

Commonwealth Immigrants Act, 1962

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CHAPTER 21

An Act to make temporary provision for controlling the immigration into the United Kingdom of Commonwealth citizens; to authorise the deportation from the United Kingdom of certain Commonwealth citizens convicted of offences and recommended by the court for deportation; to amend the qualifications required of Commonwealth citizens applying for citizenship under the British Nationality Act, 1948; to make corresponding provisions in respect of British protected persons and citizens of the Republic of Ireland; and for purposes connected with the matters aforesaid.

[18th April, 1962]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CONTROL OF IMMIGRATION

1.—(1) The provisions of this Part of this Act shall have Application effect for controlling the immigration into the United Kingdom of Part I. of Commonwealth citizens to whom this section applies.

(2) This section applies to any Commonwealth citizen not being—

- (a) a person born in the United Kingdom ;
- (b) a person who holds a United Kingdom passport and is a citizen of the United Kingdom and Colonies, or who holds such a passport issued in the United Kingdom or the Republic of Ireland ; or

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(c) a person included in the passport of another person who is excepted under paragraph (a) or paragraph (b) of this subsection.

(3) In this section "passport" means a current passport; and "United Kingdom passport" means a passport issued to the holder by the Government of the United Kingdom, not being a passport so issued on behalf of the Government of any part of the Commonwealth outside the United Kingdom.

(4) This Part of this Act applies to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens, and references therein to Commonwealth citizens, and to Commonwealth citizens to whom this section applies, shall be construed accordingly.

Refusal of admission and conditional admission.

2.—(1) Subject to the following provisions of this section, an immigration officer may, on the examination under this Part of this Act of any Commonwealth citizen to whom section one of this Act applies who enters or seeks to enter the United Kingdom,—

- (a) refuse him admission into the United Kingdom; or
- (b) admit him into the United Kingdom subject to a condition restricting the period for which he may remain there, with or without conditions for restricting his employment or occupation there.

(2) The power to refuse admission or admit subject to conditions under this section shall not be exercised, except as provided by subsection (5), in the case of any person who satisfies an immigration officer that he or she—

- (a) is ordinarily resident in the United Kingdom or was so resident at any time within the past two years; or
- (b) is the wife, or a child under sixteen years of age, of a Commonwealth citizen who is resident in the United Kingdom or of a Commonwealth citizen (not being a person who is on that occasion refused admission into the United Kingdom) with whom she or he enters or seeks to enter the United Kingdom.

(3) Without prejudice to subsection (2) of this section, the power to refuse admission under this section shall not be exercised, except as provided by subsections (4) and (5), in the case of a Commonwealth citizen who satisfies an immigration officer either—

- (a) that he wishes to enter the United Kingdom for the purposes of employment there, and is the person described in a current voucher issued for the purposes of this section by or on behalf of the Minister of Labour or the Ministry of Labour and National Insurance for Northern Ireland; or

- (b) that he wishes to enter the United Kingdom for the purpose of attending a course of study at any university, college, school or other institution in the United Kingdom, being a course which will occupy the whole or a substantial part of his time ; or
- (c) that he is in a position to support himself and his dependants, if any, in the United Kingdom otherwise than by taking employment or engaging for reward in any business, profession or other occupation ;

and the power to admit subject to conditions under this section shall not be exercised in the case of any person who satisfies such an officer of the matters described in paragraph (a) of this subsection.

(4) Nothing in subsection (3) of this section shall prevent an immigration officer from refusing admission into the United Kingdom in the case of any Commonwealth citizen to whom section one of this Act applies—

- (a) if it appears to the immigration officer on the advice of a medical inspector or, if no such inspector is available, of any other duly qualified medical practitioner, that he is a person suffering from mental disorder, or that it is otherwise undesirable for medical reasons that he should be admitted ; or
- (b) if the immigration officer has reason to believe that he has been convicted in any country of any crime, wherever committed, which is an extradition crime within the meaning of the Extradition Acts, 1870 to 1935 ; or
- (c) if his admission would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(5) Nothing in this section shall prevent an immigration officer from refusing admission into the United Kingdom in the case of any person in respect of whom a deportation order under Part II of this Act is in force.

(6) In this section “ child ” includes a step-child and an adopted child and, in relation to the mother, an illegitimate child ; and for the purposes of this section a person shall be deemed not to be ordinarily resident in the United Kingdom at any time when a condition restricting the period for which he may remain there is in force under this section, whether that period has expired or not.

3.—(1) The provisions of Part I of the First Schedule to this Act shall have effect with respect to—

- (a) the examination of persons landing or seeking to land in the United Kingdom from ships and aircraft ;
- (b) the exercise by immigration officers of their powers of refusal of admission or admission subject to conditions

Supplementary provisions as to control of immigration.

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under section two of this Act, and the cancellation, variation and duration of such refusals and conditions ;

(c) the removal from the United Kingdom of Commonwealth citizens to whom admission is refused under that section ;

(d) the detention of any such persons or citizens as aforesaid pending further examination or pending removal from the United Kingdom,

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

(2) The special provisions contained in Part II of the said First Schedule shall have effect for the purposes of the control under this Part of this Act of immigration by Commonwealth citizens who arrive in the United Kingdom as members of the crews of, or as stowaways in, ships and aircraft.

