

No. 4—1942.

Immigration (Special Provisions).

AN ORDINANCE to impose special restrictions on the immigration of certain immigrants and to make special provision for their later repatriation.

Commencement.

[14th May, 1942.]

Short title and construction.

Ch. 20. No. 2.

1. This Ordinance may be cited as the Immigration (Special Provisions) Ordinance, 1942, and shall be read as one with the Immigration (Restriction) Ordinance, hereinafter referred to as the Principal Ordinance.

Interpretation.

2. (1) In this Ordinance—

Schedule. “certificate of identity” means a certificate in the form in the Schedule of the identity of an immigrant manual labourer issued on behalf of the Government of the territory from which he has come ;

“finger print record” means a record in a form approved by the Commissioner of Police of the finger prints of an immigrant manual labourer issued on behalf of the Government of the territory from which he has come ;

“immigrant manual labourer” means an immigrant who enters the Colony after the commencement of this Ordinance and who, prior to such entry,

ordinarily earned his livelihood by manual labour; provided that no person who, on entering the Colony, deposits security or furnishes a security bond in accordance with Regulation 5 (1) of the Immigration (Restriction) Regulations, or who enters the Colony under permit granted under sections 11, 12 or 13 of the Principal Ordinance, shall be deemed for the purposes of this Ordinance to be an immigrant manual labourer.

(2) Any statement of fact in a certificate of identity, passport or other identity papers shall be *prima facie* evidence of such fact.

(3) The expression "this Ordinance" wherever used in the Principal Ordinance shall be deemed, unless the context otherwise requires, to refer to this Ordinance as well as to the Principal Ordinance.

3. (1) Without prejudice to any power conferred by sections 10 or 19 of the Principal Ordinance to allow entry of persons into the Colony under permit, an immigrant manual labourer shall be deemed to be a prohibited immigrant unless—

Contracts of
employment
on entry.

(a) he produces to the immigration officer a valid written contract of employment in the Colony, bearing a certificate of the Industrial Adviser in the following form:—

Approved under the Immigration
(Special Provisions) Ordinance, 1942.

Dated.....

(Sgd.).....
Industrial Adviser.

and

(b) a copy of such contract has been surrendered to the Industrial Adviser at the time of his certification of the original,

(2) The Industrial Adviser shall conform with any general or special directions of the Governor in Council in regard to the cases and circumstances in which he may endorse such certificates and shall not endorse any such certificate on any contract unless he is satisfied that—

- (a) the wages and working conditions of the proposed employment are not less favourable than those ordinarily prevailing for the occupation concerned in the industry in which the immigrant has obtained employment ;
- (b) housing facilities for the immigrant are available within a reasonable distance from the proposed place of employment ;
- (c) the proposed employer is able to carry out his undertaking to employ the immigrant at the wage rates and working conditions and for the agreed period ;
- (d) the contract offers the immigrant *bona fide* and regular employment ;
- (e) the contract provides for the granting of leave to the immigrant for the purpose of enabling him to visit the territory from which he came for at least 7 days in each consecutive period of 12 months after the commencement of the employment.

(3) On the coming into force of this Ordinance, paragraph (3) of Regulation 5 of the Immigration (Restriction) Regulations, shall cease to apply to immigrant manual labourers.

(4) Any such contract as is contemplated by this section, duly endorsed with the certificate of the Industrial Adviser, is hereinafter referred to as an "original contract of employment".

(5) An immigrant manual labourer shall be deemed to be a prohibited immigrant unless he takes up the employment contemplated by his original contract of employment within one month after his arrival in the Colony or such further period as the Industrial Adviser may allow.

4. (1) On the expiry or determination of the original contract of employment of an immigrant manual labourer, he shall be deemed to be a prohibited immigrant unless, within one month thereafter or such further period as the Industrial Adviser may allow—

Termination of original contracts of employment, and subsequent contracts of employment.

