

# THE NATIONALITY, IMMIGRATION, AND ASYLUM BILL, 2018

## Arrangement of Sections

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## THE NATIONALITY, IMMIGRATION, AND ASYLUM BILL, 2018

### A BILL FOR AN ACT TO REPEAL THE BAHAMAS NATIONALITY ACT AND THE IMMIGRATION ACT AND REFORM THE LAW ON NATIONALITY AND IMMIGRATION AND TO MAKE PROVISION FOR ASYLUM AND FOR CONNECTED PURPOSES

Enacted by the Parliament of The Bahamas

#### PART I – PRELIMINARY

**1. Short title and commencement.**

- (1) This Act may be cited as the Nationality, Immigration and Asylum Act 2018.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

#### PART II - NATIONALITY

**2. Interpretation.**

In this Part, unless the context otherwise requires —

“**alien**” means a person who is not a Commonwealth citizen or a British protected person;

“**Bahamian Consulate**” means an office of a consular officer of the Government or, where there is no such office, such office as may be prescribed;

- “British protected person”** means a person who is a British protected person for the purposes of the British Nationality Act 1948, of the United Kingdom;
- “child”** includes an illegitimate child but “parent” in relation to any such child shall not include a putative father;
- “Commonwealth”** means The Bahamas, any country mentioned in the *First Schedule* to this Act and any dependency of any such country; and “Commonwealth country” shall be construed accordingly;
- “Commission”** means the Nationality Advisory Commission established by section 4 of this Act;
- “Commissioner”** means the person who, from time to time, holds the office of Commissioner and includes a person acting in that office;
- “Commonwealth citizen”** means a citizen of a Commonwealth country;
- “Constitution”** means the Constitution of the Commonwealth of The Bahamas;
- “foreign country”** means a country that is not a part of the Commonwealth;
- “Government”** means the Government of The Bahamas;
- “infant”** means a person of less than one year;
- “Minister”** means the Minister responsible for Nationality and Citizenship;
- “minor”** means a person who has not attained the age of eighteen years;
- “prescribed”** means prescribed by regulations under this Part;
- “repealed Act”** means The Bahamas Nationality Act (*Ch. 190*).

### 3. General Clauses.

- (1) For the purposes of this Part, a person shall be of full age if he has attained the age of 18 years; and of full capacity if he is not suffering from a mental disorder within the meaning of the Mental Health Act (*Ch. 230*).
- (2) For the purposes of this Part, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the date of his birth.
- (3) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage or of the commencement of this Act, whichever is later, be treated for the purposes of this Part as if he had been born legitimate; but a person shall not be deemed to be so legitimated unless the law of the place where his father was domiciled at the date of the marriage operated immediately or subsequently so to legitimate him.



- (4) For the purposes of this Part, a person born aboard a registered ship or aircraft shall be deemed to have been born in the place where the ship or aircraft was registered.
- (5) For the purposes of this Part, a person born aboard an unregistered ship or aircraft of the government of any country shall be deemed to have been born in that country.
- (6) For the purposes of this Part, a person born aboard an unregistered ship or aircraft which is not of the government of any country, shall be deemed to have been born in the country of his parents, if born in international waters or air space; and if born aboard any such ship or aircraft in the territorial waters or air space of any country shall be deemed to have been born in that country.

#### **4. Nationality Advisory Commission.**

- (1) There is hereby established a body called the Nationality Advisory Commission.
- (2) The Commission shall be appointed by Cabinet and shall comprise the Commissioner, and 10 other members.
- (3) The Commissioner shall be a lawyer of at least seven years' Call to the Bar who shall hold office for a period of five years on such terms and conditions as are stated in his instrument of appointment; and he shall be eligible for re-appointment.
- (4) The other 10 members of the Commission shall be selected from business and other professions and from the wider community of The Bahamas, and each member shall hold office for a period of three years on such terms and conditions as are stated in his instrument of appointment and he shall be eligible for re-appointment.
- (5) The Commissioner shall, under the Minister, be responsible for the performance of the Commission's functions.
- (6) The Commissioner may resign his office by writing signed by him and delivered to the Minister.
- (7) The Cabinet may terminate the appointment of the Commissioner because of misbehaviour, physical or mental incapacity.
- (8) For the purposes of subsection (7) the Commissioner misbehaves if he —
  - (a) engages in paid employment outside the duties of his office without the approval of the Minister;
  - (b) is absent from duty, except on leave of absence, for 14 consecutive days, or a total of 28 days in any 12-month period; or

- (c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.
- (9) The Cabinet may appoint a person to act as Commissioner —
  - (a) during a vacancy in the office of Commissioner, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Commissioner is absent from The Bahamas or for any reason, is unable to perform the functions of his office.
- (10) The staff required to assist in the performance of the Commission's functions are to be persons appointed or employed in the Public Service of The Bahamas.

## **5. Functions of Commission.**

- (1) The Commission's functions are —
  - (a) to receive and to investigate, all applications for registration and naturalization under this Part;
  - (b) to advise the Minister on all such applications for registration and naturalization;
  - (c) to advise the Minister in respect of all decisions relating to deprivation of citizenship, restoration of citizenship; and on any other matters on which the Commission's advice is sought by the Minister;
  - (d) to promote public debate on, and public understanding of, issues of nationality and citizenship;
  - (e) at the request of the Minister, to undertake special projects in respect of matters relating to nationality and citizenship issues; and
  - (f) to seek, and to report to the Minister on the views of the community generally, in connection with nationality and citizenship.

## **6. Powers of Commission.**

- (1) The Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1), the Commission may —
  - (a) with the Minister's approval, provide information on matters related to its functions to any bodies or groups of people conducting enquiries into nationality and citizenship;

- (b) prepare reports and papers on matters within its functions and give them to the Minister; and
- (c) organise, and participate in seminars and conferences on matters related to its functions.

#### ACQUISITION OF CITIZENSHIP

**7. Acquisition of citizenship after commencement of this Act by birth in The Bahamas to parents either of whom is a citizen of The Bahamas – *Article 6* of the Constitution.**

- (1) A person born in The Bahamas after commencement of this Act shall be a citizen of The Bahamas at the date of his birth under the provisions of *Article 6* of the Constitution, if at the date of his birth, either of his parents is a citizen of The Bahamas.
- (2) Accordingly, under *Article 14* of the Constitution, he is a citizen of The Bahamas at birth if—
  - (a) he is born legitimately to a father or mother who is a citizen of The Bahamas; or
  - (b) he is born illegitimately to a mother who is a citizen of The Bahamas.

**8. Acquisition of citizenship after commencement of this Act by registration: birth in The Bahamas to parents neither of whom is a citizen of The Bahamas - *Article 7* of the Constitution.**

- (1) A person born in The Bahamas after commencement of this Act to parents neither of whom is a citizen of The Bahamas, shall be entitled under the provisions of *Article 7* of the Constitution, to be registered as a citizen of The Bahamas, if—
  - (a) he makes application in such manner as may be prescribed, on his attaining the age of 18 years or within 12 months thereafter;
  - (b) being a citizen of some other country, he renounces his citizenship of that other country;
  - (c) he takes the oath of allegiance prescribed in the *Third Schedule* to this Act; and
  - (d) he registers such declaration as may be prescribed of his intention concerning his future residence in The Bahamas.
- (2) A person who before commencement of this Act attained the age of 18 years but not the age of 19 years shall be entitled upon making application to be registered as a citizen of The Bahamas under *Article 7* of the Constitution before his 19<sup>th</sup> birthday.

- (3) A person who before the commencement of this Act attained his 19<sup>th</sup> birthday but failed to make application under *Article 7*, shall not thereafter be entitled to be registered as a citizen of The Bahamas pursuant to that Article.
- (4) Subject to subsection (3) and pursuant to *Article 7(2)* of the Constitution, the Minister may refuse an application for registration under *Article 7* in the interests of national security and public policy as are prescribed in section 17 of this Act.

**9. Acquisition of citizenship after commencement of this Act by registration: descent - persons born outside The Bahamas – Article 3(2), 8 and 9 of the Constitution.**

- (1) The Minister may cause a person born outside The Bahamas after commencement of this Act, to a father who was himself born outside The Bahamas before the 9 July 1973 and became a citizen by virtue of *Article 3(2)* of the Constitution, to be registered as a citizen upon application being made in the prescribed manner.
- (2) A person born outside The Bahamas after commencement of this Act shall be entitled to be registered as a citizen of The Bahamas under *Article 9* of the Constitution if he —
  - (a) is born legitimately to a mother who is a citizen of The Bahamas;
  - (b) makes application in such manner as may be prescribed, on his attaining the age of 18 years and before he attains the age of 21 years;
  - (c) being a citizen of some other country, he renounces his citizenship of that other country;
  - (d) takes the oath of allegiance prescribed in the *Third Schedule* hereto; and
  - (e) registers such declaration of his intentions concerning residence as may be prescribed.
- (3) A person who before commencement of this Act attained the age of 18 years but not the age of 21 years shall be entitled upon making application to be registered as a citizen of The Bahamas under *Article 9* of the Constitution before his 21<sup>st</sup> birthday.
- (4) A person who before the commencement of this Act attained his 21<sup>st</sup> birthday, but failed to make application under *Article 9* of the Constitution, shall not be entitled to be registered as a citizen of The Bahamas pursuant to that *Article*.
- (5) Subject to subsection (4) and pursuant to *Article 9(3)* of the Constitution, the Minister may refuse an application for registration under *Article 9* in

the interests of national security or public policy as are prescribed in section 17 of this Act.

**10. Acquisition of citizenship after commencement of this Act by adoption by a citizen of The Bahamas.**

Where, after commencement of this Act, an order authorising the adoption of a minor child who is not a citizen of The Bahamas is made by any court in The Bahamas, he shall become a citizen of The Bahamas as from the date on which the order is made if the adopter or, in the case of a joint adoption, either adopter is a citizen of The Bahamas on that date.

**11. Acquisition of citizenship after commencement of this Act by registration: marriage – *Article 10* of the Constitution.**

- (1) Any woman who, after the commencement of this Act, marries a person who is or becomes a citizen of The Bahamas shall be entitled under *Article 10* of the Constitution to be registered as a citizen of The Bahamas if she —
  - (a) is still so married;
  - (b) makes an application in such manner as may be prescribed;
  - (c) being a citizen of some other country, she renounces her citizenship of that other country;
  - (d) takes the oath of allegiance prescribed in the *Third Schedule* to this Act; and
  - (e) registers such declaration of her intentions concerning residence as may be prescribed.
- (2) Notwithstanding subsection (1), the Minister may refuse an application for registration under *Article 10* of the Constitution in the interests of national security or public policy as are prescribed in section 17 of this Act.

**12. Acquisition of citizenship after commencement of this Act by registration – minors.**

- (1) The Minister may cause a minor child who does not become a citizen of The Bahamas by virtue of the Constitution to be registered as a citizen upon application made in the manner prescribed by a parent or guardian of that minor child.
- (2) Where after the commencement of this Act an infant is found abandoned in The Bahamas, that infant shall, unless he is shown after enquiry by the Minister not to have been permanently abandoned, be registered as a citizen of The Bahamas by the Minister on application being made by the Director of Social Services.

- (3) Without prejudice to subsection (2) the Minister may, in any other special circumstances as he may think fit, including statelessness, cause a minor child to be registered as a citizen of The Bahamas, on an application being made by a parent or guardian of that minor child in the manner prescribed.
- (4) A minor child registered under this section shall be a citizen of The Bahamas by registration from the date on which he is registered.

**13. Acquisition of citizenship after commencement by registration:  
Commonwealth citizens, and British protected persons.**

- (1) This section applies to a person who on the relevant date has the status of a Commonwealth citizen or British protected person in any of the countries listed in the *First Schedule* to this Act.
- (2) A person to whom this section applies may be registered as a citizen of The Bahamas if —
  - (a) he applies for registration under this section in the prescribed form;
  - (b) he is of full age and capacity;
  - (c) he is qualified to be so registered pursuant to the provisions of the *Second Schedule* to this Act;
  - (d) the Minister is satisfied that the person does not have, apart from the status mentioned in subsection (1), any other citizenship or nationality; and
  - (e) the Minister is satisfied that the person has not, after the relevant date, renounced, voluntarily relinquished or lost through action or inaction, the relevant citizenship or nationality.
- (3) For the purpose of subsection (2)(e) of this section, “relevant date” means the date of the commencement of this Act”.
- (4) A person qualified to be registered under this section shall not be so registered unless he first renounces any other citizenship which he may have and, if he is not a Commonwealth citizen, takes the Oath of Allegiance:

Provided that where any such person cannot renounce his citizenship of some other country under the law of that country, he may instead make such declaration concerning that citizenship as may be prescribed.
- (5) A person registered under this section shall be a citizen of The Bahamas as from the date on which he is so registered.

**14. Acquisition by naturalisation after commencement of this Act: aliens.**

- (1) Any person of full age and capacity and possessing the qualifications for naturalisation as a citizen of The Bahamas specified in the *Second Schedule* to this Act, may make application for naturalization, and the Minister may grant the applicant a certificate of naturalization.
- (2) A person to whom such a certificate is granted shall comply with the formalities prescribed in section 28 of this Act, and shall on taking the Oath of Allegiance in the form prescribed in the *Third Schedule* to this Act, be a citizen of The Bahamas by naturalisation as from the date on which the certificate was granted.
- (3) No certificate of naturalisation shall be granted under this section to any person unless he first renounces any other citizenship that he may possess or, in the case of a person who cannot renounce his citizenship of some other country under the laws of that country, makes instead such declaration concerning that citizenship as may be prescribed.
- (4) The Minister may refuse registration of an alien under this section on any of the grounds prescribed in section 17 of this Act.

**15. Application to Supreme Court where citizenship is in doubt.**

- (1) In a case where a person's citizenship is in doubt, whether on a question of fact or law, he may apply to the Supreme Court for a declaration of his right to citizenship.
- (2) On the grant of a declaration by the Supreme Court under subsection (1), the Minister shall certify that that person is a citizen of The Bahamas.
- (3) A certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that the person to whom it relates was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at any earlier date.
- (4) Any person aggrieved by the decision of the Supreme Court under this section may appeal to the Court of Appeal on any ground of appeal which involves a question of law alone:

Provided that no such appeal shall be competent unless a Justice of the Supreme Court or of the Court of Appeal shall certify that the question on appeal is one of law alone.

**16. Grant of Certificate of citizenship.**

- (1) Any person who claims to be a citizen of The Bahamas by virtue of the operation of the Constitution or of this Part, may make an application to

the Minister for a certificate of citizenship that he is a citizen of The Bahamas.

- (2) The Minister may require any person who applies for a certificate of citizenship under subsection (1) to make and file with him a declaration in the form prescribed in regulations.
- (3) If on consideration of an application made in accordance with subsection (1), any declaration filed under the provisions of subsection (2) and any other relevant evidence available to him, the Minister is satisfied that the applicant is a citizen of The Bahamas, he shall issue a certificate of citizenship to that effect.
- (4) A certificate issued under this section shall, unless it is proved to have been obtained by fraud, false representation or concealment of any material fact, be conclusive evidence that the person to whom it relates was a citizen of The Bahamas on the date thereof but without prejudice to any evidence that he was such a citizen at any earlier date.
- (5) Any decision of the Minister under this section is subject to appeal to the Supreme Court by any person aggrieved on a question of fact or law or on a question of mixed fact and law; and the decision of the Supreme Court may be appealed to the Court of Appeal on any ground of appeal which involves a question of law alone:

Provided that no such appeal shall be competent unless a Justice of the Supreme Court or of the Court of Appeal shall certify that the question on appeal is one of law alone.

**17. Refusal of registration of persons under *Articles 7, 8, 9 and 10 of the Constitution, and sections 8, 9, 11 and 14 of this Act.***

- (1) Pursuant to the provisions of *Articles 7, 8, 9, and 10* of the Constitution, and sections 8, 9, 11 and 14 of this Act, the Minister may refuse an application for registration or naturalization as a citizen of The Bahamas in the interest of national security or public policy if the applicant —
  - (a) has within the period of five years immediately preceding the date of such application been sentenced, upon his conviction of a criminal offence in any country, to death or to imprisonment for a term of not less than 12 months and has not received a free pardon in respect of that offence;
  - (b) is not of good character;
  - (c) has engaged in activities whether within or outside The Bahamas which —
    - (i) are prejudicial to the safety of The Bahamas;



- (ii) are prejudicial to the maintenance of law and public order in The Bahamas;
    - (iii) include terrorism, human and drug trafficking and gang involvement.
  - (d) has been adjudged or otherwise declared bankrupt under the law in force in any country and has not been discharged; or
  - (e) not being the dependant of a citizen of The Bahamas, has no sufficient means to maintain himself and is likely to become a public charge.
- (2) The Minister may also refuse registration under subsection (1) if he is satisfied on any of the grounds in paragraphs (a) through (e) that it is not conducive to the public good that the applicant should become a citizen of The Bahamas.

**18. Minister to give reasons for refusal of citizenship applications.**

- (1) Where the Minister refuses an application for citizenship pursuant to section 17, he shall assign written reasons for his refusal, and such reasons shall include any findings on any material issues of fact made by him.
- (2) The Minister shall, upon assigning his reasons in writing, notify the applicant of his decision and disclose to him the reasons for that decision.
- (3) The requirement of subsection (1) that the Minister assign written reasons for his decision shall not apply if the Minister certifies that the decision was made wholly or partly in reliance on information which in his opinion should not be disclosed —
  - (a) in the interests of national security;
  - (b) in the interests of the relationship between The Bahamas and another country; or
  - (c) otherwise in the public interest.
- (4) A court may however inquire into the sufficiency of any claim of non-disclosure made in accordance with subsection (3), and may determine whether such claim is sustained.

**APPEALS FROM MINISTER ON NATIONALITY AND CITIZENSHIP**

**19. Appeals from Minister on refusal of citizenship applications.**

- (1) Any person aggrieved by the decision of the Minister to refuse an application for citizenship under section 17, may within 28 days of receipt of any notification of such decision, appeal to the Supreme Court.

- (2) Before hearing an appeal under this section, the Supreme Court may inquire into the sufficiency of any claim of non-disclosure made by the Minister under subsection (3) of section 18, and determine whether such claim is sustained.
- (3) If the Supreme Court determines that the claim of non-disclosure by the Minister is unreasonable and not sustainable, the Supreme Court shall order the Minister to give reasons for the refusal of the application for citizenship.
- (4) The Supreme Court shall consider the Minister's findings of fact and his reasons, (if any) and determine whether the Minister has in the course of reaching his decision —
  - (a) acted upon material that is devoid of probative value;
  - (b) acted on material facts which are probative and which prove the applicant has been guilty of conduct which brings him within paragraphs (a) through (e) of subsection (1) of section 17;
  - (c) observed the principles of natural justice.
- (5) Where the Supreme Court is satisfied that the Minister based his decision on facts which are probative and show the applicant to be guilty of conduct under subsection (1) of section 17, justifying refusal and that the Minister has observed the rules of natural justice, the Supreme Court shall dismiss the appeal.
- (6) Where the Supreme Court finds that the Minister has acted on material facts which are devoid of probative value, the Supreme Court shall allow the appeal and set aside the Minister's decision.
- (7) Where the Minister has adopted a procedure in dealing with the application which does not observe the rules of natural justice, the Supreme Court shall allow the appeal and remit the matter to the Minister for a decision on the application to be made according to law.

## LOSS OF CITIZENSHIP AND RESTORATION

### **20. Renunciation of citizenship.**

- (1) A citizen of The Bahamas who has attained the age of 21, is of full capacity and —
  - (a) is also a citizen of another country; or
  - (b) intends to become a citizen of another country,shall be entitled to renounce his citizenship of The Bahamas, on making a declaration in the prescribed form renouncing his citizenship.

- (2) Subject to subsections (3) and (4) the Minister shall cause the declaration to be registered; and on the registration of a declaration made in pursuance of this section, the person who made it shall cease to be a citizen of The Bahamas.
- (3) A declaration made by a person in pursuance of this section shall not be registered unless the Minister is satisfied that the person who made it will, after the registration, have or acquire some citizenship or nationality other than citizenship of The Bahamas; and if that person does not have any such citizenship or nationality on the date of registration and does not acquire some such citizenship or nationality within 12 months of that date, he shall be deemed to have remained, a citizen of The Bahamas notwithstanding the registration.
- (4) The Minister may withhold registration of any declaration made pursuant to this section if it is made during any war in which The Bahamas is engaged against a foreign country of which the citizen of The Bahamas intends to become a citizen, for such period as may be necessary in the interests of national security or public policy.

## **21. Restoration of citizenship after renunciation.**

- (1) Subject to subsection (2), if a person of full age and capacity who has ceased to be a citizen of The Bahamas as a result of a declaration of renunciation (for whatever reason) under section 20, makes an application for restoration of his Bahamian citizenship, the Minister may if he thinks fit, cause him to be re-registered as a citizen of The Bahamas.
- (2) The Minister shall not cause a person to be re-registered under subsection (1) on more than one occasion after his original renunciation.

## **22. Deprivation of citizenship as a result of acts seriously prejudicial to the vital interests of The Bahamas.**

- (1) Subject to the provisions of sections 26 and 27, the Minister may by order deprive of his citizenship, any citizen of The Bahamas who is such by virtue of registration under *Articles 7, 9, or 10* of the Constitution, or registration or naturalisation under sections 13 and 14 of this Act, if he is satisfied that that person has done anything seriously prejudicial to the vital interests of The Bahamas.
- (2) For the purposes of subsection (1) and any other provision of this Part, “anything seriously prejudicial to the vital interests of The Bahamas” shall include —
  - (a) conviction at any time after registration or naturalization of the offence of treason by a competent court in The Bahamas, or by a competent court in any Commonwealth country; or conviction by a

competent court in The Bahamas or in any country of a criminal offence on conviction of which the death penalty or a term of imprisonment of not less than seven years may be imposed, and has not received a free pardon in respect of the offence;

- (b) any act or speech which shows disloyalty or disaffection towards The Bahamas;
- (c) unlawfully trading or communicating with the enemy during any war in which The Bahamas is or has been engaged in, or associating with any business that was to his knowledge carried on in such a manner as to assist any enemy in that war;
- (d) engaging in activities whether within or outside The Bahamas which are seriously prejudicial to the safety of The Bahamas or to the maintenance of law and public order in The Bahamas including terrorism, human and drug trafficking or gang related activities; or
- (e) engaging in activities which are against the interests of national security or public policy of The Bahamas.

