

Assented to in Her Majesty's name this 3rd day of June, 1965.

*C. Haskard*  
Governor.



No. 10



1965

Colony of the Falkland Islands.

IN THE FOURTEENTH YEAR OF THE REIGN OF  
Her Majesty Queen Elizabeth II.

SIR COSMO HASKARD, K.C.M.G., M.B.E.  
Governor.

### An Ordinance Relating to Immigration.

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows —

Enacting clause.

1. This Ordinance may be cited as the Immigration Ordinance, 1965, and shall come into operation upon such date as shall be appointed by the Governor by notice published in the Gazette.

Short title and commencement.

2. In this Ordinance and any Regulation made hereunder, unless the context otherwise requires —

Interpretation.

“ALIEN” means a person who is neither a British Subject, nor a British protected person, nor a citizen of the Republic of Ireland;

“BRITISH SUBJECT” means a person who is a British subject under the British Nationality Act, 1948, as amended by any subsequent enactment, and for the purpose of this Ordinance references to a British Subject shall be construed as references also to a citizen of the Republic of Ireland;

“DEPENDANT” in relation to another person means —

- (a) the wife of such person, provided that 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) a legally adopted child under the age of 16 years of such person;

“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 in the opinion of the Immigration Officer 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);

“IMMIGRANT” means a person who enters the Colony from a place outside the Colony whether or not for the first time;

“PERMANENT RESIDENT” means —

- (a) a person born in the Colony or the Dependencies, or of parents who at the time of his birth were ordinarily resident in the Colony or the Dependencies; or
- (b) a person who is ordinarily resident in the Colony or the Dependencies and has been so resident for a continuous period of seven years, and since the completion of such a period has not been ordinarily resident for a continuous period of seven years or more in any other country; or
- (c) a dependant of a person to whom either of the foregoing paragraphs applies; or
- (d) a person who has 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, or the British Nationality Act, 1948, such grant being still in force;

“POLICE OFFICER” includes a police constable;

“PRESCRIBED” means prescribed by Regulations made under this Ordinance;

“PROHIBITED IMMIGRANT” means a person other than a permanent resident —

- (a) who is not in possession of a passport valid for entry into the Colony; or
- (b) who has left the Colony or the Dependencies at the public expense, or against whom a deportation order is in force; or
- (c) who is deemed by the Governor in Council to be an undesirable immigrant; or
- (d) who is a destitute person; or
- (e) who is an idiot or insane; or
- (f) who is certified by a medical officer to be suffering from a contagious or infectious disease which makes his presence in the Colony dangerous to the community; or
- (g) who is not in possession of a certificate signed by a radiologist as required under section 50A of the Public Health Ordinance; or
- (h) who, not having received a free pardon, has been in any country other than the Colony or the Dependencies convicted of murder or an offence for which a substantive sentence of imprisonment exceeding six months has been passed and who by reason thereof is deemed by the Governor in Council to be an undesirable immigrant; or
- (i) who is a prostitute, or is living on or receiving, or who has lived on or received, the proceeds of prostitution; or
- (j) whose entry into the Colony is unlawful under this or any other Ordinance; or
- (k) who is a dependant of a prohibited immigrant;

“SHIPPING MASTER” shall include the Collector of Customs, the Deputy Collector of Customs or any customs officer;

“UNDESIRABLE IMMIGRANT” means a person other than a permanent resident who by reason of his having been convicted, or who, in consequence of information received from any Government, whether British or foreign, through official or diplomatic channels, is deemed by the Governor in Council to be an undesirable immigrant;

“VESSEL” means any steamship, ship, boat or other floating craft, and includes any description of aircraft; and “master” in reference to a “vessel” includes the pilot or other officer in charge of an aircraft.

3. The Governor may by notice published in the Gazette appoint an Immigration Officer for the carrying out of the provisions of this Ordinance.

Appointment of Immigration Officer.

4. (1) The Governor in Council may prohibit the entry of any alien into the Colony.

Power to prohibit entry of alien, or permit entry of prohibited immigrant.

