

CHAPTER 87.

UNDESIRABLE BRITISH SUBJECTS CONTROL.

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CHAPTER 87.

UNDESIRABLE BRITISH SUBJECTS CONTROL.

An Ordinance to Control the Movements of Undesirable British Subjects and for similar purposes. 25 of 1939.
18 of 1940.
10 of 1956.

[1ST JULY, 1939.]

1. This Ordinance may be cited as the Undesirable British Subjects Control Ordinance and shall apply to the Colony and Protectorate. Short title and application.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

10 of 1956.

“ British subject ” includes a British protected person who is a native of Sierra Leone ;

“ Trust territory ” means a territory administered by the Government of any part of Her Majesty’s dominions under the trusteeship system of the United Nations;

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

“ restriction order ” means an order prohibiting the person in respect of whom it is made from entering or from leaving an area within Sierra Leone without the consent of the officer specified in the Order;

“ security order ” means an order requiring the person in respect of whom it is made to give security in two or more solvent sureties in such amount and for such time as may be therein specified to keep the peace and to be of good behaviour, or for indemnifying public funds for all costs, charges and expenses incurred in his regard, or for both such purposes, as may be appropriate in the case;

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

“ Judge ” means a Judge of the Supreme Court;

“ convicted person ” means a person in respect of whom any Court certifies to the Governor that he has been convicted, either by that Court or by any inferior Court from which his case has been brought by way of appeal, of any offence punishable with imprisonment otherwise than only in default of payment of a fine;

“ undesirable person ” means a person who is or has been conducting himself so as to be dangerous to peace, good order, good government, or public morals;

“ 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 (if any);

“ prohibited immigrant ” means any person who has entered Sierra Leone contrary to the provisions of any Ordinance being in force relating to the restriction of immigration, but in the opinion of the Court by which he has been convicted of so doing, or of the Governor in Council,

did not thereby infringe the provisions of such Ordinance wilfully.

(2) This Ordinance shall have effect in relation to citizens of the Republic of Ireland who are not British subjects in like manner as it has effect in relation to British subjects. 10 of 1956.

(3) For the purposes of this Ordinance a person shall be deemed to belong to Sierra Leone, if he or she is a British subject and—

(a) was born in Sierra Leone or of parents who at the time of his or her birth were domiciled or ordinarily resident in Sierra Leone; or

(b) has been ordinarily resident in Sierra Leone continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident continuously for a period of seven years or more in any other part of Her Majesty's dominions or in India or in Pakistan or in the Republic of Ireland or in any other territory under Her Majesty's protection or in any trust territory or in South West Africa; or 10 of 1956.

(c) obtained the status of a British subject by reason of the grant by the Governor of a certificate of naturalisation under the British Nationality and Status of Aliens Act, 1914, or the British Nationality Act, 1948, or the Aliens Naturalisation and Acquisition of Property Ordinance; or Cap. 84.

(d) is the wife of a person to whom any of the foregoing paragraphs applies not living apart from such person under a decree of a competent court or a deed of separation; or

(e) is a child, stepchild or adopted child having been adopted in a manner recognised by law, under the age of eighteen years, of a person to whom any of the foregoing paragraphs applies.

(4) For the purposes of this Ordinance a person shall be deemed an immigrant British subject if he is a British subject at the date of the service upon him of a notice under section 7 of this Ordinance, or, in the case of a convicted person, at the date upon which he is charged with the offence and either he has been ordinarily resident in Sierra Leone immediately before that date for less than—

(a) in the case of a prohibited immigrant, a period of three months;

(b) in the case of a convicted person other than a person who is a convicted person solely by reason of his being a

prohibited immigrant or of an undesirable person, a period of two years; and

(c) in the case of a destitute person, a period of one year; or the Secretary of State shall have approved of the making of a deportation order against him before it is made:

Provided that in determining whether any person is an immigrant British subject, any period during which a deportation order, a restriction order or a security order made under this Ordinance has been in force as respects that person shall not be taken into account.

Power to
make
deportation
orders.

3. Subject to the provisions of this Ordinance, the Governor in Council may, if he thinks fit, make a deportation order in respect of an immigrant British subject who does not belong to Sierra Leone and who is—

(a) a convicted person in respect of whom the Court certifying to the Governor that he has been convicted recommends that a deportation order should be made in his case, either in addition to or in lieu of sentence; or

(b) an undesirable person; or

(c) a destitute person; or

(d) a prohibited immigrant.

Power to
make
restriction
orders.