**23. Deprivation of citizenship where a certificate of registration or naturalisation is obtained by fraud, misrepresentation, or concealment of material facts.**

- (1) Subject to the provisions of sections 26 and 27, the Minister may by order deprive of his citizenship any citizen of The Bahamas who is such by registration under *Articles 7, 9 or 10* of the Constitution or by registration or naturalisation under sections 12, 13, and 14 of this Act, if he is satisfied that the registration or certificate of naturalisation was obtained by means of fraud, misrepresentation or concealment of a material fact.
- (2) Where a person acquired citizenship status by the operation of any of the aforesaid provisions, or by registration or naturalisation under any repealed enactment having effect before commencement of this Act, the Minister may by order deprive any such person of his citizenship status if the Minister is satisfied that the registration or naturalization was obtained by means of fraud, misrepresentation, or concealment of a material fact.
- (3) Subsection (2) applies to any Bahamian citizen who before the commencement of this Act was a citizen of The Bahamas by virtue of registration under *Articles 7, 9 or 10* of the Constitution or by virtue of registration or naturalization under sections 5, 6 and 9 of the repealed Act.

**24. Deprivation of citizenship on acquisition of citizenship of another country.**

Pursuant to *Article 11* of the Constitution, any citizen of The Bahamas may be deprived of his citizenship by order of the Governor-General if the Governor-General is satisfied —

- (a) that he has acquired by registration, naturalization or any other voluntary act (other than marriage) the citizenship of another country; or
- (b) that he has voluntarily claimed and exercised in any other country any rights available to him under the law of that country, being rights accorded exclusively to its citizens.

**25. Deprivation of citizenship to follow deprivation elsewhere.**

The Minister may, subject to sections 26 and 27 deprive of his citizenship any person who is such by registration or naturalization under this Act, where —

- (a) he is also a citizen of a country specified in the *First Schedule* to this Act;
- (b) he has been deprived of citizenship of that country on grounds which in the opinion of the Minister are substantially similar to any of the grounds specified in sections 22 and 23 of this Act.

**26. Notification to affected persons of deprivation of citizenship, holding of an inquiry and appeal to Supreme Court.**

- (1) Where it is proposed to make an order depriving a person of his Bahamian citizenship, under sections 22, 23 or 25, the Minister shall before making such an order, give the person against whom the order is proposed to be made notice in writing informing him of —
  - (a) his decision to deprive him of his citizenship;
  - (b) the ground(s) on which it is proposed to make such order; and
  - (c) his right to an inquiry under this section.
- (2) If the person against whom the order is proposed to be made applies for an inquiry within five days of being notified by the Minister pursuant to subsection (1), the Minister shall refer the case to a committee of inquiry consisting of a chairman being a person having held high judicial office and of such other members as are appointed by the Minister.
- (3) Before holding the inquiry, the committee shall cause notice in writing to be given to the person to whom the inquiry relates stating the time when and the place where, it will be held, and the nature thereof and informing him of his rights to attend and to be legally represented.

- (4) A notice under subsection (1) may require the person concerned to answer it in writing and to furnish in writing to the committee, a summary of his case and any other information which the committee considers material, and verified in such manner as the committee may require.
- (5) At the inquiry, the person to whom the inquiry relates may be present and may either act in person, or be represented by counsel.
- (6) The committee shall give to the person to whom the inquiry relates an opportunity either personally or by counsel to address the committee, to give evidence, to call witnesses, and to make representations on the evidence, if any, and on the subject matter of the inquiry generally.
- (7) The committee may receive oral, documentary or other evidence of any facts which may appear to the committee to be relevant to the inquiry notwithstanding that such evidence may be inadmissible in a court of law.
- (8) The committee may at the inquiry, request the Minister to furnish an explanation of the ground(s) on which the order depriving the person of citizenship is proposed to be made.
- (9) The committee shall have all such powers, rights and privileges as are vested in the Supreme Court or in any judge thereof on the occasion of any action in respect of the following matters —
  - (a) enforcing the attendance of witnesses and examining them on oath or affirmation, and the issue of a commission or request to examine witnesses abroad;
  - (b) compelling the production of documents;
  - (c) punishing persons guilty of contempt.
- (10) The committee may act notwithstanding a vacancy in its number and its quorum shall be three.
- (11) The committee shall cause its conclusions to be recorded in the document signed by the chairman and shall cause the copy thereof to be sent to each party.
- (12) Subject to subsection (11), the committee shall furnish a statement, either written or oral of the reasons for its conclusion if requested, whether before or after the parties have been notified of its conclusion in accordance with that subsection.
- (13) The committee may refuse to furnish a statement of reasons or may restrict the specifications of the reason for its decision on grounds of national security or in the public interest.
- (14) The decision of the committee may be appealed to the Supreme Court by any party aggrieved.

**27. No deprivation of citizenship in certain cases.**

- (1) Notwithstanding the provisions of sections 22, 23 and 25 of this Act, the Minister shall not deprive a person of his citizenship under any of those sections —
  - (a) if it appears to him that the person to be deprived of his citizenship would thereupon become stateless; and
  - (b) unless he is satisfied that it is not conducive to the public good that he should continue to be a citizen of The Bahamas.
- (2) Subject to section 26, a person deprived of citizenship pursuant to section 22, 23 or 25, shall upon the deprivation by the Minister, cease to be a citizen of The Bahamas.

MISCELLANEOUS

**28. Formalities for obtaining citizenship under this Act.**

- (1) Upon making the decision to grant citizenship to any person under this Part, the Minister shall cause a notice in writing to be issued to the successful applicant informing him of the requirements for registration as a citizen of The Bahamas.
- (2) That notification shall include appointed dates in March, July, and November for administering the oath of allegiance and requiring the applicant to choose a date not being later than 90 days from the receipt by him of the Minister's notice; and to appear on that date to take the oath of allegiance.
- (3) The Minister may extend the time within which the oath of allegiance may be administered pursuant to subsection (2).
- (4) A person to whom a certificate of registration is granted shall on taking the oath of allegiance in the form prescribed in the *Third Schedule* to this Act, be a citizen of The Bahamas as from the date on which the certificate of registration is granted.
- (5) Subject to subsection (3), failure to take the oath of allegiance within the period prescribed in subsection (2) may result in the offer of citizenship under sections 12, 13, and 14 being withdrawn.

**29. Form of Oath of Allegiance on becoming a Bahamian citizen.**

The oath of allegiance required to be taken under this Act or under the provisions of Chapter II of the Constitution shall be in the form specified in the *Third Schedule* to this Act.

**30. Evidence of documents granted or made under the Constitution to be admissible in evidence.**

- (1) Every document purporting to be a notice, certificate, order, declaration, entry in a register, or a subscription to an oath of allegiance given, granted or made under this Act or made under the provisions of Chapter II of the Constitution, shall be received in evidence and shall, until the contrary is proven, be deemed to have been given, granted or made by or on behalf of the person by whom, or on whose behalf, it purports to have been given, granted or made.
- (2) *Prima facie* evidence of any such document as aforesaid may be given by the production of a document purporting to be certified as a true copy thereof by the Permanent Secretary to the Minister or by such other person as may be prescribed.
- (3) Any entry in a register made under this Act or under the provisions of Chapter II of the Constitution shall be received as evidence of the matters stated in the entry.

**31. Regulations.**

The Minister may make regulations generally for giving effect to the provisions of this Part, and in particular, and without prejudice to the generality of the foregoing, may make regulations for all or any of the following purposes —

- (a) for prescribing anything which by the provisions of Chapter II of the Constitution or of this Part are to be or may be prescribed;
- (b) for the registration of anything required or authorised to be registered under the provisions of Chapter II of the Constitution or under this Part;
- (c) for establishing the process by which it is determined whether a person has sufficient knowledge of the English language for the purpose of an application for registration or naturalisation under this Part;
- (d) for establishing the process by which it is determined whether a person sufficiently understands life in The Bahamas for the purpose of an application for registration or naturalisation under this Part;
- (e) for the administration and taking of oaths of allegiance under this Part, for the time within which such oaths shall be taken and for the registration of such oaths;
- (f) for the giving of any notice required or authorised to be given to any person by or under this Part;
- (g) for the cancellation of certificates of registration, and the cancellation of certificates of naturalisation relating to persons



- deprived of citizenship under this Part and for requiring certificates of registration and naturalization to be delivered up for those purposes;
- (h) for enabling the births and deaths of citizens of The Bahamas to be registered at a Bahamian Consulate, or if born or dying in any country in which the Government has for the time being no diplomatic or consular representatives, to be registered —
    - (i) by persons serving in the diplomatic, consular or other foreign service of any country which by arrangement with the Government, has undertaken to represent the Government's interest in that country; or
    - (ii) by a person authorised in that behalf by the Minister.
  - (i) for the imposition and recovery of fees in respect of —
    - (i) any application made to the Minister under this Part;
    - (ii) any registration, the making of any declaration, the grant of any certificate or the taking of any oath of allegiance under the provisions of Chapter II of the Constitution or under this Part; or
    - (iii) supplying certified or other copies of any notice, certificate, order, declaration or entry given, granted or made under the said provisions and for the application of such fees.

## **32. Offences.**

- (1) Any person who, for the purpose of procuring anything to be done or not to be done under the provisions of Chapter II of the Constitution or of this Part, makes any statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence and shall be liable —
  - (a) on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment; or
  - (b) on conviction on information in the Supreme Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.
- (2) Any person who fails to comply with any requirement as to the delivery up of certificates of registration or naturalisation imposed upon him by any regulations under this Part, commits an offence and shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

AMENDMENT, REPEAL, SAVINGS AND TRANSITIONAL

**33. Power to amend or revoke the First Schedule.**

The Minister may by order amend or revoke and replace the *First Schedule* —

- (a) by adding thereto additional Commonwealth countries for the purposes of this Act;
- (b) by deleting therefrom any Commonwealth country specified therein; or
- (c) by making such other variations to that Schedule as may be considered appropriate to the circumstances of any Commonwealth country specified therein.

**34. Repeal and savings provisions.**

- (1) The Bahamas Nationality Act (*Ch. 190*) is hereby repealed.
- (2) The repeal of The Bahamas Nationality Act (*Ch. 190*) shall not affect —
  - (a) the previous operation of anything duly done thereunder;
  - (b) any liability, obligation, privilege or right accrued or acquired under that Act;
  - (c) any legal proceeding or remedy in respect of any accrued or acquired right commenced before the repeal, may be continued, and enforced as if this Act had not been enacted.
- (3) Subject to the provisions of this section, any action taken or anything done under the repealed Act in so far as it is not inconsistent with this Act shall have effect as if it had been taken or done under this Act.
- (4) Every person who before commencement of this Act was registered as a citizen under the Constitution or the repealed Act or naturalised under the repealed Act and has taken the oath of allegiance shall be a citizen under this Act.

**35. Transitional provisions on Nationality.**

- (1) This section applies to any application —
  - (a) for registration as a citizen of The Bahamas under any relevant provision of the Constitution or the repealed Act; or
  - (b) for registration as a citizen under section 5 or 6, or for a certificate of naturalisation under section 9 of the repealed Act,

which is received before commencement of this Act by a person authorised to receive it on behalf of the Minister, but which at the commencement of this Act, has not been determined.

- (2) In relation to any such application —
- (a) the repealed Act and all regulations and arrangements in force under it immediately before commencement of this Act shall (so far as applicable) continue to apply; and
- (b) this Act shall not apply,

but on the grant of any such application, and on the taking of such other steps as are necessary for the person in question to become a citizen of The Bahamas by registration or naturalization, that person shall become a citizen under this Part as if he had been a citizen by registration or naturalization immediately before commencement of this Act.

- (3) Where a person who has been registered or to whom a certificate of naturalisation has been granted before the passing of this Act, has not taken the oath of allegiance, at the date of the commencement of this Act he shall on taking the oath of allegiance, become a citizen of The Bahamas under this Act.

## PART III - IMMIGRATION

### 36. Interpretation.

- (1) In this Part unless the context otherwise requires —
- “agreement”** means the Economic Partnership Agreement between the Cariforum States including The Bahamas, and the European Community and its Member States, concluded at Bridgetown, Barbados on 15 October 2008 and signed by The Bahamas on 20 October, 2008 including the Protocols, Annexes and Declarations;
- “aircraft”** means a machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface;
- “annual resident home owner's biometric card”** means a biometric card issued to a person pursuant to section 11 of the International Persons Landholding Act (*Ch. 140*);
- “authorised port”** means a port designated as an authorised port under the provisions of section 37;
- “biometric card”** means a card containing biometric data and features;
- “biometric data and features”** means —

- (a) digitised fingerprints;
- (b) machine-readable facial images;
- (c) machine-readable biographical data; and
- (d) digital signatures;

**“BH-1B work visa”** means a biometric card issued to a person who, has been granted permission to engage in gainful occupation in The Bahamas pursuant to the grant of a specified commercial certificate under the Commercial Enterprises Act 2017, (*No. 19 of 2017*);

**“BH-4S visa”** means a biometric card issued to a spouse or dependant of the holder of a BH-1B work visa;

**“Board”** means the Board of Immigration constituted under this Act;

**“branch”** of a juridical person means a place of business not having legal personality but which has the appearance of permanency such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties allowing third parties to transact business without the need to deal directly with the parent body, although knowing that there will, if necessary, be a legal link with the parent body and its head office abroad;

**“certificate of abode”** means a document issued under section 66 in the form prescribed by regulations made under section 115 of this Act;

**“child”** means a person under the age of 18 years who is the child, stepchild, legitimated child or lawfully adopted child of any person and “children” shall be construed accordingly;

**“commercial presence”** means establishment within The Bahamas of any type of business or professional entity for the purpose of performing an economic activity or supplying any service referred to in regulations made under section 115, through —

- (a) the constitution or acquisition of a juridical person, including capital participation in the juridical person with a view to establishing or maintaining lasting economic links, which, when the juridical person has the status of a company limited by shares is created where the block of shares held enables the shareholder to participate effectively in the management of the company or in its control;
- (b) maintenance of a juridical person; or
- (c) the creation or maintenance of a branch or representative office;

**“dependant”** means a person —

- (a) who is under the age of eighteen years;

- (b) who, having attained the age of 18, but not 24 years is receiving —
  - (i) full-time instruction at an educational institution whether in The Bahamas or outside The Bahamas;
  - (ii) undergoing training for a trade, profession or vocation at an institution in The Bahamas or outside The Bahamas in such circumstances that he is required to devote the whole of his time to that training; or
- (c) whose earning capacity is impaired through illness or disability of the mind or body;

**“detention centre”** means a centre established by section 38 of this Act;

**“Director of Immigration”** means the person appointed to be Director of Immigration under section 46, and includes any person for the time being lawfully exercising the functions of the office of Director of Immigration;

**“economic activity”** does not include activities relating to any service carried out or supplied in the exercise of governmental authority;

**“embark”** means embark on a ship or aircraft and any reference to “embark” shall be construed as including a reference to attempting to embark;

**“engage in gainful occupation”** means, subject to any exceptions which may be prescribed —

- (a) to take and continue in any employment;
- (b) to practise any profession;
- (c) to carry on any trade;
- (d) to engage in any business; or
- (e) to engage in such other form of occupation as may be prescribed,

where such employment, profession, trade, or business is taken or continued, or is practised, carried on or engaged in, either directly or indirectly for reward, profit, or gain;

**“EU Member State”** means a country listed in the *Fourth Schedule* to this Act;

**“EU service supplier”** means a natural person of an EU Member State who seeks entry into The Bahamas to supply a service referred to in regulations made under section 115 (except a service that is supplied in the exercise of governmental authority) in one of the following categories—

- (a) key personnel of an investor, comprising —

- (i) a business visitor; or
- (ii) an intra-corporate transfer;
- (b) a business services seller;
- (c) a contractual services supplier;
- (d) a graduate trainee;
- (e) an independent professional; or
- (f) a short-term visitor for business purposes;

**“Immigration Officer”** includes the Director of Immigration, the Deputy Director of Immigration and any person appointed by the Governor-General under the provisions of this Part to be an Immigration Officer and also includes a Family Island Administrator;

**“investor”** means a natural or juridical person that performs an economic activity through setting up a commercial presence;

**“juridical person”** means a legal entity duly constituted or otherwise organised under the laws of an EU Member State, whether for profit or otherwise, and whether privately-owned or governmentally-owned and includes any corporation, trust, partnership, joint venture, sole proprietorship or association;

**“key personnel”** means a natural person employed within a juridical person of an EU Member State, other than a non-profit organisation, who is responsible for the setting-up or for the proper control, administration and operation of a commercial presence in The Bahamas;

**“land”** means to disembark in The Bahamas from a ship or aircraft and any reference to “land” shall be construed as including a reference to attempting to land;

**“lien”** in relation to any ship means a maritime lien;

**“manager”** means a natural person who works in a senior position within a juridical person of the EU Member State and primarily directs the management of the commercial presence, receiving general supervision or direction principally from the Board of Directors or stockholders of the business or their equivalent, including —

- (a) directing the commercial presence or a department or division thereof;
- (b) supervising and controlling the work of other supervisory, professional or managerial employees; and
- (c) having the authority personally to recruit and dismiss or to recommend recruiting, and dismissing or to recommend other personnel actions;

- “**member of the crew**” in relation to a ship or aircraft, means any person actually employed in the working or service of the ship or aircraft, including the master of the ship or the commander of the aircraft;
- “**Minister**” means the Minister responsible for Immigration and Emigration;
- “**passenger**” means any person arriving in or departing from The Bahamas in any ship or aircraft other than a member of the crew;
- “**permanent resident**” means a person to whom a valid and subsisting permanent residence certificate is granted under this Part;
- “**police officer**” has the meaning ascribed thereto by section 2 of the Police Force Act (*Ch. 205*);
- “**port**” includes airport, landing place, or harbour;
- “**qualifications**” means diplomas, certificates and other evidence of formal qualification issued by the relevant legislative, regulatory or administrative authority designated to certify the successful completion of professional training;
- “**regulations**” means regulations made under the provisions of section 115 of this Act from time to time in force;
- “**Reserve**” means the Immigration Reserve established under section 42;
- “**reservist**” means a person enlisted in the Immigration Reserve;
- “**resident belongers' permit**” means the holder of a valid and subsisting resident belongers' permit granted under this Part;
- “**right of abode**” means the right of a person listed in section 66 to enter and remain in The Bahamas;
- “**section**” means a section of this Act;
- “**service supplied in the exercise of governmental authority**” means a service that is supplied neither on a commercial basis, nor in competition with one or more service suppliers;
- “**ship**” means every description of vessel used in navigation, however propelled;
- “**short-term work visa**” means a temporary biometric card issued to a person under section 90 permitting him to engage in gainful occupation;
- “**specialist**” means a natural person who —
- (a) works within a juridical person of an EU Member State; and
  - (b) possesses uncommon knowledge essential to the commercial presence's production, research, equipment, techniques or management in The Bahamas, taking account not only of the knowledge specific to the commercial presence, but also of

whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

**“Stop List”** means the list of persons maintained by the Board who are banned from entering or remaining in The Bahamas by section 71;

**“student visa”** means a biometric card issued to a person under section 82 for the purpose of attending full-time, a course at an educational or vocational institution in The Bahamas;

**“supply of service”** includes the production, distribution, marketing, sale and delivery of the service.

**“visitors' work visa”** means a temporary work visa issued to a person under section 103 permitting him to engage in gainful occupation;

**“work visa”** means a biometric card issued to a person permitting him to engage in gainful occupation in The Bahamas under this Part;

- (2) References to birth in The Bahamas shall include birth on a ship or aircraft registered in The Bahamas or on any unregistered ship or aircraft not being that of any country, while in the territorial waters or air space of The Bahamas.

## PORTS OF ENTRY

### 37. **Authorised ports of entry in The Bahamas.**

- (1) The Minister may by notice published in the Gazette declare that any port in The Bahamas shall be an authorised port for the purposes of this Part and may in any such notice, specify in respect of any port so designated, the limits of that port as an authorised port.
- (2) Any person intending to enter The Bahamas whether by ship or aircraft shall do so through an authorised port.

## DETENTION CENTRES

### 38. **Establishment of Detention Centres.**

- (1) The following places are designated as places of detention for the purposes of detaining persons reasonably suspected, or convicted, of an offence against this Part —
- (a) Carmichael Road Detention Centre;
- (b) any place used by an Immigration Officer for the purpose of his functions at a port at which a person has been refused leave to land;



- (c) any place specially provided for the purposes of detention;
  - (d) any police station;
  - (e) any prison; or
  - (f) any other place designated by the Minister by order published in the Gazette.
- (2) Where persons detained include —
- (a) unaccompanied minors;
  - (b) minors accompanied by mothers; and
  - (c) minors accompanied by fathers,
- such minors and mothers of such minors shall be housed separately from other persons in detention, and shall be in the custody and care of the Minister responsible for Social Services.
- (3) Fathers who accompany minors shall be housed with other adults at a detention centre.
- (4) Where unaccompanied minors are to be removed or deported from The Bahamas, arrangements shall be made by the Minister of Foreign Affairs with the Ministry of Foreign Affairs of the relevant country of origin of such persons to ensure they are met by responsible adults on their landing in that country following removal or deportation from The Bahamas.

## BOARD OF IMMIGRATION

### **39. Constitution of the Board.**

- (1) For the purposes of this Part, there is established a body to be called the Board of Immigration which shall consist of the following persons appointed by, and holding office at, the pleasure of the Cabinet, save for those referred to in paragraph (f) who shall be members of the Board by virtue of their public service appointments —
- (a) a Chairman who shall be a lawyer of at least five (5) years' Call to the Bar;
  - (b) a Deputy Chairman;
  - (c) six other persons from the business, professional and other sections of the community of New Providence to ensure broad representation of persons from New Providence;
  - (d) three persons legally and ordinarily resident in the Family Islands;
  - (e) President of the Christian Council or his designate; and
  - (f) the Director of Immigration and two other Senior Immigration Officers as may be designated by the Director.

- (2) The terms and conditions of service of the members of the Board except for those at paragraph (f) of subsection (1) shall be such as are set out in their instruments of appointment.
- (3) The Chairman of the Board shall preside over the proceedings of the Board, but in his absence, the Deputy Chairman or a member designated by the Chairman shall preside.
- (4) A majority of the members of the Board shall constitute a quorum.
- (5) Where on any question the members of the Board are not unanimous, the opinion of the majority shall prevail and in the event of an equality of votes, the member presiding shall have and exercise a casting vote.
- (6) The Board shall meet at least twice in every calendar month and upon such other occasions as, in the opinion of its Chairman, may be necessary or desirable.
- (7) Any member of the Board who, without obtaining the prior written permission of the Chairman, is absent from more than two out of five consecutive meetings of the Board shall cease to be a member of the Board.
- (8) In the absence of the Chairman and the Deputy Chairman or any designate of the Chairman at any meeting, the members present may elect one of their number to preside as Chairman of the meeting.
- (9) If any member of the Board has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Board, he shall, if present at the meeting of the Board at which such matter is to be determined, disclose the fact to the Board as soon as is practicable after the commencement of the meeting, and leave the meeting.
- (10) The Chairman of the Board shall appoint a person as secretary to the Board who shall record and keep all minutes of the meetings, proceedings and decisions of the Board on its behalf.
- (11) Subject to the provisions of this Part, the Board may regulate its own procedure.

