

Immigration Act 1964

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An Act to consolidate and amend the law relating to immigration into New Zealand

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Immigration Act 1964.
- (2) This Act shall come into force on the first day of January, nineteen hundred and sixty-five.

2 Interpretation

In this Act, unless the context otherwise requires,—

“Aircraft” includes any aircraft of any kind, whether owned or registered in New Zealand or in any other country, except aircraft plying from one place in New Zealand to any other place therein:

“Collector” means the Collector or other principal officer of Customs at the port or place of arrival of any ship or aircraft; and includes any person employed in the Department of Labour for the time being authorised by the Minister to exercise or perform any of the powers or functions of the Collector under this Act:

“Commonwealth country” means a country that is a member of the Commonwealth of Nations; and includes every territory for whose international relations the Government of any such country is responsible:

“Immigration Officer” means—

- (a) Any person employed in the Customs Department:
- (b) Any person employed in the Department of Labour:
- (c) Any overseas representative within the meaning of the External Affairs Act 1943:
- (d) Any officer appointed under that Act to assist such an overseas representative:
- (e) Any Trade Commissioner for New Zealand in any other country,—

being a person so employed, an overseas representative, an officer, or a Trade Commissioner, as the case may be, who is for the time being authorised by the Minister, whether by name or as the holder for the time being of a specified office, to exercise or perform any of the powers or functions of an Immigration Officer under this Act:

“Master”, in relation to any ship, means the person (other than any person not belonging to the ship who has the conduct thereof) for the time being in actual command of the ship:

“Mentally defective person” means a person who is a mentally defective person as defined in the Mental Health Act 1911 and is likely to remain mentally defective for an indefinite period:

“Minister” means the Minister of Immigration; and includes any person for the time being authorised to exercise or perform any of the Minister’s powers or functions:

“Pilot in command”, in relation to any aircraft, means the pilot for the time being in charge of the aircraft:

“Prohibited immigrant” means a person who is prohibited from landing in New Zealand pursuant to section 4 of this Act; and includes a person who is deemed to be a prohibited immigrant by section 17 of this Act:

“Ship” includes any New Zealand or other Commonwealth or foreign navigable vessel of any kind, except a vessel plying from any port or place in New Zealand to any other port or place therein.

Compare: 1908, No. 78, ss. 2, 2a; 1944, No. 31, s. 10(1)(a); 1949, No. 51, s. 24; 1951, No. 14, ss. 2(1), 3(1); 1959, No. 12, s. 2

Part I

Prohibited Immigrants

3 Exceptions to operation of this Part

This Part of this Act does not apply to—

- (a) Any New Zealand citizen; or
- (b) Any person possessed of and named in a certificate in the form in the First Schedule to this Act, signed by the Minister or any officer, whether in or outside of New Zealand, whom the Minister authorises to grant such certificates; or
- (c) Any person of a class for whose migration to New Zealand provision is made by law or by a scheme approved by the Governor-General in Council; or
- (d) Any person or class of persons exempted by the Governor-General in Council; or
- (e) Any member of the armed forces of any Commonwealth country; or
- (f) The officers and crew of any ship or aircraft belonging to the armed forces of any Government; or
- (g) Any person being one of the officers or crew of any mercantile ship or aircraft, provided he is not discharged in New Zealand and is on board the ship or aircraft when she is cleared outwards and leaves New Zealand with her; or
- (h) Any person accorded immunity from suit and legal process pursuant to the Diplomatic Immunities and Privileges Act 1957, not being a person accorded such immunity by reason only of his being a member of the

domestic staff of any other person accorded such immunity pursuant to that Act.

Compare: 1908, No. 78, s. 13; 1951, No. 14, s. 2(2); 1959, No. 12, s. 3

4 Persons prohibited from landing in New Zealand

- (1) Except where this Part of this Act otherwise provides, it shall not be lawful for any person of any of the following classes (in this Act referred to as a prohibited immigrant) to land in New Zealand, that is to say:
- (a) Any mentally defective person:
 - (b) Any person suffering from any disease specified by the Governor-General, by Order in Council:
 - (c) Any person who at any time, whether before or after the commencement of this Act, has been convicted of any offence for which he has been sentenced to a term of imprisonment or other form of detention for one year or more or to any form of indeterminate detention for which he may be detained for a period of one year or more:
 - (d) Any person who at any time, whether before or after the commencement of this Act, has been deported from New Zealand, except under the provisions of section 158 of the Shipping and Seamen Act 1952, or deported from any other country:

Provided that the provisions of paragraphs (c) and (d) of this subsection shall not apply to any person who first entered New Zealand before the twenty-fourth day of September, nineteen hundred and fifty-nine (being the date of the passing of the Immigration Restriction Amendment Act 1959), unless that person has left New Zealand on or after that date.

