

# IMMIGRATION

Act 13 of 1970 – 17 May 1973

Amended 2/02 (P 14/02); 20/02; 21/06 (CIO 1.10.06); 17/07; 1/08; 18/08; 12/12

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### 1 Short title

This Act may be cited as the Immigration Act.

### 2 Interpretation

In this Act –

“alien” has the meaning assigned to it in section 2 of the Mauritius Citizenship Act;

“Board of Investment” means the Board of Investment established under the Investment Promotion Act;

[Added 21/06]

“citizen” means a citizen of Mauritius;

“Commonwealth citizen” means a citizen of any of the countries specified in the First Schedule to the Mauritius Citizenship Act;

“dependent child”, in relation to a person, means the child, stepchild or lawfully adopted child of that person, who is under the age of 24;

[Inserted 17/07, amended 12/12]

“exempted person” means any person specified in section 7(1);

“immigration officer” means the public officer designated as such by the Minister to carry out the provisions of this Act and includes any other officer acting under the authority of the officer so designated;

“investor” means -

- (a) a person who is not a citizen of Mauritius; or
- (b) an association or body of persons, whether corporate or incorporate, the control or management of which is vested in persons who are not citizens of Mauritius,

and registered as such with the Board of Investment;

[Added 21/06]

“master” means the person in immediate charge or control of a vessel;

“medical officer” means a person authorised or recognised by the Minister as a medical officer for the purposes of this Act;

“member of the crew” means any person, including a master, who is employed on board or belongs to the staff of a vessel;

“Minister” means the Minister to whom responsibility for the subject of immigration is assigned;

“next-of-kin” means parent, grandparent, brother or sister;

“occupation permit” means a permit issued under section 9A;

[Added 21/06]

“passenger” means any person arriving in Mauritius on any vessel, other than a member of the crew;

“permanent residence permit” means a permit issued under section 9;

“permanent resident” means the holder of a permanent residence permit;

“permit” means a permanent residence permit or a residence permit;

“port of entry” includes any place designated by the immigration officer;

“professional” means a non-citizen who is employed in Mauritius by virtue of a contract of employment and registered as such with the Board of Investment;

[Added 21/06]

“prohibited immigrant” means any person specified in section 8(1);

“residence permit” means a permit issued under section 9;

“resident” means the holder of a residence permit;

“retired non-citizen” means a retired non-citizen registered as such with the Board of Investment;

[Added 21/06]

“self-employed non-citizen” means a non-citizen engaged in a professional activity and registered as a self-employed person with the Board of Investment;

[Added 21/06]

“transport company” includes the agents of any such company carrying on business in Mauritius;

“vessel” means any ship, aircraft or other means of travel by sea or air and includes any boat or craft of any kind.

[Amended 33/99]

### **3 Restriction on admission to Mauritius**

Subject to this Act, no person may be admitted to Mauritius or, being within Mauritius, remain there.

### **4 Entitlement to admission to Mauritius**

Subject to this Act, a citizen, a permanent resident, a resident or an exempted person, shall be allowed to enter Mauritius or, being in Mauritius, to remain there so long as he holds his status of citizen, permanent resident, resident or exempted person, as the case may be.

[Amended 33/99]

### **5 Persons who are residents of Mauritius**

(1) Subject to section 6, any person, not being a citizen, shall have the status of a resident for the purposes of this Act where –

- (a) in the case of a Commonwealth citizen, he has, before 14 December 1968, been ordinarily resident in Mauritius continuously for a period of 7 years or more and since the completion of that period of residence has not been ordinarily resident continuously for a period of 7 years or more, in any other country;
- (b) in the case of an alien, he has, before 10 December 1966, been ordinarily resident in Mauritius continuously for a period of 7 years or more and has since the completion of that period of residence not been absent from Mauritius for a period of 3 years or more;
- (c) he is the spouse of a citizen;
- (d) he is a dependent child of a person to whom any of paragraphs (a) to (c) applies;  
[Amended 17/07]
- (e) he is a person to whom permission has been granted by the Minister under subsection (2) to become a resident;  
[Amended 20/02]
- (f) he is a holder of a residence permit issued under section 9;
- (g) he is a person who holds immovable property-
  - (i) under the Integrated Resort Scheme; or
  - (ii) under the Real Estate Scheme, the purchase price of which is not less than 500,000 US dollars or its equivalent in any other hard convertible foreign currency,

under the Real Estate Development Scheme prescribed under the Investment Promotion Act;