#### **40. Functions of the Board.**

- (1) The functions of the Board shall be —
  - (a) to exercise general supervision and control over matters concerning or connected with the entry into The Bahamas, and the residence and occupation in The Bahamas of persons who are not citizens of The Bahamas;
  - (b) to cause to be made such enquiries as it thinks expedient in respect of any matters concerning or connected with any of the above

- designated matters or in regard to any other matters in respect of which the permission, approval or consent of the Board or of any Immigration Officer is required under this Part;
- (c) in respect of matters connected with the above designated matters, to cause such statistical data to be obtained and recorded, and such records or reports to be published, as it may think expedient;
  - (d) to cause records to be kept and maintained of the entry of all persons into The Bahamas and of the departure of all persons from The Bahamas;
  - (e) to hear appeals from the decisions of the Director of Immigration;
  - (f) to exercise the powers and duties conferred upon the Board under the provisions of this Part.
- (2) Without prejudice to anything in the Evidence Act (*Ch. 65*), any record required to be kept under the provisions of subsection (1) shall be received in evidence in any court or in any tribunal in The Bahamas as *prima facie* evidence of particulars entered therein.

## IMMIGRATION OFFICERS AND IMMIGRATION RESERVE OFFICERS

### 41. **Appointment of Immigration Officers.**

- (1) Parliament shall authorize from time to time the appointment of such number of Immigration Officers as are necessary for the purpose of carrying out the provisions of this Part and Part IV of this Act, who shall be public officers.
- (2) Immigration Officers shall be enlisted in the rank of Director of Immigration, Deputy Director of Immigration, Assistant Director of Immigration, Superintendent of Immigration, Chief Immigration Officer, Senior Immigration Officer, Immigration Officer Grades I and II, and such other ranks as the Minister shall establish.
- (3) The Director of Immigration shall, be responsible for the general administration of this Part and Part IV of this Act.
- (4) Subject to the provisions of this Part, the Minister may, from time to time, give general or special directions to the Director of Immigration, any Deputy Director of Immigration or other rank of Immigration Officers as to the exercise or performance of any of their powers, functions or duties and the Director of Immigration, all Deputy Directors of Immigration, and all other Immigration Officers, shall comply with any such general or special directions.

#### **42. Establishment and Enlistment of Immigration Reserve Officers.**

- (1) There is established for the purposes of this Part a corps of officers to be known as the Immigration Reserve which shall consist of Bahamian citizens resident in The Bahamas who —
  - (a) have attained the age of 18 years;
  - (b) volunteer for service in the Reserve; and
  - (c) are enlisted as Reserve Immigration Officers.
- (2) The Reserve may be employed in The Bahamas to assist Immigration Officers in the exercise or performance of any of their powers, functions or duties.
- (3) Subject to subsections (1) and (2) the Director of Immigration may, with the prior approval of the Minister, enlist as many fit and proper persons as members of the Reserve as Parliament may from time to time authorise.
- (4) Reservists enlisted shall be under the direction and control of an Immigration Officer of at least the rank of Assistant Director of Immigration who is not himself a reservist.
- (5) A reservist may be enlisted in the rank of Superintendent of Immigration, Chief Immigration Officer, Senior Immigration Officer, or Reservist, provided that persons enlisted in the rank of Chief Immigration Officer and above shall be appointed by the Governor-General acting in accordance with the advice of the Public Service Commission.
- (6) Appointees of the rank of Chief Immigration Officer and above may be promoted and dismissed by the Governor-General acting in accordance with the advice of the Public Service Commission and officers to those ranks subordinate may be promoted and dismissed by the Director of Immigration with the prior approval of the Minister.
- (7) A reservist shall attend such periods of training, and perform such functions and duties, as the Director of Immigration may from time to time direct.
- (8) A reservist while on duty —
  - (a) shall have, exercise and enjoy the same powers, authorities, advantages and immunities as an Immigration Officer; and
  - (b) shall have the same duties, responsibilities and be subject to the same training and discipline as an Immigration Officer.
- (9) The Director of Immigration may, with the prior approval of the Governor-General, mobilise the Reserve or any part of the Reserve.
- (10) Every member of the Reserve is, during a period of mobilisation, entitled to pay and allowances at the same rate as a gazetted Immigration Officer of equivalent rank.

- (11) The Governor-General may make regulations for the Reserve and may, without prejudice to the generality of the foregoing, make particular regulations in relation to reservists, providing for their —
- (a) ranks and remuneration;
  - (b) terms of service and discipline;
  - (c) training and administration;
  - (d) duties and responsibilities;
  - (e) uniform and equipment; and
  - (f) standing orders.

**43. General Powers of Immigration Officers in Investigation of Offences.**

- (1) For the purpose of investigating any offence under this Part or Part IV of this Act or under any regulations, an Immigration Officer shall have all the powers, privileges, protections and authority conferred by law on a police officer for or in relation to the investigation of offences.
- (2) An Immigration Officer may orally or in writing, summon for interrogation, any person whom he reasonably suspects to have committed an offence against this Part or Part IV of this Act and may require such person to produce any document in his custody or possession or under his control relating to any matter upon which he may be investigated pursuant to this Part or Part IV.
- (3) The exercise of the power of interrogation shall be carried out in accordance with the provisions of the Criminal Procedure Code Act (*Ch. 91*) and the Judge's Rules 1964.

**44. Other Powers of Immigration Officers.**

- (1) Without prejudice to the generality of section 43, where any Immigration Officer reasonably suspects a person to have committed an offence against this Part or Part IV, and that person is suspected to be on board any ship or aircraft which has landed in The Bahamas, he may board the ship or aircraft for the purpose of carrying out any investigation into such offence.
- (2) It shall be lawful for an Immigration Officer without a warrant, but with the authority first had and obtained, of an Immigration Officer not below the rank of Senior Immigration Officer, to search any such landed ship or aircraft for any such person, and to remain therein for so long as it is necessary to search for that person.
- (3) Where any Immigration Officer reasonably suspects a person to have committed an offence against this Part or Part IV and that person is

suspected to be in any vehicle or on any premises, it shall be lawful for him without a warrant but with the authority first had and obtained, of an Immigration Officer not below the rank of Senior Immigration Officer to search any such vehicle or premises and to remain there for so long as it is necessary to search for that person.

- (4) When searching any ship, aircraft, vehicle or other premises pursuant to this section, an Immigration Officer may search every part, and after demand and refusal of any means of entry, to break open any door or receptacle to search for the person suspected of contravening this Part or Part IV, and to arrest and detain that person, and to bring him before a magistrate to be dealt with according to law:

Provided that the powers of this section to search and arrest without a warrant are exercisable only when an Immigration Officer has good reason to believe that the delay in obtaining a warrant would seriously hamper his investigation.

- (5) The Immigration Officer who conducts a search in accordance with subsection (2) or (3) and the Senior Immigration Officer who authorised the search, shall submit a report to a magistrate detailing the grounds on which the search was authorised and the results thereof.
- (6) It shall be lawful for an Immigration Officer to arrest without a warrant any person who within view contravenes any provisions of this Part or Part IV, and who when requested so to do, refuses to give his name and address or gives a name and address which the Immigration Officer has reason to believe is false, and if it appears to him to be necessary to arrest such person immediately in order to serve the ends of justice.
- (7) An Immigration Officer making an arrest in exercise of the powers conferred by this section, shall bring the person arrested before a court, without any unnecessary delay and not later than 48 or 96 hours if extended by a magistrate under section 19 of the Criminal Procedure Code Act (*Ch. 91*), unless the person arrested be earlier released on bail.
- (8) Subject to the requirements of Part A of the *First Schedule* to the Bail Act (*Ch. 103*), a person accused of an offence against this Part or Part IV may be granted bail when he appears or is brought before a magistrate's court or the Supreme Court in the course of, or in connection with, any proceedings for that offence.

**45. Penalties for failing to attend for interrogations, to answer interrogations truthfully, and failing to produce documents.**

Any person who —

- (a) having been summoned for interrogation under the provisions of section 43, fails to attend at the time and place appointed;

- (b) refuses or fails to answer fully and truthfully any question or enquiry lawfully put to him in the course of such interrogation;
- (c) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or enquiry, as aforesaid;
- (d) when required to produce any document under the provisions of section 43, refuses or fails to produce within a reasonable time any such document which it is in his power to produce;
- (e) with the intention of misleading any Immigration Officer produces any document which he knows or has reasonable cause to believe to be false or misleading; or
- (f) otherwise knowingly misleads or attempts to mislead any Immigration Officer acting in the course of his duties,

commits an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for one year, or to both such fine and imprisonment.

**46. Admissibility of answers given in interrogations.**

- (1) All answers to questions lawfully put in interrogation and all documents produced on requisition shall be admissible in evidence in any court in any proceedings described in subsection (2).
- (2) Subsection (1) shall apply to —
  - (a) any civil proceedings in relation to any matter arising under or connected to this Part or Part IV of this Act; and
  - (b) any criminal proceedings instituted under this Part or Part IV of this Act.

**47. Duty of police and customs officers to assist in administration of this Part.**

- (1) It shall be the duty of every police officer and customs officer to aid and assist Immigration Officers generally in carrying out their duties pursuant to the provisions of this Part and Part IV of this Act.
- (2) If it shall become known to any police or customs officer that any person has contravened or failed to comply with, any of the provisions of this Part, Part IV or any regulations made thereunder, it shall be his duty to report the same forthwith to an Immigration Officer.

IMMIGRATION APPEALS

**48. Establishment of Immigration Appeals Tribunal.**

- (1) For the purpose of this Part, there is hereby established an Immigration Appeals Tribunal which shall comprise the following members —
  - (a) a Chairman;
  - (b) up to five Deputy Chairmen; and
  - (c) a panel of 12 other persons,  
all of whom shall be appointed by Cabinet for a period of three years and may be re-appointed for a further period not exceeding three years.
- (2) The Chairman shall be an attorney-at-law of at least seven years' Call to the Bar and each Deputy Chairman shall be an attorney-at-law of at least five years' Call to the Bar.
- (3) For the purpose of exercising its jurisdiction under this Part, the Immigration Appeals Tribunal may, if the Chairman so directs, sit in up to six divisions simultaneously or otherwise, with each division presided over either by the Chairman or by a Deputy Chairman sitting with no fewer than two other members and each such division shall be deemed to be a fully constituted Immigration Appeals Tribunal with jurisdiction to hear appeals under this Part.
- (4) The Minister shall appoint stenographers to the Immigration Appeals Tribunal who shall record or cause to be recorded, and shall keep, all minutes of the hearings and decisions of the Tribunal which shall comprise the official record of the Tribunal.
- (5) The Immigration Appeals Tribunal or each division thereof shall meet at least once in every calendar month and upon such other occasions as the Chairman deems necessary or desirable for the resolution of pending appeals.
- (6) In the temporary absence of the Chairman or in the event of his inability to act, a Deputy Chairman shall act as Chairman and shall exercise all the powers and functions of the Chairman of the Appeals Tribunal under this Part.
- (7) Subject to the provisions of this Part, the Tribunal may regulate its own procedure.

**49. Appeals from decisions of Immigration Officers to the Director of Immigration.**

- (1) Subject to subsections (3) and (4), any person aggrieved by, or dissatisfied with, any decision of an Immigration Officer, may within seven days of



- the communication of the decision to him, appeal to the Director of Immigration whose decision shall be final and binding on the appellant.
- (2) Communication of any decision by an Immigration Officer to an aggrieved person is, if sent —
    - (a) by post, deemed to have been received by him no later than seven days from the date of dispatch by post;
    - (b) by electronic mail, deemed to have been received by him no later than 24 hours after its transmission electronically.
  - (3) An appeal under this section is restricted to dissatisfaction with the decision of an Immigration Officer —
    - (a) to the amount of time granted to remain in The Bahamas upon entering The Bahamas under section 66 or 67;
    - (b) to refuse leave to land in The Bahamas under section 69;
    - (c) to order the removal of persons refused leave to land under section 69;
    - (d) to order the removal of crew members and stowaways under section 76.
  - (4) Upon receipt of notice of appeal from a decision of an Immigration Officer, the Immigration Officer shall within seven days provide the Director with reasons for his decision.
  - (5) Pending the outcome of an appeal under this section —
    - (a) an appellant who appeals pursuant to subsection (3)(b) and (c) shall not be entitled to remain in The Bahamas;
    - (b) an appellant who appeals pursuant to subsection (3)(a) and (d) may remain in The Bahamas if he satisfies the Director of Immigration that he is able to support himself and his dependants (if any) while in The Bahamas.

**50. Appeals from decisions of the Director of Immigration to the Board.**

- (1) Any person aggrieved by any decision of the Director of Immigration including a decision —
  - (a) to refuse to grant or renew a resident belongers' permit;
  - (b) to refuse to grant or renew an application for a permit to reside;
  - (c) to refuse to grant or renew a spousal residence biometric card;
  - (d) to refuse to grant or renew a work visa;
  - (e) to refuse to increase the duration of leave granted to remain in The Bahamas;
  - (f) to restrict leave granted to remain in The Bahamas;

- (g) to attach conditions to the grant of leave to enter and remain in The Bahamas;
- (h) to refuse to grant or renew a student visa;
- (i) to attach conditions to a work visa,

may appeal the decision of the Director to the Board in writing within seven days of the notification of the decision of the Director, and the Board shall hear and determine the appeal and its decision shall be final.

- (2) Appeals under this section shall be by notice in writing to the secretary to the Board, and shall contain the grounds on which the appellant relies and any other information pertinent to the case.
- (3) Upon receipt of notice of appeal from a decision of the Director, the Director shall within seven days provide the Board with reasons for his decision.
- (4) The Board may, if it deems it necessary due to a serious dispute of fact arising on appeal, hold a hearing, at which the appellant may call witnesses and may address the Board.

#### **51. Appeals from the decisions of the Board to the Immigration Appeals Tribunal.**

- (1) Save as otherwise provided in this Part, any person aggrieved by any decision of the Board including a decision —
  - (a) to enter his name on the “Stop List”;
  - (b) to refuse to grant a permanent residence certificate;
  - (c) to refuse to grant an economic permanent residence certificate;
  - (d) to refuse to grant a right of abode certificate;
  - (e) to refuse to grant an endorsement of a spouse or dependant on a permanent residence certificate;
  - (f) to revoke a permanent residence certificate or a resident belongers' permit;
  - (g) to revoke a residence biometric card;
  - (h) to revoke a biometric work visa;
  - (i) to revoke an endorsement on a permanent residence certificate;
  - (j) to revoke an endorsement on an economic permanent residence certificate,

may appeal the decision to the Immigration Appeals Tribunal within 28 days of the communication of the decision to him or within such longer period as the Chairman of the Immigration Appeals Tribunal may for good reason allow.

- (2) Such appeal shall be by notice in writing addressed to the Secretary of the Immigration Appeals Tribunal.
- (3) The notice shall specify the decision against which the appeal is made and shall be accompanied by a copy of the original application, the subject of the appeal, and the prescribed non-refundable fee.
- (4) Correspondence from the Immigration Appeals Tribunal to any appellant shall, if dispatched by post, be deemed to have been received by the appellant no less than seven days from dispatch or if transmitted by electronic mail, shall be deemed to have been received by him no later than 24 hours after its transmission.
- (5) On receipt of a notice of appeal, the Immigration Appeals Tribunal shall, within 14 days thereof, notify the secretary to the Board, of the lodging of the appeal and the Board shall, within 21 days of being so notified, deliver to the Immigration Appeals Tribunal and the appellant, the reasons for its decision.
- (6) The appellant shall within 14 days of the receipt of the reasons referred to in subsection (5), or such longer period as may be allowed by the Immigration Appeals Tribunal, file detailed grounds of appeal with the Immigration Appeals Tribunal and shall serve a copy thereof on the Board.
- (7) The Board shall within 14 days of receipt of the appellant's detailed grounds of appeal, file a written response with the Immigration Appeals Tribunal, and shall serve the same on the appellant.
- (8) An appeal under this section may be made on one or more of the following grounds —
  - (a) that the decision is erroneous in point of law;
  - (b) that the decision is unreasonable;
  - (c) that the decision is contrary to the principles of natural justice.
- (9) After the expiration of the time limited for the service of the Board's response on the appellant, the Immigration Appeals Tribunal shall set the appeal down for hearing, and shall notify the parties of the scheduled hearing.
- (10) At the hearing of the appeal, each party may represent himself in person or by a legal representative of his choice and any party wishing to be heard on the appeal may address the Tribunal on the issues raised by the appeal, and may call witnesses.
- (11) The Immigration Appeals Tribunal may —

- (a) if it is satisfied that the appellant has complied with the requirements of this section, proceed with a hearing on the filed grounds of appeal;
- (b) if it is satisfied that the appellant has failed to comply with any of the requirements of this section, dismiss the appeal without a hearing;
- (c) if it is satisfied on a balance of probabilities that at least one of the grounds of appeal has been made out, allow the appeal;
- (d) if it is satisfied that none of the grounds of appeal is made out, dismiss the appeal.

**52. Orders of Immigration Appeals Tribunal and appeals from its decisions to the Supreme Court.**

- (1) The Immigration Appeals Tribunal may make such orders on appeal including orders for costs as it thinks fit.
- (2) Any person aggrieved by the decision of the Immigration Appeals Tribunal may appeal that decision to the Supreme Court on any ground of appeal which involves a point of law alone.

GRANT OF CERTIFICATES OF PERMANENT RESIDENCE

**53. Certificate of permanent residence.**

- (1) Subject to the provisions of this Part, any person who—
  - (a) is not a citizen of The Bahamas;
  - (b) is not less than 18 years of age;
  - (c) is of good character;
  - (d) has been legally resident in The Bahamas for a minimum period of eight years; and
  - (e) intends to reside permanently in The Bahamas,may, upon application being made to the Board through the Director of Immigration in the prescribed form and on payment of the prescribed fee, be granted a permanent residence certificate permitting him to reside permanently in The Bahamas.
- (2) A certificate granted under subsection (1) may be made subject to such conditions as the Board may impose, including, without prejudice to the generality of the foregoing, a condition that the applicant shall not engage in gainful occupation without a work visa issued under this Part in respect of that occupation.

- (3) A permanent residence certificate shall remain in force during the lifetime of the person to whom it is granted, unless or until it is revoked under section 62.

**54. Endorsement of permanent residence certificate for spouses and dependants.**

- (1) When a permanent residence certificate is granted under section 53, the Board may, then, or on a subsequent application in the prescribed form, endorse the certificate to apply to the spouse and any dependent child ordinarily resident with him.
- (2) Any endorsement under subsection (1) may be made subject to such conditions as the Board may impose, including, a condition that the spouse shall not engage in any gainful occupation without a work visa issued in respect of that occupation under this Part.
- (3) Notwithstanding the duration of the certificate as prescribed by section 53(3), any endorsement in favour of a dependant under subsection (1) shall be valid until he ceases to be a dependant.
- (4) In the event of the death of the holder of the endorsed permanent residence certificate during the dependency of the child and the subsistence of the marriage, the certificate shall, notwithstanding the death of the holder, remain valid for such period as may be required pending the processing of an application for legal status by the surviving spouse or dependant:

Provided that this subsection shall not apply unless such application is made within three months of the death of the holder of the permanent residence certificate.

**55. Certificate of permanent residence for spouse of Bahamian citizen.**

Where a person applies for a permanent residence certificate under section 53 and that person, at the date of the application —

- (a) is married to a citizen of The Bahamas; and
- (c) has during the marriage lived continuously with the other party for a period of not less than five years,

the Board may grant a certificate to the applicant permitting the applicant to reside in The Bahamas permanently, and where a certificate is granted it shall not contain any condition restricting the right of the holder to engage in gainful occupation.

**56. Certificate of permanent residence for surviving spouse of a Bahamian citizen.**

Where a person applies for a permanent residence certificate under section 53 and that person —

- (a) is at the date of the application, the surviving spouse of a Bahamian citizen; and
- (b) was married to the deceased spouse at the date of his death and had lived together with him continuously during the marriage for not less than five years prior to his death;
- (c) makes application within three months of the death of the spouse,

the Board may grant a certificate to the applicant permitting the applicant to reside in The Bahamas permanently, and where a certificate is granted, it shall not contain any condition restricting the right of the holder to engage in gainful occupation.

**57. Certificate of permanent residence for separated or divorced spouse of Bahamian citizen.**

Where a person applies for a permanent residence certificate under section 53 and that person at the date of the application —

- (a) is married to, but living separate and apart from a citizen of The Bahamas under an order of judicial separation, or under a deed of separation, or under a decree nisi of divorce; or
- (b) is living separate and apart under a decree absolute of divorce; and
- (c) during the subsistence of the marriage, lived continuously with the other party to the marriage for a period of not less than five years,

the Board may grant a certificate to the applicant permitting the applicant to reside in The Bahamas permanently, and where a certificate is granted, it shall not contain any condition restricting the right of the holder to engage in gainful occupation.

**58. Certificate of permanent residence for the child of a Bahamian married woman and persons born in The Bahamas to foreign parents.**

(1) Where a person applies under section 53 for a permanent residence certificate and that person —

- (a) was born in The Bahamas to parents neither of whom is a citizen of The Bahamas; or
- (b) was born legitimately, outside The Bahamas, to a married woman who is a citizen of The Bahamas; and

(c) is eighteen years of age or over,  
the Board may grant a certificate to the applicant and where any such certificate is granted, it shall not contain any condition restricting the right of the holder to engage in gainful occupation.

- (2) An application made under subsection (1) by any person entitled to apply for registration as a citizen under *Article 7* or *9* of the Constitution shall not prejudice any application previously made by that person for registration as a citizen of The Bahamas under either of the aforementioned articles of the Constitution.

### **59. Economic permanent residence certificate.**

- (1) Any person who is not a citizen of The Bahamas, is not the holder of a permanent residence certificate, and who —
- (a) is financially independent;
  - (b) has purchased a residence in The Bahamas valued at seven hundred and fifty thousand dollars or more, or otherwise invested in The Bahamas in that amount; and
  - (c) intends to permanently reside in The Bahamas,
- may apply to the Board for the grant of an economic permanent residence certificate and may be granted an economic permanent residence certificate permitting him to reside permanently in The Bahamas.
- (2) An economic permanent residence certificate shall remain in force during the lifetime of the person to whom it is granted, unless or until it is revoked under section 62.
- (3) When an economic permanent residence certificate is granted under subsection (1) the Board may then or on a subsequent application in the prescribed form endorse the certificate in favour of the spouse and any dependent child ordinarily resident with him.
- (4) Any endorsement under subsection (3) may be made subject to such conditions as the Board may impose, including a condition that the spouse shall not engage in gainful occupation without a work visa issued in respect of that occupation under this Part.
- (5) The application form for an economic permanent residence certificate must be notarised by a Justice of the Peace or a Notary Public.
- (6) The form must be accompanied by the documentation prescribed, the prescribed non-refundable processing fee per application (primary and for each endorsee), and the prescribed legal fee for attendances on the application for permanent residence (primary and for each endorsee).

