

Date of coming into operation and repeal.

32. This Law shall come into operation on a day to be fixed by the Governor by notice in the *Gazette* and thereupon the enactments set forth in the Schedule hereto shall be repealed.

SCHEDULE.

(SECTION 32.)

The Vagrants' Exclusion Law, 1882, (No. 1 of 1882).

The Aliens Law, 1921, (No. 8 of 1921).

The Passports Law, 1923, (No. 11 of 1923).

*This Law came into operation on 11th December, 1936.*

No. 17 OF 1936.

A LAW TO REGULATE THE DEPORTATION OF UNDESIRABLE BRITISH SUBJECTS.

H. R. PALMER,]  
*Governor.*

[12th June, 1936.

BE it enacted :—

Short title.

1. This Law may be cited as the Deportation (British Subjects) Law, 1936.

Interpretation.

2.—(1) In this Law, unless the context otherwise requires—

“ convicted person ” means a person in respect of whom any Court certifies to the Governor that he has been convicted, either by that Court or by any inferior Court from which his case has been brought by way of appeal, of any offence punishable with imprisonment otherwise than only in default of payment of a fine ;

“ deportation order ” means an order requiring the person in respect of whom it is made to leave and remain out of the Colony ;

“ destitute person ” means a person who is, or is likely to be, a charge upon public funds by reason of mental or bodily health or insufficiency of means to support himself and his dependants (if any) ;

“ Judge ” means a President of a District Court ;

“ person charged ” means a person in respect of whom it is alleged that there are grounds for making a deportation order under this Law and includes a person in respect of whom such an order has been made ;

“ prohibited immigrant ” means a person who has entered the Colony contrary to the provisions of the Immigration Law, 1936, but has not wilfully contravened any of the provisions of that Law ;

“ undesirable person ” means a person who is or has been conducting himself so as to be dangerous to peace, good order, good government or public morals.

(2) For the purposes of this Law a person shall be deemed to belong to the Colony if he is a British subject and—

(a) was born in the Colony or of parents who at the time of his birth were ordinarily resident in the Colony ; or

(b) has been ordinarily resident in the Colony continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident in any other part of His Majesty's dominions or any territory under His Majesty's protection continuously for a period of seven years or more ; or

(c) obtained the status of a British subject by virtue of the Cyprus (Annexation) Orders in Council, 1914 to 1929, or by reason of the grant by the Governor of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914 ; or

(d) is the wife of a person to whom any of the foregoing paragraphs applies not living apart from such person under a decree of a competent Court or a deed of separation ; or

(e) is a child, stepchild or adopted child having been adopted in a manner recognized by law, under the age of eighteen years, of a person to whom any of the foregoing paragraphs applies.

(3) For the purposes of this Law a person shall be deemed to be an immigrant British subject if at the date of the service upon him of a notice under section 5, or, in the case of a convicted person, the date upon which he is charged with the offence, he is a British subject and has been resident in the Colony for less than the following periods and not otherwise, unless the approval of the Secretary

of State shall have been given to the making of a deportation order in respect of such person at any time before it is made—

- (a) in the case of a prohibited immigrant, a period of three months ;
- (b) in the case of a convicted person other than a person who is a convicted person solely by reason of his being a prohibited immigrant, or of an undesirable person, a period of two years ; and
- (c) in the case of a destitute person, a period of one year :

Provided that in determining whether any person is an immigrant British subject, any period during which a deportation order made under this Law has been in force as respects that person shall not be taken into account.

Power to  
make  
deportation  
order.

**3.** Subject to the provisions of this Law, the Governor in Council may, if he thinks fit, make a deportation order in respect of an immigrant British subject who does not belong to the Colony and who is—

- (a) a convicted person in respect of whom the Court certifying to the Governor that he has been convicted recommends that a deportation order shall be made in his case, either in addition to or in lieu of sentence ;
- or
- (b) an undesirable person ; or
- (c) a destitute person ; or
- (d) a prohibited immigrant.

Procedure  
for making  
order.

**4.** Except where a Court has in accordance with the provisions of this Law given a certificate recommending that a deportation order should be made, no deportation order shall be made under this Law except where a Judge has, in accordance with the provisions of the next following two sections, made a report on the case and the Governor in Council is satisfied, having regard to the findings of fact and any conclusion of law as stated in the report, that such order may lawfully be made.

Service of  
notice and  
arrest.

**5.—(1)** A notice in the prescribed form shall be served upon the person charged specifying, with sufficient particulars to give him reasonable information as to the nature of the facts alleged against him, the grounds upon which it is alleged that a deportation order may be made against him under this Law, and requiring him to show cause, before a Judge in chambers at a time to be stated in the notice, why such order should not be made in respect of him,

(2) In the case where it is proposed that a deportation order should be made but such order cannot be made without the approval of the Secretary of State, the notice shall contain information to that effect.

(3) In any case where it is intended to take proceedings against any person under this Law on the ground that he is an undesirable person, and it is represented on oath or affidavit to a Judge in chambers that that person is an undesirable person, the Judge may issue a warrant for his arrest, and if the notice mentioned in sub-section (1) shall not have already been served upon him it shall be so served not later than twenty-four hours after his apprehension.

