

DEPORTATION ACT

Act 48 of 1968 – 14 December 1968

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|--|--------------------------------|
| 1. Short title | 7. Execution of orders |
| 2. Interpretation | 8. Persons undergoing sentence |
| 3. Application | 9. Expenses |
| 4. Deportation orders | 10. Offences |
| 5. Procedure | 11. Evidence |
| 6. Detention in custody pending decision | 12. Regulations |

DEPORTATION ACT

1. Short title

This Act may be cited as the Deportation Act.

2. Interpretation

In this Act—

“Commonwealth citizen” has the same meaning as in the Mauritius Citizenship Act;

“convicted person” means a person who has been sentenced to a term of imprisonment;

“deportation order” means an order requiring the person in respect of whom it is made to leave and remain out of Mauritius;

“destitute person” means a person who is, or is likely to be, a charge upon public funds by reason of mental or bodily health or insufficiency of means to support himself and his dependants;

“Minister” means the Minister to whom responsibility for the subject of defence and internal security is assigned;

“person charged” means a person in respect of whom it is alleged that there are grounds for making a deportation order under this Act and includes a person in respect of whom such an order has been made;

“prohibited immigrant” means a person who has entered Mauritius in breach of any enactment relating to immigration or who has been transferred to Mauritius under the Piracy and Maritime Violence Act;

“undesirable person” means a person who is or has been conducting himself in a manner prejudicial to the peace, defence, public safety, public order, public morality, public health, security or good government of Mauritius.

[S. 2 amended by s. 11 (3) of Act 39 of 2011 w.e.f. 1 June 2012.]

3. Application

(1) This Act shall not apply to persons who belong to Mauritius.

(2) For the purposes of subsection (1), a person shall belong to Mauritius where—

- (a) he is a citizen of Mauritius;
- (b) he is a Commonwealth citizen and has, before 14 December 1968, been ordinarily resident in Mauritius continuously for a period of 7 years or more and, since the completion of such period of residence, has not been ordinarily resident continuously for a period of 7 years or more in any other country;
- (c) he is the spouse of a citizen of Mauritius;
- (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.

(3) For the purposes of subsection (1), a person specified in subsection (2) (b), (c), or (d), who, by virtue of section 6 (5) of the Immigration Act, is deemed to be a prohibited immigrant shall not be deemed to belong to Mauritius.

[S. 3 amended by Act 6 of 1983.]

4. Deportation orders

Subject to this Act, the Minister may, if he thinks fit, make a deportation order, in such form as may be prescribed, in respect of—

- (a) a convicted person;
- (b) an undesirable person;
- (c) a destitute person; or
- (d) a prohibited immigrant.

5. Procedure

(1) Subject to subsection (6), where it is proposed to make a deportation order in respect of any person, a notice signed by or under the authority of the Minister shall be served on that person specifying the grounds with sufficient particulars on which it is proposed to make the order and requiring him to show cause before a Magistrate in Chambers, at a time specified in the notice, why the order should not be made.

(2) Where it is represented on oath or affidavit to a Magistrate that a person charged is a convicted person, an undesirable person, a destitute person or a prohibited immigrant, the Magistrate may issue a warrant for his arrest and, where the notice mentioned in subsection (1) has not already been served upon him, it shall be so served upon him not later than 24 hours after his arrest.

(3) Every witness whose evidence may be required before the Magistrate in Chambers in proceedings taken under this section shall be summoned by a writ of subpoena issued at the instance of a police officer or a person charged and any such witness who fails to appear shall be dealt with in the manner provided for in section 128 of the Courts Act.

(4) The Magistrate, after considering the evidence adduced before him and making such further investigations as he considers to be desirable, shall make a report to the Minister setting out his findings of fact and his conclusions on any questions of law involved.

(5) (a) On receipt of a Magistrate's report, the Minister may, having regard to the findings of fact and any conclusions of law as stated in the report, make a deportation order.

(b) The Minister shall not be bound by the findings of the Magistrate.

(6) Where the Minister is satisfied that it is necessary to do so in the interests of defence, public safety or public order, he may make a deportation order in respect of an undesirable person or a prohibited immigrant where he has—

- (a) caused a notice under his hand to be served on that person stating, in such terms as he may determine, the grounds on which it is proposed to make the order and requiring that person to show cause in writing, within such time as shall be stated in the notice, why the order should not be made; and
- (b) considered any representations made under paragraph (a) by the person in respect of whom it is proposed to make the order.

6. Detention in custody pending decision

Where a Magistrate has made a report to the Minister under section 5, he may order that the person charged be detained in such manner as he may direct pending the decision of the Minister for a period not exceeding 28 days and such person shall be deemed to be in legal custody whilst so detained.

7. Execution of orders

(1) Where a deportation order is made under section 4, a copy of the order shall, as soon as practicable, be served upon the person charged.

(2) Subject to subsection (3), a person against whom a deportation order is in force may be detained in such manner as may be directed by the Minister and may be placed on a ship or aircraft about to leave Mauritius and shall be deemed to be in legal custody whilst so detained and until the ship or aircraft leaves Mauritius.

(3) No person shall be detained under subsection (2) for a period exceeding 28 days and, if at the expiration of such period he has not been deported, the deportation order shall cease to have effect.

(4) Where any person against whom a deportation order is in force has been placed on any ship or aircraft, the master of the ship or the commander of the aircraft shall, if so required, take such steps as may be necessary for preventing such person from landing from the ship or aircraft before it leaves Mauritius and may for that purpose detain such person in custody on board the ship or aircraft.

8. Persons undergoing sentence

Where a person against whom a deportation order is in force has been sentenced to a term of imprisonment, such sentence shall be served before the order is carried into effect unless the Minister otherwise directs.

9. Expenses

(1) Where a deportation order is made, the Minister may, if he thinks fit, apply any money or property of the person charged in payment of the whole or any part of the expenses of, or incidental to, his deportation from Mauritius and his maintenance until departure.

(2) Subject to subsection (1), any such expenses shall be payable out of public funds.

(3) Any person in possession of money or property belonging to a person charged shall, if so required by notice in writing signed by or under the authority of the Minister, deliver such money or property to such person as may be specified in the notice.

10. Offences

(1) Where a person in respect of whom a deportation order is in force is found within Mauritius or returns or attempts to return to Mauritius in contravention of the order, he shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 6 months and to a fine not exceeding 500 rupees.

(2) Any conviction under subsection (1) shall not affect the original deportation order and the person charged may be deported in pursuance of such order without the necessity of complying with section 4.

(3) Any person who, without lawful excuse, harbours or conceals any person who is within Mauritius in contravention of a deportation order shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 6 months and to a fine not exceeding 500 rupees.

(4) Any person who fails to comply with any notice issued under section 9 (3) shall commit an offence and shall, on conviction, be liable—

- (a) in the case of an individual, to imprisonment for a term not exceeding 6 months and to a fine not exceeding 500 rupees; and
- (b) in the case of a body corporate, to a fine not exceeding 3,000 rupees.

11. Evidence

In any proceedings under this Act—

- (a) the burden of proof that the person charged belongs to Mauritius shall be upon that person;
- (b) a document purporting to be a deportation order under this Act shall, until the contrary is proved, be presumed to be such an order and to have been made on the date on which it purports to have been made;
- (c) any notice signed by or under the authority of the Minister shall, unless the contrary is proved, be presumed to have been validly made.

12. Regulations

The Minister may make such regulations as he thinks fit for the purposes of this Act.

[S. 12 amended by Act 6 of 1983.]