- (7) Notwithstanding the duration of the economic permanent residence certificate, any endorsement in favour of a dependent child shall be valid until he ceases to be a dependant.
- (8) In the event of the death of the certificate holder during the dependency of the dependant and the subsistence of the marriage, the economic permanent residence certificate shall remain valid notwithstanding his death for such period as may be required pending the processing of an application for legal status by the surviving spouse or dependant:  
Provided that this subsection shall not apply unless such application is made within three months of the death of the certificate holder.

#### GRANT OF RESIDENT BELONGERS' STATUS

**60. Grant of resident belongers' permit to persons born outside The Bahamas after the commencement of this Act who are not entitled to citizenship through fathers who are Bahamian citizens by virtue of *Article 3(2)* and *Article 8* of the Constitution.**

- (1) The Director of Immigration may, on application made in the prescribed form, and in accordance with the regulations and directions of the Board, if any, grant a belongers' permit to a person who —
  - (a) was born outside The Bahamas after the commencement of this Act, to a father who was himself born outside The Bahamas before 9 July 1973, and who is a citizen of The Bahamas by virtue of *Article 3(2)* and *Article 8* of the Constitution; and
  - (b) intends to reside in The Bahamas permanently.
- (2) A person may be granted a resident belongers' permit under this section notwithstanding that he has not attained the age of eighteen years:
- (3) A resident belongers' permit granted under this section shall —
  - (a) be granted for ten years, and may be renewed; and
  - (b) entitle the holder thereof to reside in The Bahamas and to engage in gainful occupation for the duration of the permit.

**61. Grant of resident belongers' permit to persons who before the commencement of this Act failed to apply for citizenship pursuant to *Article 7* or *9* of the Constitution.**

- (1) The Director of Immigration may, on application made in the prescribed form and made in accordance with the regulations and the directions of the Board, grant a resident belongers' permit to a person who—



- (a) was born in The Bahamas after 9 July 1973 to non-Bahamian parents;
  - (b) resides permanently in The Bahamas, and intends to continue to reside in The Bahamas permanently;
  - (c) having attained the age of 19 years has failed to apply for registration as a citizen of The Bahamas in accordance with *Article 7* of the Constitution; and
  - (d) makes application for a permit under this section within a period of six months after the commencement of this Act.
- (2) The Director of Immigration may, on application made in the prescribed form, and made in accordance with the regulations and directions of the Board, grant a resident belongsers' permit to a person who —
- (a) was born legitimately outside The Bahamas after 9 July 1973 to a Bahamian woman;
  - (b) resides permanently in The Bahamas, and intends to continue to reside in The Bahamas permanently;
  - (c) having attained the age of 21 years has failed, before the commencement of this Act to apply for registration as a citizen of The Bahamas pursuant to *Article 9* of the Constitution; and
  - (d) makes application under this section within the period of six months after the commencement of this Act.
- (3) A resident belongsers' permit granted pursuant to subsections (1) and (2) shall —
- (a) be granted for a period of 10 years and may be renewed; and
  - (b) entitle the holder thereof to reside in The Bahamas and to engage in gainful occupation for the duration of the permit.

## REVOCATION OF CERTIFICATES AND PERMITS

### **62. Revocation of permanent residence certificate, economic permanent residence certificate, endorsements, and resident belongsers' permit.**

- (1) Subject to subsection (3), the Board may revoke a permanent residence certificate, economic permanent residence certificate or a resident belongsers' permit on the ground that the person to whom it was granted —
  - (a) has shown himself by act or speech to be disloyal or disaffected towards The Bahamas;
  - (b) has, during any war in which The Bahamas was engaged, unlawfully traded or communicated with an enemy or been engaged

- in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war;
- (c) has within five years of the grant of the certificate or permit been imprisoned in any country for a criminal offence for a period of one year or more;
  - (d) has so conducted himself that in the opinion of the Board it is not in the public interest that he should continue to enjoy the privileges conferred by the certificate or permit;
  - (e) subsequent to the grant of the certificate or permit, has been ordinarily resident outside The Bahamas for a continuous period of three years, and has demonstrated his intention not to permanently reside in The Bahamas;
  - (f) has obtained the certificate or permit by means of fraud, false representation or the concealment of any material fact;
  - (g) has at any time been convicted by a competent court in a Commonwealth country of treason;
  - (h) has at any time been convicted by a competent court in any country of any criminal offence punishable by death or imprisonment for seven years or more;
  - (i) has failed to observe any condition to which the certificate or permit was made subject; or
  - (j) has been convicted of an offence under section 117 of this Act.
- (2) Subject to subsection (3) the Board may revoke an endorsement on a permanent residence certificate on the ground that —
- (a) any condition to which the endorsement is subject has not been fulfilled;
  - (b) the dependent child has ceased to be a dependant; or
  - (c) an endorsee has committed any of the acts described in subsection (1).
- (3) Before the revocation of a certificate or permit under subsection (1) or of an endorsement under subsection (2), the Board shall, in writing, inform —
- (a) the person to whom the certificate or permit was granted; and
  - (b) where it is proposed to revoke the endorsement of the name of the spouse or dependent child on the certificate, the person so named,
- of the grounds on which it is proposed to revoke the certificate, endorsement or permit, as the case may be, and shall give any such person, an opportunity to be heard.

- (4) Any person aggrieved by the revocation of a permanent residence certificate, an economic permanent residence certificate, the endorsement of a permanent residence or economic permanent residence certificate, or a resident belongers' permit, may appeal to the Immigration Appeals Tribunal pursuant to section 51 of this Act.

## REGULATION OF ENTRY AND RESIDENCE IN THE BAHAMAS

### **63. General principles.**

- (1) Any person who is, pursuant to section 66, expressed to have the right of abode in The Bahamas shall be free to enter and remain in The Bahamas without let or hindrance except as may be required under and in accordance with this Part.
- (2) A person who does not have that right may nevertheless enter and remain in The Bahamas subject to such regulation and control as are imposed by this Part.
- (3) Arrival in, and departure from, any of the Islands of The Bahamas on a local journey from or to any other Islands of The Bahamas shall not be subject to control under this Part; except that anyone who is entering The Bahamas must do so at an authorised port of entry and otherwise in accordance with this Part.

### **64. Residence and right of abode of persons entitled to apply for registration as citizens under *Articles 7, 9 and 10* of the Constitution after commencement of this Act.**

- (1) Every person who —
  - (a) was born after the commencement of this Act; or
  - (b) was born after the 9 July 1973 but before the commencement of this Act; and
  - (c) is entitled to apply under *Article 7* of the Constitution to be registered as a citizen of The Bahamas,shall, subject to section 66, have the right of abode during his minority provided that such an applicant is in the custody and care of a parent or guardian who has the right of abode in The Bahamas.
- (2) For the purpose of subsection (1), “guardian” means a person who has parental responsibility for a child namely, a person who exercises all the duties responsibilities and authority which by law a parent of a child has in relation to the child and his property.

- (3) Such right of abode under subsection (1) shall continue after minority if a person entitled under *Article 7* makes application for registration within the constitutionally mandated time, and shall further continue pending the determination of an application for registration and if necessary, pending the determination of any appeal against refusal of that application.
- (4) Every person who continues to have the right of abode in accordance with subsection (3), shall have the right to engage in gainful occupation pending the determination of his application for registration or the determination of any appeal against refusal of that application.
- (5) Every person who —
- (a) was born after the commencement of this Act; or
  - (b) was born after the 9 July 1973 but before the commencement of this Act; and
  - (c) is entitled to apply under Article 9 of the Constitution to be registered as a citizen of The Bahamas,
- shall, subject to section 66, have the right of abode during his minority, and if he makes application for registration within the constitutionally mandated time, shall continue to have that right pending the determination of his application for registration, and if necessary, pending the determination of any appeal against refusal of that application.
- (6) Every person who continues to have the right of abode in accordance with subsection (3) shall, have the right to engage in gainful occupation pending the determination of his application for registration or the determination of any appeal against refusal of that application.
- (7) The continued residence in The Bahamas of every person who —
- (a) falls within subsection (1) or (4); and
  - (b) fails to make an application for registration within the time mandated by *Article 7* or *9* of the Constitution as the case may be; or
  - (c) makes an application for registration within the time mandated by *Article 7* or *9* which has been refused, and has either not appealed or has had his appeal dismissed; and
  - (d) has no other legal status,
- shall be unlawful and his right of abode shall cease on the expiration of the constitutionally mandated time, or on the determination of his appeal as the case may be.
- (8) Any such person who thereafter enters and remains, or is thereafter found in The Bahamas commits an offence under section 72(1)(h) and may be liable to deportation.

- (9) Every woman who after commencement of this Act marries a citizen of The Bahamas and applies for registration under *Article 10*, shall have the right of abode and shall have the right to engage in gainful occupation, pending the determination of her application for registration or the determination of any appeal from a refusal of that application.

**65. Residence and right of abode of persons who lost entitlement to apply for registration as a citizen under *Articles 7 and 9* of the Constitution before commencement of this Act.**

- (1) Every person who —
- (a) before the commencement of this Act reached the constitutionally mandated age for applying for registration as a citizen of The Bahamas under *Article 7* or *9* of the Constitution; and
- (b) failed to make such application within the constitutionally mandated time, shall, during the period of six months after the commencement of this Act, have the right of abode:

Provided that within the said period of six months, he makes application for some other legal status under this Act, he shall continue to have the right of abode pending the determination of such application, and if necessary, the determination of any appeal.

- (2) The continued residence in The Bahamas of any person who falls within the provisions of subsection (1), and who fails to apply for other legal status under this Act or who is refused such status, and has not appealed, or is not successful in his appeal, shall be unlawful and his right of abode shall cease at the expiration of six months following the commencement of this Act, or on the determination of the relevant application (if any) or any appeal as the case may be.
- (3) Any such person who thereafter enters and remains in The Bahamas, or is thereafter found in The Bahamas commits an offence and is liable on summary conviction to the penalty specified in section 72(1)(h) and may be liable to deportation.

**66. Persons entitled to land and remain in The Bahamas-Right of Abode.**

- (1) Subject to the provisions of this Part, a person shall have the right of abode if he is —
- (a) a citizen of The Bahamas by birth, adoption, registration or naturalization;
- (b) the holder of a valid permanent residence certificate;
- (c) the holder of a valid economic permanent residence certificate;

- (d) the holder of a valid belongers' residence permit;
- (e) the spouse or child of the holder of a permanent residence certificate who is endorsed thereon;
- (f) the surviving spouse or child of the holder of a permanent residence certificate; pending the determination of an application for legal status;
- (g) the surviving spouse or child of the holder of an economic permanent residence certificate; pending the determination of an application for legal status;
- (h) the spouse or child of the holder of an economic permanent residence certificate who is endorsed thereon;
- (i) the holder of a valid work visa;
- (j) the holder of a valid BH-1B visa;
- (k) the holder of a valid BH-4S visa;
- (l) the holder of a valid EU service supplier permit;
- (m) a person who is a diplomatic or consular officer or a representative, or other official duly accredited of a country other than The Bahamas, or a representative of the United Nations or any of its agencies, or of any inter-governmental organisation in which The Bahamas participates, for the duration of his official duties;
- (n) a person employed in the service of the Government of The Bahamas or by any statutory authority or government owned corporation for the duration of that employment;
- (o) a person whom an Immigration Officer is authorised by the Board to treat as entitled to land in The Bahamas for the duration of that authorization;
- (p) the holder of a valid annual resident home owner's permit, his spouse and dependent children;
- (q) the spouse or children of any person coming within category (k) through (m) whether travelling with, or separately from, such person, for the duration of that person's duties or employment in The Bahamas;
- (r) a woman who is married to a Bahamain citizen who has applied to be registered as a citizen under *Article 10*, pending her application and if refused pending the determination of any appeal;
- (s) a person to whom *Article 7* or *9* of the Constitution applies during his minority;
- (t) a person to whom *Article 7* or *9* applies and who has made application to be registered as a citizen, pending the determination of his application for registration;

- (u) a person to whom *Article 7* or *9* applies and whose application to be registered as a citizen is refused, pending the determination of any appeal under section 19;
  - (v) a person who at the commencement of this Act has lost his entitlement to apply for registration as a citizen of The Bahamas under *Article 7* or *9*, for six months following the commencement of this Act or pending determination of any application for legal status made within six months;
  - (w) a person who has applied for asylum, his spouse and dependants (if any), pending determination of his application;
  - (x) a person who has appealed the refusal, discontinuance or expulsion of his application for asylum, his spouse and dependent children (if any), pending determination of that appeal;
  - (y) an applicant for renewal of any legal status in The Bahamas pending determination of that application;
  - (z) a person who holds a valid student visa for the purpose of engaging in full-time education and studies in The Bahamas;
  - (aa) the holder of a valid short-term or temporary work visa;
  - (bb) the holder of a valid residence biometric card;
  - (cc) the holder of a valid residence spouse biometric card;
  - (dd) a surviving spouse of a Bahamian citizen pending application for permanent residence.
- (2) A person who has the right of abode under subsection (1) shall —
- (a) be entitled to land and remain in The Bahamas; and
  - (b) subject to section 68(1) of this Act, be permitted by any Immigration Officer so to land and remain.
- (3) The burden of proving that any person is a person to whom this section applies shall lie upon the person claiming the right of abode.
- (4) Any person who has a right of abode pursuant to paragraphs (r) through (y) of subsection (1) shall subject to the provisions of this section, be issued a certificate of abode for the purpose of identification and certification of his right to enter and remain in The Bahamas for the time limited therein.
- (5) A certificate of abode granted to a person who has the right of abode pursuant to paragraphs (r) through (v) shall include the right to engage in gainful occupation for the period specified therein.
- (6) The Minister may by regulations, make provision for the issue of a certificate of abode to persons specified in paragraphs (r) through (y) of subsection (1).

- (7) The regulations may in particular —
- (a) specify to whom an application must be made;
  - (b) provide that an application must be made in a specified form;
  - (c) provide that an application must be accompanied by specified documents;
  - (d) require the payment of a fee on the making of an application;
  - (e) specify the consequences of failure to comply with a requirement under any of paragraphs (a) through (d) of this subsection;
  - (f) provide for a certificate of abode to cease to have effect after a period of time specified in or determined in accordance with the regulations;
  - (g) make provision for the revocation of the certificate of abode;
  - (h) make provision which applies generally or only in specified cases or circumstances;
  - (i) make different provision for different purposes;
  - (j) include consequential, incidental or transitional provisions.
- (8) Where any person ceases to be a person entitled to land and remain in The Bahamas in accordance with paragraphs (m) through (o) of subsection (1), he shall, subject to the provisions of this Part, be given a reasonable period of time to allow for his departure from The Bahamas as the Director of Immigration may permit.

**67. Persons granted leave to land and remain in The Bahamas- bona-fide visitors.**

- (1) Where a person does not have the right of abode under section 66, he shall not enter and remain in The Bahamas unless granted leave to do so by an Immigration Officer pursuant to this section.
- (2) Leave to land and remain in The Bahamas may, subject to section 68(2) be granted to any such person for such period not exceeding eight months as the Immigration Officer may determine, upon being satisfied that the person —
- (a) has in his possession a ticket for travelling to some other country which he will be able to enter, and a valid passport, visa or other form of travel document entitling him to enter that country;
  - (b) will not engage in any gainful occupation while in The Bahamas;
  - (c) is not likely to behave in a manner prejudicial to the peace, order and good government of The Bahamas, or to behave in a manner prejudicial to any other vital interests of The Bahamas;
  - (d) is not suffering from a mental disorder nor is mentally disabled;



- (e) is not suffering from any contagious or infectious disease which, in the opinion of a medical practitioner, makes his presence in The Bahamas a danger to the community;
  - (f) is not a person who is reasonably believed to have come to The Bahamas for any immoral purpose;
  - (g) has not been convicted in any place, of murder or an offence of a nature punishable in The Bahamas with imprisonment for a term of three years or more who by reason of such conviction is deemed by the Board to be undesirable;
  - (h) is not a person who has previously been deported or lawfully removed from The Bahamas;
  - (i) is not a person whose name is for the time being entered on the "Stop List";
  - (j) is not a member of a class of persons declared by the Minister to be a prohibited immigrant class;
  - (k) is not a person whose presence in The Bahamas would in the opinion of the Minister be undesirable and not conducive to the public good;
  - (l) is capable of supporting himself and his dependants during such time as he may be permitted to remain in The Bahamas;
  - (m) is not the dependant of a person who is precluded from being granted leave to land by reason of any of the provisions of this section;
  - (n) has made and signed a prescribed form of declaration;
  - (o) has, if required, submitted himself to be examined by a medical practitioner and undergone any test or investigation required by the medical practitioner.
- (3) If a person is granted leave to land and remain in The Bahamas under subsection (2), its duration shall be limited as aforesaid and may be subject to conditions restricting his employment or occupation in The Bahamas.
- (4) Notwithstanding the grant of limited leave to remain in The Bahamas by an Immigration Officer under subsection (3), the Director of Immigration may, for good cause, vary the duration of such leave whether by decreasing or increasing its duration, or by adding, varying or revoking conditions attached to such leave.

**68. General provisions for immigration control of persons having right of abode and bona-fide visitors.**

- (1) Every person who claims to have a right of abode in The Bahamas under section 66 and who desires to enter and remain in The Bahamas shall, if

required by an Immigration Officer, produce for inspection, a relevant passport and if necessary, any other document which establishes his identity and supports his entitlement to enter and remain in The Bahamas.

- (2) Every person who desires to enter The Bahamas as a visitor pursuant to section 67 shall, if required by an Immigration Officer, produce for inspection, a relevant passport or other document establishing his identity, nationality, place of permanent residence or abode and if necessary, a visa issued pursuant to regulation 4 of the Ministry of Foreign Affairs (Visas) Regulations 2015 (*S.I.5/2015*).
- (3) An Immigration Officer may interrogate any person reasonably supposed not to have a right of abode, or not to be a bona-fide visitor and may require any such person to submit to his fingerprints and photographs being taken.

**69. Refusal of leave to land.**

- (1) Every person who claims to have the right of abode but fails to produce the documents required by section 68(1), and to satisfy the Immigration Officer of that right, may be refused leave to enter and to remain in The Bahamas.
- (2) Every person who desires to enter and to remain in The Bahamas as a visitor pursuant to section 67 may be refused such leave by an Immigration Officer if he fails to produce the documents required by the Immigration Officer under section 68(2), or if he fails to satisfy him of any matter prescribed in section 67(2).
- (3) Where leave to land is refused under subsection (1) to any person who claims to have the right of abode, the Immigration Officer may give such directions for his removal from The Bahamas as are prescribed by subsection (5).
- (4) Where leave to land is refused under subsection (2) to any person who seeks to enter and remain in The Bahamas as a visitor, the Immigration Officer may give such directions for his removal from The Bahamas as are prescribed by subsection (5).
- (5) Where leave to land is refused by an Immigration Officer under this section to any person who desires to enter The Bahamas, he may be detained in a detention centre under Immigration authority for no longer than 72 hours, pending the giving of directions —
  - (a) to the master of the ship or commander of the aircraft in which such person arrived in The Bahamas, requiring him to remove that person from The Bahamas in that ship or aircraft;

- (b) to the owners or agents of such ship or aircraft, requiring them to remove such person from The Bahamas in any ship or aircraft specified in the directions, being a ship or aircraft of which they are owners or agents;
- (c) to such owners or agents, requiring them to make arrangements for the removal of such person from The Bahamas in any ship or aircraft bound for a country specified in the directions being either —
  - (i) a country of which such person is a national or in which he embarked for The Bahamas; or
  - (ii) a country to which there is reason to believe that such person will be admitted and for securing him a passage to that country.
- (6) Where any such person is on board a ship or aircraft he may be removed from that ship or aircraft for such detention pending removal under this subsection.

#### **70. Special leave to land.**

Where any person is refused leave to land in The Bahamas by an Immigration Officer under section 69, the Director of Immigration may in his discretion, notwithstanding any other provisions of this Part, give permission in writing to such person to land and remain in The Bahamas for such period and subject to such conditions as he may deem fit to impose.

#### **71. Stop List.**

- (1) Where the Board is satisfied that any person other than a citizen of The Bahamas is for the time being outside The Bahamas and is a person —
  - (a) who has, while in The Bahamas, conducted himself in the opinion of the Board, in a manner which is prejudicial to the vital interests of The Bahamas; or
  - (b) whose landing in The Bahamas appears undesirable in view of information or advice received from any source which the Board considers reliable,then, and in either case, the Board may cause that person's name to be entered on a list to be called the "Stop List".
- (2) A person whose name is so entered on the "Stop List" shall not thereafter be granted leave to land and to remain in The Bahamas without the permission of the Board.
- (3) Before entering on the "Stop List", the name of a person referred to in subsection (1), the Board shall notify that person in writing of the Board's

information and the grounds on which it is proposed to enter his name on the “Stop List” and that person may make representations to the Board as to why he should not be placed on the “Stop List”.

- (4) Any person referred to in subsection (1) who is aggrieved by the decision of the Board to enter his name on the “Stop List” may appeal to the Immigration Appeals Tribunal within seven days of being informed of the decision to place his name thereon.
- (5) If the decision of the Board to place such a person's name on the “Stop List” is affirmed on appeal, his name shall be inscribed on the “Stop List”.
- (6) The Director of Immigration may cause copies of the “Stop List” or notification of the entry in, or removal therefrom, of any name, to be given to the local agents of vessels or aircraft arriving in The Bahamas, to *bona fide* travel agencies, and to be posted at all authorised ports.
- (7) A person's name may be removed from the “Stop List” if after the expiration of five years, the Board is satisfied that that person's presence in The Bahamas is no longer prejudicial to the vital interests of The Bahamas, or is no longer undesirable.

## **72. Restriction on landing and remaining in The Bahamas - offences.**

- (1) Any person who —
  - (a) lands in The Bahamas without the permission or leave of an Immigration Officer;
  - (b) lands in The Bahamas at a place other than at an authorised port;
  - (c) having been granted leave to enter The Bahamas and to remain therein, fails to comply with the time granted to remain in The Bahamas;
  - (d) has obtained leave of an Immigration Officer to enter and remain in The Bahamas by deception of that officer;
  - (e) is found in The Bahamas after being refused leave to land and to remain in The Bahamas by an Immigration Officer;
  - (f) is found in The Bahamas after his permission to land and to remain in The Bahamas is revoked and fails to leave The Bahamas within the time allowed by the Director of Immigration for his departure;
  - (g) without the Board's permission, is found in The Bahamas after his name is entered on the “Stop List”, or
  - (h) is found in The Bahamas without a right of abode, or without leave to enter and remain in the Bahamas as a visitor,commits an offence and is liable on summary conviction to imprisonment for a term not exceeding two years.