(3) Part III of the said First Schedule shall have effect for the interpretation of Parts I and II of that Schedule.

(4) Her Majesty may by Order in Council direct that the provisions of Part I of the said Schedule relating to persons who land or seek to land in the United Kingdom from ships and aircraft shall extend to persons entering or seeking to enter the United Kingdom by land ; and any such Order may make such adaptations or modifications of the said Schedule, and such provisions supplementary thereto, as appear to Her Majesty to be necessary or expedient for the purposes of the Order.

(5) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Offences in connection with control of immigration.

4.—(1) If any person being a Commonwealth citizen to whom section one of this Act applies—

(a) enters or remains within the United Kingdom, otherwise than in accordance with the directions or under the authority of an immigration officer, while a refusal of admission under section two of this Act is in force in relation to him ; or

(b) contravenes or fails to comply with any condition imposed on him under that section or under Part II of the First Schedule to this Act,

he shall be guilty of an offence ; and any offence under this subsection, being an offence committed by entering or remaining in the United Kingdom, shall be deemed to continue throughout any period during which the offender is in the United Kingdom thereafter.

(2) If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence under subsection (1) of this section, being an offence

committed by entering or remaining within the United Kingdom, he shall be guilty of an offence.

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(3) If any person—

- (a) makes or causes to be made to any immigration officer or other person lawfully acting in the execution of this Part of this Act, any return, statement or representation which he knows to be false or does not believe to be true ; or
- (b) refuses or fails to produce or furnish to any such officer or person any document or information which he is required to produce or furnish to that officer or person under this Part of this Act, or otherwise obstructs any such officer or person in the exercise of his functions thereunder ; or
- (c) without lawful authority, alters any voucher or other document issued or made under or for the purposes of this Part of this Act, or uses for the purposes of this Part of this Act, or has in his possession for such use, any forged or altered voucher, passport or other document,

he shall be guilty of an offence.

(4) If any person acts in contravention of, or fails to comply with, any provision of the First Schedule to this Act, or of any order made, directions given or requirement imposed thereunder (not being a requirement comprised in conditions so imposed), he shall be guilty of an offence.

5.—(1) This Part of this Act shall continue in force until the thirty-first day of December, nineteen hundred and sixty-three, and shall then expire unless Parliament otherwise determines.

Duration of
Part I.

(2) Upon the expiration of this Part of this Act, subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) shall apply as if this Part of this Act had been repealed by another Act.

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DEPORTATION

6.—(1) This Part of this Act shall have effect for authorising the deportation from the United Kingdom of citizens to whom this section applies who are convicted of offences punishable with imprisonment and recommended by the court for deportation.

Application
of Part II.

(2) This section applies to any Commonwealth citizen not being—

- (a) a person born in the United Kingdom, or whose father was born in the United Kingdom, or whose parents (or either of them) were ordinarily resident in the United Kingdom at the time of his birth ;

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(b) a citizen of the United Kingdom and Colonies who became such—

(i) by virtue of being naturalised in the United Kingdom; or

(ii) by being adopted in the United Kingdom; or

(iii) by being registered under Part II of the British Nationality Act, 1948, either in the United Kingdom or in any country mentioned in subsection (3) of section one of that Act as originally enacted or as amended by any subsequent enactment; or

(c) the wife of a person of a description specified in paragraph (a) or paragraph (b) of this subsection.

(3) This Part of this Act applies to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens, and references therein to Commonwealth citizens, and to Commonwealth citizens to whom this section applies, shall be construed accordingly.

(4) If any question arises whether a person is a Commonwealth citizen to whom this section applies, it shall lie on him to prove that he is not such a citizen.

Power of court to recommend for deportation.

7.—(1) Subject to the provisions of this section, where a Commonwealth citizen to whom section six of this Act applies, and who has attained the age of seventeen years, is convicted of an offence punishable with imprisonment, the court by or before which he is convicted, or any court to which his case is brought by way of appeal against conviction or sentence, may recommend that a deportation order be made in respect of him.

(2) No recommendation under this section (in this Part of this Act referred to as a recommendation for deportation) shall be made upon the conviction of an offender who satisfies the court—

(a) that he is or was ordinarily resident in the United Kingdom on the date of his conviction; and

(b) that he has been continuously so resident for a period of at least five years ending with that date:

Provided that for the purpose of calculating the period for which any person has been so resident (but not of determining whether he has been continuously so resident) no account shall be taken of any continuous period of six months or more during which he has been detained under a sentence or order passed or made by any court on a conviction of an offence.

(3) In this section “offence punishable with imprisonment” includes an offence which would be so punishable apart from any enactment restricting the imprisonment of young offenders or of first offenders; and for the purposes of this section the age of an offender at the time of his conviction shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.

(4) The power to make a recommendation for deportation under this section shall, in Scotland, be exercisable only by the sheriff, or by the High Court of Justiciary, or by the latter Court on appeal against a conviction on indictment or a sentence upon such a conviction.

(5) No recommendation for deportation shall be made upon a conviction of an offence committed before the commencement of this section.

8.—(1) No recommendation for deportation shall be made in respect of an offender unless a notice has been given to him at least seven days before the recommendation is made—

Procedure and appeals in respect of recommendations.