- (2) This section shall not apply to shipwrecked persons or persons landing from any aircraft in distress.

Compare: 1908, No. 78, ss. 14, 26(a); 1920, No. 23, s. 4(1); 1959, No. 12, s. 4

5 Unlawful landing of prohibited immigrant

- (1) Every person commits an offence against this Act who—
- (a) Being a prohibited immigrant, unlawfully lands in New Zealand; or
 - (b) Wilfully assists a prohibited immigrant unlawfully to land in New Zealand; or
 - (c) Wilfully assists any person to evade or contravene the provisions of this Part of this Act; or
 - (d) Obstructs or hinders any officer in the discharge of his functions or duties under this Part of this Act; or
 - (e) Commits any breach of any of the provisions of this Part of this Act.
- (2) If any person wilfully assists any mentally defective person unlawfully to land in New Zealand, then, in addition to any fine imposed pursuant to this section,

he is also liable to the Crown for the cost of the maintenance of the mentally defective person while he is in New Zealand.

Compare: 1908, No. 78, ss. 18, 25; 1951, No. 14, s. 4(8)

6 Liability of master or pilot and owner of ship or aircraft

Where a prohibited immigrant unlawfully lands in New Zealand from any ship or aircraft, the master and the owner of the ship or, as the case may be, the pilot in command and the owner of the aircraft by which the prohibited immigrant was brought to New Zealand each commits an offence and is liable to a fine not exceeding one hundred pounds in respect of each such immigrant; and are jointly and severally liable to defray the expenses incurred by the Crown at removing any such immigrant from New Zealand and in detaining him and maintaining him in New Zealand pending that removal:

Provided that in the case of a person who is a prohibited immigrant pursuant to section 4 of this Act, no proceedings shall be taken against any master or pilot in command or owner in respect of any such offence or for the recovery of any such expenses after the expiration of three months from the date of arrival of the ship or aircraft in any port or place in New Zealand.

Compare: 1908, No. 78, s. 19

7 Liability where prohibited immigrant transhipped

Where any prohibited immigrant is transhipped from one ship or aircraft to another or from a ship to an aircraft or from an aircraft to a ship for the purpose of being brought to New Zealand, the provisions of this Part of this Act shall apply to both those ships or aircraft or, as the case may be, that ship and that aircraft, their masters or pilots in command, and their owners, in like manner as if the immigrant had been brought to New Zealand by both those ships or aircraft or, as the case may be, by that ship and that aircraft.

Compare: 1908, No. 78, s. 20

8 No ship or aircraft to be cleared outwards until this Part complied with

No ship or aircraft shall be cleared outwards from any port or place in New Zealand, unless and until all the provisions of this Part of this Act relating to the ship or aircraft, its master or pilot in command, and its owner, have been duly complied with, nor until all fines and other money payable by the master or pilot in command or owner have been fully paid, or have been duly secured by bond in manner provided in section 24 of this Act.

Compare: 1908, No. 78, s. 21

9 Ship or aircraft may be detained if this Part not complied with

- (1) Where the Minister is of the opinion that the master or pilot in command or owner of any ship or aircraft has committed any offence against this Part of this Act, or has made any default or is liable for the payment of any fine or other

money under this Part of this Act, he may by writing under his hand authorise any Immigration Officer or any constable to detain the ship or aircraft.

- (2) Such detention may be either at the port or place where the ship or aircraft is found or at any port or place to which the Minister orders the ship or aircraft to be brought.
- (3) For the purpose of such detention, the person authorised to effect the same shall be entitled to make any seizure in the same manner as a seizure of forfeited goods under any Act relating to the Customs.
- (4) Such detention shall be for safe custody only, and shall be discontinued if a bond with two sufficient sureties to the satisfaction of the Minister is given by the master or pilot in command or owner for the full payment of all fines and other money then payable, or that may thereafter be adjudged to be payable, under this Part of this Act in respect of any such offence, default, or liability, including the costs incurred in or about the detention of the ship or aircraft.

