

No. 17 of 1901

A N A C T

To place certain restrictions on Immigration and to provide for the removal from the Commonwealth of prohibited Immigrants. [Assented to 23rd December 1901]

BE it enacted by the King's Most Excellent Majesty the Senate and the House of Representatives of the Commonwealth of Australia as follows:—

1. This Act may be cited as the *Immigration Restriction Act 1901*. Short title.

2. In this Act, unless the contrary intention appears,— Definition.
“Officer” means any officer appointed under this Act, or any Officer of Customs ;
“The Minister” means the Minister for External Affairs.

3. The immigration into the Commonwealth of the persons described in any of the following paragraphs of this section (herein-after called “prohibited immigrants”) is prohibited, namely:— Prohibited immigrants.
See Natal Act 1897, No. 1, s.3.
W.A. 1897, No. 13, s.2.
 - (a) Any person who when asked to do so by an officer fails to write out at dictation and sign in the presence of the officer a passage of fifty words in length in an European language directed by the officer;
 - (b) any

- (b) any person likely in the opinion of the Minister or of an officer to become a charge upon the public or upon any public or charitable institution ;
- (c) any idiot or insane person ;
- (d) any person suffering from an infectious or contagious disease of a loathsome or dangerous character ;
- (e) any person who has within three years been convicted of an offence, not being a mere political offence, and has been sentenced to imprisonment for one year or longer therefor, and has not received a pardon ;
- (f) any prostitute or person living on the prostitution of others ;
- (g) any persons under a contract or agreement to perform manual labour within the Commonwealth: Provided that this paragraph shall not apply to workmen exempted by the Minister for special skill required in Australia or to persons under contract or agreement to serve as part of the crew of a vessel engaged in the coasting trade in Australian waters if the rates of wages specified therein are not lower than the rates ruling in the Commonwealth.

But the following are excepted:—

- (h) Any person possessed of a certificate of exemption in force for the time being in the form in the Schedule, signed by the Minister or by any officer appointed under this Act whether within or without the Commonwealth ;
- (i) members of the King's regular land or sea forces ;
- (j) the master and crew of any public vessel of any Government ;
- (k) the master and crew of any other vessel landing during the stay of the vessel in any port in the Commonwealth: Provided that the master shall upon being so required by any officer, and before being permitted to clear out from or leave the port, muster the crew in the presence of an officer ; and if it is found that any person, who according to the vessel's articles was one of the crew when she arrived at the port, and who would in the opinion of the officer be a prohibited immigrant but for the exception contained in this paragraph, is not present, then such person shall not be excepted by this paragraph, and until the contrary is proved shall be deemed to be a prohibited immigrant and to have entered the Commonwealth contrary to this Act ;
- (l) any person duly accredited to the Government of the Commonwealth by the Imperial or any other Government or sent by any Government on any special mission;
- (m) a wife

Exemptions.

Natal ib. s.2;
W.A. ib. s.2;
N.S.W. ib. s.2.

See Vict. No. 1073
s. 8.

- (m) a wife accompanying her husband if he is not a prohibited immigrant, and all children apparently under the age of eighteen years accompanying their father or mother if the father or mother is not a prohibited immigrant; but so that the exceptions in this paragraph shall not apply if suspended by proclamation; and such suspension may be of general application or limited to any cases or class of cases;
- (n) Any person who satisfies an officer that he has formerly been domiciled in the Commonwealth or in any colony which has become a State.

N.S.W. ib. s. 6.

4. A certificate of exemption shall be expressed to be in force for a specified period only, and may at any time be cancelled by the Minister by writing under his hand.

Certificates of exemption.

Upon the expiration or cancellation of any such certificate, the person named therein may, if found within the Commonwealth, be treated as a prohibited immigrant offending against this Act:

Provided that in the case of a person entering the Commonwealth from any vessel under this section no penalty shall attach to the vessel or its master owners or charterers.

5. (1) Any immigrant who evades an officer or who enters the Commonwealth at any place where no officer is stationed may if at any time thereafter he is found within the Commonwealth be asked to comply with the requirements of paragraph (a) of section three, and shall if he fails to do so be deemed to be a prohibited immigrant offending against this Act.

Immigrants evading the officers or found with the Commonwealth.