(a) describing the classes of persons in respect of whom such a recommendation may and may not be made ; and

(b) containing a statement of the effect of subsection (4) of section six of this Act.

(2) The powers of adjournment conferred by subsection (3) of section fourteen of the Magistrates' Courts Act, 1952, section twenty-six of the Criminal Justice (Scotland) Act, 1949, and any corresponding enactment in force in Northern Ireland, shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under subsection (1) of this section or, if such a notice was given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

(3) Where a person convicted of an offence by any court is committed for sentence to another court, any power to make a recommendation for deportation in respect of him shall be exercisable by the court to which he is committed and not by the court by which he is convicted.

(4) For the purposes of any enactment relating to appeals in criminal cases, a recommendation for deportation shall be treated as an order made on conviction and, in Northern Ireland, on conviction and sentence of imprisonment ; and the validity of such a recommendation shall not be called in question except on an appeal against the recommendation or against the conviction upon which it is made.

(5) So much of subsection (4) of this section as confers a right of appeal against a recommendation for deportation shall not apply to Scotland ; but any person in respect of whom such a recommendation is made by a court in Scotland may, without prejudice to any other form of appeal under any rule of law, appeal against the recommendation in the same manner as against a conviction.

(6) For the purposes of giving effect to any of the provisions of section seven of this Act or of this section, the High Court of Justiciary shall have power to make rules by Act of

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Adjournal ; and any such Act of Adjournal shall be treated for the purposes of the Statutory Instruments Act, 1946, as a statutory instrument within the meaning of that Act.

Deportation orders.

9.—(1) Where a recommendation for deportation is in force in respect of a person to whom section six of this Act applies, the Secretary of State may, if he thinks fit, make an order requiring him to leave the United Kingdom and prohibiting him from returning there so long as the order is in force.

(2) An order under this section (in this Act referred to as a deportation order) shall not be made in pursuance of a recommendation for deportation unless either—

- (a) the time for bringing an appeal against the recommendation, or against the conviction upon which it was made, has expired without such an appeal having been brought ; or
- (b) such an appeal has been brought and abandoned, or finally determined otherwise than by the quashing of the recommendation or the conviction ; or
- (c) the recommendation was made on appeal and no further appeal lies.

(3) The Secretary of State may, if he thinks fit, revoke a deportation order at any time, whether before or after the person to whom it relates has left or been removed from the United Kingdom, but the revocation of a deportation order shall not affect the validity of anything previously done thereunder.

(4) In relation to a recommendation for deportation made by a court in Scotland, subsection (2) of this section shall have effect as if the following were substituted for paragraph (a), that is to say :—

“(a) a period of fourteen days from the date on which the recommendation was made has expired without an appeal having been brought against the recommendation or the conviction upon which it was made ; or ”

and in paragraph (b), after “ abandoned ” there were inserted the words “ or deemed to be abandoned ”.

Supplementary provisions as to deportation.

10. The provisions of the Second Schedule to this Act shall have effect with respect to the removal from the United Kingdom of persons in respect of whom deportation orders are made, and with respect to the detention or control of persons in respect of whom recommendations for deportation or deportation orders are in force.

Offences in connection with deportation orders.

11.—(1) If any person in respect of whom a deportation order is in force—

- (a) having left the United Kingdom after notice of the making of the order has been given to him on behalf of the Secretary of State, subsequently returns to the United Kingdom ; or

(b) having been placed on board a ship or aircraft under the Second Schedule to this Act, lands from that ship or aircraft before it has left the United Kingdom, he shall be guilty of an offence; and any offence under this subsection shall be deemed to continue throughout any period during which the offender is in the United Kingdom after its commission.

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(2) If any person upon whom any restriction or requirement is imposed under paragraph 2 of the Second Schedule to this Act fails to comply with that restriction or requirement, he shall be guilty of an offence.

(3) Where a person in respect of whom a deportation order is in force is convicted of an offence under subsection (1) of this section, the deportation order shall cease to have effect, but without prejudice to the power to make a recommendation for deportation upon that conviction.

(4) If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence under subsection (1) of this section, he shall be guilty of an offence.

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MISCELLANEOUS AND GENERAL

12.—(1) A person in respect of whom a recommendation for deportation or a deportation order is in force under Part II of this Act shall not be entitled to be registered as a citizen of the United Kingdom and Colonies under subsection (1) of section six of the British Nationality Act, 1948 (which provides for the registration of certain Commonwealth citizens and citizens of the Republic of Ireland); but the Secretary of State may, if he thinks fit, register under that subsection any person who would be entitled or qualified to be so registered but for this subsection. Qualifications for citizenship by registration etc.

(2) Subject to the following provisions of this section, a person shall not be entitled to be registered under subsection (1) of the said section six, and a British protected person shall not be qualified for naturalisation under section ten of the said Act, unless he satisfies the Secretary of State that he has been—

- (a) ordinarily resident in the United Kingdom; or
- (b) in Crown service under Her Majesty's Government in the United Kingdom; or
- (c) partly the one and partly the other,

throughout the period of five years ending with the date of his application, or such shorter period so ending as the Secretary of State may in the special circumstances of any particular case accept.