Compare: 1908, No. 78, s. 22

10 In default of payments due, ship or aircraft may be sold

Where default is made by the master or the owner of any ship or the pilot in command or the owner of any aircraft in paying or securing by bond as aforesaid the full payment of any fine or other money payable under this Part of this Act by the master or pilot in command or owner, the ship or aircraft may be seized and sold under the provisions for seizure and sale of forfeited goods in any Act relating to the Customs, and for that purpose the provisions of subsection (3) of section 9 of this Act, as far as they are applicable and with any necessary modifications, shall apply.

Compare: 1908, No. 78, s. 23(1)

11 Application of proceeds of sale

The proceeds of the sale shall be applied—first, in payment of the costs incurred in and about the detention, seizure, and sale of the ship or aircraft; secondly, in payment of all fines and other money payable under this Part of this Act as aforesaid by the master or pilot in command or the owner; and thirdly, the surplus (if any) shall be paid to the owner or other person lawfully entitled thereto.

Compare: 1908, No. 78, s. 23(2)

Part II

Permits to Enter New Zealand

12 Application of this Part

This Part of this Act applies to all persons except the persons and classes of persons specified in section 3 of this Act.

Compare: 1920, No. 23, s. 7

13 Permits to enter New Zealand

No person to whom this Part of this Act applies shall (except as by this Act is specially provided) enter into New Zealand, unless he is the holder of a permit to enter in the prescribed form and for the time being in force.

Compare: 1920, No. 23, s. 5; 1961, No. 85, s. 2

14 Temporary permits may be granted to visitors

- (1) Any person to whom this Part of this Act applies who arrives in New Zealand without a permit but proves to the satisfaction of the Minister that he desires to enter New Zealand as a visitor only for purposes of business, study, training, instruction, pleasure, or health may be granted a temporary permit in the prescribed form. A permit under this section may be granted for a period not exceeding six months or, in special circumstances, for such longer period in any case as the Minister may, in his discretion, determine.
- (2) Any such temporary permit may be granted subject to such conditions (if any) as may be prescribed by regulations under this Act, and to such other conditions as may in any case be imposed by the Minister. Every person to whom a temporary permit is so granted who fails to comply with any of the conditions subject to which that permit has been granted commits an offence against this Act.
- (3) Where any such temporary permit is granted to a visitor, a similar temporary permit may be granted to the wife or husband and children of the visitor, and any servants, attendants, and employees of the visitor actually accompanying the visitor.
- (4) If a person to whom any such temporary permit is granted desires to remain in New Zealand beyond the period for which the permit was granted, he may make application to the Minister, who may, in his discretion, either grant an extension or extensions from time to time of the temporary permit, or grant to that person a permit in the form prescribed with respect to persons intending to settle permanently in New Zealand:

Provided that a permit in the last-mentioned form shall be granted only if the Minister is satisfied that the person is one to whom the permit in that form would have been granted if due application had been made for the same in the manner and subject to the conditions hereinafter in this Part of this Act provided.

- (5) A person to whom a temporary permit is granted who remains in New Zealand beyond the period for which the permit was granted without having applied for and been granted an extension of the temporary permit, or having been granted such an extension remains in New Zealand after the extended period, commits an offence against this Act.
- (6) A temporary permit granted under this section may be at any time revoked by the Minister. Every person whose temporary permit has been so revoked

commits an offence against this Act if he does not leave New Zealand within such time after the revocation of his permit as the Minister prescribes in that behalf by notice in writing to the holder delivered to him personally or sent to him by registered post addressed to him at his last known address in New Zealand. Every such notice sent by registered post shall be deemed to have been received when in the ordinary course of post it would be delivered.

Compare: 1920, No. 23, s. 8; 1951, No. 14, s. 2(4)

15 Form of application for permit to enter New Zealand

- (1) Application for a permit to enter New Zealand shall be made in the prescribed form to an Immigration Officer.
- (2) The Minister shall consider the application, and may, in his discretion, grant or refuse to the applicant a permit to enter New Zealand.
- (3) A permit under this section may be granted subject to such conditions (if any) as may be prescribed by regulations under this Act, and to such other conditions as may in any case be imposed by the Minister.
- (4) A permit may, at the Minister's discretion, be granted to include the wife or husband of the applicant and any one or more members of the applicant's family.
- (5) Subject to the provisions of section 14 of this Act, every person commits an offence against this Act who, being a person who is required to be the holder of a permit under this section to enter New Zealand,—
 - (a) Enters New Zealand without being the holder of such a permit for the time being in force; or
 - (b) Fails to comply with any of the conditions subject to which such a permit has been granted.

