

IMMIGRATION ACT

RL 3/83 - 17 May 1973

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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.

“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;

“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;

“master: means the persons in immediate charge or control of a vessel;

“medical officer” means a person authorised or recognised by the Minister as 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;

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

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

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

“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.

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 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, resident or exempted person, as the case may be.

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 child, stepchild or lawfully adopted child, under the age of 18, of a person to whom any of paragraphs (a) to (c) applies;

(e) he is a person to whom permission has been granted by the Minister under subsection (2) to become a resident;

(f) he is a holder of a residence permit issued under section 9.

(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 fit and proper person to become a resident

(Amended 5/83)

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 that resident of his status of resident.

(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, a notice to that effect shall be served upon him by post at his last known address.

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 under the provisions or 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 visitors;

(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 Cultural Affairs 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) shipwrecked persons;

(l) such persons or classes of persons as the Minister thinks fit and proper.

(2) the immigration officer shall issue to a person admitted to Mauritius under subsections (1)(g), (h) and (l) 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.

(2) The Minister may authorise in writing, under his hand or under the hand of a person designated by him, the admission of Mauritius of any person described in subsection (1).

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

9. Residence permits

(1) The Minister may issue, subject to such conditions as he thinks fit to impose, a written permit, in this act referred to as a “residence 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 has been issued.

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

(4) Upon the cancellation or expiration of a residence 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 residence permit shall be taken into account for the purposes of Mauritius citizenship act.

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 of Mauritius 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 unexpected 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 pr, in lieu of making the deposit, to enter into a recognizance, with or without sureties, in the amount required to be deposited.

[Amended 5/83]

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 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;

(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.

13. Refusal to admit

(1) 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 for to impose having regard to the circumstances of the case.

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 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) and (c), respectively, the immigration officer shall forthwith refer the matter to the Minister for his decision.

(4) Where the Minister is of 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 shall, without the issue of a warrant, arrest and detain him and paragraph (a) shall apply to him as if he had throughout been detained.

(5) Where the Minister is of opinion that the passenger detained or admitted provisionally in Mauritius under subsection (1)(b) and (c) respectively 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 or a 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.

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 defrayed 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 defrayed by the transport company that brought him to Mauritius.

(3) Where a transport company is required to defray the cost of the removal of a passenger under subsection (1), it shall be notified of that 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 of Mauritius and the transport company shall, on demand, reimburse to the Government of Mauritius 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;

(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 of 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 must 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 fulfill such formalities as may be prescribed, and shall submit their passports or their 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 take 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.

22 Specific offences

Every person who =

- (a) falls, 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;
- (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 5,000 rupees or to imprisonment of a term not exceeding 12 months.

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