Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.

(3) A person commits an offence if he—

- (a) makes a false registration card,
- (b) alters a registration card with intent to deceive or to enable another to deceive,
- (c) has a false or altered registration card in his possession without reasonable excuse,
- (d) uses or attempts to use a false registration card for a purpose for which a registration card is issued,
- (e) uses or attempts to use an altered registration card with intent to deceive,
- (f) makes an article designed to be used in making a false registration card,
- (g) makes an article designed to be used in altering a registration card with intent to deceive or to enable another to deceive, or
- (h) has an article within paragraph (f) or (g) in his possession without reasonable excuse.

(4) In subsection (3) “false registration card” means a document which is designed to appear to be a registration card.

(5) A person who is guilty of an offence under subsection (3)(a), (b), (d), (e), (f) or (g) shall be liable to imprisonment for a term not exceeding ten years, to a fine or to both.

(6) A person who is guilty of an offence under subsection (3)(c) or (h) shall be liable to imprisonment for a term not exceeding two years, to a fine or to both.

(7) The States may by Regulations—

(a) amend the definition of “registration card” in subsection (1);

(b) make consequential amendment of this section.

Possession of immigration stamp.

26B.—(1) A person commits an offence if he has an immigration stamp in his possession without reasonable excuse.

(2) A person commits an offence if he has a replica immigration stamp in his possession without reasonable excuse.

(3) In this section—

(a) “immigration stamp” means a device which is designed for the purpose of stamping documents in the exercise of an immigration function,

(b) “replica immigration stamp” means a device which is designed for the purpose of stamping a document so that it appears to have been stamped in the exercise of an immigration function, and

(c) “immigration function” means a function of an immigration officer or the Secretary of State under the Immigration Acts.

(4) A person who is guilty of an offence under this section shall be liable to imprisonment for a term not exceeding two years, to a fine or to both.

Offences by persons connected with ships or aircraft or with ports.

27.—(1) A person shall be guilty of an offence punishable with a fine of not more than level 3 on the standard scale or with imprisonment for not more than twelve months, or with both, in any of the following cases—

(a) if, being the captain of a ship or aircraft,—

(i) he knowingly permits a person to disembark in Jersey when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or

(ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 or under the Immigration and Asylum Act 1999 with respect to the removal of a person from Jersey;

(b) if, as owner or agent of a ship or aircraft,—

(i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or

(ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or

(iii) he fails, without reasonable excuse, to make arrangements for or in connection with the removal of a person from Jersey when required to do so by directions given under Schedule 2 or 3 to this Act or under the Immigration and Asylum Act 1999; or

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- (iii) he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2; or
- (iv) he fails, without reasonable excuse, to comply with any other requirement imposed by or under Schedule 2;
- (c) if, as a person concerned in the management of a port, he fails, without reasonable excuse to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated; or
- (ca) if as a person concerned in the management of a port he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2.

(2) Proceedings may not be instituted against a person under subsection (1)(a)(i) or (1)(b)(iv) for a failure to provide information or otherwise to comply with a requirement imposed under paragraph 27, 27B or 27BA of Schedule 2 where—

(a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of an Order made under—

- (i) paragraph 27BB of Schedule 2,
 - (ii) section 32B of the Immigration, Asylum and Nationality Act 2006, or
 - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
- (b) proceedings have been instituted against the person under section 34 of the Immigration, Asylum and Nationality Act 2006 in respect of a failure to provide the same information.

Proceedings.

28.—(4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

Arrest without warrant.

28A.—(1) An immigration officer may arrest without warrant a person—

- (a) who has committed or attempted to commit an offence under section 24 or 24A; or
- (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.

(2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).

(3) An immigration officer may arrest without warrant a person—

- (a) who has committed or attempted to commit an offence under section 25 or 25A; or
- (b) whom he has reasonable grounds for suspecting has committed or attempted to commit that offence.

(5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—

- (a) has committed or attempted to commit an offence under section 26(1)(g); or
 - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons is impracticable or inappropriate because—
- (a) he does not know, and cannot readily discover, the suspect's name;
 - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
 - (c) the suspect has failed to give him a satisfactory address for service; or
 - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
- (a) causing physical injury to himself or another person;
 - (b) suffering physical injury; or
 - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
 - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- (9A) An immigration officer may arrest without warrant a person—
- (a) who has committed an offence under section 26A or 26B; or
 - (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.
- (10) In relation to the exercise of the powers conferred by subsections (3)(b) and (5), it is immaterial that no offence has been committed.