Compare: 1920, No. 23, s. 9; 1951, No. 14, s. 2(4)

16 Offence to obtain permit by false representation

Every person commits an offence against this Act who wilfully makes any false statement or representation for the purpose of obtaining a permit to enter New Zealand and who obtains such a permit and enters New Zealand in accordance therewith.

Compare: 1920, No. 23, s. 10

17 Persons seeking to enter New Zealand without a permit deemed to be prohibited immigrants

Subject to the provisions of section 14 of this Act, a person who is required by this Part of this Act to be the holder of a permit to enter New Zealand and who is not at the time of the arrival in New Zealand on the ship or aircraft in which he travels the holder of a permit in the prescribed form and for the time being in force shall be deemed to be a prohibited immigrant for all the purposes of

Part I of this Act, and all the provisions of that Part shall accordingly apply in respect of that person, and in respect of the ship or aircraft in which he travels and the master or pilot in command and the owner thereof, and in respect of the persons referred to in section 5 of this Act.

Compare: 1920, No. 23, s. 12

18 Permit void if obtained illegally

Where, whether before or after the commencement of this Act and whether in New Zealand or elsewhere, any person to whom this Part of this Act applies (in this section referred to as the applicant), or any person on his behalf, for the purpose of any application for the grant of a permit authorising the applicant to enter into New Zealand—

- (a) Produces to an Immigration Officer any certificate, passport, visa, identification card, or other document that purports to have been issued to or in respect of the applicant but was issued to or in respect of some person other than the applicant, or that was forged or was obtained by any false representation or contains any statement that is false or misleading in any material particular; or
- (b) Makes any statement that is false or misleading in any material particular—

any permit granted to the applicant pursuant to the application, whether before or after the commencement of this Act, shall be void and of no effect, and, if the applicant enters into New Zealand, then, notwithstanding the grant to him of an entry permit pursuant to the application, he shall be deemed to have entered New Zealand without being the holder of a permit to enter, contrary to the provisions of section 15 of this Act.

Compare: 1920, No. 23, s. 12a; 1960, No. 66, s. 2

19 Minister may grant exemption from provisions of this Part

- (1) The Minister may, in his discretion, from time to time exempt from all or any of the requirements of this Part of this Act any person or class of persons entering or desiring to enter New Zealand.
- (2) Any exemption granted by the Minister under this section shall be subject to such conditions as the Minister may impose, and every person who commits a breach of or fails to observe any such condition commits an offence against this Act.

Compare: 1920, No. 23, s. 13; 1951, No. 14, s. 2(4)

Part III

Deportation of Prohibited Immigrants

20 Prohibited immigrants to be deported

- (1) Where any person is convicted of an offence against paragraph (a) of subsection (1) of section 5 or subsection (5) of section 22 or any provision of Part II of this Act, the Court shall, in addition to or instead of any penalty that it may impose for the offence, direct that the offender be held in custody subject to the provisions of subsection (2) of this section.
- (2) Where any person is convicted of an offence referred to in subsection (1) of this section or of an offence against subsection (3) of this section,—
 - (a) He shall be detained in any penal institution and shall at any available opportunity be placed by any constable on board any ship or aircraft which is leaving New Zealand and on which accommodation for that person is available:

Provided that the Court, if it thinks fit, may, unless he is undergoing a sentence of detention in respect of some other offence, release him on bail for a sum not exceeding two hundred pounds with, if the Court so orders, not more than two sureties for the like amount, and subject to a condition that he reside where directed by the police and report to the police at such intervals as the Court directs and to such other conditions as the Court thinks fit to impose:
 - (b) If that person is not previously placed on any such ship or aircraft, he shall at the expiration of two months after the date of his conviction or, if he is then serving any sentence of detention in respect of any other offence, on his discharge therefrom, again be brought before a Magistrate's Court, which may—
 - (i) Direct that he be detained in custody for a further period not exceeding two months, in which event the provisions of this subsection shall continue to apply to him; or
 - (ii) Direct that he be released on bail for a sum not exceeding two hundred pounds with, if the Court so orders, not more than two sureties for the like amount, and subject to the conditions specified in paragraph (a) of this subsection:
 - (c) If that person is not previously placed on any ship or aircraft, he shall, at the expiration of four months after the date of his conviction if he is then detained in custody or, if he is then serving any sentence of detention in respect of any other offence, on his discharge therefrom, again be brought before a Magistrate's Court, which shall direct that he be released on bail for a sum not exceeding two hundred pounds with, if the Court so orders, not more than two sureties for the like amount, and subject to the conditions specified in paragraph (a) of this subsection.