(a) he obtains, on a valid written contract of employment in the Colony, the like certificate as is mentioned in section 3 (1) (a), and surrenders a copy of the contract to the Industrial Adviser at the time of certification of the original; or

(b) he leaves the Colony.

(2) Every valid written contract of employment in the Colony of an immigrant manual labourer subsequent to the original contract of employment, being duly certified by the Industrial Adviser, is hereinafter referred to as a "subsequent contract of employment".

(3) Upon the expiry or determination of a subsequent contract of employment the provision of subsection (1) shall apply as though it was an original contract of employment.

(4) The provisions of subsection (2) of section 3 shall apply in relation to the endorsement of certificates under this section.

5. (1) It shall be the duty of every immigrant manual labourer, on or before the commencement of any employment in the Colony, to produce to his employer his contract of employment duly certified as approved by the Industrial Adviser under sections 3 or 4, and to permit inspection of the certified contract by his employer.

Disputes of employees in relation to contracts of employment

(2) Any immigrant manual labourer who shall fail to comply with the provisions of subsection (1) shall be liable on summary conviction to a fine of twenty-four dollars.

Duties of
employers in
relation to
contracts of
employment

6. (1) No person shall take into his employment in the Colony any person whom he knows or has reason to suspect to be an immigrant manual labourer unless, previously thereto—

- (a) he has satisfied himself that the contract of employment bears a certificate purporting to be signed by the Industrial Adviser under sections 3 or 4 and believes in good faith that the certificate is so signed ; or
- (b) he has reported to the Industrial Adviser in writing the particulars of such employment including the name, description and address of the proposed employee.

(2) Any employer who, during the course of any employment of any of his employees, shall learn, or have reason to suspect, that the employee is an immigrant manual labourer shall, unless he has previously satisfied himself of the matters mentioned in paragraph (a) of subsection (1), forthwith either satisfy himself of such matters or report to the Industrial Adviser as in paragraph (b) of subsection (1).

(3) Every employer shall, within 48 hours after the commencement of the employment in the Colony by him of any person who is to his knowledge an immigrant manual labourer, report to the Industrial Adviser in writing the date of commencement of the employment.

(4) Every employer shall, within 48 hours after the determination of the employment in the Colony by him of any person who is to his knowledge an immigrant manual labourer, notify the Industrial Adviser in writing of the date of such determination.

(5) Every employer shall keep a written record of the name and address of every person employed by him who, to his knowledge, is an immigrant manual labourer, and of the date of commencement and termination of the employment, and shall permit entry on his premises within the hours of daylight of the Industrial Adviser or of any officer thereunto generally or specially authorised in writing by the Industrial Adviser, or of an immigration officer or constable, who may desire to inspect such record or to inspect any pay-sheet or other document relating to the

employment ; and shall produce on demand by any of the officers before-mentioned the said record and any such pay-sheets or other records ; and shall facilitate to the best of his ability the inspection by any such officer of any manual labourers in his employment.

(6) Any person who shall contravene or fail to comply with the provisions of this section shall be liable on summary conviction to a fine of one hundred and twenty dollars and any person who shall supply to the Industrial Adviser any information required by this section which is false to his knowledge shall be liable on summary conviction to a fine of two hundred and forty dollars, or to imprisonment for six months, or to both such fine and imprisonment.

7. (1) Without prejudice to any power conferred by sections 10 or 19 of the Principal Ordinance to allow entry of persons into the Colony under permit, every immigrant manual labourer who enters the Colony after the commencement of this Ordinance shall have in his possession his certificate of identity in duplicate together with his finger-print record and shall surrender to the immigration officer, on arrival in the Colony, one of the certificates of identity and the finger-print record and shall retain in his possession the other certificate of identity. Certificates of identity, etc.

(2) Any immigrant manual labourer who fails to comply with the provisions of subsection (1) shall be deemed to be a prohibited immigrant.

(3) A certificate of identity shall not be deemed to be valid unless the immigrant to whom it relates enters the Colony on or before the last date of entry specified in the certificate.