Arrest with warrant.

28AA.—(1) This section applies if on an application by an immigration officer the Bailiff is satisfied that there are reasonable grounds for suspecting that a person has committed an offence under section 24(1)(d).

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(2) The Bailiff may grant a warrant authorising any immigration officer to arrest the person.

Search and arrest by warrant.

28B.—(1) Subsection (2) applies if the Bailiff is satisfied by evidence on oath that there are reasonable grounds for suspecting that a person (“the suspect”) who is liable to be arrested for a relevant offence is to be found on any premises.

(2) The Bailiff may grant a warrant authorising any immigration officer or police officer to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.

(3) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d) or (f), 24A, 26A or 26B.

Search and arrest without warrant.

28C.—(1) An immigration officer may enter and search any premises for the purpose of arresting a person for an offence under section 25 or 25A.

(2) The power may be exercised—

(a) only to the extent that it is reasonably required for that purpose; and

(b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.

(3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—

(a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any such other dwelling; and

(b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.

(4) The power may be exercised only if the officer produces identification showing that he is an immigration officer (whether or not he is asked to do so).

Entry and search of premises.

28D.—(1) If, on an application made by an immigration officer, the Bailiff is satisfied that there are reasonable grounds for believing that—

(a) a relevant offence has been committed,

(b) there is material on premises mentioned in subsection (1A) which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,

(c) the material is likely to be relevant evidence,

(d) the material does not consist of or include items subject to legal privilege, excluded material or special procedure material, and

(e) any of the conditions specified in subsection (2) applies, in relation to each set of premises specified in the application,

he may issue a warrant authorising an immigration officer to enter and search the premises.

(1A) The premises referred to in subsection (1)(b) above are—

(a) one or more sets of premises specified in the application, or

(b) subject to subsection (2A), any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

(1B) If the application is for an all premises warrant, the Bailiff must also be satisfied—

(a) that because of the particulars of the offence referred to in paragraph (a) of subsection (1), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph (b) of that subsection, and

(b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the Bailiff is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the Bailiff issues the warrant.

(1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.

(2) The conditions referred to in subsection (1)(e) are that—

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;

(c) entry to the premises will not be granted unless a warrant is produced;

(d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry to them.

(3) An immigration officer may seize and retain anything for which a search has been authorised under subsection (1).

(4) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (f) or (h), 24A, 25, 25A, 26A or 26B.

(5) Expressions which are given a meaning by the Police Procedures and Criminal Evidence (Jersey) Law 2003 have the same meaning when used in this section.

Entry and search of premises following arrest.

28E.—(1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.

(2) An immigration officer may enter and search any premises—

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- (a) in which the person was when arrested, or
 - (b) in which he was immediately before he was arrested,
- for evidence relating to the offence for which the arrest was made (“relevant evidence”).
- (3) The power may be exercised—
 - (a) only if the officer has reasonable grounds for believing that there is relevant evidence on the premises; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence.
 - (4) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—
 - (a) any dwelling in which the arrest took place or in which the arrested person was immediately before his arrest; and
 - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
 - (5) An officer searching premises under subsection (2) may seize and retain anything he finds which he has reasonable grounds for believing is relevant evidence.
 - (6) Subsection (5) does not apply to items which the officer has reasonable grounds for believing are items subject to legal privilege.

Entry and search of premises following arrest under section 25 or 25A.

28F.—(1) An immigration officer may enter and search any premises occupied or controlled by a person arrested for an offence under section 25 or 25A.

- (2) The power may be exercised—
 - (a) only if the officer has reasonable grounds for suspecting that there is relevant evidence on the premises;
 - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence; and
 - (c) subject to subsection (3), only if a senior officer has authorised it in writing.
 - (3) The power may be exercised—
 - (a) before taking the arrested person to a place where he is to be detained; and
 - (b) without obtaining an authorisation under subsection (2)(c),
- if the presence of that person at a place other than one where he is to be detained is necessary for the effective investigation of the offence.

- (4) An officer who has relied on subsection (3) must inform a senior officer as soon as is practicable.
- (5) The officer authorising a search, or who is informed of one under subsection (4), must make a record in writing of—
- (a) the grounds for the search; and
 - (b) the nature of the evidence that was sought.
- (6) An officer searching premises under this section may seize and retain anything he finds which he has reasonable grounds for suspecting is relevant evidence.
- (7) “Relevant evidence” means evidence, other than items subject to legal privilege, that relates to the offence in question.
- (8) “Senior officer” means immigration officer not below the rank of chief immigration officer.

