



Commonwealth Immigrants Act 1968

CHAPTER 9

ARRANGEMENT OF SECTIONS

Section

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ELIZABETH II



1968 CHAPTER 9

An Act to amend sections 1 and 2 of the Commonwealth Immigrants Act 1962, and Schedule 1 to that Act, and to make further provision as to Commonwealth citizens landing in the United Kingdom, the Channel Islands or the Isle of Man; and for purposes connected with the matters aforesaid. [1st March 1968.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. In section 1 of the principal Act (application of Part I), in subsection (2)(b) after the words "citizen of the United Kingdom and Colonies" there shall be inserted the words "and fulfils the condition specified in subsection (2A) of this section", and after subsection (2) there shall be inserted the following subsection:—

Amendment of section 1 of principal Act.

"(2A) The condition referred to in subsection (2)(b) of this section, in relation to a person, is that he, or at least one of his parents or grandparents,—

- (a) was born in the United Kingdom, or
- (b) is or was a person naturalised in the United Kingdom,
or
- (c) became a citizen of the United Kingdom and Colonies by virtue of being adopted in the United Kingdom,
or

1948 c. 56.
1964 c. 22.

(d) became such a citizen by being registered under Part II of the British Nationality Act 1948 or under the British Nationality Act 1964, either in the United Kingdom or in a country which, on the date on which he was so registered, was one of the countries mentioned in section 1(3) of the said Act of 1948 as it had effect on that date”.

Refusal of
admission and
conditional
admission.

2.—(1) The following subsections shall be substituted for subsections (1) and (2) of section 2 of the principal Act:—

“(1) Subject to the following provisions of this section, on the examination under this Part of this Act of any Commonwealth citizen to whom section 1 of this Act applies who enters or seeks to enter the United Kingdom, an immigration officer may refuse him admission into the United Kingdom, or may admit him into the United Kingdom subject to conditions as mentioned in paragraph (a) or paragraph (b) of this subsection, or to conditions as mentioned in both those paragraphs, that is to say—

- (a) a condition restricting the period for which he may remain in the United Kingdom, with or without conditions for restricting his employment or occupation there;
- (b) a condition that, before such date and in such manner as may be specified in the condition, he shall report his arrival to such medical officer of health as may be so specified and shall thereafter attend at such place and time, and submit to such test or examination (if any), as that medical officer of health may require.

(1A) An immigration officer shall not impose such a condition as is mentioned in subsection (1)(b) of this section unless, on the advice of a medical inspector or, where no such inspector is available, on the advice of any other duly qualified medical practitioner, it appears to him to be necessary to do so in the interests of public health.

(2) The power to refuse admission shall not, except as provided by subsection (5) of this section, be exercised on any occasion in respect of a person who—

- (a) satisfies an immigration officer that he is ordinarily resident in the United Kingdom or was so resident at any time within the past two years, or
- (b) being a woman, satisfies an immigration officer that she is the wife of a Commonwealth citizen who is resident in the United Kingdom or of a Commonwealth citizen who enters or seeks to enter the United Kingdom with her.

(2A) Without prejudice to subsection (2) of this section, the power to refuse admission shall not be exercised on any occasion in respect of a person who satisfies an immigration officer—

- (a) that he is under the age of sixteen;
- (b) that he has at least one parent who is a Commonwealth citizen; and
- (c) either that both of his parents are resident in the United Kingdom, or that both of them are entering or seeking to enter the United Kingdom with him, or that one of his parents is resident in the United Kingdom and the other is entering or seeking to enter the United Kingdom with him.

(2B) In paragraph (b) of subsection (2), and in paragraph (c) of subsection (2A), of this section any reference to a person entering or seeking to enter the United Kingdom shall be construed as not including a person who, on the occasion in question, is refused admission into the United Kingdom.

(2C) Where by virtue of subsection (2) or subsection (2A) of this section the power to refuse admission to a person on any occasion is not exercisable, or would not be exercisable apart from subsection (5) of this section, the power under this section to impose any such condition as is mentioned in paragraph (a) of subsection (1) of this section (in the following provisions of this section referred to as a 'restrictive condition') shall not be exercisable on that occasion in respect of that person except—

- (a) in a case falling within subsection (2)(b) of this section, where a restrictive condition is on that occasion imposed on the woman's husband or has previously been imposed on him and is then in force, or
- (b) in a case falling within subsection (2A) of this section, where a restrictive condition is on that occasion imposed on at least one parent of that person or has previously been imposed on at least one parent of his and is then in force".

(2) In subsection (3) of section 2 of the principal Act, for the words "subsection (2)" there shall be substituted the words "subsections (2) and (2A)", and for the words "admit subject to conditions" there shall be substituted the words "impose a restrictive condition".

(3) In subsection (6) of section 2 of the principal Act, for the words from “ ‘ child ’ includes a step-child ” to “ illegitimate child ” there shall be substituted the words “ ‘ parent ’ includes a stepfather or stepmother and a parent by adoption and in relation to a person of illegitimate birth, includes a natural or putative parent of that person, and any reference to both parents, in relation to a person who has only one surviving parent, shall be construed as a reference to that parent ”.

Further
restrictions on
landing in
United
Kingdom.

3. In the principal Act the following section shall be inserted after section 4:—

“ 4A.—(1) Subject to the following provisions of this section, if any person being a Commonwealth citizen to whom section 1 of this Act applies lands in the United Kingdom and does not fulfil either of the conditions specified in the next following subsection, he shall be guilty of an offence.

