

CAYMAN ISLANDS.

LAW 10 OF 1941.

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A. F. RICHARDS,

Governor.

9th September, 1942.

A LAW to Regulate the Deportation of Undesirable
British Subjects and for similar purposes.

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BE IT ENACTED by the Assembly of Justices and Vestry of
the Cayman Islands as follows:—

1—This Law may be cited as the Deportation (British Short title.
Subjects) Law, 1941, and shall commence on a day
to be fixed by the Commissioner by public notice as
approved by the Governor.

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

“Dependent” in relation to another person means—

- (a) the wife of such person provided she is not living
apart from him under a decree of a competent
court or a deed of separation.
- (b) the child or step-child under the age of 16 years,
of such person,

- (c) an adopted child under the age of 16 years, having been adopted by such person in a manner recognized by law.

“Domicile” means the place in which a person has his present home or in which he resides or to which he returns as his place of present permanent abode and not for a mere special or temporary purpose; and a person shall not be deemed to have a domicile within the Dependency for the purposes of this Law unless he has resided therein for at least two years otherwise than under terms of conditional or temporary residence permitted by any law in force in the Dependency or as a person under detention in a prison, reformatory, orphanage, mental hospital or leper asylum; and a person shall be deemed for the purposes of this Law to have lost his domicile within the Dependency if he voluntarily go and reside outside the Dependency (except for a special or temporary purpose) with the intention of making his home outside the Dependency; and “Domiciled” shall have a corresponding meaning.

“Magistrate” means a Magistrate who is specially authorised by the Governor to enquire and report in respect of any matter under this Law.

“Deportation Order” means an order requiring the person in respect of whom it is made to leave and remain out of the Dependency.

“Restriction Order” means an order prohibiting the person in respect of whom it is made from entering or from leaving an area within the Dependency without the consent of the Officer specified in the order.

“Security Order” means an order requiring the person in respect of whom it is made to give security in one or more sureties in such amount and for such time as may be therein specified to keep the peace and to be of good behaviour, or for indemnifying public funds for all costs charges and expenses incurred in his regard, or

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for both such purposes, as may be appropriate in the case.

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

“Convicted person” means a person in respect of whom any Court certifies to the Commissioner 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 or of having knowingly and wilfully entered the Dependency contrary to the provisions of Section 26 (3) of the Immigration (Restriction) Law, 1941.

“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 dependents (if any).

“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.

“Prohibited immigrant” means a person who is deemed to be a prohibited immigrant under the provisions of the Immigration (Restriction) Law, 1941, and has entered the Dependency contrary to the provisions of Section 16 of that Law, but has not committed any offence under that Law.

“Prescribed” means prescribed by Regulations made under this Law.

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

- (a) was born in the Dependency or of parents who at the time of his birth were domiciled or ordinarily resident in the Dependency; or
- (b) is domiciled in the Dependency; or

- (c) has been ordinarily resident in the Dependency 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
- (d) obtained the status of a British subject by reason of the grant by the Governor of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914 (4 and 5 Geo. V. Chap. 17); or
- (e) is a dependent of a person to whom any of the foregoing paragraphs apply.

(3) For the purpose of this Law a person shall be deemed to be an immigrant British subject if he is a British Subject at the date of the service upon him of a notice under Section 7 of this Law, or, in the case of a convicted person, the date upon which he is charged with the offence, and has been resident in the Dependency for less than the following periods immediately before that date and not otherwise, unless the approval of the Governor 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 six 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, a restriction or a security order made under this Law has been in force in respect of that person shall not be taken into account.

Power to make
Deportation
Orders.

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

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

4—Subject to the provisions of this Law, the Commissioner may, if he thinks fit, make a restriction order in respect of any British subject who is—

Power to make
Restriction
Orders.

- (a) a convicted person in respect of whom the Court certifying to the Commissioner that he has been convicted recommends that a deportation order or a restriction order should be made in his case, either in addition to or in lieu of sentence; or
- (b) an undesirable person;

5—(1) Subject to the provisions of this Law, the Commissioner may, if he thinks fit, make a security order in respect of any British subject who is—

Power to make
Security
Orders.