Search for personnel records: with warrant.

28FB.—(1) This section applies where on an application made by an immigration officer in respect of business premises mentioned in subsection (1A) the Bailiff is satisfied that there are reasonable grounds for believing—

- (a) that an employer has provided inaccurate or incomplete information under section 134 of the Nationality, Immigration and Asylum Act 2002 (compulsory disclosure by employer),
- (b) that employee records, other than items subject to legal privilege, will be found on the premises and will enable deduction of some or all of the information which the employer was required to provide, and
- (c) that at least one of the conditions in subsection (2) is satisfied in relation to each set of premises specified in the application.

(1A) The premises referred to in subsection (1) above are—

- (a) one or more sets of premises specified in the application, or
- (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

(1B) If the application is for an all premises warrant, the Bailiff must also be satisfied—

- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the records referred to in subsection (1)(b), and
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(2) The conditions referred to in subsection (1)(c) are —

- (a) that it is not practicable to communicate with a person entitled to grant access to the premises,

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(b) that it is not practicable to communicate with a person entitled to grant access to the records,

(c) that entry to the premises or access to the records will not be granted unless a warrant is produced, and

(d) that the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry.

(3) The Bailiff may issue a warrant authorising an immigration officer to enter and search the premises.

(3A) Subject to subsection (3C), the warrant may authorise entry to and search of premises on more than one occasion if, on the application, the Bailiff is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the Bailiff issues the warrant.

(3B) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.

(5) An immigration officer searching premises under a warrant issued under this section may seize and retain employee records, other than items subject to legal privilege, which he reasonably suspects will be of substantial value (whether on their own or together with other material) in the investigation of an offence under section 137 of the Nationality, Immigration and Asylum Act 2002 (disclosure of information: offences) in respect of a requirement under section 134 of that Act.

Searching arrested persons.

28G.—(1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.

(2) An immigration officer may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others

(3) The officer may search the arrested person for—

(a) anything which he might use to assist his escape from lawful custody; or

(b) anything which might be evidence relating to the offence for which he has been arrested.

(4) The power conferred by subsection (3) may be exercised—

(a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that subsection; and

(b) only to the extent that it is reasonably required for the purpose of discovering any such thing.

(5) A power conferred by this section to search a person is not to be read as authorising an officer to require a person to remove any of his clothing in public other than an outer coat, jacket or glove; but it does authorise the search of a person's mouth.

(6) An officer searching a person under subsection (2) may seize and retain anything he finds, if he has reasonable grounds for believing that that person might use it to cause physical injury to himself or to another person.

(7) An officer searching a person under subsection (3) may seize and retain anything he finds, if he has reasonable grounds for believing—

(a) that that person might use it to assist his escape from lawful custody; or

(b) that it is evidence which relates to the offence in question.

(8) Subsection (7)(b) does not apply to an item subject to legal privilege.

Searching persons in police custody.

28H.—(1) This section applies if a person—

(a) has been arrested for an offence under this Part; and

(b) is in custody at a police station or in police detention at a place other than a police station.

(2) An immigration officer may, at any time, search the arrested person in order to see whether he has with him anything—

(a) which he might use to—

(i) cause physical injury to himself or others;

(ii) damage property;

(iii) interfere with evidence; or

(iv) assist his escape; or

(b) which the officer has reasonable grounds for believing is evidence relating to the offence in question.

(3) The power may be exercised only to the extent that the custody officer concerned considers it to be necessary for the purpose of discovering anything of a kind mentioned in subsection (2).

(4) An officer searching a person under this section may seize anything he finds, if he has reasonable grounds for believing that—

(a) that person might use it for one or more of the purposes mentioned in subsection (2)(a); or

(b) it is evidence relating to the offence in question.

(5) Anything seized under subsection (4)(a) may be retained by the police.

(6) Anything seized under subsection (4)(b) may be retained by an immigration officer.

(7) The person from whom something is seized must be told the reason for the seizure unless he is—

(a) violent or appears likely to become violent; or

(b) incapable of understanding what is said to him.

Status: This is the original version (as it was originally made).

- (8) An intimate search may not be conducted under this section.
- (9) The person carrying out a search under this section must be of the same sex as the person searched.
- (10) “Custody officer” means the officer in charge of a police station.
- (11) “Intimate search” has the meaning given by Article 1 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.
- (12) “Police detention” has the meaning given by Article 2 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.

Retention of seized material.