- (3) Every person commits an offence, who, having been released on bail under the provisions of this section, fails to comply with any condition of his bail, and shall be liable to imprisonment for a term not exceeding three months. The Court by which that person is convicted for an offence under this subsection shall, instead of or in addition to any penalty it may impose for the offence, direct him to be held in custody subject to the provisions of subsection (2) of this section.
- (4) Any person convicted of an offence referred to in subsection (2) of this section, including a person released on bail under the provisions of this section, may at any time within two years after the conviction be taken into custody by any constable without warrant and placed on board a ship or aircraft for deportation under the provisions of this section, and for that purpose he may be held in custody without warrant for a period not exceeding fourteen days.
- (5) Where any person so released on bail embarks or is placed on board any ship or aircraft and leaves New Zealand thereby at any time before a breach of any condition of the bail bond has been made, or where any person so released on bail has not left New Zealand within the time prescribed by this section and there has been no breach of any condition of his bail bond, the bail bond shall thereupon cease to have any effect. For the purposes of this section, a person shall not be deemed to have left New Zealand by any ship or aircraft unless he is on board the ship or aircraft when she leaves her last port or place of call in New Zealand or, where the ship or aircraft after leaving her last port or place of call in New Zealand returns to a port or place in New Zealand because of any emergency, when the ship or aircraft finally leaves New Zealand on that voyage or flight.
- (6) Such a sum as the Minister considers reasonable may be paid out of money to be appropriated by Parliament for the purpose to the owner or agent of the owner of any ship or aircraft on account of the carriage from New Zealand of any person who embarks or is placed on board that ship or aircraft pursuant to this section.
- (7) Where a person convicted of an offence referred to in subsection (2) of this section is convicted (whether before or after the first-mentioned conviction) of any other offence and is sentenced to a term of detention, the provisions of this section as to deportation shall, notwithstanding anything in subsection (4) of this section, continue to apply to him during the period of six months following his discharge from serving his sentence for the last-mentioned offence, or during the remainder of the period of two years from the date of his conviction for the first-mentioned offence, whichever period is the longer.

Compare: 1951, No. 14, s. 4; 1959, No. 12, s. 6(2)

21 Duty of master of ship or pilot of aircraft as to person proposed to be removed from New Zealand

On payment or offer of payment to the owner, charterer, or master, or, as the case may be, the pilot in command, of any ship or aircraft about to leave New Zealand of a reasonable sum on account of the carriage from New Zealand of any person proposed to be removed from New Zealand under this Act, it shall be the duty of the owner, charterer, master, or pilot in command, as the case may be, to receive and retain that person on board the ship or aircraft; and if that owner, charterer, master, or pilot in command refuses to receive or retain that person on board, or connives at or assists his escape from the ship or aircraft, he commits an offence, and is liable to a fine not exceeding one hundred pounds.

Compare: 1908, No. 78, s. 21

Part IV

Persons Convicted of Offences After Arrival in New Zealand

22 Persons convicted of offences after arrival in New Zealand

- (1) The Minister may, by order signed by him, order any person (being a British subject who is not a New Zealand citizen) to leave New Zealand, where—
 - (a) Any Court certifies to the Minister that that person has been convicted, either by that Court or by any inferior Court from which the case of that person has been referred for sentence or brought by way of appeal, of an offence committed within five years after his arrival in New Zealand or an offence committed outside New Zealand, being in either case an offence for which the Court has power to impose imprisonment for a term of one year or more, and that the Court recommends that that person should be deported either in addition to or instead of sentence; or
 - (b) That person is convicted in New Zealand of an offence committed within five years after his arrival in New Zealand or an offence committed outside New Zealand and in either case is sentenced to imprisonment for one year or more or to preventive detention.
- (2) Where any person referred to in subsection (1) of this section has arrived in New Zealand on more than one occasion, then, for the purposes of that subsection, he shall be deemed to have arrived in New Zealand on the date on which he last arrived in New Zealand before the commission of the offence.
- (3) No order may be made under subsection (1) of this section for the deportation of any person—
 - (a) In any case to which paragraph (a) of that subsection applies, after six months from the expiration of—
 - (i) The date on which that person was released from detention under the sentence; or