[Added 20/02; amended 17/07; amended 01/09]

- (h) he is an investor, a self-employed non-citizen, professional, non-citizen referred to in section 5A(5AA) or retired non-citizen;  
[Added 20/02; Repealed and replaced 21/06; amended 18/08]
- (ha) he is a non-citizen coming to serve in Government to service the public sector within the SERVICE TO MAURITIUS PROGRAMME for a period not exceeding 3 years and who is registered with the Board of Investment under the Investment Promotion Act; or  
[Inserted 18/08]
- (i) he is the spouse dependent child or other dependant of a person to whom any of paragraphs (g), (h) and (ha) applies.  
[Added 20/02; amended 17/07; 18/08]

(2) The Minister may grant permission to any person to become a resident if that person, not being a citizen –

- (a) is the parent or grandparent of a citizen residing in Mauritius and that citizen is willing and able to provide for his care and maintenance;
- (b) is a person who satisfies the Minister that his maintenance and that of his family will be provided wholly from funds outside Mauritius; or
- (c) is a person who, in the opinion of the Minister, is a fit and proper person to become a resident.

[Amended 5/83]

#### **5A Persons who are permanent residents of Mauritius**

(1) Subject to the other provisions of this section and section 6A, any person, not being a citizen, may, on application to the Minister under this Act, be granted the status of permanent resident where -

[Amended 21/06]

- (a) he is an investor, a self-employed non-citizen, or retired non-citizen;

[Repealed and replaced 21/06]

(aa) he invests at least 500,000 US dollars, or its equivalent in any convertible currency, in an activity specified in Part IV of the Schedule to the Investment Promotion Act; [Added 12/12]

(b) he is the spouse of a person to whom paragraph (a) or (aa) applies;

(c) he is a dependent child of a person to whom paragraph (a), (aa) or (b) applies;

[Repealed and replaced]

(d) – [Repealed 17/07]

(e) he is the wholly dependent next-of-kin of an unmarried person to whom paragraph (a) or (aa) applies.

(2) The number of persons who may obtain the status of permanent resident under subsection (1)(e) shall not exceed 3.

(3) –

[Repealed and replaced 21/06; repealed 17/07]

(4) Any application under subsection (1) shall be made on the prescribed form.

(5) (a) Any investor or self-employed non-citizen referred to in subsection (1)(a) who is the holder of an occupation permit may, at the expiry of a period of 3 years of his occupation permit, upon satisfying the criteria specified in Part III of the Schedule to the Investment Promotion Act and on application made under this section, be granted the status of permanent resident.

(b) A non-citizen referred to in subsection (1)(aa) may, on investing the amount referred to in that subsection and on application made under this section, be granted the status of permanent resident.

[Repealed and replaced 21/06, Amended 12/12]

(5A) Any retired non-citizen referred to in subsection (1)(a) who is the holder of a residence permit may, at the expiry of a period of 3 years of his residence permit, upon satisfying continuously the criteria specified in Part I of the Schedule to the Investment Promotion Act and on application made under this section, be granted the status of permanent resident.

[Inserted 21/06]

(5AA) Any non-citizen who has been employed to work in Mauritius during at least 3 consecutive years immediately preceding his application under this section -

(a) drawing a basic monthly salary of at least 150,000 rupees during those years by virtue of that employment; and

(b) holding –

(i) a valid work permit issued under the Non-Citizens (Employment Restriction) Act; or

(ii) an occupation permit,

may, on application made under this section, be granted the status of permanent resident.

[Inserted 17/07]

(5B) A permanent residence permit granted under subsection (5), (5A) or (5AA) shall, subject to section 6A, be valid for a period of 10 years as from the expiry date of his occupation permit or residence permit, as the case may be.