- (2) In any proceedings under this section, evidence that any person found in The Bahamas without a right of abode, or other entitlement to land and to remain in The Bahamas, and there is no record of him having an entitlement to land or to remain in The Bahamas, and no record of him having had the leave of any Immigration Officer to land in The Bahamas, shall be evidence of his being, or landing in The Bahamas, in contravention of this section until the contrary is shown to the satisfaction of the court.
- (3) Notwithstanding anything contained in any other Act concerning the time within which any prosecution must be commenced, a prosecution for an offence against this section may be commenced at any time.
- (4) Any person dissatisfied with the decision of the magistrate to convict him under this section, may appeal to the Court of Appeal pursuant to section 14 of the Court of Appeal Act (*Ch. 52*).

## DEPORTATION, REMOVAL AND REPATRIATION

### **73. Deportation of persons convicted of an offence.**

- (1) Where any person who is not a citizen of The Bahamas is convicted of an offence under this Part or Part IV, an application may be made on behalf of the Minister to the court by which he is convicted, for a deportation order, and the magistrate may order the deportation and removal of that person from The Bahamas.
- (2) Without prejudice to subsection (1), a person who is not a citizen of The Bahamas may be deported from The Bahamas, if after he has attained the age of 17 years, he is convicted of any offence in The Bahamas for which he may be punished by death, or imprisonment for three or more years and on his conviction he is ordered deported from The Bahamas by the court before whom he is convicted.
- (3) Where an order of deportation is made in respect of any person, mentioned in subsection (1) or (2) any permit, leave or certificate to enter and to remain in The Bahamas previously issued to him under this Act shall cease to be valid.
- (4) A person ordered to be deported under subsection (1) or (2) may be ordered by the magistrate or other court to be detained under the authority of the Minister in the custody of an Immigration Officer at a detention centre pending the making of arrangements for his deportation.
- (5) A person against whom a deportation order is made under this section shall not be deported until the expiration of seven days from the date of

the order of deportation, or in the event of his making an appeal against conviction, until the appeal is determined.

**74. Deportation of persons by Minister.**

- (1) A person who is not a citizen of The Bahamas may subject to the provisions of section 75, be deported from The Bahamas by order of the Minister if he is a person whose presence in The Bahamas would, in the opinion of the Minister, be undesirable and not conducive to the public good.
- (2) A person's presence in The Bahamas is undesirable and not conducive to the public good if he —
  - (a) has conducted himself in such a manner which is prejudicial to the peace order and good government of The Bahamas;
  - (b) has so conducted himself that it is in the interest of national security that he should be deported;
  - (c) has not received a free pardon, and has been convicted of an offence in any country for which a sentence of imprisonment has been passed;
  - (d) is a person whose application for asylum has been refused and either there is no appeal pending, or his appeal has been dismissed;
  - (e) is a minor dependant of a person who is or has been ordered to be deported;
  - (f) is a person unable to maintain or provide for himself in The Bahamas;
  - (g) is a person declared by the Director of Immigration to be a prohibited immigrant.
- (3) A deportation order made in respect of a minor dependant under paragraph (e) of subsection (2) ceases to have effect if he ceases to be a dependant of the person deported, and has a right of abode or other legal status in The Bahamas, and is in the care or custody of another parent or legal guardian resident in The Bahamas.

**75. Provisions in respect of persons against whom a deportation order is made.**

- (1) Subject to the provisions of this section, a person in respect of whom a deportation order is made under section 73 or 74, shall leave The Bahamas in accordance with the order and shall thereafter remain out of The Bahamas unless he obtains the permission in writing of the Board to re-enter and remain in The Bahamas.

- (2) Where a person who immediately before the making of a deportation order by the Minister under section 74 was lawfully within The Bahamas, a copy of the deportation order shall be served upon him by an Immigration Officer or by any police officer to inform him of the making of such order and the arrangements for deportation.
- (3) If such a notice is dispatched by the Director of Immigration by post addressed to the last known address of the person concerned, the notice is deemed to have been received by the addressee on the third day after the day on which it was posted.
- (4) Upon receipt of the notice, a person ordered deported under section 74 shall be entitled within a period of seven days next following the date of such service, to appeal to the Immigration Appeals Tribunal.
- (5) A person who is entitled to appeal against the making of a deportation order under subsection (4) shall not be deported until the expiration of seven days from the date of service upon him of a copy of the order, and in the event of him appealing, until the appeal is determined.
- (6) Subject to the determination of any appeal, where any person is ordered to be deported from The Bahamas under section 74, it shall be lawful for the Minister to order that person detained at a detention centre in the custody of Immigration Officers for such period as may be reasonably necessary for the purpose of making arrangements for his removal from The Bahamas.
- (7) Any person ordered to be deported under sections 73 and 74 may be placed on board any vessel or aircraft about to leave The Bahamas, and shall be deemed to be in lawful custody until the vessel or aircraft finally leaves The Bahamas.
- (8) The master of the ship or commander of the aircraft shall, if so required by an Immigration Officer, take such steps as may be necessary for preventing the person from disembarking from the ship or aircraft before it leaves The Bahamas, and may for that purpose detain the person in custody on board the ship or aircraft.
- (9) The Minister may give directions to the master of any ship or commander of any aircraft which is about to leave The Bahamas, requiring him to afford to any person in whose case a deportation order has been made, and to his dependants (if any), proper accommodation and maintenance during passage to any port specified in the directions, being a port at which the ship or aircraft is to call in the course of its voyage, and being a port of a country of which he is a national, or of a country to which there is reason to believe such person would be admitted.
- (10) Notwithstanding the making of a deportation order against a person convicted of an offence, all persons ordered deported may be allowed to

leave The Bahamas voluntarily under the supervision or escort of an Immigration Officer until he boards a vessel or aircraft leaving The Bahamas for a country of which he is a national, or to which there is reason to believe he would be admitted.

- (11) While under such supervision or escort, such person shall be deemed to be in legal custody until the vessel or aircraft finally leaves The Bahamas.
- (12) The Minister may, if he thinks fit, apply any money or property belonging to any person ordered deported in payment of the whole or any part of the expenses of or incidental to the voyage from The Bahamas, and in payment of the maintenance until departure, of that person and his dependants (if any).
- (13) Any person who, having been deported from or otherwise lawfully removed from The Bahamas, thereafter enters and remains, or attempts to enter and remain in The Bahamas without the permission in writing of the Director of Immigration, commits an offence and shall on summary conviction, be liable to a fine of ten thousand dollars, or to imprisonment for a term not exceeding three years or to both such fine and imprisonment and shall be liable to be again deported from The Bahamas.

**76. Removal of Crew Members and stowaways of ships or aircraft unlawfully remaining in The Bahamas.**

- (1) Where any member of the crew of a ship or aircraft —
  - (a) has been permitted to land in The Bahamas from that ship or aircraft subject to a condition that he should leave The Bahamas by a specified ship or aircraft or within a specified period, but fails to comply with that condition or is reasonably suspected of intending to fail to do so;
  - (b) has landed in The Bahamas from a ship or aircraft but fails to leave with that ship or aircraft from the port where he has landed, or is reasonably suspected of intending to fail to do so,an Immigration Officer may, subject to subsection (4) give directions —
  - (i) to the master of the ship or commander of the aircraft in which such person arrived in The Bahamas, requiring him to remove that person from The Bahamas in that ship or aircraft;
  - (ii) to the owners or agents of such ship or aircraft, requiring them to remove such person from The Bahamas in any ship or aircraft specified in the directions, being a ship or aircraft of which they are owners or agents;



- (iii) to such owners or agents, requiring them to make arrangements for the removal of such person from The Bahamas in any ship or aircraft bound for a country specified in the directions being either —
- (aa) a country of which such crew member is a national or in which he has a right to reside;
  - (bb) a country in which the crew member embarked for The Bahamas; or
  - (cc) a country to which there is reason to believe that such crew member will be admitted,
- and for securing him passage to that country.
- (2) No directions shall be given under this section in respect of the removal from The Bahamas of any person described in subsection (1) after the expiration of two months from the date on which he last arrived in The Bahamas.
- (3) A person in respect of whom directions are given under subsection (1) may be placed under the authority of an Immigration Officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.
- (4) Where any such person is on board a ship or aircraft he may, under the like authority, be removed from that ship or aircraft for detention in a detention centre pending his removal from The Bahamas.
- (5) It is the responsibility of the owners of the ship or aircraft from which any crew member landed to cover all applicable costs relative to his removal from The Bahamas.
- (6) Where any stowaway is found on board any ship or aircraft which arrives in The Bahamas, an Immigration Officer, notified of his presence shall accept the stowaway for interrogation in accordance with the provisions of this Part.
- (7) After interrogation, the Immigration Officer may, subject to subsection (9) give directions —
- (a) to the master of the ship or commander of the aircraft in which such person arrived in The Bahamas, requiring him to remove that person from The Bahamas in that ship or aircraft;
  - (b) to the owners or agents of such ship or aircraft, requiring them to remove such person from The Bahamas in any ship or aircraft specified in the directions, being a ship or aircraft of which they are owners or agents;

- (c) to such owners or agents, requiring them to make arrangements for the removal of such person from The Bahamas in any ship or aircraft bound for a country specified in the directions being either —
  - (i) a country of which the stowaway is a national or in which he has a right to reside;
  - (ii) a country in which the stowaway boarded the ship or aircraft for The Bahamas; or
  - (iii) a country to which there is reason to believe the stowaway will be admitted,and for securing him passage to that country.
- (8) A stowaway in respect of whom directions are given under subsection (7) may be placed under the authority of an Immigration Officer on board any ship or aircraft in which he is to be removed in accordance with the directions.
- (9) Where —
  - (a) the case of the stowaway is not resolved at the time of the sailing of the ship or the departure of the aircraft in which he arrived in The Bahamas;
  - (b) the stowaway is in possession of valid documents for return and the Immigration Officer is satisfied that timely arrangements have been or will be made for his removal; or
  - (c) it is impractical for the stowaway to remain on the ship or aircraft on which he arrived,the Immigration Officer shall allow the stowaway to disembark and may detain him at a detention centre, or may secure private accommodation for him pending his removal.
- (10) Following the identification of the stowaway and the determination of his nationality, citizenship, or place of residence, the Immigration Officer shall arrange for the removal of the stowaway either to the port at which he boarded the ship or aircraft, to his country of nationality or citizenship, or to his place of residence, or to some other country to which there is reason to believe he may be admitted.
- (11) It is the responsibility of the owners of the ship or aircraft from which any stowaway landed to cover all applicable costs relative to the detention, private accommodation, and care of the stowaway while in The Bahamas; and for his removal from The Bahamas.

**77. Seizure of vessels and the arrest of persons suspected of engaging in breach of the Immigration law in the territorial waters of The Bahamas.**

- (1) Where a foreign vessel is found in the territorial sea of The Bahamas and any Immigration or other law enforcement Officer has reason to believe that such a vessel is engaged in a breach of the Immigration laws of The Bahamas, they may stop, board and search the vessel for the purpose of carrying out enquiries and investigation.
- (2) Following their enquiries and investigation on board the vessel, the officers may, without warrant or other process —
  - (a) seize and detain the vessel;
  - (b) arrest the captain and any person on board whom they reasonably suspect to be participating in a breach of such laws;
  - (c) take the ship, captain and any such persons suspected, to the nearest or most convenient place in The Bahamas;
  - (d) deliver the captain and suspected persons into the custody of a Senior Immigration Officer or a police officer of the rank of Inspector or above, to be brought before a magistrate to be dealt with according to law;
  - (e) deliver the ship into the custody of a police officer of the rank of Inspector or above, to be dealt with according to law.
- (3) It shall be lawful for persons arrested under subsection (2) to be detained at a detention centre pending their appearance before a court, but for no longer than 48 hours, or 96 hours if extended by a magistrate.
- (4) Where persons arrested pursuant to subsection (2) include —
  - (a) unaccompanied minors;
  - (b) minors accompanied by mothers; and
  - (c) minors accompanied by fathers,such minors shall be housed in the the manner prescribed by section 38 of this Act.
- (5) Where arrangements are made for the deportation or removal from The Bahamas of persons mentioned in subsection (4), such arrangements shall be made in accordance with the provisions of section 38 of this Act.

**78. Diversion of vessels found near the territorial sea of The Bahamas and suspected of intending to breach the Immigration laws of The Bahamas.**

Where a foreign vessel is found near the territorial sea of The Bahamas, namely, within three nautical miles of the baseline of the outer limit of the territorial sea

of The Bahamas, and any Immigration Officer or other law enforcement officer has reason to believe that the vessel is intending to breach the Immigration laws of The Bahamas, the officer may divert and safely escort such vessel away from the territorial sea of The Bahamas.

**79. Financial responsibility of persons landing illegally.**

In any case where a person lands from a ship or aircraft in contravention of any of the foregoing provisions of this Part then, without prejudice to any other provisions of this Part, the local representative of such ship or aircraft shall be financially responsible for any public charges reasonably incurred in respect of such person's maintenance, including any detention, while in The Bahamas and his subsequent repatriation, removal or deportation therefrom.

RESIDENCE AND EMPLOYMENT IN THE BAHAMAS

**80. Permit to reside - resident, resident spouse and annual resident home owner's biometric cards.**

- (1) The Director of Immigration may grant a biometric card to any person permitting such person to reside in The Bahamas for the period specified in that card, upon application being made in the prescribed form and upon payment of the prescribed fee.
- (2) Any person granted a biometric card permitting him to reside under subsection (1) shall have the right of abode under section 66 and is entitled to enter and remain in The Bahamas for the duration of the validity of the card, but shall not engage in gainful occupation.
- (3) Notwithstanding subsection (1) where a person applies for permission to reside in The Bahamas and that person is married to a citizen of The Bahamas, and is living together with his Bahamian spouse, the Director of Immigration may grant a biometric card permitting that spouse to reside in The Bahamas and to engage in gainful occupation for the duration of the period specified in the card.
- (4) A biometric card granted under subsection (3) shall, where there are children of the marriage—
  - (a) remain valid to its expiration date notwithstanding the death of the Bahamian spouse, or the dissolution of the marriage by a decree of divorce of a competent court, or the separation of the parties pursuant to a deed of separation;
  - (b) be extended for such further period as may be required pending the processing of an application for any other status.

- (5) A biometric card granted to a spouse shall, where there are no children of the marriage, remain valid to its expiration date notwithstanding the death of the Bahamian spouse or the dissolution of the marriage by a decree of divorce of a competent court, or by the separation of the parties pursuant to a deed of separation.
- (6) The making of an application by a spouse for a biometric card hereunder, shall not prejudice any application by that resident spouse for the grant of a permanent residence certificate, but a card granted under subsection (3) shall cease to have effect upon the grant to that resident spouse of a permanent residence certificate.
- (7) Any spouse granted a biometric card under subsection (3) shall have the right of abode under section 66 and is entitled to enter and remain in The Bahamas for the duration of the validity of that card.
- (8) A person who is not a citizen of The Bahamas and who owns a home in The Bahamas, under the International Persons Land Holding Act (*Ch. 140*) shall be entitled to make application to the Director of Immigration and to be granted, on the payment of the prescribed fee, and on satisfying the Director of Immigration that he will not engage in gainful occupation, an annual residence biometric card, permitting him, his spouse and minor children (if any), to reside in The Bahamas for the duration of the period specified in the card.
- (9) The holder of an annual resident home owner's biometric card granted under subsection (8), his spouse and dependants, shall have the right of abode under section 66 and are entitled to enter and remain in The Bahamas for the duration of the period specified in the card.
- (10) Any person applying for a biometric card under subsection (1) for an annual residence biometric card under subsection (8) shall submit such evidence to the Director of Immigration to satisfy him that —
  - (a) both he, his spouse and his dependants (if any) are of good character, and are in good health ;
  - (b) he has sufficient financial resources and is able to adequately maintain himself, his spouse and his dependants, if any, for the duration of their stay;
  - (c) he has secured good quality living accommodations for himself, his spouse and his dependants, if any;
  - (d) he is able to adequately speak English; and
  - (e) he will not engage in gainful occupation in The Bahamas.

**81. Permission to set up commercial enterprises temporary residence.**

- (1) Upon application being made in the prescribed form by an in-house professional designated in writing by the holder of a commercial enterprise certificate issued under section 7 of the Commercial Enterprises Act 2017 (*No. 19 of 2017*), to undertake any preparatory work towards setting up the commercial enterprise specified in the certificate, he shall be granted leave to enter and remain in The Bahamas by an Immigration Officer for the purpose of setting up such enterprise for a period of 30 days, after which he must apply for and be granted a BH-1B work visa in accordance with section 88 of this Act.
- (2) A person desirous of entering The Bahamas for the purpose mentioned in subsection (1) must meet the requirement of section 68(2) and, in addition, shall supply the Immigration Officer at the authorized port of entry with a copy of the specified commercial certificate and an original letter from the Chief Executive Officer of the specified commercial enterprise certifying the applicant as an in-house professional and designating him as the person responsible for the setting-up of the specified commercial enterprise in The Bahamas.

**82. Student visa.**

- (1) Any person who applies to reside in The Bahamas for the purpose of attending a course at an educational or vocational institution in The Bahamas may be granted a biometric card by the Director of Immigration permitting him to land and to reside in The Bahamas for the duration of his course not exceeding a period of four years, unless extended in accordance with the provisions of subsection (3).
- (2) The application for a biometric card under subsection (1) must be in the prescribed form and accompanied by documentation which satisfies the Director of Immigration that the applicant —
  - (a) is of good character and is in good health;
  - (b) is accepted for admission into an educational or vocational course at a *bona fide* institution in The Bahamas;
  - (c) will leave The Bahamas at the end of his studies;
  - (d) has sufficient financial resources and is able to adequately maintain himself and his dependants, if any, for the duration of his course of study;
  - (e) has secured good quality living accommodations for himself and his dependants, if any;
  - (f) is able to speak English adequately;
  - (g) will not engage in gainful occupation in The Bahamas; and

- (h) if necessary, is in possession of a visa required by the Ministry of Foreign Affairs pursuant to regulation 4 of the Ministry of Foreign Affairs (Visa) Regulations 2015 (*S.I.5/2015*).
- (3) At the expiration of a four-year student visa, a student may apply to the Director of Immigration for an extension, which, if granted, shall be limited to 12 months.

**83. Residence biometric card for spouses and dependants of the holders of- commercial enterprises biometric card BH-1B work visa.**

- (1) Upon the grant of a BH-1B work visa under section 88, the Director of Immigration may upon an application made in the prescribed form and on payment of the prescribed fee, grant a BH-4S visa in the prescribed form to the spouse and any dependent children of the holder of a BH-1B work visa.
- (2) The issue of a BH-4S visa shall —
  - (a) entitle the holder thereof to reside in The Bahamas and to enrol at an educational or vocational institution in The Bahamas;
  - (b) be valid for a period of three years and subject to the renewal of the relevant BH-1B work visa, may be renewed for a further period not exceeding three years.
- (3) The grant of a BH-4S visa does not permit the holder thereof to engage in gainful occupation in The Bahamas.

**84. Variation and revocation of residence biometric card.**

- (1) On application being made in the prescribed manner by the holder of a residence biometric card under section 80 or 82 of this Act, the Board may vary the conditions if any, specified in the card.
- (2) A residence biometric card may be revoked —
  - (a) in the event the Board is satisfied that the person to whom it is granted has failed to comply with any condition or restriction to which it is subject;
  - (b) upon a deportation order being made in respect of the person to whom it is granted;
  - (c) where there is a refusal or inability on the part of the holder to adequately support himself;
  - (d) where there are reasonable grounds for suspecting that the residence biometric card holder is involved in dealing in dangerous drugs or engaging in other illicit activities;

- (e) where it has come to the Board's attention that the residence biometric card holder is engaged in subversive political activity, or acts of racism;
  - (f) where the residence biometric card holder has been convicted of an offence in The Bahamas or elsewhere punishable with imprisonment for more than one year months;
  - (g) where the residence biometric card holder has committed any acts which in the opinion of the Board, are not conducive to the public good.
- (3) Prior to the revocation of a residence biometric card, the holder thereof shall be given notice of the grounds on which it is proposed to revoke his card and shall be afforded an opportunity to make representation to the Board.

**85. Appeal against revocation of residence biometric cards granted under sections 80 or 82.**

Where a biometric card granted under section 80 or 82 of this Act is revoked, the former holder of the card may appeal the decision of the Board to the Immigration Appeals Tribunal within seven days of being notified of the Board's decision.

**86. Restriction upon engaging in gainful occupation.**

- (1) A person shall not engage in any gainful occupation in The Bahamas unless —
- (a) he is a citizen of The Bahamas;
  - (b) he is a permanent resident, or the spouse of a permanent resident whose certificate of permanent residence or endorsement permits them to engage in gainful occupation;
  - (c) he is a resident believer whose permit allows him to engage in gainful occupation;
  - (d) he is the spouse of a Bahamian citizen, who is granted a biometric card permitting him to reside and to engage in gainful occupation;
  - (e) he is a person within any of the categories specified in paragraphs (m) through (o) of section 66(1) of this Act and entitled to engage in gainful occupation;
  - (f) he is a person within any of the categories specified in paragraphs (r) through (y) and sub paragraphs (aa), (cc) and (dd) of section 66(1);
  - (g) he is a person granted a biometric work visa permitting him to engage in gainful occupation in The Bahamas;



- (h) he is a person or within a category of persons whom the Board has by order specified as entitled to engage in gainful occupation in The Bahamas.
- (2) Any person who desires to engage in gainful occupation in The Bahamas may make an application in the manner prescribed in this Part, for a biometric work visa and must make such application while he is outside The Bahamas.
- (3) Any person who is engaged in gainful occupation in The Bahamas without the authority of a work visa, commits an offence and is liable on summary conviction to a fine of five thousand dollars or to a term of imprisonment not exceeding one (1) year or to both such fine and imprisonment.
- (4) Any person who, whether on his own behalf or on behalf of another, employs any person who does not have permission to engage in gainful occupation, commits an offence and is liable on summary conviction in respect of a first offence to a fine of five thousand dollars or to imprisonment for two years, or to both such fine and imprisonment and in respect of a second or subsequent offence to a fine of ten thousand dollars or to imprisonment for three years or to both such fine and imprisonment.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that he made reasonable enquiries to determine whether he was in contravention of this section and had no reasonable grounds for believing, and did not in fact believe, that he committed such an offence.
- (6) A person who, not being authorized to engage in gainful occupation, is found in The Bahamas in any place of work, or on or within the vicinity of any place where work is in the process of being done, or is intended to be done, and at the time has in his possession or under his control any article for use in the course of, or in connection with, any gainful occupation, carried on at that place of work, shall be deemed to be engaged in gainful occupation unless the contrary is proven.
- (7) In this section —
- “place of work”** includes any construction site, cleared land, woodland, field, private dwelling, commercial building, vessel or vehicle;
- “article”** means any instrument used in or, reasonably suspected to be intended for use in connection with any gainful occupation.