28ZI.—(1) This section applies to anything seized by an immigration officer under this Part for the purposes of the investigation of an offence or on the basis that it may be evidence relating to an offence.

(2) Anything seized as mentioned in subsection (1) may be retained so long as is necessary in all the circumstances and in particular—

(a) may be retained, except as provided for by subsection (3)—

(i) for use as evidence at a trial for an offence, or

(ii) for forensic examination or for investigation in connection with an offence, and

(b) may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(3) Nothing may be retained for a purpose mentioned in subsection (2)(a) if a photograph or copy would be sufficient for that purpose.

Seized material: access and copying.

28I.—(1) If a person showing himself—

(a) to be the occupier of the premises on which seized material was seized, or

(b) to have had custody or control of the material immediately before it was seized, asks the immigration officer who seized the material for a record of what he seized, the officer must provide the record to that person within a reasonable time.

(2) If a relevant person asks an immigration officer for permission to be granted access to seized material, the officer must arrange for him to have access to the material under the supervision—

(a) in the case of seized material within subsection (8)(a), of an immigration officer;

(b) in the case of seized material within subsection (8)(b), of a police officer.

(3) An immigration officer may photograph or copy, or have photographed or copied, seized material.

(4) If a relevant person asks an immigration officer for a photograph or copy of seized material, the officer must arrange for—

(a) that person to have access to the material for the purpose of photographing or copying it under the supervision—

(i) in the case of seized material within subsection (8)(a), of an immigration officer;

(ii) in the case of seized material within subsection (8)(b), of a police officer; or

(b) the material to be photographed or copied.

(5) A photograph or copy made under subsection (4)(b) must be supplied within a reasonable time.

(6) There is no duty under this section to arrange for access to, or the supply of a photograph or copy of, any material if there are reasonable grounds for believing that to do so would prejudice—

(a) the exercise of any functions in connection with which the material was seized; or

(b) an investigation which is being conducted under this Act, or any criminal proceedings which may be brought as a result.

(7) “Relevant person” means—

(a) a person who had custody or control of seized material immediately before it was seized, or

(b) someone acting on behalf of such a person.

(8) “Seized material” means anything—

(a) seized and retained by an immigration officer, or

(b) seized by an immigration officer and retained by the police,

under this Part.

Search warrants: safeguards.

28J.—(1) The entry or search of premises under a warrant is unlawful unless it complies with this section and section 28K.

(2) If an immigration officer applies for a warrant, he must—

(a) state the ground on which he makes the application and the provision of this Act under which the warrant would be issued;

(aa) if the application is for a warrant authorising entry and search on more than one occasion, state the ground on which the officer applies for such a warrant, and whether the officer seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired;

(b) specify the matters set out in subsection (2A) below; and

(c) identify, so far as is practicable, the persons or articles to be sought.

Status: This is the original version (as it was originally made).

- (2A) The matters which must be specified pursuant to subsection (2)(b) above are—
- (a) if the application relates to one or more sets of premises specified in the application, each set of premises which it is desired to enter and search;
 - (b) if the application relates to any premises occupied or controlled by a person specified in the application—
 - (i) as many sets of premises which it is desired to enter and search as it is reasonably practicable to specify;
 - (ii) the person who is in occupation or control of those premises and any others which it is desired to enter and search;
 - (iii) why it is necessary to search more premises than those specified under sub-paragraph (i);
 - (iv) why it is not reasonably practicable to specify all the premises which it is desired to enter and search.
- (4) An application for a warrant is to be made ex parte and supported by evidence on oath.
- (5) The officer must answer on oath any question that the Bailiff when hearing the application asks him.
- (6) A warrant shall authorise an entry on one occasion only unless it specifies that it authorises multiple entries.
- (6A) If it specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited, or limited to a specified maximum.
- (7) A warrant must specify—
- (a) the name of the person applying for it;
 - (b) the date on which it is issued;
 - (c) each set of premises to be searched, or (in the case of an all premises warrant) the person who is in occupation or control of premises to be searched, together with any premises under the person's occupation or control which can be specified and which are to be searched; and
 - (d) the provision of this Act under which it is issued.
- (8) A warrant must identify, so far as is practicable, the persons or articles to be sought.
- (9) Two copies must be made of a warrant which specifies only one set of premises and does not authorise multiple entries; and as many copies as are reasonably required may be made of any other kind of warrant.
- (10) The copies must be clearly certified as copies.
- (10A) “All premises warrant” means a warrant issued in response to an application of the kind mentioned in section , 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.