- (ii) Where he was not sentenced to any form of detention, the date on which the recommendation was made by the Court or, in the case of an appeal, the date of the determination of the appeal:
 - (b) In any case to which paragraph (b) of that subsection applies, after the expiration of six months from the date on which that person was released from detention under the sentence.
- (4) Where any case in which a Court has made a recommendation for deportation is brought by way of appeal against conviction or sentence before any higher Court, the recommendation shall be deemed to be suspended pending the determination of the appeal. On the determination of the appeal, the higher Court may if it thinks fit, and notwithstanding that it dismisses the appeal, cancel the recommendation, and thereupon the recommendation shall be of no effect.
- (5) If any person in respect of whom an order for deportation is made under this section remains in New Zealand for twenty-eight days after the day on which the order or a copy or duplicate thereof is served on him, he commits an offence against this Act, and thereupon the provisions of section 20 of this Act shall apply.

Compare: 1908, No. 78, s. 14a; 1959, No. 12, s. 6(1)

Part V

Passengers Under Disability

23 “Passenger” defined

In this Part of this Act, the term “passenger” includes all passengers by any ship or aircraft, and also the crew thereof, and all persons on board and belonging in any capacity thereto.

Compare: 1908, No. 78, s. 3

24 Bond to be given

Where a registered medical practitioner certifies in writing to an Immigration Officer that any passenger arriving in New Zealand on board any ship or aircraft is a mentally defective person or is dumb, blind, or infirm, and is likely to become a charge upon the public or upon any public or charitable institution, an Immigration Officer shall require the owner, charterer, or master or, as the case may be, pilot in command of that ship or aircraft, within fourteen days after her arrival, to execute a bond to Her Majesty in the sum of five hundred pounds for every such passenger.

Compare: 1908, No. 78, s. 4

25 Provision as to ships and aircraft quarantined

Where any such ship or aircraft or its passengers have been quarantined under the provisions of the Health Act 1956, the period within which the owner, charterer, master, or pilot in command shall be required to give a bond under

section 24 of this Act shall be within fourteen days after the discharge from quarantine of the ship or aircraft or passengers, as the case may be.

Compare: 1908, No. 78, s. 5

26 Conditions of bond

- (1) Every bond under section 24 of this Act shall be entered into with at least two sufficient sureties, who, together with the person giving the bond, shall be bound jointly and severally to pay to the Minister all money or expenses which may be laid out or incurred within the space of five years after the execution of the bond for maintenance or support of the passenger by or in any public or charitable institution in New Zealand.
- (2) The sureties shall satisfy an Immigration Officer, by such evidence as he may require, that they are resident in New Zealand and are severally worth treble the amount of the penalty of the bond over and above all their liabilities.

Compare: 1908, No. 78, s. 6

27 Bond to be applied to maintenance of passengers, etc

If any passenger for whom a bond has been given as aforesaid receives maintenance or support from any public or charitable institution in New Zealand at any time within five years after the execution of the bond, the reasonable charges incurred for that maintenance and support shall be repaid out of the money collected under the bond to the extent of the penalty therein mentioned, or so much thereof as may be required.

Compare: 1908, No. 78, s. 7

28 Enforcement of bond

Every such bond may be enforced, and the penalty, or so much thereof as is required to defray the reasonable charges incurred in that maintenance or support, may be recovered on behalf of Her Majesty in the manner provided by the Crown Proceedings Act 1950.

Compare: 1908, No. 78, s. 9

29 Payment to institutions maintaining passengers

All money recovered or received under any such bond as aforesaid shall be paid by the Minister to the public or charitable institution by or in which any such passenger has been maintained or supported as aforesaid.

Compare: 1908, No. 78, s. 10

30 Penalty for refusing to execute bond

- (1) If the owner, charterer, or master or, as the case may be, pilot in command of any ship or aircraft neglects or refuses to execute a bond in any case where he is required to do so pursuant to section 24 of this Act within seven days after being required to do so pursuant to that section, he commits an offence and is

liable to a fine not exceeding one hundred pounds, but the payment of the fine shall not be deemed to release him from executing such a bond.

- (2) In any such case the ship or aircraft shall not, either during or after the expiration of the said period of seven days, be cleared outwards unless the bond has been executed and any fine imposed for the offence has been paid.