6.—(1) At the time appointed in the notice served under the foregoing section or at any adjournment of the hearing the Judge shall take such evidence upon oath as is tendered in support of the charges, and the witnesses may be cross-examined by the accused or his advocate and the accused may on his own behalf call such witnesses and tender such other evidence as may be relevant upon the question at issue.

Powers of Judge.

(2) The Judge, after considering the evidence adduced before him and making any further investigations which he may consider to be desirable, shall make, a report to the Governor setting out his findings of fact and his conclusions on any questions of law involved, and, if he thinks fit, making a recommendation as to the issue in the case of a deportation order under this Law.

7. Where a Judge or a Court recommends the making of a deportation order on the grounds that the person charged is an undesirable person or a convicted person, the person charged may, if the Judge or Court, as the case may be, shall so order, be detained in such manner as the Judge or Court may direct pending the decision of the Governor in Council for a period not exceeding twenty-eight days and, where reference to the Secretary of State is necessary before a deportation order is made, such further period as may be necessary for that purpose, and shall be deemed to be in legal custody whilst so detained.

Detention in custody pending decision.

8.—(1) Every deportation order shall be in the prescribed form.

Contents of order.

(2) A deportation order may be expressed to be in force for a time limited therein or for an unlimited time, and, when the person charged is not taken into custody pending the execution thereof, shall prescribe a time within which the person charged may of his own volition comply therewith.

Execution  
of order.

9.—(1) As soon as practicable after a deportation order is made, a copy thereof shall be served upon the person charged together with a summary of the findings of fact and conclusions of law as stated in the report made under section 6.

(2) Subject to the provisions of sub-section (3) a person with respect to whom a deportation order is in force may be detained in such manner as may be directed by the Governor, and may be placed on a ship about to leave the Colony and shall be deemed to be in legal custody while so detained and until the ship finally leaves the Colony.

(3) No person shall be detained under sub-section (2) for a period exceeding twenty-eight days and, if at the expiration of such period he has not been deported as aforesaid, the deportation order shall cease to have effect.

Expenses.

10.—(1) Where a deportation order is made, the Governor may, if he thinks fit, apply any money or property of the person charged in payment of the whole or any part of the expenses of or incidental to the voyage from the Colony and the maintenance until departure of that person and his dependants (if any).

(2) Except so far as they are defrayed under the preceding sub-section any such expenses shall be payable out of public funds.

Persons  
undergoing  
sentence.

11. If a person in respect of whom a deportation order is made under this Law has been sentenced to any term of imprisonment, such sentence shall be served before the order is carried into effect unless the Governor otherwise directs.

Revocation  
and  
variation of  
order.

12.—(1) The Governor in Council by order may—

(a) at any time revoke any deportation order ;

(b) vary a deportation order so as to permit the person mentioned therein to enter the Colony and may attach to such permission conditions as to security or otherwise.

(2) Any order made under paragraph (b) of the preceding sub-section may be expressed to have effect for the duration of the order thereby varied or for any lesser period.

(3) As soon as practicable after an order has been made under this section a copy thereof shall be served upon or sent to the person in respect of whom it is made.

Penalties for  
breach of  
order.

13.—(1) If a person in respect of whom a deportation order is in force returns or attempts to return to the Colony in contravention of the provisions of the order, or having

entered the Colony in pursuance of permission given as hereinbefore provided wilfully fails to observe any condition attached to such permission, he shall be liable to imprisonment for a period of six months or to a fine of fifty pounds or to both, and to be again deported under the original order, and the provisions of sections 9, 10 and 11 shall apply accordingly.

(2) Nothing in this section shall prevent the making of a deportation order in accordance with the provisions of this Law in consequence of a conviction for an offence under this Law.

14. Any person who, without lawful excuse, knowingly harbours or conceals any person who— Penalty for harbouring.

(a) is within the Colony in contravention of the terms of a deportation order; or

(b) having entered the Colony in pursuance of permission given as hereinbefore provided, has wilfully failed to observe any condition attached to such permission, shall be liable to a fine of twenty-five pounds.

15. No proceedings shall be instituted under this Law except by the Attorney-General or with his previous sanction in writing. Institution of proceedings.

16. In any proceedings under this Law— Evidence.

(a) the burden of proof that the person charged belongs to the Colony shall be upon that person;

(b) a document purporting to be an order made under this Law shall, until the contrary is proved, be presumed to be such an order; and

(c) any order made under this Law shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

17. The Governor shall forthwith report to the Secretary of State every order made by him under this Law and the grounds thereof and the proceedings thereunder. Report to Secretary of State.

18. The Governor in Council may make regulations for the better carrying out of the provisions of this Law. Regulations.

19. This Law shall come into operation on a day to be fixed by the Governor by notice in the *Gazette* and thereupon the Peace and Good Order Law, 1879, shall be repealed. Date of coming into operation and repeal

8 of 1879.

*This Law is not yet in operation.*