(2) Any immigrant may at any time within one year after he has entered the Commonwealth be asked to comply with the requirements of paragraph (a) of section three, and shall if he fails to do so be deemed to be a prohibited immigrant offending against this Act.

6. Any prohibited immigrant within the meaning of paragraph (a) only of section three may if thought fit by an officer be allowed to enter the Commonwealth or to remain within the Commonwealth upon the following conditions :—

Entry permitted on certain conditions. See Natal ib. s. 5; W.A. ib. s. 5; N.S.W. ib. s. 5.

- (a) He shall on entering the Commonwealth or on failing to comply with the requirements of that paragraph deposit with an officer the sum of One hundred pounds.
- (b) He shall within thirty days after depositing such sum obtain from the Minister a certificate of exemption in the form of the Schedule, or depart from the Commonwealth, and thereupon the deposit shall be returned; but otherwise the deposit or any part thereof may be forfeited and he may be treated as a prohibited immigrant offending against this Act.

Provided

Provided that in the case of a person entering the Commonwealth from any vessel under this section no penalty shall attach to the vessel or its master owners or charterers.

7. Every prohibited immigrant entering or found within the Commonwealth in contravention or evasion of this Act shall be guilty of an offence against this Act, and shall be liable upon summary conviction to imprisonment for not more than six months, and in addition to or substitution for such imprisonment shall be liable pursuant to any order of the Minister to be deported from the Commonwealth.

Unlawful entry of prohibited immigrants.
See Natal ib. s. 4 ;
W.A. ib. s. 4 ;
N.S.W. ib. s. 4.

Provided that the imprisonment shall cease for the purpose of deportation, or if the offender finds two approved sureties each in the sum of Fifty pounds for his leaving the Commonwealth within one month.

8. Any person who is not a British subject either natural-born or naturalized under a law of the United Kingdom or of the Commonwealth or of a State, and who is convicted of any crime of violence against the person, shall be liable, upon the expiration of any term of imprisonment imposed on him therefore, to be required to write out at dictation and sign in the presence of an officer a passage of fifty words in length in an European language directed by the officer, and if he fails to do so shall be deemed to be a prohibited immigrant and shall be deported from the Commonwealth pursuant to any order of the Minister.

Certain persons may be deported.

9. The master, owners, and charterers of any vessel from which any prohibited immigrant enters the Commonwealth contrary to this Act shall be jointly and severally liable to a penalty not exceeding One hundred pounds for each prohibited immigrant so entering the Commonwealth.

Penalty on masters and owners of ships.

Provided that in the case of an immigrant of European race or descent no penalty shall be imposed under this section on any master owner or charterer who proves to the satisfaction of the Court that he had no knowledge of the immigrant being landed contrary to this Act, and that he took all reasonable precautions to prevent it.

Natal ib. s. 8 ;
W.A. ib. s. 8 ;
N.S.W. ib. s. 8.

10. (1) The Minister, or any Collector of Customs specially empowered by him, may by writing under his hand authorize any officer to detain any vessel from which any prohibited immigrant has, in the opinion of the officer, entered the Commonwealth contrary to this Act; and the vessel may then be detained either at the place where she is found, or at any place to which the Minister or Collector may order her to be brought. The Minister or such Collector shall forthwith give notice to the owner or agent of the vessel of the detention of such vessel.

Detention of vessel.
See Vict. No. 1073
s. 14.

(2) For

(2) For the purposes of the detention and other lawful dealing with the vessel the officer so authorized shall be entitled to obtain such writ of assistance or other aid as is provided under any law relating to the Customs with respect to the seizure of vessels or goods.

Powers of detaining officer.

(3) The detention shall be for safe custody only, and shall cease if a bond with two sufficient sureties to the satisfaction of the Minister or the collector be given by the master owners or charterers of the vessel for the payment of any penalty which may be adjudged under this Act to be paid for the offence or default.

Detention to cease if bond given.

(4) If default is made in payment of any such penalty, the officer may seize the vessel ; and the like proceedings shall thereupon be taken for forfeiting and condemning the vessel as in the case of a vessel seized for breach of any law relating to the Customs, and the vessel shall be sold.

Sale of vessel on default.