(2) The Governor in Council may permit a prohibited immigrant to enter and remain in the Colony subject to such conditions as to duration and place of residence, occupation, security to be furnished, or any other matter or thing, whether similar to those before enumerated or not, as he shall think fit, and any such immigrant who shall, without reasonable excuse, fail to comply with such conditions or any of them shall commit an offence, and his permit to enter and remain in the Colony shall be deemed to have been cancelled.

5. For the purpose of exercising his functions and carrying out his duties under this Ordinance the Immigration Officer may —

Powers of Immigration Officer.

- (a) without a search warrant board and search any vessel arriving in the Colony;
- (b) interrogate any person who desires to enter the Colony or any person whom he has reasonable ground for believing to be a prohibited immigrant;
- (c) require any person who desires to enter the Colony to submit to being examined by a medical officer;
- (d) require the master of a vessel to furnish in duplicate a list signed by himself of the names of the passengers in his vessel and such other information as may be prescribed;
- (e) if there is reasonable cause to suspect that any person has contravened any of the provisions of this Ordinance and if, in order to prevent justice from being defeated, it is necessary to arrest such person immediately, arrest such person without a warrant, and such person shall be brought before a magistrate or a justice of the peace within twenty four hours of such arrest, unless the next day shall be a Sunday or a public holiday, when the person under arrest shall be brought before a magistrate or a justice of the peace at the first possible opportunity.

6. (1) The decision whether or not a person is a prohibited immigrant shall rest with the Immigration Officer.

Immigration Officer to decide whether person is prohibited immigrant.

(2) An appeal shall lie from a decision of the Immigration Officer under sub-section (1) of this section to the Governor in Council whose decision shall be final.

7. (1) Any person who, having entered the Colony for the first time after the coming into operation of this Ordinance, is found by the Immigration Officer within the period of three months from the date of such entry to be a prohibited immigrant, shall be deemed to have been one at the time of such entry.

Person may be found to be prohibited immigrant after entry.

(2) An appeal shall lie from a decision of the Immigration Officer under sub-section (1) of this section to the Governor in Council whose decision shall be final.

8. (1) A person entering the Colony by sea shall not disembark without the consent of the Immigration Officer, and the master of the ship shall not allow any such person to disembark without such consent.

Duties of immigrants.

(2) Every person entering the Colony by air shall forthwith present himself in person to the Immigration Officer.

(3) Every person entering the Colony shall —

- (a) truthfully answer all questions put to him by the Immigration Officer for the purposes of this Ordinance;

- (b) if required by the Immigration Officer, make and sign the prescribed form of declaration;
- (c) if required by the Immigration Officer, submit himself to be examined by a medical officer.

(4) Any person who refuses to make and sign the prescribed declaration, or to submit to being examined by a medical officer, shall be deemed to be a prohibited immigrant, and may be dealt with as such.

Immigrant not to enter without permit.

9. No person other than a permanent resident shall enter the Colony unless he is in possession of a permit issued to him under this Ordinance or Regulations made thereunder.

Entry permit.

10. The Immigration Officer shall issue an Entry Permit to any person wishing to enter the Colony who satisfies him that he is—

- (a) a permanent resident; or
- (b) a person in the service of the Government of the Colony; or
- (c) a serving member of Her Majesty's forces; or
- (d) a person duly accredited as a Diplomatic or Consular representative or a member of any such person's staff or household; or
- (e) a person entitled to the immunities and privileges conferred by the Diplomatic Privileges (Extension) Ordinance; or
- (f) a person who, not being a prohibited immigrant, intends to engage on his own account in the Colony in the business of agriculture or animal husbandry, or in prospecting for minerals or mining, or to carry on or practise some trade, business or profession, for which he possesses such qualifications as may be prescribed, and who in every such case is in possession of sufficient capital or assured means to enable him to carry out his intention; or
- (g) a dependant of one of the above mentioned persons.

Cap. 20.

Employment permit.