[Inserted 21/06; amended 17/07]

(6) The spouse and dependents of a person to whom subsection (5), (5A) or (5AA) applies may, on application made under this section, also be granted the status of permanent resident.

[Repealed and replaced 21/06; amended 18/08]

[Amended 33/99; repealed and replaced 20/02]

## **6 Loss of status of resident**

(1) Where, in relation to a resident, the Minister is satisfied that it is in the public interest to do so, he may, in his absolute discretion, deprive him of his status of resident.

(1A) Where a person has acquired the status of resident under section 5(1)(g) or (h), he shall cease to be resident where he is certified by the Board of Investment to have ceased to satisfy the requirements of the Integrated Resort Scheme, or the criteria and conditions of registration, under the Investment Promotion Act.

[Added 20/02; repealed and replaced 21/06]

(1B) Where a person has acquired his status of resident under section 5(1)(i), he shall cease to be a resident where subsection (1A) applies.

[Added 20/02]

(2) Where a person has acquired his status of resident under section 5(1)(c), he shall cease to be a resident 6 months after the termination of the marriage to the citizen.

(3) Where a person has acquired his status of resident under section 5(1)(d), he shall cease to be a resident on reaching the age of 18.

(4) Where a person has acquired his status of resident under section 5(1)(e), he shall cease to be a resident where he voluntarily resides outside Mauritius for a continuous period of one year or more.

(5) Where a person has been deprived of his status of resident under subsection (1) or has ceased to be a resident under subsections (2), (3) or (4), he shall be deemed to be a prohibited immigrant for the purposes of this Act and of the Deportation Act.

(6) Where a resident is deprived of his status of resident, a notice to that effect shall be served upon him by post at his last known address.

## **6A Loss of status of permanent resident**

(1) Where, in relation to a permanent resident, the Minister is satisfied that –

(a) the person has wilfully made any false statement or misled or attempted to mislead the immigration officer with respect to an application for a permanent residence permit;

(b) the person –

(i) who is an investor, a self-employed non-citizen, non-citizen referred to in section 5A(5AA) or retired non-citizen is certified by the Board of Investment to have ceased to satisfy the criteria and conditions of his registration under the Investment Promotion Act;

[Repealed and replaced 21/06; amended 18/08]

(ii) is a person referred to in section 5A(1)(b), (c) and (e) and (6) to whom subparagraph (i) applies;

[Amended 18/08]

[Repealed and replaced 20/02]

(c) a person referred to in section 5A(1)(a) has been declared bankrupt;

(d) a person referred to in section 5A(1) or (5AA) has been convicted of a criminal offence carrying a term of imprisonment of not less than 12 months;

or

[Amended 20/02; 18/08]

(e) it is in the public interest to do so,

he may deprive that person of his status of permanent resident.

(2) Where the Minister is considering depriving a person of his status of permanent resident under subsection (1), not less than 7 days before the decision is taken, a notice to

that effect, setting out in brief the reasons why such a decision is being considered, shall be served upon him by post at his last known address.

(3) A decision depriving a person of his status of permanent resident under subsection (1) shall not be effective until the expiry of 6 months from the date on which a notice to that effect is served upon him by post at his known address.

(4) (a) A person who has been deprived of his status of permanent resident under subsection (1) shall, subject to paragraph (b), be deemed to be a prohibited immigrant for the purposes of this Act and the Deportation Act.

(b) Where the Minister considers that the course of action specified in paragraph (a) is not warranted, he may issue to that person a certificate stating the conditions subject to, and the period for, which the person may stay in or visit Mauritius.

(5) Except as provided in subsection (7), where a person, who has acquired his status of permanent resident under section 5A(1)(a), has been deprived of that status under subsection (1), any other person who has been granted the status of permanent resident under section 5A(1), (5AA) or (6) in connection with the grant of that status to the person deprived of it, shall, after 6 months from the date of the notice referred to in subsection (8), cease to be a permanent resident.

[Amended 18/08]

(6) Except as provided in subsection (7), where a person has acquired the status of permanent resident under section 5A(1)(b), he shall cease to be a permanent resident 6 months from the date of the termination of his marriage.