(3) Notwithstanding anything in subsection (2) of this section, any person who would have been entitled to be registered under

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subsection (1) of the said section six (apart from the power of the Secretary of State to accept for that purpose a period of ordinary residence in the United Kingdom of less than twelve months) if he had made an application for such registration immediately before the commencement of this section shall (unless disqualified under subsection (1) of this section) be entitled to be so registered if he makes such an application within the period of six months beginning with the commencement of this section.

(4) This section shall be construed as one with the British Nationality Act, 1948.

General provisions as to detained persons.

13.—(1) Any persons required or authorised to be detained under this Act may be detained in such places as the Secretary of State may direct.

(2) Where a person is detained by virtue of this Act, any immigration officer, constable or prison officer, or any other person authorised by the Secretary of State, may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him.

(3) Any person detained by virtue of this Act, and any person who, being detained in pursuance of the sentence or order of a court, would otherwise be liable to be so detained, may be taken in the custody of a constable to and from any place where his attendance is required for the purpose of ascertaining his citizenship or of making arrangements for his admission to any country or territory.

(4) Any person required or authorised by this Act to be detained may be arrested without warrant by a constable or an immigration officer; and any person who is detained by virtue of this Act, or is being removed in pursuance of this section, shall be deemed to be in legal custody.

Penalties, proceedings, etc.

14.—(1) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both.

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

(3) A constable or immigration officer may arrest without warrant any person whom he has reasonable grounds to believe to have committed an offence under subsection (1) of section four or subsection (1) or subsection (2) of section eleven of this Act.

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

15.—(1) Any power conferred by this Act to make an Order in Council or order or to give any directions includes power to revoke or vary the Order in Council, order or directions, as the case may be.

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General provisions as to Orders in Council etc.

(2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Act, 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 or direction as aforesaid may, in any legal proceedings, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice or direction.

(4) Where any such order applies to persons specified in a schedule thereto, prima facie evidence of the provisions of the order other than the schedule and of any entry contained in the schedule may, in any legal proceedings, be given by the production of a document purporting to be signed as aforesaid and stating that the document is a true copy of the said provisions and of the relevant entry.

16.—(1) Immigration officers for the purposes of this Act shall be appointed by the Secretary of State, and the Secretary of State may arrange with the Commissioners of Customs and Excise for the employment of officers of customs and excise as immigration officers under this Act.

Immigration officers and medical inspectors.

(2) Medical inspectors for the purposes of Part I of this Act, being duly qualified medical practitioners, may be appointed by the Minister of Health in pursuance of arrangements made between that Minister and the Secretary of State.

(3) In the exercise of their functions under this Act, immigration officers shall act in accordance with such instructions as may be given by the Secretary of State, and medical inspectors shall act in accordance with such instructions as may be given by the Minister of Health in pursuance of such arrangements as aforesaid.

(4) An immigration officer or medical inspector may board any ship for the purpose of exercising any of his functions under this Act.

(5) In the application of this section to Scotland, for references to the Minister of Health there shall be substituted references to the Secretary of State, and references to arrangements between that Minister and the Secretary of State shall be omitted.

(6) In the application of this section to Northern Ireland, for references to the Minister of Health there shall be substituted references to the Ministry of Health and Local Government for Northern Ireland.

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Exemptions.

17.—(1) All persons who, whether under any rule of law or under or by virtue of any enactment, are entitled to immunity from suit and legal process, not being immunity in respect only of things done or omitted to be done in the course of their duties, shall be exempt from control under Part I of this Act and exempt from deportation under Part II of this Act.

(2) Without prejudice to the foregoing subsection, the following persons shall be exempt from control under Part I of this Act, that is to say any person who—

- (a) is subject, as a member of the home forces, to the Naval Discipline Act, 1957, or to military or air force law ;
or
- (b) being a member of any Commonwealth force or of any force raised under the law of any colony, protectorate or protected state, arrives in the United Kingdom for the purpose of serving there as a member of that force or undergoing training with any body, contingent or detachment of the home forces ; or
- (c) being a member of the forces of any country designated for the purposes of any provision of the Visiting Forces Act, 1952, by Order in Council under section one of that Act, arrives in the United Kingdom for the purpose of serving there as a member of a visiting force of that country.

(3) The Secretary of State may by order extend any exemption conferred by subsection (1) or subsection (2) of this section to persons of such additional classes as may be specified in the order.

(4) The power of the Secretary of State to make orders under subsection (3) of this section shall be exercisable by statutory instrument, and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section “the home forces” means any of Her Majesty’s forces, not being a Commonwealth force or a force raised under the law of any colony, protectorate or protected state ; “Commonwealth force” means any of the forces of any Commonwealth country mentioned in paragraph (a) of subsection (1) of section one of the Visiting Forces Act, 1952 ; and “visiting force” has the meaning which it would have in accordance with section twelve of that Act if subsection (2) of this section were a provision in Part I of that Act applying to any such country as is referred to in paragraph (c) of that subsection.

- 18.—(1) The following provisions of this Act, that is to say—
- (a) subsections (2) and (3) of section one ;
 - (b) subsection (2) of section six ;
 - (c) subsection (2) of section seven ; and
 - (d) sub-paragraph (2) of paragraph 10 of the First Schedule,

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Provisions relating to Channel Islands and Isle of Man.

shall have effect as if the Channel Islands and the Isle of Man (in this section collectively referred to as the Islands) were included in the United Kingdom ; and the reference in subsection (3) of section one to the Government of the United Kingdom shall be construed as including a reference to the Lieutenant Governor of any of the Islands.