- (a) a convicted person in respect of whom the Court certifying to the Commissioner that he has been convicted recommends that a deportation order or a restriction order or a security order in conjunction with either of those orders should be made in his case, either in addition to or in lieu of sentence; or
 - (b) an undesirable person;
- or in the case of an immigrant British subject who does not belong to the Dependency—
- (c) a destitute person; or
 - (d) a prohibited immigrant.

(2) Where a security order is made as aforesaid, a deportation order or a restriction order, as in the case may be lawful and desirable, shall be made in conjunction therewith to come into force upon default of compliance with the security order within a time therein fixed but not otherwise.

(3) Where a security order has been complied with, the order shall, for the purposes of this Law be deemed to

remain in force so long as the security given thereunder subsists, and where a security order is revoked the said security shall cease to have effect.

Procedure for
making Orders.

6—(1) No deportation order, restriction order or security order shall be made under this Law except—

- (a) Where a Court has in accordance with the provisions of this Law given a certificate recommending that an order should be made in respect of a convicted person; or
- (b) Where a Magistrate has, in accordance with the provisions of the next following two sections, made a report on the case, and the Commissioner is satisfied that such order may properly be made.

(2) When making an order under this Law the Commissioner shall have regard to the findings of fact and any conclusions of law as stated in the Magistrate's report, but he shall not be bound by any recommendations made by the Magistrate.

Service
of notice
of arrest.

7—(1) A notice 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 an order may be made against him under this Law, and requiring him to show cause, before a Magistrate 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 Governor, 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 Magistrate that that person is an undesirable person, the Magistrate may issue a warrant for his arrest, and if the notice mentioned in subsection (1) of this section shall not have already been served upon him it shall be so served not later than twenty-four hours after his apprehension.

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

Powers of Magistrate.

(2) The Magistrate 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 Commissioner 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 any order or orders under this Law.

9—Where a Magistrate or a Court recommends the making of a deportation order or restriction order or security 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 Magistrate or Court may direct, pending the decision of the Commissioner for a period not exceeding twenty-eight days, and, where reference to the Governor 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.

10—(1) Every security order and every deportation order shall be in the prescribed form.

Contents of Orders.

(2) Every restriction order shall be in the prescribed form and shall state the area or areas which the person to whom it relates is prohibited from entering or leaving.

(3) A deportation order or restriction 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.

(4) A restriction order may require the person charged to report himself to the nearest officer of police at intervals of not less than thirty days.

Execution
of Orders.

11—(1) As soon as practicable after a deportation order or restriction order or security 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 8 of this Law.

(2) A person with respect to whom a security order has been made may be detained in such manner as may be directed by the Commissioner until such order shall have been complied with:

Provided that, without prejudice to the provisions of sub-sections (3) and (4) of this section where the security order is not complied with, no person shall be detained under this sub-section for a period exceeding twenty-eight days.

(3) Subject to the provisions of sub-section (5) of this section a person with respect to whom a deportation order is in force may be detained in such manner as may be directed by the Commissioner, and may be placed on a ship about to leave the Dependency and shall be deemed to be in legal custody while so detained and until the ship finally leaves the Dependency.

(4) Subject to the provisions of sub-section (5) of this section a person with respect to whom a restriction order is in force may be detained in such manner as may be directed by the Commissioner so far as necessary for the purpose of removing him from any place which he is prohibited from entering or to any place which he is prohibited from leaving, and shall be deemed to be in legal custody while so detained.

(5) No person shall be detained under sub-section (3) or sub-section (4) of this section for a period exceeding twenty-eight days and, if at the expiration of such period he has not been removed or deported as aforesaid, the restriction order or deportation order as the case may be shall cease to have effect.