**87. Permission to engage in gainful occupation - biometric work visa.**

- (1) Subject to the provisions of this section, any person who submits an application for permission to engage in gainful occupation in the prescribed form, satisfies the Director of Immigration of matters prescribed in subsection (5) and pays the prescribed fee, may be granted a biometric work visa.
- (2) The visa shall entitle the holder thereof to remain in The Bahamas for the purpose of engaging in the gainful occupation specified in the visa.
- (3) The application for a biometric work visa under subsection (1) may be made to the Director of Immigration by the person if he seeks to be self-employed, or by his prospective employer if he seeks to be employed.
- (4) Notwithstanding any prohibition against, or restriction on, engaging in gainful occupation in a permanent residence certificate or in the endorsement of any such certificate in respect of a spouse of a permanent residence certificate holder, the Director of Immigration may nevertheless grant a work visa under this section to that person or spouse permitting him to engage in any gainful occupation in The Bahamas.
- (5) Without prejudice to any other provisions of this Act, any person applying for a work visa under the provisions of this section to be self employed or to be employed by another, shall furnish the Director of Immigration with —
  - (a) full particulars of the gainful occupation he proposes to engage in;
  - (b) evidence of good character in respect of himself and his dependants (if any);
  - (c) medical certificates with respect to the health of himself and his dependants, (if any);
  - (d) particulars of his professional and, or technical qualifications and his experience and competence to undertake the position in respect of which a work visa is sought;
  - (e) particulars of the economic and social benefits to The Bahamas of his residence and employment in The Bahamas;
  - (f) evidence of the sufficiency of his resources or his proposed salary and where his spouse is employed in The Bahamas, those of his spouse, and his or their ability to adequately maintain themselves and their dependants;
  - (g) evidence to satisfy the Director of Immigration the location, type and suitability of the accommodation available to the worker and his dependants, if any, throughout the duration of the work visa;
  - (h) evidence of his ability to write and speak English;

- (i) a visa granted by the Ministry of Foreign Affairs pursuant to regulation 4 of the Ministry of Foreign Affairs (Visa) Regulations 2015 (*S.I.5/2015*);
- (j) particulars (whether of the same kind as those herein before referred to or not) as the Board may consider material to the consideration of any application.
- (6) Subject to the provisions of this Part, a work visa granted under this section shall be for a period of one year renewable up to a term in the aggregate of seven years.
- (7) Where the work visa is granted, the self-employed or prospective employer shall provide a bond for such sum and with such sureties as the Board may approve for securing payment of any public charges, including any cost of transporting the applicant and his dependants to a country outside The Bahamas willing to receive them, or other costs that may be incurred in respect of the applicant or his dependants:
- Provided that the Board shall cancel any such bond on the applicant subsequently acquiring other legal status in The Bahamas which entitles him to engage in gainful occupation and on being satisfied that the necessity for the bond no longer exists:
- And provided further that in the case of a person who is to be employed by an employer in The Bahamas, the prospective employer shall be required to give such bond and not the applicant for employment.
- (8) Where the application for a work visa is submitted to be employed by another, it must be accompanied by evidence from the prospective employer, to satisfy the Director of Immigration that —
- (a) he has a genuine need to engage the services of the prospective worker;
- (b) he has, unless exempted by the Board, sought, by advertising in at least two issues for two consecutive weeks in a local newspaper, to ascertain the availability of any one or more of the following persons in the order listed —
- (i) a citizen of The Bahamas;
- (ii) the spouse of a citizen of The Bahamas;
- (iii) the holder of a permanent residence certificate with the right to engage in gainful occupation;
- (iv) the holder of a resident belongers' permit with the right to engage in gainful occupation;
- (v) a person otherwise legally and ordinarily resident in The Bahamas who has permission to engage in gainful occupation and who is qualified and willing to fill the position.

- (9) Any person who, when making an application under this section knowingly and with intent to deceive the Board or the Director of Immigration —
- (a) withholds information that a Bahamian or other person lawfully entitled to engage in gainful occupation in The Bahamas has applied for the position for which a work visa is sought; or
  - (b) provides inaccurate or incomplete information with respect to paragraph (a),
- commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for two years or to both such fine and imprisonment and in respect of a second or subsequent offence to a fine of ten thousand dollars or to imprisonment for three years or to both such fine and imprisonment.
- (10) Where a work visa authorises the gainful occupation of a worker while he is in the service of an employer, any fees payable under this section in respect of such work visa, or any bond required in respect of that worker, shall be paid by the employer and it shall be an offence for an employer —
- (a) to seek or receive from any such worker any monies or other compensation or benefit as reimbursement of, or contribution towards the bond;
  - (b) to make any deduction from any remuneration due by him to any worker on account of, or in respect of, work visa fees or to secure the bond.
- (11) During the currency of a work visa, the holder thereof may not change his employer unless with the permission of the Board, which permission shall not be given unless the Board is satisfied that there are special circumstances for granting such permission.
- (12) While a work visa is current, the holder of that visa may not be promoted or re-designated without the approval of the Board.
- (13) In considering the application for approval of promotion or re-designation of the holder of a work visa, the Board shall have regard to the effect such promotion or re-designation would have for the advancement of that level of qualified Bahamians already engaged in the same profession or capacity within that business.

**88. Permission to engage in gainful occupation – commercial enterprises biometric card BH-1B work visa.**

- (1) Where, pursuant to section 7 of the Commercial Enterprises Act 2017 (*No.19 of 2017*), a commercial enterprise certificate is granted, entitling

the commercial enterprise to work visas for executives, managers or other individuals with specified knowledge of the enterprise, the Director of Immigration shall on application made within 30 days of the commercial enterprise entering The Bahamas to set up operation, grant a BH-1B work visa to each such applicant.

- (2) Applications under subsection (1) shall be in the prescribed form and accompanied by the requisite documentation and prescribed fees.
- (3) The Director of Immigration shall consider and determine any such application within 14 working days of the submission of the application to him.
- (4) If the Director of Immigration fails to determine any application for a work visa submitted by such commercial enterprise within the said 14 working days, the application shall be deemed to have been granted and may only be revoked if the Director of Immigration has reasonable grounds for believing that the grant of such work visa is against the interests of public safety, public morality or national security of The Bahamas.
- (5) Each BH-1B work visa granted by the Director of Immigration shall be valid for a period of three years in the first instance and may be renewed for an additional period of up to three years.
- (6) A person shall not be granted a BH-1B work visa under subsection (1) unless that person possesses a Bachelors Degree from a recognized university or college in a specialized area relevant to the specialised commercial enterprise and has a visa issued pursuant to regulation 4 of the Ministry of Foreign Affairs (Visas) Regulations 2015 (*S.I.5/2015*).

**89. Permission to engage in gainful occupation - biometric card work visa for spouses of persons employed in the service of the Government etc.**

- (1) A person who as a spouse, accompanies to The Bahamas —
  - (a) a person employed in the service of the Government of The Bahamas;
  - (b) a person employed by any statutory authority or any government owned corporation; or
  - (c) a diplomatic or consular officer or representative or other official duly accredited of a country other than The Bahamas, or a representative of the United Nations or any of its agencies or a representative of any inter-governmental organization in which The Bahamas participates,

may, subject to the provisions of this Part, be granted a work visa by the Director of Immigration to engage in gainful occupation in The Bahamas.

- (2) The Director of Immigration may grant a work visa on any application under subsection (1) for a period not exceeding the duration of the accompanied person's contract of service, or the duration of his appointment, or for the period during which such person is carrying out his diplomatic, consular or other duties in The Bahamas.
- (3) Notwithstanding subsection (2) where the accompanied person is granted a permanent residence certificate after his spouse is granted a work visa under subsection (2) and thereafter the accompanying spouse applies for a permanent residence certificate, the accompanying spouse will not lose the right to work and may continue to be granted a work visa until the final determination of that application for permanent residence.

**90. Permission to engage in gainful occupation – biometric card short-term work visa.**

- (1) Subject to the provisions of this Part, the Director of Immigration may, on application being made in the prescribed form and on payment of the prescribed fee, grant to a person who desires to enter and remain temporarily in The Bahamas for the purpose of engaging in gainful occupation, a short-term work visa in the prescribed form to enter, to remain and to work in The Bahamas.
- (2) The application for a short-term work visa under this section shall be accompanied by the following documentation —
  - (a) full particulars of the gainful occupation sought;
  - (b) evidence of good character in respect of himself and his dependants (if any);
  - (b) medical certificates with respect to the health of himself and his dependants, (if any);
  - (c) particulars of his professional and technical qualifications or professional or technical qualifications and his experience and competence to undertake the business services or other occupation in respect of which a short-term work visa is sought;
  - (d) particulars of the economic and social benefits to The Bahamas of his residence and employment in The Bahamas;
  - (e) evidence of the sufficiency of his resources or his proposed salary and his ability to adequately maintain himself and his dependants, (if any);

- (f) evidence to satisfy the Director of Immigration of the location, type and suitability of the accommodation available to the worker and his dependants, (if any), throughout the term of the visa;
  - (g) evidence of his ability to write and speak English;
  - (h) particulars (whether of the same kind as those herein before referred to or not) as the Board may consider material to the consideration of any application;
  - (i) a bond for such sum and with such sureties as the Board may approve for securing payment of any public charges including any cost of transporting the applicant and his dependants to a country outside The Bahamas willing to receive them.
- (3) A short-term work visa granted under this section may be either —
- (a) for a continuous period of up to three months which may be renewed so long as the total period of validity does not exceed three months; or
  - (b) for a continuous period of three months for a seasonal worker which work visa cannot be extended or renewed, with respect to the same seasonal worker unless that person has left The Bahamas for at least three months immediately following the expiration of the short-term work visa.
- (4) No application for the grant of a short-term work visa under this section in respect of a person who entered The Bahamas as a visitor shall be considered unless the applicant is outside The Bahamas during the submitting and processing of the application under this section.
- (5) Notwithstanding subsection (4), where in his opinion, there are extenuating circumstances, the Director of Immigration may nevertheless approve the application.
- (6) A prospective employer or an applicant who, in connection with an application under this section, provides information to the Director of Immigration which he knows to be false or does not believe to be true, commits an offence against this Act and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment not exceeding two years, or to both such fine and imprisonment.

## **91. Entry and temporary stay in The Bahamas of EU service supplier.**

- (1) The provisions of this section and sections 92 through 102 apply to an EU service supplier; and shall not apply to —
  - (a) a natural person of an EU Member State seeking access to the employment market of The Bahamas on a permanent basis; or

- (b) any law, regulation, rule, procedure, decision, administrative action, or any other measure regarding citizenship, residence or employment on a permanent basis.
- (2) The sections referred to in subsection (1) shall be read with the Agreement and where there is any inconsistency or conflict with any provision of these sections and a provision of the Agreement, the provisions in these sections shall prevail to the extent of the inconsistency.
- (3) A juridical person is controlled by another juridical person if the latter has the power to name a majority of its directors or otherwise to legally direct its actions.

**92. Application by EU service supplier for permission to enter The Bahamas and stay temporarily for the purpose of engaging in economic activity or to supply a service.**

An EU service supplier shall, prior to entry into The Bahamas, apply to the Director of Immigration for a permit to engage in any economic activity or supply any service prescribed by the relevant regulations made under this Part.

**93. Grant of permission to EU service supplier to engage in economic activity or to supply a service.**

- (1) Where an applicant satisfies the requirements of sections 96 through 100, and the relevant regulations made under this Act, the Director of Immigration shall issue a permit to the applicant in the form prescribed in the *Fifth Schedule* to this Act to engage in such economic activity or supply any such service referred to in section 92 of this Act within 30 days of receipt of the application.
- (2) The Director of Immigration may refuse to issue a permit to an EU service supplier who —
  - (a) is a person referred to in section 94 (2)(a); or
  - (b) has been convicted of an offence under section 101.

**94. Duration of stay of EU service supplier granted permission.**

- (1) Subject to the provisions of sections 91 through 102, an EU service supplier with a permit issued in accordance with section 93 shall be entitled to enter and temporarily stay in The Bahamas, where the said service supplier is —
  - (a) a business services seller, business visitor or short-term visitor for business purposes, for a period of up to 90 days in any 12-month period;



- (b) a contractual services supplier or an independent professional, for the lesser period of —
    - (i) a cumulative period of not more than six months in any 12-month period; or
    - (ii) the duration of the contract;
  - (c) a graduate trainee, for a period of up to 12 months; and
  - (d) an intra-corporate transfer, for a period of up to three years.
- (2) Section 93 shall not apply —
- (a) where an EU service supplier is a prohibited immigrant; or
  - (b) if under the law of the EU Member State, reciprocal treatment is not afforded to a similar person who is a national or citizen of The Bahamas.
- (3) An EU service supplier granted permission under section 93 shall not be subject to —
- (a) restriction on the freedom to leave and re-enter The Bahamas, without further permission; or
  - (b) restriction or limit on the right to supply a service in accordance with the permit.
- (4) Nothing in sections 91 through 102 or regulations made under this Part shall be construed as exempting an EU service supplier from any obligation to hold a valid passport or other valid travel document.

**95. Revocation of EU service supplier permit.**

- (1) The Minister may revoke a permit granted to an EU service supplier who is the subject of —
- (a) an order made against him for his deportation or removal;
  - (b) an Order of the Minister issued in accordance with this Act declaring him to be an undesirable resident or visitor.
- (2) The permit granted to an EU service supplier under section 93 is revocable where he —
- (a) violates one or more conditions of the permit; or
  - (b) commits an offence which, under the laws of The Bahamas, is punishable with imprisonment for 12 months or more.

**96. Conditions of entry and temporary stay of EU service supplier, key personnel and graduate trainees.**

- (1) Subject to the commitments listed in any regulations made pursuant to this Part, an investor of an EU Member State is entitled to temporarily employ

in his commercial presence in The Bahamas, for the period referred to in section 94, a natural person who must be key personnel or a graduate trainee.

- (2) Key personnel seeking entry and temporary stay in The Bahamas must establish, in the case of —
  - (a) a business visitor, that he —
    - (i) works in a senior position with an investor of an EU Member State and will be responsible for setting up a commercial presence in The Bahamas;
    - (ii) will not engage in direct transactions with the general public in The Bahamas; and
    - (iii) will not receive remuneration from a source located within The Bahamas.
  - (b) an intra-corporate transfer, that he —
    - (i) is employed by or has been a partner in a juridical person in an EU Member State for at least one year;
    - (ii) is a manager or specialist within the commercial presence of the investor; and
    - (iii) is being temporarily transferred to a commercial presence in The Bahamas.
- (3) A graduate trainee seeking entry and a temporary stay in The Bahamas must establish that he —
  - (a) has been employed by a juridical person in an EU Member State for at least one year;
  - (b) possesses a university degree; and
  - (c) is being transferred to a commercial presence or the parent company of the investor in The Bahamas for career development purposes or to obtain training in business techniques or methods.

**97. Conditions of entry and temporary stay of EU service supplier - business services seller.**

- (1) A business services seller seeking entry and temporary stay in The Bahamas must establish that he —
  - (a) is a representative of a juridical person in an EU Member State;
  - (b) seeks to enter The Bahamas to negotiate the sale of services or enter into agreements to sell services for the juridical person in paragraph (a) of subsection (1);
  - (c) will not engage in making direct sales to the general public in The Bahamas; and

- (d) will not receive remuneration from a source located within The Bahamas.

**98. Conditions of entry and temporary stay of EU service supplier - contractual services supplier.**

- (1) A contractual services supplier seeking entry and temporary stay in The Bahamas must establish that he —
  - (a) is an employee of an EU juridical person with no commercial presence in The Bahamas, which has obtained a service contract that requires the employee's presence in The Bahamas for a period not exceeding 12 months;
  - (b) has been employed by the juridical person to offer the same services for at least one year immediately preceding the date of submission of an application pursuant to section 92 for entry into The Bahamas;
  - (c) will be paid by the juridical person;
  - (d) at the date of submission of an application pursuant to section 92, possesses at least three years' professional experience obtained after having reached the age of majority in the sector of activity which is the subject of the contract;
  - (e) possesses a university degree or a qualification demonstrating knowledge of an equivalent level; and
  - (f) where required, possesses the professional qualification(s) to perform the activity for which he seeks entry pursuant to the law, regulations or requirements of The Bahamas.
- (2) Entry into The Bahamas under subsection (1) shall be granted on the condition that the contractual service supplier performs only the work that is stipulated in his or her service contract.
- (3) Entry into The Bahamas under subsection (1) does not confer on the contractual service supplier entitlement to exercise a professional title in The Bahamas.
- (4) Contractual service suppliers of fashion model, chef de cuisine and entertainment (other than audio visual) services are exempted from the requirements of paragraphs (e) and (f) of subsection (1).

**99. Conditions of entry and temporary stay of EU service supplier - independent professional.**

- (1) An independent professional seeking entry and temporary stay in The Bahamas must establish that he —

- (a) is engaged in the supply of a service on a temporary basis as a self-employed person established in an EU Member State;
  - (b) has obtained a service contract not exceeding 12 months;
  - (c) at the date of submission of an application pursuant to section 92 possesses at least six years' professional experience in the sector of activity which is the subject of the contract;
  - (d) possesses a university degree or a qualification demonstrating knowledge of an equivalent level; and
  - (e) where required, possesses the professional qualification to perform an activity for which he seeks entry pursuant to the law, regulations or requirements of The Bahamas.
- (2) Entry into The Bahamas under this section is granted on the condition that the independent professional performs only the work that is stipulated in his service contract.
- (3) Entry into The Bahamas under this section does not confer on the independent professional entitlement to exercise a professional title in The Bahamas.

**100. Conditions of entry and temporary stay of EU service supplier - short-term visitors for business purposes.**

- (1) A short-term visitor for business purposes seeking entry and temporary stay in The Bahamas under this section must establish that he is —
- (a) a technical, scientific or statistical researcher planning to conduct research and design on behalf of a company located in an EU Member State;
  - (b) conducting research or analysis, including market research, on behalf of a company located in an EU Member State;
  - (c) personnel of a company in an EU Member State who will receive training in techniques and work practices employed by companies or organizations in The Bahamas, and that the training will be confined to observation, familiarisation and classroom instruction only;
  - (d) attending a trade fair for the purpose of promoting his company or its products or services;
  - (e) a sales representative or agent taking orders or negotiating contracts for goods for a company located in an EU Member State, but not delivering the goods;
  - (f) a buyer purchasing for a company or management and supervisory personnel engaging in a commercial transaction located in The Bahamas; or

- (g) a hotel representative, tour and travel agent, tour guide or tour operator (tourism personnel) attending or participating in a tourism convention or a tourism exhibition.
- (2) A short-term visitor under subsection (1) must establish that he will not —
  - (a) engage in selling his goods or services to the general public;
  - (b) engage in supplying his goods or services himself;
  - (c) receive any remuneration from a source located in The Bahamas; or
  - (d) engage in the supply of services under a framework contract between an EU juridical person who has no commercial presence in The Bahamas and a consumer.

### **101. Offences by EU service supplier.**

- (1) A person commits an offence who, for the purpose of gaining or attempting to gain permission under section 92 —
  - (a) gives, offers or promises to give a bribe, recompense or consideration of any kind to, or makes an agreement or arrangement with, an Immigration Officer or other public officer;
  - (b) makes a statement which the person knows to be false or misleading in a material particular;
  - (c) recklessly makes a statement which is false or misleading in a material particular;
  - (d) induces, aids or abets or attempts to induce, aid or abet any other person to commit an offence under this section any regulations made under this Part;
  - (e) presents to a public officer false, misleading, fraudulent or otherwise improper documents, knowing the document to be false, misleading, fraudulent or otherwise improper.
- (2) Where a person seeks to derive a benefit under a permit issued under this Part which has been revoked under section 95, knowing that it has been revoked, he commits an offence and is liable on summary conviction to the penalties prescribed in section 102.

### **102. Penalties.**

- (1) A natural person who commits an offence under section 101 is liable —
  - (a) on summary conviction for a first offence, to a fine not exceeding three thousand dollars and to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment; and
  - (b) on summary conviction for a second or subsequent offence, to a fine not exceeding ten thousand dollars or to imprisonment for a

term not exceeding two years, or to both such fine and imprisonment.

- (2) A juridical person which commits an offence under section 101 is liable —
- (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and
  - (b) on summary conviction for a second or subsequent offence, to a fine not exceeding ten thousand dollars.
- (3) A person convicted of an offence under this section is prohibited from making an application for a permit under section 92 for up to five years.

### **103. Permission to engage in gainful occupation - visitors' work visa.**

- (1) A person other than one who is ineligible for the grant of a work permit under this Part who —
- (a) is employed full-time by a company, individual or institution outside The Bahamas;
  - (b) is coming to The Bahamas for a maximum of five days for the purpose of engaging in any commercial activity with one or more persons or entities in The Bahamas licensed to trade or to carry on business in The Bahamas;
  - (c) would otherwise require a work permit for such commercial activity;
  - (d) is being sponsored by persons described in paragraph (b) of this subsection,
- may apply to an Immigration Officer upon arrival at an authorised port for the grant of a visitor's work visa.
- (2) An Immigration Officer of the rank of Senior Immigration Officer or above, upon being satisfied that the applicant under subsection (1) —
- (a) is formally sponsored by one or more entities licensed to trade or carry on business in The Bahamas;
  - (b) possesses a letter(s) of sponsorship in the prescribed form;
  - (c) is not a person prohibited by this Part from entering The Bahamas;
  - (d) pays the prescribed non-refundable fee,
- may grant a visitor's work visa valid for five days.
- (3) A person granted a visitor's work visa pursuant to this section shall be entitled to engage in the permitted commercial activity, only with his sponsor or sponsors for the duration of the visa.

- (4) A visitor's work visa shall not be extended or renewed unless the Director of Immigration is satisfied that there are exceptional circumstances, and then only for a further five days after which the holder shall leave The Bahamas.

**104. Exemption from requirement of work visas, etc.**

- (1) Notwithstanding the requirement in section 86 to obtain a work visa to engage in gainful occupation in The Bahamas, that requirement does not apply to a person who enters The Bahamas for the purpose of engaging in any activity specified in subsection (2) and who remains in The Bahamas only for that purpose, and for a period not exceeding 14 days.
- (2) The activities for which no work visa is required under subsection (1) are —
- (a) attendance at a conference or seminar as a participant, but not as an organiser of such conference or seminar;
  - (b) attendance at a trade show or summit, but not as an organiser of such trade show or summit;
  - (c) attendance at a business meeting with a local entity or business;
  - (d) working as a non-executive director of a business in The Bahamas where the person is not involved in the day-to-day operation of the business in The Bahamas;
  - (e) attendance at a business meeting in any of the following capacities —
    - (i) chairman of the Board of Directors;
    - (ii) director of the Board;
    - (iii) shareholder of the entity or business;
    - (iv) chief executive officer;
    - (v) chief operating officer;
    - (vi) chief financial officer;
    - (vii) consultant;
    - (viii) legal counsel;
    - (ix) compliance officer;
    - (x) accountant;
    - (xi) auditor;
    - (xii) actuary;
    - (xiii) medical professional;
    - (xiv) controller;
    - (xv) analyst;

(xvi) manager.