4. Subject to the provisions of this Ordinance, the Governor in Council may, if he thinks fit, make a restriction order in respect of any British subject who is—

(a) a convicted person in respect of whom the Court certifying to the Governor that he has been convicted recommends that a deportation order or a restriction order should be made in his case, either in addition to or in lieu of sentence; or

(b) an undesirable person.

Power to
make
security
orders.

5. (1) Subject to the provisions of this Ordinance, the Governor in Council may, if he thinks fit, make a security order in respect of any British subject who is—

(a) a convicted person in respect of whom the Court certifying to the Governor that he has been convicted recommends that a deportation order or a restriction order or a security order in conjunction with either of those orders should be made in his case, either in addition to or in lieu of sentence; or

(b) an undesirable person;

or in the case of an immigrant British subject who does not belong to Sierra Leone;

(c) a destitute person; or

(d) a prohibited immigrant.

(2) Where a security order is made as aforesaid, a deportation order or a restriction order, as in the case may be lawful and desirable, shall be made in conjunction therewith to come into force upon default of compliance with the security order within a time therein fixed but not otherwise.

(3) Where a security order has been complied with, the order shall, for the purposes of this Ordinance, be deemed to remain in force so long as the security given thereunder subsists, and where a security order is revoked the said security shall cease to have effect.

6. Except where a Court has in accordance with the provisions of this Ordinance given a certificate recommending that an order should be made, no deportation order, restriction order or security order shall be made under this Ordinance except where a Judge has, in accordance with the provisions of the next following two sections, made a report on the case and the Governor in Council is satisfied, having regard to the findings of fact and any conclusions of law as stated in the report, that such order may lawfully be made.

Procedure for making orders.

7. (1) A notice signed by the Attorney General or the Commissioner of Police shall be served upon the person charged specifying, with sufficient particulars to give him reasonable information as to the nature of the facts alleged against him, the grounds upon which it is alleged that an order may be made against him under this Ordinance, and requiring him to show cause, before a Judge in chambers at a time to be stated in the notice, why such order should not be made in respect of him.

Service of notice and arrest.

(2) In the case where it is proposed that a deportation order should be made but such order cannot be made without the approval of the Secretary of State, the notice shall contain information to that effect.

(3) In any case where it is intended to take proceedings against any person under this Ordinance on the ground that he is an undesirable person, and it is represented on oath or affidavit to a Judge in chambers that that person is an undesirable person, the Judge may issue a warrant for his arrest, and if the notice mentioned in sub-section (1) of this



section shall not have already been served upon him it shall be so served not later than twenty-four hours after his apprehension.

Powers of
Judge.

8. (1) At the time appointed in the notice served under the foregoing section or at any adjournment of the hearing the Judge shall take such evidence upon oath as is tendered in support of the charges, and the witnesses may be cross-examined by the person charged or his counsel and the person charged may on his own behalf call such witnesses and tender such other evidence as may be relevant upon the questions at issue.

(2) The Judge may have regard to any information brought before him which shall have been officially received by the Governor from a Secretary of State or from the Officer Administering the Government of any British Colony or Protectorate or of any territory a mandate for which is being exercised by the Government of some part of Her Majesty's Dominions, or from any foreign minister, or from any Officer Administering the Government of any foreign Colony, Protectorate or Territory and in every case where such information is intended to be brought before the Judge the person charged shall be entitled a reasonable time before it is used to a copy of the document containing such information, or a note of the substance thereof, or a copy or note of so much of the substance of the contents of the document as is intended to be used.

(3) The Judge, after considering the evidence adduced before him and calling any further evidence which he may consider to be desirable, shall make a report to the Governor setting out his findings of fact and his conclusions on any questions of law involved, and, if he thinks fit, making a recommendation as to the issue in the case of any order or orders under this Ordinance.

Detention in
custody
pending
decision.

9. Where a Judge completes an enquiry under the preceding section or a Court recommends the making of a deportation order or restriction order or security order on the grounds that the person charged is an undesirable person or a convicted person, the person charged may, if the Judge or Court, as the case may be, shall so order, be detained in such manner as the Judge or Court may direct pending the decision of the Governor in Council for a period not exceeding twenty eight days and, where reference to the Secretary of State is necessary before a deportation order is made, such further period as may be necessary for that purpose, and shall be deemed to be in legal custody whilst so detained.

10. Every restriction order shall state the area or areas which the person to whom it relates is prohibited from entering or leaving.

Contents of orders.