(4) If an immigrant manual labourer to whom this section applies shall be desirous of leaving the Colony for some temporary purpose for a period not exceeding one month, it shall be lawful for the Chief Immigration Officer, or an officer acting by his direction, to endorse on the certificate of identity of the immigrant permission to return to the Colony on or before the date specified in the endorsement, and if such immigrant shall return to the Colony on or before such date, it shall be unnecessary for him, on such return, to comply with the provisions of this section.

Lending of
certificate of
identity, &c.

8. (1) No person shall lend, transfer, or assign his certificate of identity or finger-print record to any other person or shall borrow or make use of a certificate of identity or finger-print record issued to any other person.

(2) Any person who shall contravene the provisions of this section shall be liable on summary conviction to a fine of one hundred and twenty dollars, or to imprisonment for three months, or to both such fine and imprisonment.

Duty to
answer ques-
tions and
produce
certificates
of identity.

9. (1) Any immigration officer or constable who shall have reason to suspect that any person is a prohibited immigrant by reason of this Ordinance may—

- (a) question such person as to his identity and as to any matters relevant to the question of whether he is or is not a prohibited immigrant ;
- (b) require such person, if he is an immigrant manual labourer, to produce for inspection his certificate of identity, passport or other identity papers ;
- (c) require such person to accompany him to an immigration office or police station and there to submit to the taking of finger-prints: Provided that any such finger-prints shall be destroyed if it is established that such person is not a prohibited immigrant by virtue of this Ordinance.

(2) Any person who shall fail to answer any question put to him under paragraph (a) of subsection (1) or who, being an immigrant manual labourer, shall fail to produce his certificate of identity, passport or other identity papers, when so required under paragraph (b) of subsection (1), or who shall fail to comply with any requirement under paragraph (c) of subsection (1), shall be liable on summary conviction to a fine of ninety-six dollars.

(3) Any person who, in reply to any question put to him under paragraph (a) of subsection (1) shall make any answer which is false to his knowledge shall be liable on summary conviction to a fine of one hundred and twenty dollars or to imprisonment for three months, or to both such fine and imprisonment.

10. (1) Every immigrant manual labourer shall, before embarking in any ship or aircraft for the purpose of leaving the Colony, report personally to the office of the Chief Immigration Officer his intention to leave the Colony and shall, if so required by an immigration officer, submit to the taking of his finger-prints.

Immigrant
manual
labourers
leaving the
Colony.

(2) Any immigrant manual labourer who shall fail to comply with the provisions of this section shall be liable on summary conviction to a fine of twenty-four dollars.

11. (1) It shall be lawful for the Governor in Council by Proclamation published in the *Royal Gazette* to prohibit the entry into the Colony of immigrant manual labourers for a period to be specified in the proclamation or until the publication of a further proclamation.

Prohibitions
and restrictions
of immigration
of immigrant
manual
labourers.

(2) Any manual labourer who enters the Colony in contravention of a prohibition under subsection (1) shall be deemed to be a prohibited immigrant.

(3) A proclamation under this section may be made to apply to immigrants from territories generally or to immigrants from any specified territory or territories and shall have effect subject to such exemptions as may be provided for therein.

(4) A proclamation under this section shall be published in the *Royal Gazette* not less than 14 days before the date from which it is to operate.

(5) Nothing in this section shall prejudice the powers conferred by the Principal Ordinance to permit entry of persons into the Colony under permit.

12. (1) Notwithstanding the proviso to subsection (1) of section 23 of the Principal Ordinance, a removal order under section 23 of the Principal Ordinance may be made against a British subject who is a prohibited immigrant by reason of this Ordinance at any time within four years after his arrival in the Colony.

Removal
Orders.

(2) It shall be no defence to an application for an order under this section that the immigrant has, since his arrival in the Colony, become domiciled in the Colony.