(7) Where, save for this subsection, a person would cease to be a permanent resident under subsection (5) or (6), he may, within 90 days from the date of the notice under subsection (8) or of the termination of his marriage, as the case may be, apply to the Minister, in such form as may be prescribed, to continue his status of permanent resident and the Minister may, in his discretion, grant his application.

(8) Where a person, who has acquired his status of permanent resident under section 5A(1)(a), (b), (5AA) or (6), has been deprived of that status, a notice to that effect shall be served upon any other person who has been granted the status of permanent resident under section 5A(1), (5AA) or (6) in connection with the person deprived of it, by post at his last known address.

[Amended 20/02; 18/08]

[Amended 33/99; 20/02]

## **7 Exempted persons**

(1) Subject to section 8, the immigration officer may admit to Mauritius, on such conditions and for such period as he thinks fit in any particular case –

- (a) persons who are diplomatic or consular officers or representatives or officials, duly accredited to a country other than Mauritius, of the United Nations or any of its agencies or of any intergovernmental organisation in which Mauritius participates, coming to Mauritius to carry out their official duties or passing through in transit, or members of the families or suites of such persons;
- (b) members of any naval, army or air force who come to Mauritius in connection with the defence and security interests of Mauritius;
- (c) persons who come to Mauritius pursuant to any treaty or agreement between Mauritius and another country and whose admission to Mauritius is approved by the Minister, together with such members of their families or suites as may be so approved;
- (d) persons appointed to the public service of Mauritius and the members of their families;

- (e) tourists or other visitors or persons coming for business;  
[Repealed and replaced 21/06]
- (f) persons passing through Mauritius in transit to another country;
- (g) students coming to Mauritius for the purpose of attending and, having entered Mauritius, are in actual attendance at any college or at the University of Mauritius;
- (h) persons who have been accepted as students by an educational or training establishment approved by the Minister of Education and, having entered Mauritius, are in actual attendance at that educational or training establishment;
- (i) members of dramatic, artistic, cultural, athletic or other groups entering Mauritius or who, having entered, are in Mauritius for the purpose of giving performances or exhibitions of an entertaining or instructive nature;
- (j) members of crews entering Mauritius or who, having entered, are in Mauritius for shore leave or some other legitimate and temporary purpose;
- (k) persons who are investors under the Permanent Resident Scheme prescribed under the Investment Promotion Act ;  
[Added 20/02]
- (l) shipwrecked persons; and
- (m) such persons or classes of persons as the Minister thinks fit and proper.

(1A) [repealed 01/09]

[Added 21/06]

(2) The immigration officer shall issue to a person admitted to Mauritius under subsection (1)(g), (h) and (i) a certificate stating the conditions subject to, and the period for, which the admission to Mauritius is authorised.

(3) The immigration officer may, with the approval of the Minister, vary the conditions attached to the admission of an exempted person to Mauritius or extend or limit the period of his stay in Mauritius.

(4) Where, in relation to an exempted person, the Minister –

- (a) is satisfied that it is in the public interest to do so; or
- (b) is of the opinion that the exempted person is a person described in section 8(1),

he may, in his absolute discretion, by Order, declare that the exempted person has ceased to be an exempted person and thereupon the exempted person shall be deemed to be a prohibited immigrant for the purposes of this Act and of the Deportation Act.

(5) An order made under subsection (4) shall be served by post at the last known address of the person who has ceased to be an exempted person.

## **8 Prohibited immigrants**

(1) Except as provided in subsection (2), the following persons, other than citizens and, subject to section 6, residents, shall be deemed to be prohibited immigrants and shall not be admitted to Mauritius –

- (a) persons who appear to the immigration officer to be suffering from any physical or mental infirmity and who are likely to be a charge on public funds;
- (b) persons afflicted with any infectious or contagious disease;
- (c) persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a charge on public funds;
- (d) persons who have been convicted of or admit having committed any crime which, if committed in Mauritius, would be punishable by imprisonment for a term of not less than 6 months;