(xvii) any other capacity as may be determined by the Director of Immigration.

**105. Term limits on work visas.**

- (1) Subject to the provisions of this Part, the term limit for work visas shall be seven years commencing with the date on which the worker first entered The Bahamas, if he first entered as a work visa holder or commencing on the date on which the worker is granted a work visa, if the worker first entered The Bahamas as a visitor.
- (2) Subsection (1) shall not apply to a person who had and continues to have, his normal place of work and abode for the time being outside The Bahamas and who enters The Bahamas to work on a short-term work visa for a specific purpose or occasion only and leaves The Bahamas at the end thereof or upon the expiry of the short-term work visa, whichever first occurs including —
  - (a) legal Counsel acting in any matter for which they are specially called to The Bahamas Bar;
  - (b) visiting doctors or other specialists in the medical field who have come to The Bahamas to treat special cases or to provide instruction to medical students;
  - (c) skilled specialist tradesmen including engineers and mechanics in The Bahamas to lend their expertise to any particular matter;
  - (d) travelling salesmen;
  - (e) other specialists in similar circumstances.
- (3) Upon the expiration of the term limit set by subsection (1), and whether such visas are granted and held continuously or not, the worker shall leave The Bahamas and shall not be eligible for the grant or renewal of a work visa until he has ceased to hold a work visa for not less than a year after he has left The Bahamas.
- (4) A worker who leaves The Bahamas before the expiration of his term limit and who has ceased to hold a work visa for not less than a year, may apply for and be granted a new work visa and shall thereupon have a new term limit as provided in subsection (1).
- (5) Where a worker has left The Bahamas prior to the expiration of his term limit and has ceased to hold a work visa but either he or his employer wishes to apply for a new work visa prior to his having ceased to hold a work visa for one year or more, then the worker or his employer may apply for and be granted a new work visa but his term limit shall remain as if his employment had not been interrupted, and upon the expiration of



such term limit, the provisions of subsection (1) shall apply to him unless he is allowed to remain in The Bahamas under some other provision of this Part.

- (6) Where the spouse of a work visa holder has been granted a work visa under this Part, that work visa shall automatically terminate on the date his spouse ceases to have the right to work in The Bahamas under subsection (1), and they shall leave The Bahamas and not be entitled to the grant or renewal of any further work visas until they have ceased to hold works visa for not less than one year.
- (7) The term limit for a work visa granted to a spouse of persons referred to in section 89 shall be deemed to have commenced on the date on which he was first in The Bahamas as a spouse, and he shall thereafter be subject to the provisions of this section as if he had first entered The Bahamas as a worker.
- (8) Subject to subsection (9) where a person has applied for permission to reside permanently in The Bahamas during the currency of a work visa, he may apply to the Director of Immigration for permission —
  - (a) to continue working on the same terms and conditions that applied to the work visa;
  - (b) to work for a different employer but in the same occupation as that in which he was authorised to work at the time of making the application,

and such permission may be granted or his work visa renewed until such time as his application for permanent residence is granted, or if refused, any appeal arising therefrom, is determined.

- (9) A person granted permission to work under subsection (8) shall, in the event that his application for permission to reside permanently in The Bahamas has been unsuccessful and no appeal has been filed within the time allowed for doing so, or having been filed has been unsuccessful and any further appeals have been exhausted, and in either event his term limit has expired, be entitled to continue to receive permission under subsection (8) for a period not exceeding 90 days from the date of the communication to him of such refusal or the determination of any appeal or proceedings arising therefrom, whichever shall be the later, and after such period expires he shall leave The Bahamas and shall not be eligible for the issue or renewal of a work visa until he has ceased to hold a work visa for not less than a year thereafter.

#### **106. Conditions of work visas, variation and revocation.**

- (1) A work visa granted under this Part shall contain all conditions or restrictions to which the work visa is subject.

- (2) Such a visa —
  - (a) may be limited in duration to a period specified in the visa;
  - (b) may be granted subject to such conditions or restrictions in the visa, in addition to any conditions or restrictions which may be prescribed by regulations, or as the Board may in any case direct; and
  - (c) may be subject to any special conditions or restrictions which the Board may impose in respect of any particular person.
- (3) On application being made in the prescribed manner by the holder of a visa granted under the provisions of this Part, and subject to the provisions of this Part and any regulations made thereunder, the Board may vary the conditions and the period of validity, if any, specified in the said visa.
- (4) Subject to the provisions of this Part, a work visa may be revoked —
  - (a) where the Board is satisfied that the person to whom it is granted has failed to comply with any condition or restriction to which the visa is subject;
  - (b) upon a deportation order being made in respect of the person to whom the visa is granted;
  - (c) where there is a refusal or inability on the part of the applicant or the visa holder and his spouse, if relevant, to adequately support himself and his dependants;
  - (d) where there are reasonable grounds for suspecting that the work visa holder is involved in dealing dangerous drugs or engaging in other illicit activities;
  - (e) where it has come to the Board's attention that the visa holder is engaging in subversive political activity, racism, or any other illegal activity;
  - (f) where the visa holder has been convicted of an offence in The Bahamas or elsewhere punishable with imprisonment for one year or more;
  - (g) where the visa holder has committed any act which in the opinion of the Board is not conducive to the public good;
  - (h) where the visa holder has been promoted or re-designated by his employer without the prior approval of the Director of Immigration.
- (5) Prior to the revocation of a work visa, the work visa holder shall be given notice of the grounds on which it is proposed to revoke his work visa and shall be afforded an opportunity to make written representation to the Board or to personally appear before the Board and to be heard.

- (6) Where a work visa is revoked, the former work visa holder may appeal the decision to the Immigration Appeals Tribunal within seven days of being notified of its revocation.

## SUPPLEMENTARY PROVISIONS RELATING TO IMMIGRATION CONTROL

### **107. Duty of local representative of ship or aircraft to give notice of arrival.**

- (1) It shall be the duty of the local representative of every ship or aircraft arriving in The Bahamas to give adequate and timely notification of the arrival of the ship or aircraft to the Director of Immigration and, if required, to furnish such particulars as he may then have in his possession regarding the passengers and crew on board such ship or aircraft.
- (2) Any person who fails to comply with any of the requirements of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

### **108. Inward passenger and crew manifests.**

- (1) The master of any ship or aircraft arriving in The Bahamas, and the local representative of any such ship or aircraft shall, as soon as practicable after the arrival of such ship or aircraft and before any passenger or member of the crew has landed in The Bahamas, deliver to an Immigration Officer, electronically or otherwise, a manifest showing —
  - (a) the names and particulars of the passengers and crew on board the ship or aircraft;
  - (b) the names of the passengers whose journey by that ship or aircraft is to be completed in The Bahamas;
  - (c) the names and particulars of any other person (including persons rescued at sea and stowaways) on board the ship or aircraft:

Provided that an Immigration Officer may allow any person on board the ship or aircraft to land, without prejudice to any other provision of this Part, before such lists are duly delivered.

- (2) The master of any ship or any local representative who fails to comply with any requirement under subsection (1) commits an offence against this Act and is liable on summary conviction to a fine not exceeding ten thousand dollars.

### **109. Control of landing from ships and aircraft.**

- (1) It shall not be lawful for the master of any ship or the captain of any aircraft to cause or allow any passenger or member of the crew or other

person on board the ship to land in The Bahamas before permission generally to land has been given by an Immigration Officer.

- (2) The master of any ship or the captain of any aircraft and the owner and any agent of the owner of any ship or aircraft from or in which a person lands in contravention of the provisions of section 67 and 68 commits an offence against this Act and is liable —
  - (a) on summary conviction to a fine of two thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; or
  - (b) on conviction upon information in the Supreme Court to a fine of five thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

#### **110. Declaration on disembarkation and embarkation.**

- (1) Every passenger, except for citizens of The Bahamas arriving in The Bahamas, shall complete a declaration in the prescribed form for presentation to the Immigration Officer who shall stamp the form if entry to The Bahamas is granted, and return the stamped copy to the passenger.
- (2) Every such passenger shall, before departing from The Bahamas, return the stamped copy of that declaration form to the ticket agent of the ship or aircraft on which he is departing from The Bahamas.
- (3) It shall be the duty of the owner of the ship or aircraft in or from which any passenger embarks or disembarks, to provide such passengers at the owner's expense, with the prescribed form.
- (4) Any person who, in completing the prescribed declaration, knowingly makes any false statement or representation, commits an offence against this Act and is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **111. Outward passenger and crew manifests.**

- (1) The local representative of every ship or aircraft departing from The Bahamas shall, if so required by an Immigration Officer, furnish to the Director of Immigration at the time of, or immediately after the departure of the ship or aircraft, lists showing separately —
  - (a) the names and particulars of the passengers on board the ship or aircraft;
  - (b) the names and particulars of the members of the crew of the ship or aircraft; and
  - (c) the names and particulars of any other person on board the ship or aircraft.

- (2) Any person who fails to comply with any requirement of subsection (1) commits an offence against this Act and is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **112. Lien on ship or aircraft landing passengers contrary to this Act.**

- (1) If a passenger lands or attempts to land in The Bahamas, or does any act preparatory to landing in The Bahamas to the knowledge of the master of a ship or the captain of an aircraft by which such passenger arrived, and such landing is, or would be, in contravention of any provision of this Act, such ship or aircraft shall be subject to a lien in favour of Her Majesty for the sum of fifteen hundred dollars in respect of each such passenger so landing, attempting to land, or making preparation to land and the amount so charged may be sued for and recovered by the Treasurer in the Supreme Court.
- (2) Any Immigration Officer or any police officer, acting under instructions of the Treasurer shall detain, by force if necessary, any ship or aircraft charged with the payment of any sum under this section, for a maximum of three days following the landing of the passenger in respect of which the same is charged:

Provided that such detention shall cease upon earlier payment to the officer detaining such ship or aircraft, or the person placed by him in actual charge of such ship or aircraft, of all sums charged upon such ship or aircraft under this section, or upon the ship or aircraft being arrested under the process of the Supreme Court issued in any action for the recovery of the said sums.

- (3) For the purposes of any action for the recovery of any sums charged upon an aircraft under the provisions of this section such aircraft shall be deemed to be a ship and the law relating to Admiralty actions *in rem* shall apply to such action accordingly.
- (4) Where the sum charged upon a ship or aircraft under this section is unpaid and exceeds the value of such ship or aircraft it shall be lawful for the Supreme Court on the application of the Treasurer, to order the forfeiture of the ship or aircraft.

#### **113. Lien to cease if passenger returned on board.**

If a passenger lands in The Bahamas from any ship or aircraft contrary to the provisions of this Part, and such passenger is, on the complaint of the master or captain, apprehended and conveyed on board such ship or aircraft, the lien arising under section 112 on the landing of such passenger shall cease to exist on his being so conveyed on board as aforesaid, but shall revive if such passenger again lands contrary to this Part.

**114. Power of Treasurer to remit lien.**

In the event of any ship or aircraft becoming subject to a lien in respect of any passenger, the Treasurer may, either before or after any suit has been commenced for the recovery of such amount, remit the whole or such part thereof as he shall deem expedient, and order the release of such ship or aircraft on such terms and conditions as he shall think fit.

**115. Power to make regulations.**

The Minister may make regulations for carrying this Part into effect and in particular and without prejudice to the generality of the foregoing for all or any of the following purposes —

- (a) prescribing the forms to be used for the purposes of this Part;
- (b) prescribing the fees to be paid in respect of any matter or thing prescribed under this Part;
- (c) prescribing the process for applying for a certificate of abode, the issue of certificates of abode, duration, and revocation of certificates of abode;
- (d) providing for the payment and recovery of any expenses incurred by the Government in connection with the detention, maintenance, medical treatment and removal from The Bahamas of any person under this Part;
- (e) prohibiting or restricting any ship or aircraft from entering or leaving The Bahamas otherwise than at authorised ports;
- (f) requiring any ship or aircraft to discharge cargo or disembark passengers at an authorised port;
- (g) prohibiting or restricting any ship or aircraft from entering or proceeding to, or discharging cargo or disembarking passengers at, any place or port other than a specified port;
- (h) imposing restrictions or conditions on any ship or aircraft entering any port within The Bahamas;
- (i) requiring the master of any ship or such other person as may be specified in the regulations to undertake such obligations as may be deemed by the Minister necessary or expedient for giving effect to this Part;
- (j) prescribing penalties where none are specified in this Part;
- (k) prescribing the manner in which applications under this Part are to be made;
- (l) prescribing the form of permits and, work visas to be granted under this Part;

- (m) prescribing the economic activity in which EU service suppliers may engage in, and services which may be supplied them;
- (n) prescribing anything which is required to be, or may be prescribed under this Part.

**116. Burden of proof.**

- (1) If any question arises in any proceedings under this Part, or under any regulations, or in reference to anything done or proposed to be done thereunder, as to whether a ship or aircraft has come from a particular country or otherwise, the burden of proving that the ship or aircraft has not come from a particular country shall lie upon the person charged or, as the case may be, upon the person who, in those proceedings, is interested in proving that the ship or aircraft has not come from that particular country.
- (2) If any question arises as to the entitlement of any person to enter and remain in The Bahamas, the burden of proving such entitlement shall be on that person.
- (3) In any proceedings under this Part, where evidence has been given that a person is or has been engaged or employed in The Bahamas by or on behalf of any other person in any form of occupation for which, in the ordinary course of conduct, remuneration in money or in money's worth would be payable, it shall be presumed until the contrary is shown, that such first-named person is, or, as the case may be, has been, engaged or employed in gainful occupation by such other person in The Bahamas in contravention of this Part.

**117. Assisting illegal landing and harbouring illegal entrants.**

- (1) Any person who knowingly assists, organises, facilitates, or provides material support or resources —
  - (a) for securing the entry into The Bahamas of any person whom he knows or has reasonable cause for believing has no entitlement to legally enter The Bahamas; or
  - (b) for securing the continued residence in The Bahamas of any person whom he knows or has reasonable cause for believing has no entitlement to legally remain in The Bahamas,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, or on conviction on information to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

- (2) Any person who makes any statement or uses any document which he knows to be false in a material particular, for the purpose of assisting or facilitating any person to enter or remain in The Bahamas unlawfully, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, or on conviction on information to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.
- (3) Any person who knowingly assists or facilitates any person to breach a deportation order to secure that person's illegal entry into The Bahamas or to secure a person's continued illegal residence in The Bahamas in breach of the provisions of this Part, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, or on conviction on information to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.
- (4) Without prejudice to the foregoing subsections of this section, a person who knowingly harbours, conceals or gives shelter to any person whom he knows or has reasonable cause for believing to have illegally entered, or illegally remained in The Bahamas, or is a person who has committed an offence under this Part, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding two years.
- (5) Any person who, for or in expectation of, any fee, gain, or reward, assists, encourages or induces any other person to harbour, conceal or give shelter to —
- (a) any person who has illegally entered The Bahamas;
  - (b) any person who illegally remains in The Bahamas;
  - (c) any person who has committed any offence under this Part,
- commits an offence if that other person harbours, conceals or gives shelter to the person who has illegally entered, remained or committed any offence under this Part, and shall on summary conviction be liable to imprisonment for a term not exceeding two years.
- (6) No prosecution for an offence under subsection (5) or for an attempt to commit that offence shall be instituted unless the person whom the defendant is alleged to have assisted, encouraged or induced, in fact harboured, concealed or gave shelter to the person who illegally entered, remained or committed any offence under this Part.
- (7) In any proceeding for an offence under subsection (4) or (5) it shall not be a defence for the defendant to prove that the person allegedly harboured,



concealed or sheltered, was in possession of a permit or a document entitling him to enter and remain in The Bahamas unless he further shows that he exercised due diligence to also ascertain that the permit or document was genuine or valid and —

- (a) inspected and checked the permit or other document to ascertain that the particulars on the permit correspond with the particulars on the passport of the person whom he is alleged to have harboured, concealed or sheltered; or
  - (b) checked with that persons' employer to verify that the person is employed and that the particulars of the person allegedly harboured, concealed or sheltered correspond with the records of the employer
  - (c) checked with the Director of Immigration to ascertain the validity of the permit or other document.
- (8) An Immigration Officer or a police officer may arrest without warrant anyone who has, or whom he, with reasonable cause suspects to have committed an offence under this section.
- (9) The extended time limit for prosecutions as is provided for in section 72(3), shall apply to offences under this section.

**118. Forfeiture of ship or aircraft where owners, or captain of ship or aircraft convicted of an offence.**

- (1) Where a person convicted on information of an offence under subsection (1),(2),(3),(4) or (5) of section 117, is at the time of the offence —
- (a) the owner or one of the owners of a ship or aircraft used or intended to be used in carrying out the arrangements in respect of which any such offence is committed;
  - (b) a director or manager of a company which is the owner or one of the owners of any such ship or aircraft; or
  - (c) the captain of any such ship or aircraft,
- then subject to subsections (2) and (3) and to the provisions of the Customs Management Act (*Ch. 293*), the court before whom he is convicted may order the forfeiture of the ship or aircraft.
- (2) In subsection (1) “**owner**” in relation to a ship or aircraft which is the subject of a hire-purchase agreement, includes the person in possession of it under that agreement and, includes a charterer.
- (3) A court shall not order a ship or aircraft to be forfeited under subsection (1) unless—
- (a) in the case of a ship, it is of less than 500 tons gross tonnage or, in the case of an aircraft, it is of less than 5700 kilograms operating weight;

- (b) the person convicted is at the time of the offence the owner or one of the owners, of the ship or aircraft; or
  - (c) the ship or aircraft, under the arrangements in respect of which the offence is committed, has been used at one time for bringing more than 20 persons to The Bahamas as illegal entrants, and the intention to use the ship or aircraft in bringing persons to the Bahamas as illegal entrants was known to, or could, by the exercise of reasonable diligence, have been discovered by, the person on whose conviction the ship or aircraft is liable to forfeiture in accordance with subsection (1).
- (4) In subsection (3) “**operating weight**” means in relation to an aircraft, the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world in the most favourable circumstances, in accordance with the certificate of airworthiness in force in respect of the aircraft.
- (5) A court shall not order a ship or aircraft to be forfeited under subsection (1), where a person claiming to be the owner of the ship or aircraft or otherwise interested in the ship or aircraft applies to be heard by the court, unless an opportunity has been given to that person to be heard and to show cause why the order should not be made.

### 119. Marriage of Convenience.

- (1) A marriage (whether or not it is void) is a marriage of convenience if—
- (a) either, or both of the parties to the marriage is not a citizen of The Bahamas;
  - (b) there is no genuine relationship between the parties to the marriage; and
  - (c) either, or both of the parties to the marriage enter into the marriage for one or more of the following purposes —
    - (i) to avoid the effect of one or more provisions of this Part; or
    - (ii) to enable a party to the marriage to obtain citizenship or the right to reside and to engage in gainful occupation or to obtain some other advantage under this Part.
- (2) Any person who enters into a marriage of convenience —
- (a) knowing or having reason to believe that there is no genuine relationship between him and the other party to the marriage;
  - (b) knowing or having reason to believe that the only purpose of the marriage is to assist the other party to avoid the effects of the provisions of this Part or to enable the other party to obtain the right

- to citizenship or the right to reside and to engage in gainful occupation, or to obtain some other advantage under this Part; and
- (c) offers or receives as an inducement or reward for entering into the marriage, any money, valuable security or other property by way of a gift, loan, or fee,
- commits an offence and is liable on conviction on information to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.
- (3) Any person who with the required knowledge referred to in paragraphs (a) and (b) of subsection (2) and who receives as an inducement or reward any money, valuable security, or other property by way of gift, loan or fee, arranges or otherwise assists or facilitates in arranging a marriage described in subsection (1) commits an offence and is liable on conviction on information to the penalty prescribed in subsection (2).
- (4) In any proceedings for an offence under subsection (2) or (3) it shall be a defence to prove, that although one purpose of the marriage was to assist a party to the marriage to obtain such an advantage as mentioned in subsection (1), or avoid the operation of any provision of this Part, the defendant believed on reasonable grounds, that when entering into the marriage, or when arranging, assisting or facilitating the marriage, as the case may be, the marriage would result in a genuine relationship.

## **120. Duty to report suspicious marriages.**

- (1) Any marriage officer or any other person who has reasonable grounds to believe that a marriage celebrated is a marriage of convenience, shall report his suspicion in writing to the Director of Immigration without delay.
- (2) On receipt of the report, the Director of Immigration shall report the matter to the Board who may investigate where —
- (a) one of the parties to the marriage is not a citizen of The Bahamas;  
or
- (b) neither party to the marriage is a citizen of The Bahamas; and
- (c) the information received discloses reasonable grounds for believing that the marriage is one of convenience.
- (3) Where the Board decides to investigate a report, it shall give notice of its decision to both parties and to the person making the report.
- (4) The notice to the parties may require either or both of them to —
- (a) make contact with a particular person designated by the Board for that purpose, within a particular time;
- (b) be present at a particular place at a particular time;

- (c) be visited at home;
  - (d) be interviewed;
  - (e) provide information whether orally or in writing;
  - (f) provide photographs of themselves together;
  - (g) provide evidence of their relationship.
- (5) Where the parties fail to comply with any requirements in any notice issued by the Board, or where the Board after investigation, is of the view made on reasonable grounds that the marriage celebrated is a marriage of convenience —
- (a) any application for immigration status by a party to that celebrated marriage may be denied; or
  - (b) any immigration status previously granted to any such party on the basis of the marriage may be revoked.
- (6) Any decision of the Board under subsection (5), shall be notified to the affected party, who may within 14 days of being so notified, appeal to the Immigration Appeals Tribunal whose decision shall be final.
- (7) Any marriage officer who fails to report suspicious marriages commits an offence and is liable on summary conviction to a fine of one thousand dollars.

**121. General penalty for offences where not previously provided.**

- (1) Any person who commits or attempts to commit an offence under this Part or any regulations made thereunder for which no penalty is provided shall, be liable on summary conviction to a fine of three thousand dollars or imprisonment for two years or to both such fine and imprisonment and any ship or aircraft used in the commission of the offence shall be liable to forfeiture in the manner prescribed in this Part.
- (2) In any proceedings under this Part for the forfeiture of a ship or aircraft. the Supreme Court, Chief Magistrate or Stipendiary and Circuit Magistrate may order the destruction of the ship or aircraft.
- (3) Without prejudice to section 9 of the Penal Code and notwithstanding anything to the contrary in any other law, an offence under section 117 shall be deemed to have been committed in The Bahamas by a person on a ship regardless of the position of the ship when it was detained and an illegal passenger found thereon and any magistrate in the place to which the ship or the defendant was first brought or charged may exercise or have jurisdiction over that ship for the offence alleged against that defendant.