11. (1) An Employment Permit may be issued by the Immigration Officer to any immigrant who has entered into a contract of service with an employer to be performed in the Colony, or whose passage has been paid on his behalf with a view to his entering into such a contract on his arrival, provided that he is not a prohibited immigrant or an alien whose entry into the Colony is prohibited under section 4 (1) of this Ordinance.

(2) An Employment Permit shall entitle the holder thereof to enter the Colony and to remain therein for such period as shall be stated therein.

(3) An Employment Permit shall forthwith cease to be effective and shall be deemed to have been cancelled if the holder fails within one month from the date of his landing in the Colony to take up the employment in respect of which it was issued, and thereupon the holder thereof shall be deemed to be a prohibited immigrant and may be dealt with as such.

(4) An Employment Permit shall be issued upon such conditions as may be prescribed.

Special permit.

12. (1) The Immigration Officer shall issue to any person to whom the Governor in Council under section 4 (2) of this Ordinance has granted permission to enter the Colony a Special Permit containing such conditions as shall have been imposed by the Governor in Council.

(2) The Immigration Officer may issue a Special Permit to any person who desires to enter the Colony for a limited period for the purpose of scientific research or any other sufficient reason; such permit shall contain such conditions as may be prescribed or as the Immigration Officer may consider necessary, and any holder of such Special Permit who shall, without reasonable cause, fail to comply with such conditions, or any of them, shall commit an offence, and

his permit to enter and remain in the Colony shall be deemed to have been cancelled.

13. (1) A person to whom a permit under this Ordinance has been issued shall produce it to the Immigration Officer or a police officer on demand, and shall not lend, transfer, or assign it to any other person.

Conditions as to permits.

(2) No person shall borrow or make use of a permit which has been granted under this Ordinance to any other person.

14. Every alien immigrant shall within twenty-four hours of his landing in the Colony register with the Superintendent of Police and furnish him with such particulars as he may require, and if he shall fail without reasonable excuse to comply with the requirements of this section he shall commit an offence.

Alien immigrant to register.

15. (1) The master of a vessel arriving from any place outside the Colony shall answer truthfully to the best of his ability all questions put to him by the Immigration Officer relating to the passengers for the purposes of this Ordinance, and shall furnish him with a list in duplicate signed by himself of the names of all passengers in the vessel and such other information as may be prescribed, and every passenger shall supply the information necessary for the purpose of the list.

Master of vessel to furnish list of passengers.

(2) Any master who shall either refuse to supply such list or to answer any such questions, or who shall knowingly and wilfully give an untrue answer thereto shall be liable on summary conviction to a fine not exceeding £50.

(3) Any passenger intending to enter the Colony who shall knowingly and wilfully supply any false information in respect of such list or in answer to any question put to him by the Immigration Officer for the purposes of this Ordinance shall be liable on summary conviction to a fine of £50.

16. (1) Any person to whom leave to disembark has been refused shall be removed with his dependants (if any) from the Colony by the master of the vessel in which he arrived, and by that same vessel, or with the consent of the Immigration Officer he shall be removed by the owner or agent of that vessel by any other vessel, to the country to which he belongs or from which he embarked for the Colony.

Liability of vessel to repatriate immigrant.

(2) In the event of the immigrant being unable to defray the expenses of the passage or passages, required to be provided under the preceding subsection the master shall provide the immigrant and any of his dependants whom he may have brought with him by the same vessel into the Colony with suitable accommodation and maintenance, and the master and owner or agent of any vessel from which any such immigrant and his dependants (if any) shall have been landed shall be jointly and severally liable to pay the Government of the Colony all expenses incurred in connexion with the maintenance of such immigrant and his dependants and his and their deportation.

17. (1) The Governor in Council may make an order for the deportation of any prohibited immigrant or of any person whose presence within the Colony is unlawful.

Power to deport.

(2) An order made under this section shall be carried into effect in such manner as the Governor in Council may direct.

(3) A person against whom an order under this section is made may, if the Governor in Council so directs, be kept in custody while awaiting deportation and while being conveyed to the place of departure, and may be placed on board a ship about to leave the Colony, and shall be deemed to be in legal custody while so kept and until the ship finally leaves the Colony.