(6) The Master of a ship about to call at any port outside the Dependency shall, if so required by the

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12—(1) The Commissioner may, if he is satisfied that it is in the interest of the peace, order any person who is a party to the Dependent Territories that person

(2) The Commissioner may, if he is satisfied that it is in the interest of the peace, order any person who is a party to the Dependent Territories that person

(3) If the Commissioner is satisfied that it is in the interest of the peace, he may, if he is satisfied that it is in the interest of the peace, order any person who is a party to the Dependent Territories that person

13—If a person who is a party to the Dependent Territories Law has been sentenced to imprisonment, the sentence shall not have effect unless

14—(1) The

(a) at the time of the restriction order

(b) vary the area in which the person is allowed to leave the area, or the conditions of his stay, or other conditions of his stay, or himself;

Commissioner or by an Immigration Officer, receive a person against whom a deportation order has been made and his dependents (if any) on board the ship and afford him and them a passage to that port and proper accommodation and maintenance during the passage.

12—(1) Where a deportation order is made, the Commissioner 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 Dependency and the maintenance until departure of that person and his dependents (if any).

Expenses.

(2) Where a restriction order is made, the Commissioner 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 removal of that person to any place in pursuance of that order and, if necessary, the maintenance of that person while the order is in force.

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

13—If a person in respect of whom a security order or restriction order or 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 Commissioner otherwise directs.

Persons undergoing sentence.

14—(1) The Commissioner by order may—

(a) at any time revoke any deportation order or restriction order or security order;

Revocation and variation of orders.

(b) vary any restriction order so as to permit the person therein mentioned to enter or leave any area which he is prohibited from entering or leaving, and may attach to the permission conditions as to security for good behaviour or otherwise, and may also vary, cancel or add a condition requiring such person to report himself;

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

(2) Any order made under paragraph (b) or paragraph (c) 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.

15—(1) If a person in respect of whom a restriction order is in force leaves or attempts to leave or enters or attempts to enter any area in contravention of the provisions of the order, or wilfully neglects or refuses to report himself as ordered, or having, in pursuance of permission given as hereinbefore provided, left or entered any place, wilfully fails to observe any condition attached to such permission, he shall be liable on summary conviction to imprisonment not exceeding six months with or without hard labour or a fine not exceeding fifty pounds or both such imprisonment and fine, and to be again removed under the original order, and the provisions of sections 11, 12, and 13 of this Law shall apply accordingly.

(2) If a person in respect of whom a deportation order is in force returns or attempts to return to the Dependency in contravention of the provisions of the order, or having entered the Dependency in pursuance of permission given as hereinbefore provided, wilfully fails to observe any condition attached to such permission, he shall be liable on summary conviction to imprisonment for a period not exceeding six months with or without hard labour or a fine not exceeding fifty pounds or both such imprisonment and fine, and to be again deported under the original order, and the provisions of sections 11, 12 and 13 of this Law shall apply accordingly.

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

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

(a) is within the Dependency or an area thereof in contravention of the terms of a deportation order or restriction order; or

(b) having entered the Dependency or any area thereof in pursuance of permission given as hereinbefore provided, has wilfully failed to observe any condition attached to such permission,

shall on summary conviction be liable to a fine not exceeding fifty pounds.

17—No proceedings shall be instituted under this Law except by the Commissioner or with his previous sanction in writing. Institution
of proceedings.

18—In any proceedings under this Law—

(a) the burden of proof that the person charged belongs to the Dependency 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.

19—The Commissioner shall forthwith report to the Governor every order made by him under this Law and the grounds thereof and the proceedings thereunder. Report to
Governor.

20—(1) The Governor may make Regulations for the better carrying out of the provisions of this Law, and may from time to time alter, add to, or rescind any such Regulations. Regulations.

(2) Regulations made under this Law shall be published in the Jamaica Gazette and shall come into operation on such publication or at such other time as may be fixed by such Regulations.

(3) If any person acts in contravention of, or fails to comply with, any Regulation made under this Law he

shall for each offence, on summary conviction thereof before two Justices of the Peace be liable to a penalty not exceeding £10 and in default of payment thereof to imprisonment, with or without hard labour, for any term not exceeding three months.

(4) Regulations made under this Law shall be of the same force and effect as if they were contained in and formed part of this Law.

21—Where not otherwise specifically provided all penalties under this Law may be recovered in a summary manner before two Justices of the Peace, and in default of payment the offender shall be liable to imprisonment, with or without hard labour, for any term not exceeding six months.

J. P. JONES,
President.

Passed the Assembly this 27th day of November, 1941.

E. O. PANTON,
Clerk of Vestry.