(2) Her Majesty may by Order in Council direct that all or any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands.

(3) The provisions of the Third Schedule to this Act shall have effect for the purpose of giving effect under the law of the United Kingdom to things done in any of the Islands under provisions of this Act extended thereto by virtue of this section.

(4) The Secretary of State may defray or contribute towards expenses incurred by the Governments of the Islands in connection with the removal of persons under Part I or Part II of this Act as extended under this section.

19. There shall be defrayed out of moneys provided by Parliament any expenses incurred for the purposes of this Act by the Secretary of State, the Minister of Labour or the Minister of Health.

Expenses.

20.—(1) In subsection (1) of section eighteen of the Matrimonial Causes Act, 1950, and in section twenty-six of the Matrimonial Causes Act (Northern Ireland), 1939, for the words “ the deportation of aliens ” there shall be substituted the word “ deportation ”.

Consequential amendments and repeals.

(2) The following provisions of the British Nationality Act, 1948, are hereby repealed, that is to say :—

- (a) in subsection (1) of section six, the words from “ if he satisfies ” to the end ;
- (b) in paragraph 3 of the Second Schedule, the words from “ (a) that he is ordinarily resident ” to “ government in the United Kingdom, and ”.

(3) So much of this section as relates to the said Act of 1939 shall be treated for the purposes of section six of the Government of Ireland Act, 1920, as a provision of an Act passed before the appointed day within the meaning of that section.

PART III
Short title,
interpretation
and com-
mencement.

21.—(1) This Act may be cited as the Commonwealth Immigrants Act, 1962.

(2) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“enactment” includes an enactment of the Parliament of Northern Ireland ;

“immigration officer” means an officer appointed or employed as such under section sixteen of this Act ;

“the United Kingdom”, throughout this Act, has the meaning assigned by the Royal and Parliamentary Titles Act, 1927 ;

and subsection (5) of section thirty-two of the British Nationality Act, 1948 (which relates to persons born aboard ships or aircraft) shall apply for the purposes of this Act as it applies for the purposes of that Act.

(3) References in this Act to Part I and Part II of this Act include respectively references to the First and the Second Schedule to this Act.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

(5) This Act shall come into operation on such date as the Secretary of State may by order appoint ; and different dates may be appointed by order under this section for different purposes of this Act.

SCHEDULES

Section 3.

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO CONTROL OF IMMIGRATION

PART I

GENERAL PROVISIONS

Examination of persons landing in the United Kingdom

1.—(1) Subject to the provisions of this paragraph, an immigration officer may examine any person who lands or seeks to land in the United Kingdom for the purpose of ascertaining whether that person is or is not a Commonwealth citizen subject to control under Part I of this Act, and if so for the purpose of determining what action, if any, should be taken in his case under the said Part I; and it shall be the duty of every such person to furnish to an immigration officer such information in his possession as that officer may reasonably require for the purpose of his functions under this paragraph.

(2) A person shall not be required to submit to examination under this paragraph after the expiration of the period of twenty-four hours from the time when he lands in the United Kingdom unless, upon being examined within that period, he is required in writing by an immigration officer to submit to further examination.

(3) Any person liable to be examined by an immigration officer under the foregoing provisions of this paragraph shall, if directed to do so by such an officer in the course of his examination—

(a) declare whether or not he is carrying or conveying any documents of any description specified by that officer, being a description appearing to that officer to be relevant for the purposes of the examination;

(b) produce to the officer any documents of any such description which he is carrying or conveying;

and the power to examine any such person shall include power to search him and any baggage belonging to him or under his control with a view to ascertaining whether he is carrying or conveying any such documents:

Provided that no woman or girl shall be searched by virtue of this sub-paragraph except by a woman.

(4) An immigration officer may examine, and may detain for such time as he thinks proper for the purposes of examination (not exceeding seven days), any documents produced pursuant to or found on a search under sub-paragraph (3) of this paragraph.

(5) The powers of an immigration officer under this paragraph may be exercised also—

(a) in the case of the powers conferred by sub-paragraphs (1) and (2), by a medical inspector or by any qualified person carrying out any test or examination required by a medical inspector; and

(b) in the case of the powers of search conferred by sub-paragraph (3), by any person acting under the directions of an immigration officer.

1ST SCH.

General provisions as to refusal of admission and admission subject to conditions

2.—(1) The power of an immigration officer under section two of this Act to refuse admission into the United Kingdom or to admit into the United Kingdom subject to conditions shall be exercised by notice in writing; and subject to sub-paragraph (2) of this paragraph, any such notice shall be given by being delivered by the immigration officer to the person to whom it relates.

(2) Where an immigrant who is to be admitted into the United Kingdom subject to conditions is a member of a party in the charge of a person appearing to the immigration officer to be a responsible person, the notice under this paragraph shall be duly given if delivered to the person in charge of the party.