(4) No person shall be detained under sub-section (3) of this section for a period exceeding 60 days, and if at the expiration of such period he has not been deported the deportation order shall cease to have effect.

Master of vessel may be required to receive person ordered to be deported.

**18.** The master of a vessel about to call at any port outside the Colony shall, if so required by the Governor, receive on board the vessel a person against whom a deportation order has been made and his dependants (if any) and afford him and them a passage or passages to that port and proper accommodation and maintenance during the passage.

Expenses of deportation.

**19.** (1) Where a deportation order is made the Governor may apply any money or property of the person against whom it is made in payment of the whole or any part of the expenses of or incidental to the deportation 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 or are provided for under section 16 of this Ordinance or by the Regulations made thereunder such expenses shall be payable out of public funds.

Expenses of repatriating destitute person.

**20.** Where a person who has entered the Colony on an Employment Permit issued under section 11 of this Ordinance has become a destitute person the expenses of maintaining and repatriating him and his dependants (if any) shall be borne by the employer named in the Employment Permit and by the Government in such proportions as shall be prescribed.

Seamen not to be discharged without consent of Shipping Master.

**21.** (1) No seaman shall be discharged from any vessel in the Colony except with the consent of the Shipping Master, which consent shall not be given unless the master, owner or agent of the vessel shall have made arrangements to the satisfaction of the Shipping Master to ensure that the seaman shall not become a charge on public funds.

(2) Any seaman discharged without such consent or deserting from the vessel or left behind in the Colony shall be deemed to be a prohibited immigrant.

Evidence and burden of proof.

**22.** In any inquiry or proceedings under this Ordinance —

- (a) the burden of proof that any person is not a prohibited immigrant, or an alien, or a destitute person, or that he is a permanent resident shall be upon that person;
- (b) a document purporting to be an Order made under this Ordinance shall, until the contrary is proved, be presumed to be such an Order;
- (c) any Order made under this Ordinance shall be presumed, until the contrary is proved, to have been validly made on the date upon which it purports to have been made.

Offences and penalties.

**23.** Any person who —

- (i) knowingly lands or procures to be landed or knowingly aids or assists in landing any prohibited immigrant contrary to the provisions of this Ordinance; or
- (ii) being the master of a vessel knowingly permits any prohibited immigrant to land from his vessel contrary to the provisions of this Ordinance, or refuses to receive on board, or neglects to take reasonable measures to keep on board any prohibited immigrant who shall have landed from his vessel and been replaced on board; or
- (iii) being a prohibited immigrant knowingly and wilfully lands or suffers himself to be landed contrary to the provisions of this Ordinance; or
- (iv) wilfully disobeys or disregards any obligation imposed on him by this Ordinance or the Regulations made thereunder; or

- (v) obstructs, hinders or opposes any immigration officer or police officer in the execution of his duty under this Ordinance;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50 or to imprisonment not exceeding six months, and when the person charged with any such offence is the master of a vessel clearance outwards of the vessel may be refused until the case has been disposed of and any fine paid.

24. (1) The Governor in Council may make Regulations for the better carrying into effect of the purposes of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following purposes —

- (a) prescribing anything which is to be, or may be, prescribed under this Ordinance;
- (b) prescribing the forms to be used for the purposes of this Ordinance;
- (c) prescribing the person to whom and the manner in which applications to enter the Colony may be made;
- (d) prescribing the procedure to be followed by immigrants.

25. This Ordinance, except sections 8 (1), 8 (2), 8 (3) (a), 9 and 10, shall not apply to persons in the service of the Government of the Colony.

Exemptions.

26. The Immigration Ordinance is hereby repealed :

Repeal of Cap. 30.

Provided that any person whose presence in the Colony is unlawful under the said Ordinance shall be deemed to be unlawfully in the Colony for the purposes of this Ordinance.

---

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.



*Acting Clerk of the Legislative Council.*

Ref. 0837/II.