- (e) prostitutes or persons living on the earnings of prostitutes or persons reasonably suspected as coming to Mauritius for those or any other immoral purposes;
  - (f) habitual beggars or vagrants;
  - (g) persons who are likely to become a charge on public funds;
  - (h) persons who are chronic alcoholics;
  - (i) persons who are addicted to any drug or reasonably suspected of engaging in the traffic of drugs;
  - (j) persons who are engaged, or reasonably suspected of engaging, in activities prejudicial to the integrity or sovereignty of Mauritius or of any friendly state;
  - (k) persons concerning whom there are reasonable grounds for believing they are likely to engage in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly state.
  - (l) persons declared suspected international terrorists under the Prevention of Terrorism Act 2002.
- [Added 2/02]

(2) The Minister may authorise in writing, under his hand or under the hand of a person designated by him, the admission to Mauritius of any person described in subsection (1) including a non-citizen who satisfies the immigration officer that he intends to marry a citizen to whom he has disclosed that he is HIV positive or has AIDS.

[Amended 1/08]

(3) The Minister may attach such conditions as he thinks fit to the admission of any person mentioned in subsection (2).

#### **9 Permanent residence permits and residence permits**

(1) The Minister may issue, subject to such conditions as he thinks fit to impose, a written permit authorising any person other than an exempted person to enter Mauritius or, being in Mauritius, to remain there.

(2) A residence permit shall be expressed to be in force for a specified period and shall also specify the conditions subject to which it is issued.

(3) The Minister may, in writing, extend, vary or cancel a permit.

(4) Upon the cancellation or expiration of a permit or upon failure to comply with any condition subject to which it has been issued, the holder shall be deemed to be a prohibited immigrant for the purposes of this Act and of the Deportation Act.

(5) Any period of residence in Mauritius in pursuance of a permit shall be taken into account for the purposes of the Mauritius Citizenship Act.

[Amended 33/99]

#### **9A Occupation permit**

(1) Notwithstanding section 5 and the Non-Citizens (Employment Restriction) Act, any investor or self-employed non-citizen or employer of a professional, [registered with the Board of Investment](#), shall, through the Board of Investment, apply to the immigration officer for an occupation permit authorising the investor, self-employed non-citizen or professional, as the case may be, to become a resident and -

- (a) in the case of the investor or self-employed non-citizen, to carry on any occupation in Mauritius for reward or profit;
- (b) in the case of the professional, to take up employment in Mauritius; or
- (c) in the case of an investor who is a company, an application for an occupation permit may be made in respect of each shareholder who is also a director of the company, provided that the criteria referred to in item 1 of Part I of the Schedule to the Investment Promotion Act is applied to each applicant.

[Added 18/08, amended 12/12]



- (2) The application under subsection (1) -
  - (a) shall be made in such form and manner as may be approved by the immigration officer; and
  - (b) shall include such information, documents and particulars as may be required and specified in the form of application; and
  - (c) shall be accompanied -
    - (i) with the prescribed fee; and
    - (ii) in the case of an investor or a self-employed non-citizen, with a bank guarantee for the appropriate prescribed amount; or
    - (iii) in the case of a professional, with a written undertaking by the employer that he will meet any expense or charge likely to be incurred for the maintenance, support or repatriation of the holder of the occupation permit.

(3) On receipt of the application under subsection (1), the immigration officer shall immediately issue to the Board of Investment an acknowledgement receipt in respect of the application.

(4) The immigration officer shall, within 2 working days of the date of receipt of the application, determine the application and where -

- (a) the application is approved, issue the occupation permit -
  - (i) in the case of an investor or a self-employed non-citizen, for a period of 3 years; or
  - (ii) in the case of a professional, for the period specified in his contract of employment or for a period of 3 years, whichever is the lesser;
- (b) the application is not approved, the immigration officer shall -
  - (i) give written notice thereof to the applicant with copy to the Board of Investment; and
  - (ii) at the same time, return to the applicant, the bank guarantee or written undertaking, as the case may be.

(5) Where the immigration officer has not approved the application within the specified period under subsection (4) and has notified the applicant of his decision, he shall, within 7 working days of the notification, refund to the applicant such fee as may have been paid.