(2) A deportation order or restriction order may be expressed to be in force for a time limited therein or for an unlimited time, and, when the person charged is not taken into custody pending the execution thereof, shall prescribe a time within which the person charged may of his own volition comply therewith.

(3) A restriction order may require the person charged to report himself to such officer and at such times and intervals as may be stated in the order.

11. (1) As soon as practicable after a deportation order or restriction order or security order is made, a copy thereof shall be served upon the person charged together with a summary of the findings of fact and conclusions of law, if any, as stated in the report made under section 8 of this Ordinance.

Execution of orders.

(2) A person with respect to whom a security order has been made may be detained in such manner as may be directed by the Governor until such order shall have been complied with:

Provided that, without prejudice to the provisions of sub-sections (3) and (4) of this section where the security order is not complied with, no person shall be detained under this sub-section for a period exceeding twenty-eight days.

(3) Subject to the provisions of sub-section (5) of this section a person with respect to whom a deportation order is in force may be detained in such manner as may be directed by the Governor, and may be placed on a ship about to leave Sierra Leone and shall be deemed to be in legal custody while so detained and until the ship finally leaves Sierra Leone.

(4) Subject to the provisions of sub-section (5) of this section a person with respect to whom a restriction order is in force may be detained in such manner as may be directed by the Governor so far as necessary for the purpose of removing him from any place which he is prohibited from entering or to any place which he is prohibited from leaving, and shall be deemed to be in legal custody while so detained.

(5) No person shall be detained under sub-section (3) or sub-section (4) of this section for a period exceeding twenty-eight days and, if at the expiration of such period he has not been removed or deported as aforesaid, the restriction order or deportation order as the case may be shall cease to have effect.

(6) The Master of a ship about to call at any port outside Sierra Leone shall, if so required by the Governor or by an Immigration Officer, receive a person against whom a deportation order has been made and his dependants (if any) on board the ship and afford him and them a passage to that port and proper accommodation and maintenance during the passage.

Expenses.

12. (1) Where a deportation order is made, the Governor 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 the voyage from Sierra Leone and the maintenance until departure of that person and his dependants (if any).

(2) Where a restriction order is made, the Governor 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 the removal of that person to any place in pursuance of that order and, if necessary, the maintenance of that person while the order is in force.

(3) Except so far as they are defrayed under the preceding sub-sections any such expenses shall be payable out of public funds.

Persons undergoing sentence.

13. If a person in respect of whom a security order or restriction order or deportation order is made under this Ordinance has been sentenced to any term of imprisonment, such sentence shall be served before the order is carried into effect unless the Governor otherwise directs.

Revocation and variation of orders.

14. (1) The Governor in Council by order may—

(a) at any time revoke any deportation order or restriction order or security order;

(b) vary any restriction order so as to permit the person therein mentioned to enter or leave any area which he is prohibited from entering or leaving, and may attach to the permission conditions as to security for good behaviour or otherwise, and may also vary, cancel or add a condition requiring such person to report himself;

(c) vary a deportation order so as to permit the person mentioned therein to enter Sierra Leone and may attach to such permission conditions as to security or otherwise.

(2) Any order made under paragraph (b) or paragraph (c) of the preceding sub-section may be expressed to have effect

for the duration of the order thereby varied or for any lesser period.

(3) As soon as practicable after an order has been made under this section a copy thereof shall be served upon or sent to the person in respect of whom it is made.

15. (1) If a person in respect of whom a restriction order is in force leaves or attempts to leave or enters or attempts to enter any area in contravention of the provisions of the order, or wilfully neglects or refuses to report himself as ordered, or having, in pursuance of permission given as hereinbefore provided, left or entered any place, wilfully fails to observe any condition attached to such permission, he shall be liable on summary conviction to imprisonment for a period not exceeding six months or to a fine not exceeding fifty pounds or both such imprisonment and fine, and to be again removed under the original order and the provisions of sections 11, 12 and 13 shall apply accordingly.

Penalties for
breach of
order.

(2) If a person in respect of whom a deportation order is in force returns or attempts to return to Sierra Leone in contravention of the provisions of the order, or having entered Sierra Leone in pursuance of permission given as hereinbefore provided, wilfully fails to observe any condition attached to such permission, he shall be liable on summary conviction to imprisonment for a period not exceeding six months or to a fine not exceeding fifty pounds or both such imprisonment and fine, and to be again deported under the original order and the provisions of sections 11, 12 and 13 shall apply accordingly.

(3) Nothing in this section shall prevent the making of a restriction order or a deportation order in accordance with the provisions of this Ordinance in consequence of a conviction for an offence under this Ordinance.