(3) Subject to the following provisions of this Schedule, a notice under this paragraph shall not be given to any person unless he has been examined in pursuance of paragraph 1 of this Schedule, and shall not be given to any person later than twelve hours after the conclusion of his examination (including any further examination) in pursuance of that paragraph.

(4) A notice refusing a person admission into the United Kingdom may at any time be cancelled by a subsequent notice in writing given to him by an immigration officer; and where a notice under this sub-paragraph cancelling such a notice is given to any person at any time, the immigration officer may, notwithstanding anything in sub-paragraph (3) of this paragraph, at the same time give to that person a notice admitting him into the United Kingdom subject to conditions under section two of this Act.

(5) Any conditions specified in a notice under this paragraph may at any time be revoked or varied by the Secretary of State, either by notice in writing given to the immigrant to whom those conditions apply or by order applying to immigrants of any class to whom such conditions for the time being apply.

(6) Any notice under this paragraph and any condition specified in such a notice, shall, unless previously cancelled or revoked under the provisions of this Schedule, cease to have effect if the person to whom the notice was given again lands or seeks to land in the United Kingdom and is on that occasion examined in pursuance of paragraph 1 of this Schedule.

Removal of immigrants on refusal of admission

3.—(1) Where an immigrant is refused admission into the United Kingdom an immigration officer may, subject to sub-paragraph (3) of this paragraph, give directions—

- (a) to the master of the ship or commander of the aircraft in which the immigrant arrived in the United Kingdom, requiring him to remove the immigrant from the United Kingdom in that ship or aircraft; or
- (b) to the owners or agents of the said ship or aircraft, requiring them to remove the immigrant from the United Kingdom in any ship or aircraft specified in the directions, being a ship or aircraft of which they are the owners or agents; or

(c) to the said owners or agents, requiring them to make arrangements for the removal of the immigrant from the United Kingdom in any ship or aircraft bound for a country or territory specified in the directions, being either—

(i) a country of which the immigrant is a citizen ; or

(ii) a country or territory in which he has obtained a passport or other document of identity ; or

(iii) a country or territory in which he embarked for the United Kingdom ; or

(iv) a country or territory to which there is reason to believe that the immigrant will be admitted,

and for securing him a passage to that country or territory.

(2) If it appears to the Secretary of State that in the circumstances it is not practicable for directions to be given under sub-paragraph (1) of this paragraph in respect of an immigrant, or that directions so given would be ineffective, the Secretary of State, or any person acting under his authority, may give to the owners or agents of any ship or aircraft the like directions as could be given under paragraph (c) of the said sub-paragraph (1) to the owners or agents of the ship or aircraft in which the immigrant arrived in the United Kingdom ; but in any such case the costs of complying with the directions shall be defrayed by the Secretary of State.

(3) No directions shall be given under this paragraph in respect of an immigrant after the expiration of two months beginning with the date on which he was refused admission into the United Kingdom.

(4) An immigrant in respect of whom directions are given under this paragraph may be placed, under the authority of an immigration officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.

Detention of immigrants pending further examination or removal

4.—(1) An immigrant who is required to submit to further examination under this Schedule, or who is refused admission into the United Kingdom under section two of this Act, may be detained under the authority of an immigration officer or constable pending that further examination, or pending the giving of directions under paragraph 3 of this Schedule and pending removal in pursuance of such directions, as the case may be ; and where any such immigrant is on board a ship or aircraft, he may, under the like authority, be removed therefrom for detention under this paragraph.

(2) The master of a ship shall, if so required by an immigration officer, take such steps as may be necessary for preventing—

(a) an immigrant who arrived in the ship and to whom admission into the United Kingdom has been refused ; or

(b) an immigrant who has been placed on board the ship under paragraph 3 of this Schedule,

from landing from the ship before it leaves the United Kingdom ; and for that purpose the master may detain the immigrant in custody on board the ship.

1ST SCH. (3) The commander of an aircraft shall, if so required by an immigration officer, take such steps as may be necessary for preventing an immigrant who has been placed on board the aircraft under paragraph 3 of this Schedule from landing from the aircraft before it leaves the United Kingdom; and for that purpose the commander may detain the immigrant in custody on board the aircraft.

Landing and embarkation cards

5.—(1) The Secretary of State may by order make provision for requiring passengers landing or embarking in the United Kingdom, or any class of such passengers, to produce to an immigration officer, if so required, landing or embarkation cards in such form as the Secretary of State may direct, and for requiring the owners or agents of ships and aircraft to supply such cards to those passengers.

(2) The power of the Secretary of State to make orders under this paragraph shall be exercisable by statutory instrument.

PART II

SPECIAL PROVISIONS AS TO CREWS OF SHIPS AND AIRCRAFT
AND STOWAWAYS

British seaman's cards

6.—(1) If a Commonwealth citizen who holds a British seaman's card arrives in the United Kingdom as a member of the crew of a ship, that card shall be treated for the purposes of section one of this Act as a United Kingdom passport within the meaning of that section.

(2) In this paragraph "British seaman's card" means a card issued under any order in force under section four of the Emergency Laws (Miscellaneous Provisions) Act, 1953, or any card having effect as a card so issued.

Examination of crews

7.—(1) An immigration officer may examine under paragraph 1 of this Schedule any person who arrives at a port in the United Kingdom as a member of the crew of a ship, whether or not he lands or seeks to land in the United Kingdom; and the provisions of that paragraph shall apply to any such person accordingly, except that he may be required to submit to examination at any time before the ship has left the port.