Compare: 1908, No. 78, s. 11

31 This Part not to apply in certain cases

The provisions of this Part of this Act shall not apply with respect to—

- (a) New Zealand citizens; or
- (b) Persons ordinarily resident in New Zealand; or
- (c) Immigrants brought to New Zealand at the expense, either wholly or partly, of the Government of New Zealand; or
- (d) Shipwrecked mariners or members of the crew of an aircraft in distress who are brought to New Zealand without charge on a ship or aircraft other than that to which they belonged; or
- (e) Members of the armed forces of any Commonwealth country.

Compare: 1908, No. 78, s. 12; 1910, No. 16, s. 2

32 Minister may exempt certain persons

The Minister, at his discretion, may, by order, declare that the provisions of this Part of this Act shall not apply with respect to any specified person to whom, pursuant to section 3 of this Act, the provisions of Part I of this Act do not for the time being apply, subject to such conditions as the Minister thinks fit.

Compare: 1910, No. 16, s. 3; 1944, No. 31, s. 10(2)(b)

Part VI General Provisions

33 Declarations required from persons entering or leaving New Zealand

- (1) Except with authority of the Minister, no person shall enter or leave New Zealand from or for any place outside New Zealand, unless and until he has made and delivered to an Immigration Officer a declaration in the prescribed form.
- (2) Subsection (1) of this section shall not apply to—
 - (a) A child under the age of fifteen years; or
 - (b) A person entering or leaving New Zealand as the master or, as the case may be, the pilot in command or member of the crew of the ship or aircraft in which he enters or leaves.
- (3) Any person who enters New Zealand from any place outside New Zealand as the master or, as the case may be, the pilot in command or a member

of the crew of any ship or aircraft may thereupon, or at any time thereafter, whether before or after he has landed from that ship or aircraft, be required by an Immigration Officer or a constable to make and deliver to that officer or constable a declaration in the prescribed form.

- (4) Every person commits an offence against this Act who—
- (a) Being required by this section to make and deliver a declaration before entering or leaving New Zealand, lands in New Zealand or, as the case may be, goes on board any ship or aircraft for the purpose of leaving New Zealand without having made and delivered such a declaration; or
 - (b) Being required by an Immigration Officer or a constable to make and deliver a declaration pursuant to this section, refuses or fails to make and deliver a declaration accordingly; or
 - (c) Makes any declaration under this section which is in any respect wilfully false or misleading.

Compare: 1923, No. 11, s. 3

34 Evidence

- (1) In any proceedings for an offence against section 5 of this Act or against any provision of Part II of this Act—
- (a) A person who has entered New Zealand shall, in the absence of proof to the contrary, be deemed to be a person who is required by Part II of this Act to obtain a permit to enter New Zealand:
 - (b) The production by an Immigration Officer of the documents delivered by the master of a ship or the pilot in command of an aircraft under paragraph (a) of subsection (1) of section 31 of the Customs Act 1913, together with evidence that the ship or aircraft has subsequently departed from New Zealand, shall, in the absence of proof to the contrary, be sufficient evidence that any person who is in New Zealand, and who bears a name that appears in the list of passengers or crew in those documents, has entered New Zealand from that ship or aircraft.
- (2) In any proceedings for an offence against section 5 of this Act or against any provision of Part II of this Act, a certificate signed by a Collector of Customs or by a person employed in the Department of Labour authorised by the Secretary of Labour, if it contains a statement, in relation to the defendant in the proceedings, that—
- (a) He is not a New Zealand citizen; or
 - (b) He entered New Zealand before, on, or after a specified date; or
 - (c) He was not, at the time he entered New Zealand or at any other specified time, the holder of an entry permit; or
 - (d) He was the holder of a temporary entry permit that has expired or has been cancelled; or

- (e) For the purpose of securing entry into New Zealand, he produced to an Immigration Officer a permit, certificate, passport, visa, identification card, or other document that was not issued to him or was forged or was obtained by false representations; or
- (f) That he entered New Zealand as one of the officers or crew of a mercantile ship or aircraft and was not on board the ship or aircraft when she was cleared outwards and left New Zealand—

shall, in the absence of proof to the contrary, be deemed to be proof of that statement.

- (3) Where any such certificate contains a statement as to any matter specified in paragraph (e) of subsection (2) of this section, the Court in its discretion, if it considers it fair and equitable to do so, may accept as evidence any statement, document, or information tendered by or on behalf of the defendant in rebuttal of that statement, whether or not the same would be otherwise admissible in a Court of law.
- (4) Every person employed in the Department of Labour signing any such certificate shall, in the absence of proof to the contrary, be presumed to be duly authorised to sign it.
- (5) Where the defendant in any such proceedings applies to the Court for an adjournment of the proceedings for the purpose of enabling him to obtain evidence in rebuttal of any evidence tendered as proof to the contrary for the purposes of subsection (2) of this section, the Court shall grant an adjournment for such reasonable time as is necessary for the purpose.