(6) Where, within 2 working days of the date of receipt of the application, the application is not determined in accordance with subsection (4), the application shall be deemed to have been approved and the acknowledgement receipt referred in subsection (3) shall be deemed to be an occupation permit issued under subsection (4)(a)(i) or (ii), as the case may be.

(7) On the working day immediately following the 2 working days referred in subsection (4), the Board of Investment shall, subject to subsection (4)(b), and after consultation with the immigration officer, issue the acknowledgement receipt to the applicant.

(8) The provisions of sections 6 and 6A shall apply to a person who has been issued with an occupation permit as they would have applied to a person who has acquired the status of resident.

[Added 21/06]

#### **9B Residence permit for retired non-citizen**

(1) Notwithstanding section 5 and the Non-Citizens (Employment Restriction) Act, any retired non-citizen shall, through the Board of Investment, apply to the immigration officer for a residence permit.

- (2) The application under subsection (1) -
  - (a) shall be made in such form and manner as may be approved by the immigration officer; and

- (b) shall include such information, documents and particulars as may be required and specified in the form of application; and
- (c) shall be accompanied with -
  - (i) the prescribed fee; and
  - (ii) a bank guarantee for the appropriate prescribed amount.

(3) The provisions of section 9A(2) to (7) shall apply to a retired non-citizen as they would have applied to an investor or a self-employed non-citizen, with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this section.

[Added 21/06]

### **9C Short-term occupation permit**

(1) Notwithstanding section 5 and the Non-Citizens (Employment Restriction) Act, any individual who is a non-citizen may, through the Board of Investment, apply to the immigration officer for a short-term occupation permit authorising him to reside and to work in Mauritius during a period not exceeding 9 months.

(2) The period specified in the permit under subsection (1) may, on an application being made within at least 15 days prior to the expiry of the permit, be extended only once for a period not exceeding 3 months.

(3) The provisions of section 9A in relation to the procedure for an application shall apply to this section with such modifications, adaptations and exceptions as may be prescribed to bring them in conformity with this section.

[Inserted 17/07]

### **10 Deposits by holders of residence permits**

(1) Any person to whom a residence permit has been issued shall make a deposit with the immigration officer, or such other public officer as may be authorised by the Minister, of a sum not exceeding 20,000 rupees, or such other sum as may be prescribed, to indemnify the Government for any expense or charge likely to be incurred for his maintenance or support or for his repatriation.

(2) The deposit shall be applied towards the payment of any expense incurred for the maintenance or support or the repatriation of the holder of the permit.

(3) The deposit, or the unexpended balance of it shall be paid over to the holder of the permit on his leaving Mauritius or, where he is dead, to the person he may have designated at the time of the deposit or to his legal representative.

(4) The Minister may exempt the holder of a residence permit from making the deposit under subsection (1) or may authorise him to make a deposit of a lesser amount or, in lieu of making the deposit, to enter into a recognisance, with or without sureties, in the amount required to be deposited.

[Amended 5/83]

### **10A. Bank guarantees by holders of permanent residence permits**

Any person to whom a permanent residence permit has been issued shall, at the time of payment of the prescribed fee in relation thereof, submit to the immigration officer, or such other public officer as may be authorised by the Minister, a bank guarantee in the sum not exceeding 50,000 rupees or such other sum as may be prescribed, to indemnify the Government for any expense or charge likely to be incurred for his maintenance or support or for his repatriation.

[Added 25/00; Amended 20/02; repealed and replaced 18/08]

## **11 Persons landing with minors**

(1) Where a minor has been admitted to Mauritius under the charge of any person and, at any later time the presence of that minor in Mauritius becomes unlawful by virtue of this Act, the immigration officer may require that person to make such arrangements as may seem suitable to the immigration officer to ensure the departure of the minor from Mauritius within such time as the immigration officer may determine.