16. Any person who, without lawful excuse, knowingly harbours or conceals any person who—

Penalty for
harbouring.

(a) is within Sierra Leone or an area thereof in contravention of the terms of a deportation order or restriction order, or

(b) having entered Sierra Leone or any area thereof in pursuance of permission given as hereinbefore provided, has wilfully failed to observe any condition attached to such permission,

shall on summary conviction be liable to imprisonment for a period not exceeding six months or to a fine not exceeding fifty pounds or both such imprisonment and fine.

Institution of proceedings.

17. No proceedings shall be instituted under this Ordinance except with the previous sanction of the Attorney General in writing.

Evidence.

18. In any proceedings under this Ordinance—

(1) the burden of proof that the person charged belongs to Sierra Leone shall be upon that person;

(2) a document purporting to be an order made under this Ordinance shall, until the contrary is proved, be presumed to be such an order; and

(3) any order made under this Ordinance shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

Report to Secretary of State.

19. The Governor shall forthwith report to the Secretary of State every order made by him under this Ordinance and the grounds thereof and the proceedings thereunder.

Directions of Governor as to communications of persons against whom an order has been made.

20. Where an Order has been made under this Ordinance in respect of any person the Governor may give such directions as may to him seem fit to any public officer to examine, withhold or detain any letters or documents of any sort, literature, parcels or other matter whatsoever whether postal or otherwise and any cables or telegrams which emanate or appear to emanate from or are intended to appear to be intended for such person:

Provided that no premises shall be searched in order to give effect to such directions unless a Magistrate shall, after being satisfied by information on oath that there are reasonable grounds for believing that some letter, telegram or other document to which the directions relate is within any specified premises, by warrant authorise the entry, by force if necessary, and search of such premises and the seizure of any letter, telegram or other document found therein:

And provided further that no letter, telegram or other document or matter having reference only to the private affairs of such person or to the proceedings as a result of which the Order under this Ordinance has been made shall be withheld or detained:

And provided further that the provisions of this section shall not apply where an Order under this Ordinance has been made against any person on the grounds that he is a destitute person.

21. The Governor in Council may from time to time give directions for the payment of such money from the funds of the Colony as may seem to him to be reasonable and in such instalments as he may think fit for the subsistence of any person against whom a deportation order or a restriction order has been made. Payment of subsistence allowance.

22. (1) The Governor in Council may make rules for carrying this Ordinance into effect. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prohibit, restrict and regulate the communications of any person in respect of whom a deportation or restriction order has been made with any other person either within or without Sierra Leone and *vice versa*, and

(b) provide for the safe detention of or the restriction of the movements of any person in respect of whom a deportation order or restriction order has been made.

(3) Unless and until amended, varied or revoked by the Governor in Council under this section, the rules set out in the schedule to this Ordinance shall have effect as if they had duly been made under this section and shall come into force simultaneously with this Ordinance.

(4) All rules made under this Ordinance shall have the same effect as if they had been enacted in this Ordinance.

(5) Such rules may impose a fine not exceeding one hundred pounds or a period of imprisonment not exceeding one year or both such fine and imprisonment for the breach of any rule duly made by or under the provisions of this Ordinance.

SCHEDULE.

1. These rules may be cited as the Undesirable British Subjects Control Short title.
Rules.

2. (1) No person shall, without the express sanction of the Governor, communicate or attempt to communicate by any means whatsoever— Communications of or with persons.

(a) with any person in respect of whom a deportation order has been made while the person in respect of whom such order has been made is in Sierra Leone;

(b) with any person in respect of whom a restriction order has been made and is still in full force and effect.

(2) No person shall negligently permit or, without the express sanction of the Governor, shall aid or attempt to aid any person as mentioned in

sub-section (1) (a) and (b) of this rule to communicate by any means whatsoever with any person within or without the limits of Sierra Leone:

Provided that nothing in this rule shall apply to any communication relating solely to the private affairs of the person against whom such order has been made or to any appeal to any authority arising out of the proceedings as a result of which such order was made.

Aiding person in respect of whom deportation order or restriction order has been made.

3. No person shall without the express sanction of the Governor aid or attempt to aid, or shall negligently permit, any person in respect of whom a deportation order or a restriction order has been made to leave the place in which he has been detained or to enter or leave as the case may be the area or areas which he has been prohibited from entering or leaving.

Penalties.

4. Any person who acts in contravention of any of these rules shall be guilty of an offence and shall be liable on summary conviction to imprisonment with or without hard labour for a period not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.
