

“ Domicile ” means the place in which a person has his present home or in which he resides or to which he returns as his place of present permanent abode and not for a mere special or temporary purpose ; and a person shall not be deemed to have a domicile within the Colony for the purposes of this Ordinance unless he has resided therein for at least two years otherwise than under terms of conditional or temporary residence permitted by any law in force in the Colony or as a person under detention in a prison, reformatory, orphanage, mental hospital or leper asylum ; and a person shall be deemed for the purposes of this Ordinance to have lost his domicile within the Colony if he voluntarily go and reside outside the Colony (except for a special or temporary purpose) with the intention of making his home outside the Colony ; and “ Domiciled ” shall have a corresponding meaning.

“ Judge ” means a Judge of the Supreme Court sitting in Chambers, or a Magistrate who is specially authorized by the Governor to inquire and report in respect of any matter under this Ordinance.

“ Deportation Order ” means an order requiring the person in respect of whom it is made to leave and remain out of the Colony.

“ Restriction Order ” means an order prohibiting the person in respect of whom it is made from entering or from leaving an area within the Colony 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 one or more 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.

- (b) is domiciled in the Colony; or
- (c) has been ordinarily resident in the Colony continuously for a period of seven years or more and since the completion of such period of residence has not been ordinarily resident in any other part of His Majesty's dominions or any territory under His Majesty's protection continuously for a period of seven years or more; or
- (d) obtained the status of a British subject by reason of the grant by the Governor of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914, or the Local Naturalization Ordinance, Cap. 242; or
- (e) is a dependant of a person to whom any of the foregoing paragraphs applies.

(3) For the purposes of this Ordinance a person shall be deemed to be an immigrant British subject if 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, the date upon which he is charged with the offence, he is a British subject and has been resident in the Colony for less than the following periods and not otherwise, unless the approval of the Secretary of State shall have been given to the making of a deportation order in respect of such person at any time before it is made:—

- (a) in the case of a prohibited immigrant, a period of six 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:

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.

Repealed and
Replaced by
O.4-1940. S.

(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.—(1) No deportation order, restriction order or security order shall be made under this Ordinance except—
Procedure for making Orders.

(a) Where a Court has in accordance with the provisions of this Ordinance given a certificate recommending that an order should be made in respect of a convicted person; or

(b) 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 Executive Council is satisfied that such order may properly be made.

(2) When making an order under this Ordinance the Governor in Executive Council shall have regard to the findings of fact and any conclusions of law as stated in the Judge's report, but he shall not be bound by any recommendations made by the Judge.

7.—(1) A notice 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 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) 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.

(4) A restriction order may require the person charged to report himself to the nearest administrative officer or officer of police at intervals of not less than thirty days.

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 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 the Colony and shall be deemed to be in legal custody while so detained and until the ship finally leaves the Colony.

(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.

- (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 the Colony 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 not exceeding six months with or without hard labour or a fine not exceeding two hundred and forty dollars or both such imprisonment and fine, and to be again removed under the original order, and the provisions of sections 11, 12, and 13 of this Ordinance 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 the Colony in contravention of the provisions of the order, or having entered the Colony 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 with or without hard labour or a fine

20.—(1) The Governor in Executive Council may make Regulations. Regulations for the better carrying out of the provisions of this Ordinance.

(2) Regulations made under this Ordinance shall not have any force or effect until they have been approved by resolution of the Legislative Council, and when so approved they shall be published in the *Royal Gazette* and from the date of such publication, or from the date specified therein, such Regulations shall have the same force and effect as if they were contained in and formed part of this Ordinance.

21.—(1) The proviso to Section 2 of the Expulsion of Undesirables Ordinance, Cap. 247, and the proviso to Section 2A, added to the said Ordinance by Ordinance No. 1 of 1928 are hereby repealed. Amendment of Cap. 247.

(2) The Expulsion of Undesirables Ordinances, being Cap. 247 and No. 1 of 1928, shall cease to apply to British subjects.

22. Nothing in this Ordinance contained shall be taken to restrict in any manner the operation of the Immigration (Restriction) Ordinance, 1936, or the powers conferred on the Governor, a magistrate, or an immigration officer by that Ordinance. Immigration (Restriction) Ordinance not to be restricted.

Passed in Council this third day of April, in the year of Our Lord one thousand nine hundred and thirty-six.

J. O'CONNOR,
Clerk of the Council.