Compare: 1951, No. 14, s. 5; 1962, No. 77, s. 2

35 Penalty for offences

Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.

Compare: 1920, No. 23, s. 11; 1951, No. 14, s. 6; 1958, No. 69, s. 2

36 Offences punishable on summary conviction

- (1) Every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction.
- (2) No prosecution for an offence against this Act or against any regulations made under this Act shall be commenced except on the information of an Immigration Officer or of some other person authorised for that purpose by the Minister.

- (3) Section 14 of the Summary Proceedings Act 1957 shall not apply with respect to proceedings for an offence against this Act or against any regulations made under this Act.

Compare: 1908, No. 78, ss. 11(3), 27; 1944, No. 31, s. 11; 1951, No. 14, s. 4(9)

37 Proceedings not to be taken against both owner and master or pilot

Where by any provision of this Act any act or omission is declared to be an offence committed by the owner of any ship or aircraft and also by the master or pilot in command, then, if proceedings in respect of that offence are taken against the owner, proceedings in respect of that offence shall not be taken against the master or pilot in command, and, if proceedings in respect of that offence are taken against the master or pilot in command, proceedings in respect of that offence shall not be taken against the owner.

38 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for the inspection of ships and aircraft, their passengers, crews, and papers:
- (b) Prescribing forms:
- (c) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof:
- (d) Prescribing fines, not exceeding fifty pounds, for the breach of regulations made under this Act.

Compare: 1908, No. 78, s. 44; 1920, No. 23, s. 3

39 Delegation of powers of Minister

- (1) The Minister may from time to time, by writing under his hand, delegate to any Immigration Officer all or any of the powers (except this present power of delegation and any powers conferred on the Minister by section 19, section 22, or section 32 of this Act) exercisable by the Minister under this Act.
- (2) The Immigration Officer to whom any such delegation may be made may be an officer referred to by name or the officer who for the time being and from time to time holds a specified office.
- (3) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.
- (4) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be made either generally or in relation to any particular case.
- (5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made has

ceased to hold office, and shall continue to have effect as if made by the successor in office of that Minister.

Compare: 1920, No. 23, s. 22

40 Prerogative of mercy

Nothing in this Act shall affect the prerogative of mercy.

41 Repeals

The enactments specified in the Second Schedule to this Act are hereby repealed.

SCHEDULES

FIRST SCHEDULE

Section 3(b)

Certificate of Exemption Under the Immigration Act 1964 Pursuant to the Immigration Act 1964, I hereby certify that [*Full name, occupation, and address*], whose signature appears below, is exempt from the operation of Part I of that Act (relating to prohibited immigrants).

[*Signature of exempted person*]

Dated at this day of 19 .

A.B.

Minister of Immigration

[*or otherwise, as the case may be*].

SECOND SCHEDULE

Enactments Repealed

Section 41

1908, No. 78—The Immigration Restriction Act 1908. (1957 Reprint, Vol. 6, p. 280.)

1910, No. 16—The Immigration Restriction Amendment Act 1910. (1957 Reprint, Vol. 6, p. 293.)

1920, No. 23—The Immigration Restriction Amendment Act 1920. (1957 Reprint, Vol. 6, p. 294.)

1923, No. 11—The Immigration Restriction Amendment Act 1923. (1957 Reprint, Vol. 6, p. 301.)

1944, No. 31—The Finance Act (No. 3) 1944: Part II. (1957 Reprint, Vol. 6, p. 302.)

1949, No. 51—The Statutes Amendment Act 1949: Section 24. (1957 Reprint, Vol. 6, p. 303.)

1951, No. 14—The Immigration Restriction Amendment Act 1951. (1957 Reprint, Vol. 6, p. 303.)

1958, No. 69—The Immigration Restriction Amendment Act 1958.

1959, No. 12—The Immigration Restriction Amendment Act 1959.

1960, No. 66—The Immigration Restriction Amendment Act 1960.

1961, No. 85—The Immigration Restriction Amendment Act 1961.

1962, No. 77—The Immigration Restriction Amendment Act 1962.

This Act is administered in the Department of Labour.