(5) The proceeds of the sale shall be applied first in payment of the penalty and of all costs incurred in and about the sale and the proceedings leading thereto, and the balance shall be paid to the owners of or other persons lawfully entitled to the vessel before condemnation and sale.

Application of proceeds.

11. No contract or agreement made with persons without the Commonwealth for such persons to perform manual labour within the Commonwealth whereby such persons become prohibited immigrants within the meaning of paragraph (g) of section three shall be enforceable or have any effect.

Contracts for manual labour—when enforceable.

12. (1) Any person who in any way wilfully assists any other person to contravene or attempt to contravene any of the provisions of this Act, or makes or authorizes any contract or agreement the performance of which would be a contravention of this Act, shall be guilty of an offence against this Act.

Assisting persons to contravene Act.
See Natal ib. s. 11,
N.S.W. ib. s. 10.

(2) Any person who makes or authorizes such contract or agreement shall be liable to the Commonwealth for any expense incurred by the Commonwealth in respect of any immigrant prohibited by reason of the contract or agreement.

13. Any person who is wilfully instrumental in bringing or attempting to bring into the Commonwealth any idiot or insane person contrary to this Act shall, in addition to any other penalty, be liable to the Commonwealth for any expense in respect of the maintenance of the idiot or insane person whilst within the Commonwealth.

Bringing idiots or insane persons into the Commonwealth.
See Natal ib. s. 13 ;
W.A. ib. s. 13.

14. Every member of the police force of any State, and every officer, may with any necessary assistance prevent any prohibited immigrant, or person reasonably supposed to be a prohibited immigrant, from entering the Commonwealth, and may take all legal proceedings necessary for the enforcement of this Act.

Powers to enforce Act.
See Natal ib. s. 14 ;
W.A. ib. s. 14 ;
N.S.W. ib. s. 11.

15. Subject

15. Subject to any Act relating to the public service, the Governor-General may appoint officers for carrying out this Act, and may prescribe their duties.

Appointment of officers.
See Natal ib. s. 15 ;
W.A. ib. s. 15 ;
N.S.W. ib. s. 15.

16. (1) The Governor-General may make regulations for carrying out this Act and for empowering officers to determine whether any person is a prohibited immigrant.

Regulations.

(2) All such regulations shall be notified in the *Gazette*, and shall thereupon have the force of law.

(3) All such regulations shall be laid before both Houses of the Parliament within thirty days after the making thereof if the Parliament be then sitting, and if not then within thirty days after the next meeting of the Parliament.

17. The Minister shall cause to be made annually a return which shall be laid before Parliament, showing the number of persons refused admission into the Commonwealth on the ground of being prohibited immigrants, the nations to which they belong and whence they came, and the grounds on which admission was refused; the number of persons who passed the test prescribed by paragraph (a) of section three, the nations to which they belong and whence they came; the number of persons admitted to the Commonwealth without being asked to pass the test, the nations to which they belong, and whence they came.

Annual return showing persons refused admission.

18. Where no higher penalty is expressly imposed, a person guilty of any offence against this Act, or against any regulation made thereunder, shall be liable on summary conviction to a penalty not exceeding Fifty pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Penalties.

19. This Act shall not apply to the immigration of Pacific Island labourers under the provisions of the Pacific Island Labourers Acts, 1880-1892, of the State of Queensland.

Pacific Island Labourers Acts of Queensland.

SCHEDULE.

SCHEDULE

Section 3.

COMMONWEALTH OF AUSTRALIA

Immigration Restriction Act 1901.

This is to certify that _____ of _____ aged _____ years, a [*insert trade, calling, or other description*] is exempted for a period of _____ from the date hereof from the provisions of the *Immigration Restriction Act 1901*.
Dated at _____ this _____ day of _____ 1901.

Minister for External Affairs
[*or as the case may be*].

I HEREBY CERTIFY that the above is a fair print of the Bill intituled "An Act to place certain restrictions on Immigration and to provide for the removal from the Commonwealth of prohibited Immigrants," which has been passed by the Senate and the House of Representatives, and that the said Bill originated in the House of Representatives.

In the name and on behalf of His Majesty, I assent to this Act

[Hopetoun]
Governor-General.

[Government House]
[23rd December 1901]

[C. Gavan Duffy]
Clerk of the House of Representatives.

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