(10B) References in this section to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 28D(1C) or 28FB(3A) or paragraph 25A(6AC) of Schedule 2.

(11) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) or 25A(6A) of Schedule 2.

Execution of warrants.

28K.—(1) A warrant may be executed by any immigration officer.

(2) A warrant may authorise persons to accompany the officer executing it.

(2A) A person so authorised has the same powers as the officer whom the person accompanies in respect of—

(a) the execution of the warrant, and

(b) the seizure or detention of anything to which the warrant relates.

(2B) But the person may exercise those powers only in the company, and under the supervision, of an immigration officer.

(3) Entry and search under a warrant must be—

(a) within three months from the date of its issue; and

(b) at a reasonable hour, unless it appears to the officer executing it that the purpose of a search might be frustrated.

(3A) If the warrant is an all premises warrant, no premises which are not specified in it may be entered or searched unless an immigration officer of at least the rank of chief immigration officer has in writing authorised them to be entered.

(3B) No premises may be entered or searched for the second or any subsequent time under a warrant which authorises multiple entries unless an immigration officer of at least the rank of chief immigration officer has in writing authorised that entry to those premises.

(4) If the occupier of premises which are to be entered and searched is present at the time when an immigration officer seeks to execute a warrant, the officer must—

(a) identify himself to the occupier and, if not in uniform, produce identification showing that he is an immigration officer;

(b) show the occupier the warrant; and

(c) supply him with a copy of it.

(5) If—

(a) the occupier is not present, but

(b) some other person who appears to the officer to be in charge of the premises is present, subsection (4) has effect as if each reference to the occupier were a reference to that other person.

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- (6) If there is no person present who appears to the officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.
- (7) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (8) An officer executing a warrant must make an endorsement on it stating—
- (a) whether the persons or articles sought were found; and
 - (b) whether any articles, other than articles which were sought, were seized.
- (8A) Unless the warrant is a warrant specifying one set of premises only, the officer must comply with subsection (8) separately in respect of each set of premises entered and searched.
- (8B) A warrant must be returned in accordance with subsection (9)—
- (a) when it has been executed, or
 - (b) in the case of a specific premises warrant which has not been executed, an all premises warrant or any warrant authorising multiple entries, on the expiry of the period of three months referred to in subsection (3) or sooner.
- (9) The warrant must be returned to the Bailiff’s Chambers and retained at the Bailiff’s Chambers for 12 months.
- (13) If during that 12 month period the occupier of the premises to which it relates asks to inspect it, he must be allowed to do so.

(13A) In subsection (8B)—

“specific premises warrant” means a warrant which is not an all premises warrant;

“all premises warrant” means a warrant issued in response to an application of the kind mentioned in section 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.

(13B) The reference in subsection (8B) to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 28D(1C) or 28FB(3A) or paragraph 25A(6AC) of Schedule 2.

(14) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) or 25A(6A) of Schedule 2.

Interpretation of Part III.

28L.—(1) In this Part, “premises” and “items subject to legal privilege” have the same meaning as in the Police Procedures and Criminal Evidence (Jersey) Law 2003.

(2) In this Part “business premises” means premises (or any part of premises) not used as a dwelling.

(3) In this Part “employee records” means records which show an employee’s—

(a) name,

- (b) date of birth,
 - (c) address,
 - (d) length of service,
 - (e) rate of pay, or
 - (f) nationality or citizenship.
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PART 3A

MARITIME ENFORCEMENT

Enforcement powers in relation to ships.

28M.—(1) An immigration officer, a police officer or an enforcement officer may exercise the powers set out in Part 1 of Schedule 4A (“Part 1 powers”) in relation to any of the following in Jersey waters—

- (a) a Jersey ship;
- (b) a ship without nationality;
- (c) a foreign ship;
- (d) a ship registered under the law of a relevant territory.

(2) But Part 1 powers may be exercised only—

- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25 or 25A, and
- (b) in accordance with the rest of this section.

(3) The authority of the Minister is required before an immigration officer, a police officer or an enforcement officer may exercise Part 1 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to Jersey.

(4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 1 powers in relation to the ship.

Interpretation of Part 3A.