(2) Where a minor has been admitted to Mauritius under the charge of any person and, at any later time, the immigration officer is informed that such person is about to leave Mauritius without the minor, the immigration officer may, by order, require that person to make such arrangements as may seem suitable to the immigration officer to ensure the departure of the minor from Mauritius within such time as the immigration officer may determine, and to provide for the care and maintenance of the minor until his departure from Mauritius.

(3) The immigration officer may take such measures as may be necessary to prevent the person to whom an order made under subsection (2) is directed from leaving Mauritius until the order has been complied with.

## **12 Examination by immigration officer**

(1) Every person, including citizens, permanent residents and residents, seeking admission to Mauritius shall first appear before the immigration officer at a port of entry for examination as to whether or not he should be admitted to Mauritius.

(2) For the purpose of examining any person under subsection (1), the immigration officer may board any vessel and may require the master –

- (a) to furnish him with a list of passengers stating the names of the passengers and their port of embarkation; and
- (b) to supply such information as he may require.

(3) The immigration officer may require any person seeking admission to Mauritius to undergo a medical examination.

(4) Where, in the opinion of the immigration officer, a person appearing before him for examination cannot be properly examined owing to the effects of alcohol, drugs, illness or any other cause, the immigration officer may cause the examination of the person to be deferred until such time as he may be properly examined and, pending such time, the immigration officer may either detain the person or authorise him to be admitted provisionally upon such conditions as he thinks fit to impose having regard to the circumstances of the case.

[Amended 33/99]

## **13 Refusal to admit**

(1) Where the immigration officer, after the examination of a passenger seeking admission to Mauritius, is of opinion that it would be contrary to this Act to grant admission to that passenger to Mauritius, he may –

- (a) refuse to admit the passenger to Mauritius and thereupon the passenger shall be kept in custody until the departure of the vessel, and, subject to subsection (2), the immigration officer shall order the master of the vessel to remove the passenger when leaving Mauritius;
- (b) cause the passenger to be detained pending the decision of the Minister; or
- (c) grant provisional admission to the passenger upon such conditions, including the deposit of a sum of money or other security, as he thinks fit to impose.

(2) Where a passenger who is detained under subsection (1)(a) claims to be a citizen, permanent resident, or resident, the immigration officer shall not order his removal but shall forthwith refer the matter to the Minister for his decision.

(3) Where the immigration officer has detained any passenger who has sought admission to Mauritius or has been granted provisional admission under subsection (1)(b) or (c), the immigration officer shall forthwith refer the matter to the Minister for his decision.

(4) Where the Minister is of the opinion that the passenger is a prohibited immigrant, or that he should not be issued with a residence permit, the immigration officer shall –

(a) where the passenger is already detained, order the transport company of the vessel in which the passenger arrived in Mauritius to remove him, within a stated time, to the country of which he is a citizen or national, or in which he embarked for Mauritius, or to a country to which there is reason to believe that he will be admitted;

(b) where the passenger has been admitted provisionally, require him to leave Mauritius at the first available opportunity and where he fails to do so the immigration officer shall, without the issue of a warrant, arrest and detain him and paragraph (a) shall apply to him as if he had been detained.

(5) Where the Minister is of the opinion that the passenger detained or admitted provisionally in Mauritius under subsection (1)(b) or (c) is not a prohibited immigrant and that he is a fit and proper person, he may issue a residence permit to him and thereupon he shall be admitted to Mauritius in accordance with, but subject to, this Act.

(6) (a) Subject to paragraph (b), this section shall apply, notwithstanding the Deportation Act, and the decision of the Minister shall be final and conclusive and shall not be questioned in any Court.

(b) Where a passenger to whom the Minister has refused admission to Mauritius claims to be a citizen, permanent resident or resident, an appeal shall lie to the Supreme Court against the decision of the Minister and the appeal shall be heard and determined as expeditiously as circumstances warrant in accordance with such rules as may be prescribed by the Chief Justice.

[Amended 33/99]

#### **14 Liability of transport companies**

(1) Where a transport company is required to remove a passenger under section 13, the cost of his removal shall be met by the transport company.

(2) Pending the removal of a passenger who has been refused admission to Mauritius, his upkeep, maintenance and medical care shall be met by the transport company that brought him to Mauritius.