(2) The Secretary of State may by order make provision for requiring the masters of ships and commanders of aircraft arriving at ports in the United Kingdom, or so arriving from or by way of countries or places specified in the order, to furnish to immigration officers particulars of the members of the crews of those ships or aircraft, and for enabling an immigration officer to dispense with the furnishing of such particulars.

(3) The power of the Secretary of State to make orders under sub-paragraph (2) of this paragraph shall be exercisable by statutory instrument.

Control over seamen

1ST SCH.

8.—(1) An immigration officer may, by notice given at any time to any Commonwealth citizen to whom section one of this Act applies who—

- (a) has arrived at a port in the United Kingdom as a member of the crew of a ship ; and
- (b) is for the time being on board the ship on which he arrived at the port,

prohibit him from landing from that ship while it remains at the port unless authorised to do so by an immigration officer.

(2) If any such Commonwealth citizen who has arrived as aforesaid—

- (a) lands from a ship in contravention of a prohibition imposed on him under sub-paragraph (1) of this paragraph ; or
- (b) remains in the United Kingdom after his ship has left the port and without having been examined by an immigration officer under paragraph 1 of this Schedule ; or
- (c) having been admitted into the United Kingdom subject to a condition restricting the period for which he may remain there, remains in the United Kingdom in contravention of that condition,

he shall, subject to the following provisions of this paragraph, be treated for the purposes of this Act as if he had been refused admission into the United Kingdom.

(3) An immigration officer may, by notice in writing given at any time to any Commonwealth citizen who has landed or remained in the United Kingdom as mentioned in sub-paragraph (2) of this paragraph, authorise him to remain in the United Kingdom either without conditions or subject to any such conditions as could be imposed under section two of this Act, including in particular conditions requiring him—

- (a) to leave the United Kingdom in a specified ship or aircraft ; or
- (b) to leave the United Kingdom within a specified period in accordance with arrangements for his repatriation ;

and where such a notice is given to any person, he shall not be treated as a person to whom admission to the United Kingdom has been refused unless, in the case where he is subject to conditions requiring him to leave the United Kingdom as aforesaid, he fails to comply or is reasonably suspected of intending to fail to comply with those conditions.

(4) In relation to any person to whom it applies by virtue of this paragraph, paragraph 3 of this Schedule shall have effect as if sub-paragraph (3) of that paragraph were omitted.

(5) Sub-paragraphs (5) and (6) of paragraph 2 of this Schedule shall apply in relation to any notice under sub-paragraph (3) of this paragraph, and any conditions imposed thereby, as they apply in relation to a notice under the said paragraph 2, and to conditions specified in such a notice.

1ST SCH.

Stowaways

9.—(1) If any Commonwealth citizen to whom section one of this Act applies arrives at a port in the United Kingdom as a stowaway in a ship or aircraft, he shall, subject to the provisions of the following sub-paragraph, be treated for the purposes of this Act as if he had been refused admission into the United Kingdom.

(2) Sub-paragraphs (3), (4) and (5) of paragraph 8 of this Schedule shall apply in relation to any such Commonwealth citizen as aforesaid as they apply in relation to any Commonwealth citizen who has landed or remained in the United Kingdom as mentioned in sub-paragraph (2) of the said paragraph 8, and the reference in the said sub-paragraph (4) to the said paragraph 8 shall accordingly be construed as including a reference to this paragraph.

PART III

INTERPRETATION

10.—(1) In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“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 master of the ship and the commander of the aircraft, and “member of the crew” shall be construed accordingly;

“immigrant” means a Commonwealth citizen to whom section one of this Act applies who lands or seeks to land in the United Kingdom;

“land” means (subject to sub-paragraph (2) of this paragraph) land from a ship or aircraft, and “embark” shall be construed accordingly;

“port” includes any place where a person lands or embarks in the United Kingdom;

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

(2) References in this Schedule to persons landing in the United Kingdom from, or arriving at ports in the United Kingdom as members of the crews of, ships or aircraft do not include references to persons landing from a ship or aircraft which began its voyage at a place in, and has not during the voyage called at any place outside, the United Kingdom, or arriving as members of the crew of such a ship or aircraft.

Section 10.

SECOND SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO DEPORTATION

Removal of persons subject to deportation orders

1.—(1) The Secretary of State, or any person acting under his authority, may give directions to the master of any ship or commander of any aircraft which is about to leave the United Kingdom, requiring him to afford to any person against whom a deportation order is in force, and to any dependants of his specified in the directions, a passage to any port so specified (being a port in a

country of which that person is a citizen or a country or territory to which the Secretary of State has reason to believe that he will be admitted, and at which the ship or aircraft is to call or land in the course of the voyage) and proper accommodation and maintenance during the passage.

(2) A person in respect of whom directions are given under sub-paragraph (1) of this paragraph may be placed, under the authority of the Secretary of State, on board any ship or aircraft in which he is to be removed in accordance with the directions.