28Q.—(1) In this Part—

“the Convention” means the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) and any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to Jersey;

“enforcement officer” means—

- (a) a person who is a commissioned officer of any of Her Majesty’s ships, or

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(b) a person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force;

“foreign ship” means a ship which—

(a) is registered in a State outside the United Kingdom and Islands, or

(b) is not so registered but is entitled to fly the flag of a State outside the United Kingdom and Islands;

“Jersey ship” means a ship which—

(a) is registered under Part 3 of the Shipping (Jersey) Law 2002,

(b) is a Government ship within the meaning of that Law, or

(c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a Jersey connection;

“Jersey waters” has the same meaning as in the Shipping (Jersey) Law 2002;

“Part 1 powers” means the powers set out in Part 1 of Schedule 4A;

“relevant territory” means—

(a) any of the United Kingdom and Islands other than Jersey;

(b) a British overseas territory;

“ship” includes every description of vessel (including a hovercraft) used in navigation;

“ship without nationality” means a ship which—

(a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or

(b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience.

(2) For the purposes of paragraph (c) of the definition of “Jersey ship” in subsection (1), a person has a “Jersey connection” if the person is—

(a) a British citizen, a British overseas territories citizen or a British Overseas citizen,

(b) an individual who is habitually resident in Jersey, or

(c) a body corporate which is established under the law of Jersey and has its principal place of business in Jersey.

PART IV

SUPPLEMENTARY

General provisions as to Orders in Council, etc.

32.—(1) Any power conferred by Part I of this Act to make an Order in Council, an enactment requiring to be laid before the States or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, enactment, order or directions.

(2) Any document purporting to be an order, notice or direction made or given by the Minister for the purposes of the Immigration Acts and to be signed by him or on his behalf, and any document purporting to be a certificate of the Minister so given and to be signed by him or on his behalf, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.

(3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings or other proceedings under the Immigration Acts, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Minister and stating that the document is a true copy of the order, notice, direction or certificate.

(4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of the Minister given for the purposes of the Immigration Acts apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule and of any entry contained in the schedule may, in any legal proceedings or other proceedings under the Immigration Acts, be given by the production of a document purporting to be signed by or on behalf of the Minister and stating that the document is a true copy of the said provisions and of the relevant entry.

Interpretation.

33.—(1) For purposes of this Act, except in so far as the context otherwise requires—

“aircraft” includes hovercraft and “port” includes airport;

“captain” means master (of a ship) or commander (of an aircraft);

“certificate of entitlement” means a certificate under section 10 of the Nationality, Immigration and Asylum Act 2002 that a person has the right of abode in Jersey;

“Convention adoption” has the same meaning as in the Adoption (Jersey) Law 1961;

“crew”, in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and “member of the crew” shall be construed accordingly;

“entrant” means a person entering or seeking to enter Jersey and “illegal entrant” means a person—

(a) unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, or

(b) entering or seeking to enter by means which include deception by another person, and includes also a person who has entered as mentioned in paragraph (a) or (b) above;

Status: This is the original version (as it was originally made).

“entry clearance” means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence or the requisite evidence of a person’s eligibility, though not a British citizen, for entry into Jersey (but does not include a work permit);

“Guernsey” means the Bailiwick of Guernsey;

“immigration laws” means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;

“immigration rules” means the rules for the time being laid down as mentioned in section 3(2) above;

“the Islands” means the Channel Islands and the Isle of Man, and “the United Kingdom and Islands” means the United Kingdom and the Islands taken together;

“legally adopted” means adopted in pursuance of an order made by any court in the United Kingdom and Islands, under a Convention adoption or by any adoption declared by the Royal Court as an overseas adoption within the meaning of the Adoption (Jersey) Law 1961;

“limited leave” and “indefinite leave” means respectively leave under this Act to enter or remain in Jersey which is, and one which is not, limited as to duration;

“the Minister” means the Minister for Home Affairs;

“settled” shall be construed in accordance with subsection (2A) below;

“ship” includes every description of vessel used in navigation;

“United Kingdom passport” means a current passport issued by the Government of the United Kingdom, or by the Lieutenant-Governor of any of the Islands, or by the Government of any territory which is for the time being a British overseas territory;

“work permit” means a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not a British citizen, for entry into Jersey for the purpose of taking employment.

(1A) A reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.

(2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in Jersey or elsewhere in the United Kingdom and Islands at a time when he is there in breach of the immigration laws.

(2A) Subject to section 8(5) above, references to a person being settled in Jersey are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.

(3) The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such places as the States may by Act designate.

(4) A reference in this Act and in any of the Immigration Acts to the grant or issue of a warrant by the Bailiff shall be taken to include reference to the grant or issue of that warrant by a Jurat.

(5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

Short title.

37. This Act may be cited as the Immigration Act 1971.