Repatriation. **13.** (1) Where in the terms of any original or subsequent contract of employment an immigrant manual labourer is entitled, or both the labourer and his family are entitled, to be repatriated at the expense of the employer and the employer has failed to fulfil his obligation in accordance with such terms, it shall be lawful for the Chief Immigration Officer by notice in writing to call upon the employer to fulfil his obligation within the time specified in the notice, and if the employer shall fail so to do, the Chief Immigration Officer may effect the repatriation.

(2) The cost incurred by the Chief Immigration Officer in effecting any repatriation in pursuance of this section shall be a debt due by the employer to the Government and, without prejudice to any other method of recovery, may be recovered summarily in a suit by the Chief Immigration Officer.

(3) A certificate under the hand of the Chief Immigration Officer as to the expenses incurred by him in effecting any such repatriation shall be conclusive evidence of the amount of such expenses.

Recovery of expenses of removal of an immigrant manual labourer and his family.

14. (1) Where a removal order has been made against an immigrant manual labourer, then—

- (a) his last employer, if he has been convicted of an offence against subsections (1) or (2) of section 6 in relation to the labourer; and
- (b) every previous employer of the labourer who, at the date of the removal order, is liable in the terms of any original or subsequent contract of employment to repatriate, or discharge the expenses of repatriation, of the labourer or of both the labourer and his family,

shall be jointly and severally liable to pay to Government the reasonable expenses of the removal of the labourer, and of his family if removed with him, and, without prejudice to any other method of recovery, such expenses may be recovered summarily in a suit by the Chief Immigration Officer.

(2) A certificate under the hand of the Chief Immigration Officer, as to the amount of any such expenses incurred, shall be conclusive evidence of the facts certified,

15. (1) In this section—

“the Agreement” means the Agreement signed on the 27th day of March, 1941, between the Government of the United Kingdom and the United States of America, relating to the Bases leased to the United States of America in certain territories including the Colony of Trinidad and Tobago ;

Persons
employed
on American
Bases.

“Bases” means the Bases established in the Colony in pursuance of the communications set out in Annex I to the Agreement ;

“employee on the Bases” means an immigrant manual labourer (not being a national of a Power at war with His Majesty the King) for the time being employed by, or under a contract with, the Government of the United States of America in connection with the construction, maintenance, operation or defence of the Bases.

(2) Sections 3, 5 (unless his contract is an original contract of employment), 7 and 11 shall not apply to an employee on the Bases.

(3) If an employee on the Bases shall, after entry into the Colony, cease to be such an employee, section 4 shall apply to him as though the date of his ceasing to be such an employee was the date of expiry or determination of an original contract of employment.

(4) Sections 6, 13 and 14 shall not apply to any employer of an employee on the Bases.

16. Notwithstanding the provisions of subsection (4) of section 13 of the Principal Ordinance, a person who entered the Colony before the commencement of this Ordinance by virtue of a permit under that section and who, prior to such entry, ordinarily earned his livelihood by manual labour, shall not be deemed to be a prohibited immigrant if, within one month after the expiry of his permit, he complies with paragraphs (a) or (b) of subsection (1) of section 4 : Provided that if he does so comply, all the provisions of this Ordinance, other than sections 3, 7 and 11, shall thereafter apply as though such person was an immigrant manual labourer.

Persons who
entered the
Colony on
permit before
the
commencement
of this
Ordinance.

THE SCHEDULE.

The Trinidad Immigration (Special Provisions) Ordinance, 1942.

CERTIFICATE OF IDENTITY.

Name of applicant in full.....
Date of Birth
Place and country of Birth.....
Sex.....
Race.....
Nationality.....
If naturalised in any country, state when and where.....
.....
Ordinary occupation
Nature of last employment (industry, trade, etc.).....
Last permanent address
Name of next of kin.....
Passport or permit (if any) number, date and place of issue.....
Height.....feet.....inches. Colour of eyes.....
Colour of hair..... Any distinguishing marks
Photo of applicant.

This certificate is valid for entry into the Colony of Trinidad and Tobago
on or before.....

Dated.....

Issued by