(3) Where a transport company is required to meet the cost of the removal of a passenger under subsection (1), it shall be so notified and given an opportunity of conveying him or causing him to be conveyed on one of its own vessels or otherwise but, where the transport company does not do so within a reasonable time, or where it is expedient in the interests of defence, public safety, public order or public morality that the passenger should leave Mauritius immediately, the Minister may direct that the passenger should be removed immediately at the expense of the Government and the transport company shall, on demand, reimburse to the Government the expenses incurred for his removal and any other expenses which may have been incurred in connection with his detention.

#### **15 Prevention of unauthorised disembarkation**

A transport company, or the master of a vessel, bringing persons into Mauritius shall not, upon the arrival of the vessel in Mauritius, allow –

(a) any person to leave the vessel at a place other than a port of entry; or

(b) individual persons or groups of persons to leave the vessel until permission has been granted by the immigration officer.

#### **16 Power to inspect**

(1) Any person authorised by the Minister or the immigration officer may inspect any vessel bringing or taking persons to or from Mauritius, examine the persons carried by it and

their baggage, examine any documents relating to such persons and take copies or extracts and may hold and detain the vessel until the inspection and examination are completed.

(2) The master of any vessel arriving or leaving Mauritius shall report to the immigration officer at a port of entry, immediately on arrival or before departure, as the case may be, to enable the immigration officer to examine the passengers and members of the crew.

(3) All passengers and members of the crew of any vessel seeking to enter or leave Mauritius, shall immediately on arrival or before departure, as the case may be, report to the immigration officer and fulfil such formalities as may be prescribed, and shall submit their passports or other travel documents for examination.

#### **17 Clearance of vessels**

No vessel bringing persons to Mauritius shall be granted clearance where the transport company operating it or its master has, in the opinion of the immigration officer, committed an offence under this Act, but clearance may be granted by the immigration officer, with the approval of the Minister, if a sum of money or other security, at least equal to the maximum fine that may be imposed for the offence, is deposited with him.

#### **18 Security in respect of crew**

Where a member of the crew of a vessel deserts the vessel while in Mauritius or is, for any reason, to be left in Mauritius after the departure of the vessel, the immigration officer may require the transport company operating that vessel or its master to deposit with him such sum of money or security as he thinks necessary for the return of the member of the crew to the vessel or for his removal from Mauritius.

#### **19 Refund of passage money**

No transport company shall, without having obtained the permission in writing of the immigration officer, refund, on the surrender of any return ticket, the whole or any portion of any passage money paid in respect of any passenger admitted to Mauritius.

#### **20 Lawful custody**

Any person who is detained by virtue of this Act shall, whilst being detained and whilst being conveyed for the purpose of being removed from Mauritius, be deemed to be in lawful custody.

#### **21 Regulations**

The Minister may make regulations for –

- (a) providing for the examination of vessels, their passengers and members of their crew and their papers;
- (b) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration; and
- (c) providing for the payment of fees and the levying of charges.

[Added 18/08]

#### **22 Specific offences**

Every person who –

- (a) fails, on arriving in, or on leaving, Mauritius, to report to the immigration officer for examination;
- (b) refuses to answer any question put to him at an examination by the immigration officer or does not truthfully answer any question so put to him;
- (c) makes any false or misleading statement in connection with the admission of any person to, or departure from, Mauritius;
- (d) makes any charge to or receives any fee or reward from any person to secure or assist in securing the admission to, or departure from, Mauritius of any person; or

(e) induces, aids or abets or attempts to induce, aid or abet any person to commit any offence under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 12 months.

[Amended 5/99]

**23 General penalty**

Any person who contravenes this Act or any order made or condition imposed under it, for which no specific penalty is elsewhere provided in this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees or to imprisonment for a term not exceeding 6 months.

**24 Prosecutions where instituted**

All prosecutions under this Act shall be instituted before the District Court of Port Louis.

**25 Jurisdiction of District Magistrate**

Notwithstanding section 114 of the Courts Act, a District Magistrate shall have jurisdiction to try all offences under this Act and may impose all fines or penalties provided by this Act.

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