(2) The conditions referred to in subsection (1) of this section are—

- (a) that, while on board the ship or aircraft from which he lands in the United Kingdom, he has been examined by an immigration officer;
- (b) that he lands in accordance with arrangements approved by an immigration officer, and on landing, submits to examination in accordance with those arrangements.

(3) The Secretary of State may by order provide that subsection (1) of this section shall not apply to a person who lands from a ship or aircraft in such circumstances or combination of circumstances (whether relating wholly or partly to the nature of the voyage of the ship or aircraft, to his being a member of the crew of the ship or aircraft, to his intention to leave the United Kingdom in the same or another ship or aircraft, or to any other matters) as may be specified in the order.

(4) In any proceedings for an offence under this section, where it is proved that a person being a Commonwealth citizen to whom section 1 of this Act applies landed in the United Kingdom, and he does not prove that he landed there in circumstances which (by virtue of an order under subsection (3) of this section) exempt his landing from the operation of subsection (1) of this section, then unless he produces a passport which was duly stamped by an immigration officer—

- (a) on or after the date on which he landed there, and

(b) before the end of the relevant period, he shall, unless the contrary is proved, be presumed to have landed in contravention of subsection (1) of this section.

(5) For the purposes of subsection (4) of this section, a stamp purporting to have been imprinted in a passport by an immigration officer on a particular date shall, unless the contrary is proved, be presumed to have been imprinted by such an officer on that date; and in that subsection 'the relevant period', in relation to a person, means the period beginning with the date on which he landed in the United Kingdom and ending—

- (a) twenty-eight days after that date, or
- (b) at the end of the day on which his examination (including any further examination) in pursuance of paragraph 1 of Schedule 1 to this Act is concluded, whichever is the later.

(6) The power to make orders under this section shall be exercisable by statutory instrument; and any statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section 'land' means land from a ship or aircraft, 'ship' includes every description of vessel used in navigation, and 'crew', in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the master of the ship or the commander of the aircraft, and 'member of the crew' shall be construed accordingly."

4. In sub-paragraph (2) of paragraph 1 of Schedule 1 to the principal Act (whereby a person cannot be required to submit to examination under that paragraph unless he is so required within twenty-four hours from the time of landing) for the words "twenty-four hours from the time when" there shall be substituted the words "twenty-eight days from the date on which". Examination of persons landing in United Kingdom.

5.—(1) Where a person lands from a ship or aircraft in contravention of section 4A of the principal Act, the master of the ship or the commander of the aircraft, as the case may be, if— Special offences relating to contraventions of section 4A of principal Act.

- (a) he knows or has reasonable cause to suspect that that person intends to land from the ship or aircraft in contravention of that section, and

(b) he causes or permits him to do so, or does not take such steps as are reasonable in the circumstances to prevent him from doing so,

shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding six months or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) The preceding provisions of this section shall have effect without prejudice to the operation—

1861 c. 94.
1952 c. 55.

(a) in England and Wales, of section 8 of the Accessories and Abettors Act 1861 and section 35 of the Magistrates' Courts Act 1952;

(b) in Scotland, of any rule of law relating to art and part guilt; or

1964 c. 21.
(N.I.).

(c) in Northern Ireland, of section 8 of the Accessories and Abettors Act 1861 and section 68 of the Magistrates' Courts Act (Northern Ireland) 1964.

(4) In this section "ship" has the same meaning as in section 4A of the principal Act.

Interpretation
and supplementary
provisions.
1962 c. 21.

6.—(1) In this Act "the principal Act" means the Commonwealth Immigrants Act 1962, and "enactment" includes an enactment of the Parliament of Northern Ireland.

(2) In section 14 of the principal Act (penalties, proceedings etc.), in subsection (2), after the words "offence under this Act" there shall be inserted the words "or under section 5 of the Commonwealth Immigrants Act 1968"; and in subsection (3), after the words "section four" there shall be inserted the words "section 4A", and at the end of subsection (3) there shall be inserted the words "or under section 5 of the Commonwealth Immigrants Act 1968".

(3) In section 18 of the principal Act (provisions relating to the Channel Islands and Isle of Man), in subsection (1), in paragraph (a), after "(2)" there shall be inserted "(2A)", and after that paragraph there shall be inserted the following paragraph:—

"(aa) section 4A",

and in subsection (2), after the words "this Act" there shall be inserted the words "(either as originally enacted or as amended by the Commonwealth Immigrants Act 1968) or of section 5 of that Act".

(4) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under section 19 of the principal Act (which relates to expenses).

(5) Her Majesty may by Order in Council direct that section 4A of the principal Act shall have effect, subject to such exceptions and modifications as may be specified in the Order, in relation to persons entering the United Kingdom by land as it has effect in relation to persons landing in the United Kingdom from a ship or aircraft; and any such Order may be revoked or varied by a subsequent Order in Council under this subsection.

(6) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (5) of this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

7.—(1) This Act may be cited as the Commonwealth Immigrants Act 1968; and the Commonwealth Immigrants Act 1962 and this Act may be cited together as the Commonwealth Immigrants Acts 1962 and 1968.

Short title,
citation and
commence-
ment.
1962 c. 21.

(2) This Act, except sections 3 and 5, shall come into operation on the day after the day on which it is passed; and sections 3 and 5 of this Act shall come into operation at the end of the period of eight days beginning with the day on which it is passed.