(3) The Secretary of State may, if he thinks fit, apply in or towards payment of the expenses of or incidental to the voyage from the United Kingdom of a person against whom a deportation order is in force, or the maintenance until departure of such a person and his dependants, if any, any money belonging to that person; and except so far as they are paid as aforesaid, those expenses shall be defrayed by the Secretary of State.

Detention and control of persons subject to deportation

2.—(1) Where a recommendation for deportation is in force in respect of an offender and the offender is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him, he shall, unless the court by which the recommendation is made otherwise directs, be detained until the Secretary of State either—

- (a) makes a deportation order in respect of him; or
- (b) notifies him that no such order is to be made; or
- (c) directs him to be released pending further consideration of his case.

(2) Where a deportation order is in force in respect of an offender, the offender may be detained under the authority of the Secretary of State until he is removed from the United Kingdom pursuant to this Schedule.

(3) Where a person is released from detention by direction of the Secretary of State under sub-paragraph (1) of this paragraph pending further consideration of his case, or, being liable to be detained under sub-paragraph (2) of this paragraph, is not for the time being so detained, the Secretary of State may by order impose on him such restrictions as to his place of residence, and such requirements as to reporting to the police, as the Secretary of State thinks fit.

(4) The master of a ship or commander of an aircraft shall, if so required by an immigration officer, take such steps as may be necessary for preventing any person placed on board the ship or aircraft under paragraph 1 of this Schedule from landing from the ship or aircraft before it leaves the United Kingdom; and for that purpose the master or commander may detain the said person in custody on board the ship or aircraft.

Section 18.

THIRD SCHEDULE

EFFECT IN UNITED KINGDOM OF ACTION TAKEN IN
CHANNEL ISLANDS OR ISLE OF MAN*Refusal of admission*

1.—(1) Where a Commonwealth citizen who has been refused admission into any of the Islands under section two of this Act, as extended under section eighteen, enters the United Kingdom without being examined in pursuance of Part I of the First Schedule to this Act, the notice under the said Part I as so extended refusing him such admission shall, unless previously cancelled under this Act as so extended, have effect as if it were a notice under the said Part I refusing him admission into the United Kingdom, and had been given to him when he landed in the United Kingdom; and the provisions of this Act with respect to such refusals of admission and notices (including in particular sub-paragraph (4) of paragraph 2 of the said First Schedule) shall apply accordingly.

(2) Where a notice refusing any person admission into any of the Islands is cancelled under Part I of the First Schedule to this Act as applied by this paragraph, the cancellation shall have effect at any time thereafter when the notice would, apart from the cancellation, have effect by virtue of this paragraph as a notice refusing that person admission into the United Kingdom.

Conditional admission

2.—(1) Where a Commonwealth citizen who has been admitted into any of the Islands subject to conditions under section two of this Act, as extended under section eighteen, enters the United Kingdom without being examined in pursuance of Part I of the First Schedule to this Act, those conditions shall, unless they have previously been revoked or ceased to have effect under this Act as so extended, apply to him while in the United Kingdom as if they were specified in a notice under the said Part I admitting him into the United Kingdom subject to those conditions; and the provisions of this Act with respect to such conditions and notices shall apply accordingly.

(2) In the application by virtue of this paragraph of any condition limiting the period for which a Commonwealth citizen may remain in any of the Islands, the condition shall be treated as if it provided that he shall not remain in the United Kingdom after the expiration of the period specified therein.

(3) Where a condition imposed upon any person in any of the Islands is revoked or varied by the Secretary of State under Part I of the First Schedule to this Act as applied by this paragraph, the revocation or variation shall have effect at any time thereafter when the condition would, apart from the revocation or variation, apply to that person by virtue of this paragraph while in the United Kingdom.

*Cesser of United Kingdom notices and conditions
on landing in Islands*

3RD SCH.

3. Any notice under paragraph 2 of the First Schedule to this Act refusing a person admission into the United Kingdom or admitting him there subject to conditions, and any condition specified in such a notice, shall, unless previously cancelled or revoked under that Schedule, cease to have effect if that person lands or seeks to land in any of the Islands and is on that occasion examined in pursuance of Part I of that Schedule as extended under section eighteen of this Act.

Deportation

4.—(1) Subject to the provisions of this paragraph, a deportation order made in any of the Islands under Part II of this Act as extended under section eighteen shall have effect, in the United Kingdom, as if it were a deportation order made by the Secretary of State requiring the person to whom it relates to leave the United Kingdom and prohibiting him from returning there; and section ten of this Act shall apply accordingly with the necessary modifications.

(2) The Secretary of State may in any particular case direct that sub-paragraph (1) of this paragraph shall not apply in relation to a deportation order made in any of the Islands; and nothing in this paragraph shall render it unlawful for a person in respect of whom a deportation order made in any of the Islands is in force to enter the United Kingdom on his way from that Island to a place outside the United Kingdom.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Royal and Parliamentary Titles Act, 1927	17 & 18 Geo. 5. c. 4.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.
Criminal Justice (Scotland) Act, 1949	12, 13 & 14 Geo. 6. c. 94.
Matrimonial Causes Act, 1950	14 Geo. 6. c. 25.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
Visiting Forces Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.
Emergency Laws (Miscellaneous Provisions) Act, 1953	1 & 2 Eliz. 2. c. 47.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
British Nationality Act, 1958	6 & 7 Eliz. 2. c. 10.

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