**122. Repeal.**

The Immigration Act (*Ch. 191*) is hereby repealed.

**123. Savings and transitional.**

- (1) Notwithstanding the repeal of the Immigration Act, (hereinafter in this section referred to as “the repealed Act”) —
  - (a) any certificate of permanent residence or any endorsement on the certificate granted to any person under the provisions of the repealed Act and valid at the date of commencement of this Act shall have effect as though it had been granted under the corresponding provisions of this Part;
  - (b) any work permit allowing any person to remain in The Bahamas for the purpose of engaging in gainful occupation granted under the repealed Act and valid at the date of commencement of this Act shall have effect as though it were a work visa granted under this Part;
  - (c) any entry permit allowing any person to reside in The Bahamas under the provisions of the repealed Act and valid at the commencement of this Act shall have effect as if it had been granted under the corresponding provisions of this Part;
  - (d) any notice, form, order, rule, regulation, or direction prescribed, made, issued or given under the repealed Act shall continue in force as if it has been prescribed, made, issued or given under this Part and may be repealed, revoked, varied or amended accordingly.
- (2) The provisions of this section shall not apply in respect of any person who before the commencement of this Act was landed in The Bahamas as a bona fide visitor under the provisions of the repealed Act until the expiry of such period granted to such person to remain in The Bahamas under the provisions of that Act.

## **PART IV – ASYLUM**

**124. Application for asylum.**

- (1) Subject to the provisions of this section, a person who is in legal custody after being refused leave to land, or a person to whom leave to land and remain in The Bahamas has been granted, may apply to the Minister responsible for asylum, pursuant to the provisions of this Part, the Refugee Convention 1951 and any directions given by the Minister relating to asylum applications.

- (2) For the purposes of this Part, a person who is at least 18 years of age or an unaccompanied minor is eligible to make a claim for asylum if —
- (a) his claim is made within six months of arriving in The Bahamas;
  - (b) his claim has been made by him at the Immigration Department; and
  - (c) he is a person who is unable or unwilling to return to his country of origin owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or because he holds a particular political opinion; or who not having a nationality and being outside of the country of his habitual residence as a result of such events, is unable or owing to such fear, unwilling, to return to it.
- (3) Where a claim is made for asylum it shall be recorded by the Director, and if the Director is satisfied that the claim was made within six months of the applicant's arrival in The Bahamas, he shall designate the applicant as an asylum seeker.
- (4) A person designated as an asylum seeker shall, pending consideration of his claim for asylum —
- (a) be released from legal custody;
  - (b) have the right to remain in The Bahamas;
  - (c) be granted assistance for the purpose of his physical and material well being; and
  - (d) with the permission of the Director of Immigration have the right to work for himself or for any employer in any occupation; and shall be exempt from the payment of work visa fees, but shall pay processing fees.
- (5) Subject to subsection (7), the Minister if satisfied that for obvious and compelling reasons based on a well founded fear of persecution, the claimant cannot be returned to his country of origin or nationality, may grant him refugee status and may make arrangements for his support, accommodation and upkeep until he finds gainful employment.
- (6) A person is not qualified to claim asylum and may be denied refugee status if —
- (a) he has committed a crime against peace, a war crime, or a crime against humanity as defined in the international instruments making provision for such crimes;
  - (b) he has committed a serious non-political crime outside of The Bahamas prior to his admission to The Bahamas as a refugee;
  - (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

- (7) A person given refugee status under subsection (6), shall —
- (a) have the right to remain indefinitely in The Bahamas;
  - (b) subject to the grant of a work visa have the right to work for himself or for any employer in any occupation;
  - (c) be exempted from work visa fees but shall pay processing fees; and
  - (d) be issued travel documents and a refugee certificate for the purpose of identification, travel, and for certifying his entitlement to enter and to remain in The Bahamas as a refugee under this Part.
- (8) The Minister may discontinue a person's refugee status granted under this section if that person, or someone of whom he is a dependant, ceases to be a refugee as a result of —
- (a) voluntarily availing himself of the protection of his country of nationality;
  - (b) voluntarily acquiring a lost nationality;
  - (c) acquiring the nationality of a country other than The Bahamas and enjoys the protection of his new nationality;
  - (d) voluntarily re-establishing himself in a country which he left or outside of which he remained as a refugee owing to fear of persecution;
  - (e) his being no longer able to continue to refuse to avail himself of the protection of the country of his nationality, because the circumstances in connection with which he was recognized as a refugee have ceased to exist;
  - (f) being a person who has no nationality, he is, because the circumstances of the connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence:

Provided that this paragraph shall not apply to a refugee who is able to invoke compelling reasons of previous persecution for refusing to return to the country of his former habitual residence.

- (9) Subject to subsection (11), the Minister may expel a refugee on the grounds of national security or public order as may be prescribed by regulations made under this Part.
- (10) Before expulsion of a refugee under subsection (9), he shall be given an opportunity to be heard as to why he should not be expelled, including the opportunity to submit evidence and to be represented by counsel.
- (11) Notwithstanding subsections (9) and (10) refugee status shall not be discontinued, nor shall a refugee be expelled or returned against his will to a territory of which he established a well-founded fear of persecution.

- (12) A refugee shall be entitled to make application pursuant to the relevant provisions of this Act for legal status in The Bahamas.
- (13) In this section, “**unaccompanied minor**” means a minor who has no parent or guardian travelling with him; or no parent or guardian in The Bahamas who is available to provide physical custody, care and maintenance for him.

**125. Right of Appeal against refusal of asylum, discontinuance or expulsion.**

- (1) Subject to section 126, a person whose claim for asylum has been refused, or whose refugee status has been discontinued, or who has been ordered expelled, may appeal to the Supreme Court within 14 days of being notified of any such decision on the ground that requiring him to leave The Bahamas would subject him to persecution.
- (2) No person who has an application or appeal pending under this section shall be required to leave The Bahamas or be deported until the determination of his application or appeal; and, for the purposes of this section, an application or appeal is pending:
  - (a) beginning on the date when it is submitted or instituted; and
  - (b) ending on the date when the applicant or appellant —
    - (i) is formally notified of the outcome of the application or appeal; or
    - (ii) withdraws or abandons the application or appeal.
- (3) The removal from The Bahamas of a person who has been refused asylum, or whose asylum has been discontinued, or who has been ordered expelled, shall be carried out in accordance with the provisions of section 75 of this Act.
- (4) Where a person whose claim for asylum has been refused or whose asylum has been ordered discontinued, or who has been ordered expelled from The Bahamas, is desirous of voluntarily leaving The Bahamas for a country in which he hopes to take up residence, the Director may render to him —
  - (a) advice and other help in relation to his proposed journey; and
  - (b) financial assistance with freight, cost of travel and upkeep enroute to that country.
- (5) For the purposes of this Part, the Minister may give directions to the Director of Immigration in relation to the consideration of applications for asylum and may promulgate rules for the hearing of appeals under this section.



**126. Limitations on Rights of Appeal against Refusal of Asylum Application, Discontinuance of Asylum or Expulsion.**

Section 125 does not entitle a person to appeal against a refusal of a claim for asylum, discontinuance of asylum, or expulsion from The Bahamas, if –

- (a) the reason for the refusal, discontinuance or expulsion was that he has committed a crime against peace, a war crime, or a crime against humanity as defined in any international instruments drawn up to make provision in respect of such crimes; or
- (b) he has committed a serious non-political crime outside The Bahamas prior to his admission into The Bahamas; or
- (c) he has been found guilty of acts contrary to the purposes and principles of the United Nations.

**127. General Obligations of asylum-seekers and refugees.**

- (1) Every asylum seeker and person with refugee status in The Bahamas shall conform to its laws and regulations as well as to measures taken to maintain law and order in The Bahamas.
- (2) The provisions of the Refugee Convention, and the national law of The Bahamas shall be applied to all asylum seekers and refugees without discrimination as to race, religion or country of origin.
- (3) Asylum seekers and refugees shall be entitled to, and shall be afforded, the same treatment under the law as aliens generally.
- (4) Asylum seekers and refugees shall not be deprived of any interests in property on the ground that they are nationals of a particular state.

**128. Helping asylum-seeker to enter The Bahamas.**

- (1) A person who —
  - (a) knowingly and for gain, facilitates the arrival in The Bahamas of an individual; and
  - (b) knows or has reasonable cause to believe that the individual intends to claim asylum under section 124,  
commits an offence and is liable on summary conviction to a fine of three thousand dollars.
- (2) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—
  - (a) aims to assist individuals seeking asylum pursuant to the Refugee Convention; and
  - (b) does not charge for its services.

## PART V MISCELLANEOUS

### 129. Offences of forging, altering or uttering a certificate etc.

Any person who —

- (a) forges or alters any certificate, passport, visa or other document issued under this Act;
- (b) utters any such forged or altered certificate, passport, visa or other document for the purpose of this Act; or
- (c) has in his possession for such use any forged, or altered certificate, passport, visa or other document,

commits an offence against this Act and is liable on summary conviction to a fine of five thousand dollars.

### 130. Schedule of Offences.

For ease of reference, all offences against Parts II, III and IV of this Act are listed in the *Sixth Schedule* hereto.

### 131. Amendment of Schedules.

The Minister may by Order amend the Schedules hereto.

## FIRST SCHEDULE (Sections 13, 33)

### COMMONWEALTH COUNTRIES

|                    |            |
|--------------------|------------|
| Canada             | Uganda     |
| Australia          | Kenya      |
| New Zealand        | Malawi     |
| India              | Malta      |
| Pakistan           | Zambia     |
| Bangladesh         | Nauru      |
| Sri Lanka (Ceylon) | The Gambia |
| Ghana              | Guyana     |

|                                 |                           |
|---------------------------------|---------------------------|
| Malaysia                        | Botswana                  |
| Nigeria                         | Lesotho                   |
| Republic of Cyprus              | Singapore                 |
| Sierra Leone                    | Barbados                  |
| United Republic of Tanzania     | Mauritius                 |
| Jamaica                         | Swaziland                 |
| Republic of Trinidad and Tobago | Fiji                      |
| Tonga                           | Samoa                     |
| Antigua and Barbuda             | Rwanda                    |
| Brunei                          | Seychelles                |
| Cameroon                        | Solomon Islands           |
| Belize                          | South Africa              |
| Grenada                         | St. Christopher and Nevis |
| St. Vincent and the Grenadines  | St. Lucia                 |
| Dominica                        | Tuvalu                    |
| Mozambique                      | Vanuatu                   |
| Namibia                         | St. Kitts                 |
| Papua New Guinea                |                           |

**SECOND SCHEDULE**  
**(Sections 13 and 14)**

**QUALIFICATIONS FOR REGISTRATION OR NATURALISATION**

1. Subject to the provisions of paragraph 2 —
  - (a) a Commonwealth citizen; or
  - (b) a British protected person,

may qualify for registration as a citizen of The Bahamas or for naturalization if he established —

- (i) that he has either actually resided in The Bahamas or been in the service of the Government of The Bahamas, or partly the one and partly the other, throughout the period of 12 months immediately preceding the date of the application; and
  - (ii) that during the nine years immediately preceding the said period of 12 months he has either actually resided in The Bahamas for periods amounting in the aggregate to not less than six years; and
  - (iii) that he is in the opinion of the Minister of good character; and
  - (iv) that he has a sufficient knowledge of the English language and of the responsibilities of a citizen of The Bahamas; and
  - (v) that he intends if his application is successful to continue to reside in The Bahamas, and to make The Bahamas his permanent home.
2. The Minister may, if in the special circumstances of any particular case he thinks fit, allow a continuous period of 12 months ending not more than six months before the date of the application to be reckoned for the purposes of sub paragraph (a) of paragraph 1 of this Schedule as if it had immediately preceded that date.

### **THIRD SCHEDULE (Sections 8, 9,11 and 14)**

#### **OATH OF ALLEGIANCE**

I, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

### **FOURTH SCHEDULE (Section 36) EU MEMBER STATES**

The Republic of Austria  
The Kingdom of Belgium  
The Republic of Bulgaria  
The Republic of Cyprus  
The Czech Republic

The Kingdom of Denmark  
The Republic of Estonia  
The Republic of Finland  
The French Republic  
The Federal Republic of Germany  
The Hellenic Republic  
The Republic of Hungary  
Ireland  
The Italian Republic  
The Republic of Latvia  
The Republic of Lithuania  
The Grand Duchy of Luxemburg  
Malta  
The Kingdom of the Netherlands  
The Republic of Poland  
The Portuguese Republic  
Romania  
The Slovak Republic  
The Republic of Slovenia  
The Kingdom of Spain  
The Kingdom of Sweden  
The United Kingdom of Great Britain and Northern Ireland

**FIFTH SCHEDULE  
(Section 92)**

PERMIT FOR AN EU SERVICE SUPPLIER TO ENTER AND STAY  
TEMPORARILY

WHEREAS .....

(EU service supplier)

has applied to the Director of Immigration in the Government of The Bahamas for permission to enter and stay temporarily to supply a service, in reliance on the qualifications set out below, and has satisfied the Director of Immigration that the conditions laid down in sections 95 through 99 of The Nationality, Immigration & Asylum Act 2018 for the grant of a Permit to Supply Services in The Bahamas have been fulfilled:

NOW THEREFORE, the Director of Immigration, in exercise of the powers conferred upon [it/him/or] by the said sections, grants to the said .....

this Permit to enter and stay temporarily to supply the following service (nature of service ), subject to the following conditions:

.....  
.....

IN WITNESS WHEREOF I have hereto subscribed my name this

..... day of ....., 20 .....

.....

(Address of Director of Immigration)

PARTICULARS RELATING TO APPLICANT

PHOTOGRAPH

Full Name

Address

Occupation/Profession

Qualifications

Place of Birth

Date of Birth

Passport Number

Nationality

Marital Status

**SIXTH SCHEDULE OFFENCES (Section 130)**

| No. | General Description           | Provision of the Act | Particulars of Offence   | Mode of Trial and Penalty   |
|-----|-------------------------------|----------------------|--|---|
| 1   | False Statements under Part I | Section 32(1)        | Makes any statement which he knows to be false in a material particular, recklessly makes a statement which is false in a material particular. | (a) Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment; or<br><br>(b) Conviction on information in the Supreme Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment |
| 2   | False Statements under Part I | Section 32(1)        | Recklessly makes a statement which is false in a material particular.  | (a) Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment; or<br><br>(b) Conviction on information in the Supreme Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment |
| 3   | Delivery up of certificates   | Section 32(2)        | Fails to comply with any requirement as to the delivery up of certificates of registration or naturalisation imposed upon him by regulations   | Summary conviction to a fine not exceeding two hundred & fifty dollars or to imprisonment for a term not exceeding 3 months.  |

|   |                                     |               |   |  |
|---|-------------------------------------|---------------|---|--|
|   |                                     |               |   |  |
| 4 | Failure to attend for interrogation | Section 45(a) | Fails to attend for interrogations.   | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |
| 4 | Failure to attend for interrogation | Section 45(b) | Refuses or fails to answer fully and truthfully any questions or enquiries on interrogation.  | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |
| 5 | Failure to attend for interrogation | Section 45(c) | Knowingly giving false or misleading answers to questions or enquiries on interrogation.  | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |
| 6 | Failure to attend for interrogation | Section 45(d) | Fails to produce any document required by the Immigration Officer.  | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |
| 7 | Failure to attend for interrogation | Section 45(e) | Produces any document to an Immigration Officer which he knows or has reasonable cause to believe is false or misleading with intent to mislead that Officer. | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |
| 8 | Failure to attend for interrogation | Section 45(f) | Knowingly misleads or attempts to mislead any Immigration Officer acting in the course of his duties.   | Summary conviction to a fine of one thousand dollars or 1 year imprisonment or to both such fine and imprisonment. |



|    |   |                  |   |  |
|----|---|------------------|---|--|
| 9  | Restriction on landing and remaining in The Bahamas                   | Section 72(1)(a) | Lands in The Bahamas without the permission or leave of an Immigration Officer.   | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment.                                   |
| 10 | Restriction on landing and remaining in The Bahamas                   | Section 72(1)(b) | Lands in The Bahamas at a place other than at an authorised port.   | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment.                                   |
| 11 | Restriction on landing and remaining in The Bahamas (overstaying)     | Section 72(1)(c) | Fails to comply with the time granted to remain in The Bahamas by an Immigration Officer.   | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment and may be subject to deportation. |
| 12 | Restriction on landing and remaining in The Bahamas (deception)       | Section 72(1)(d) | Obtains leave of an Immigration Officer to enter and remain in The Bahamas by deception of that officer.                            | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment                                    |
| 13 | Restriction on landing and remaining in The Bahamas (illegal landing) | Section 72(1)(e) | Found in The Bahamas after being refused leave to land and remain in The Bahamas by an Immigration Officer.                         | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment and may be subject to deportation. |
| 14 | Restriction on remaining in The Bahamas.                              | Section 72(1)(f) | Found in The Bahamas after his permission to land and to remain in The Bahamas is revoked and fails to leave The Bahamas within the | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment and may be subject to deportation. |

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|    |   |                  | time allowed by the Director of Immigration for his departure.                        |   |
| 15 | Restriction on remaining in The Bahamas (Stop List)               | Section 72(g)    | Found in The Bahamas without leave to land after name entered on stop list.           | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment and may be subject to deportation.  |
| 16 | Restriction on remaining in The Bahamas.                          | Section 72(1)(h) | Found in The Bahamas without right of abode or leave to enter and remain as a visitor | Summary conviction to a fine not exceeding one thousand dollars or 1 year imprisonment or both such fine and imprisonment and may be subject to deportation.  |
| 17 | Restriction upon employing persons without permission.            | Section 86(3)    | Employing persons who do not have permission to engage in gainful occupation          | Summary conviction in respect of a first offence to a fine of five thousand dollars or to imprisonment for 3 years or to both such fine and imprisonment. Summary conviction in respect of a second offence to a fine of ten thousand dollars or to imprisonment for 2 years or to both such fine and imprisonment. |
| 18 | Restriction on engaging in gainful occupation without permission. | Section 86(4)    | Engaging in gainful occupation in The Bahamas without a work visa.                    | Summary conviction to a fine of five thousand dollars or to a term not exceeding 2 years imprisonment or to both such fine and imprisonment and may be subject to deportation.  |
| 19 | Knowingly   | Section          | Prospective   | Summary conviction to a   |

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|    | withholds information or provides inaccurate information to Immigration Officers. | 87(9)             | employer on an application for a work visa, knowingly withholds, or provides inaccurate or incomplete information in an attempt to deceive.                          | fine of five thousand dollars or to imprisonment for 2 years or to both and in respect of a second or subsequent offence to a fine of ten thousand dollars or to imprisonment for 2 years or to both such fine and imprisonment.  |
| 20 | Offences by EU service suppliers.   | Section 101(1)(a) | Attempting to gain permission for entry into The Bahamas to work as EU service supplier by giving, offering or promising to give a bribe to any Immigration Officer. | Natural person: (a) on summary conviction for a first offence, to a fine not exceeding three thousand dollars and to imprisonment for a term not exceeding 12 months or to both; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both. juridical person: (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding seven thousand dollars. |
| 21 | Offences by EU service suppliers.   | Section 101(1)(b) | Attempting to gain permission for entry into The Bahamas to work as EU service supplier by making a statement which he knows to be false or misleading.              | Natural person: (a) on summary conviction for a first offence, to a fine not exceeding three thousand dollars and to imprisonment for a term not exceeding 12 months or to both; and (b) on summary conviction for a second or subsequent   |

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|    |                                   |                   |   | <p>offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both. juridical person: (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding seven thousand dollars.</p>   |
| 22 | Offences by EU service suppliers. | Section 101(1)(c) | Attempting to gain permission for entry into The Bahamas to work as EU service supplier by recklessly making a statement which is false or misleading in a material particular. | <p>Natural person: (a) on summary conviction for a first offence, to a fine not exceeding three thousand dollars and to imprisonment for a term not exceeding 12 months or to both; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both. juridical person: (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding seven thousand dollars.</p> |
| 23 | Offences by EU service suppliers. | Section 101(1)(d) | Attempting to gain permission for entry into The Bahamas to work as EU service  | <p>Natural person: (a) on summary conviction for a first offence, to a fine not exceeding three thousand</p>   |

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|    |                                   |                   | supplier by inducing, aiding, or abetting others to commit an offence against section 101.  | dollars and to imprisonment for a term not exceeding 12 months or to both; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both. juridical person: (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding seven thousand dollars.   |
| 24 | Offences by EU service suppliers. | Section 101(1)(e) | Attempting to gain permission for entry into The Bahamas to work as EU service supplier by presenting to an Immigration Officer or other public officer, false, misleading or fraudulent documents knowing the same to be false misleading or fraudulent. | Natural person: (a) on summary conviction for a first offence, to a fine not exceeding three thousand dollars and to imprisonment for a term not exceeding 12 months or to both; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both. juridical person: (a) on summary conviction for a first offence, to a fine not exceeding five thousand dollars; and (b) on summary conviction for a second or subsequent offence, to a fine not exceeding seven thousand dollars. |

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| 25 | Duty to give Notice of arrival in The Bahamas of ship or aircraft. | Section 107(2)    | Fails as local representative to give adequate and timely notification of arrival of ship or aircraft.                                | Summary conviction to a fine not exceeding five thousand dollars.  |
| 26 | Duty to provide manifest   | Section 108       | Fails as master of ship or aircraft and local representative to provide manifest of passengers and crew.                              | Summary conviction to a fine not exceeding ten thousand dollars.   |
| 27 | Control of landing from ship or aircraft                           | Section 109       | As master of ship or aircraft allows passenger or crew to land in The Bahamas before permission is granted by an Immigration Officer. | Summary conviction to a fine of two thousand dollars or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment; or on conviction upon information in the Supreme Court to a fine of five thousand dollars or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment. |
| 28 | Declaration form   | Section 110(2)    | Knowingly makes false statement or representation on declaration form.  | Summary conviction to a fine not exceeding five thousand dollars.  |
| 29 | Outward passenger and crew manifest                                | Section 111       | Fails as local representative of ship or aircraft to provide manifest of passengers and crew departing The Bahamas.                   | Summary conviction is liable to a fine not exceeding five thousand dollars.  |
| 30 | Assisting illegal landing  | Section 117(1)(a) | Knowingly assists, organises, facilitates,  | Summary conviction to a fine not exceeding one   |

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|    | and<br>harbouring                                 |                      | or provides material support or resources for securing the entry into The Bahamas of any person whom he knows or has reasonable cause for believing has no entitlement to legally enter The Bahamas.  | thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years.  |
| 31 | Assisting<br>illegal landing<br>and<br>harbouring | Section<br>117(1)(b) | Knowingly assists, organises, facilitates, or provides material support or resources for securing the continued residence in The Bahamas of any person whom he knows or has reasonable cause for believing has no entitlement to legally remain in The Bahamas. | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years. |
| 32 | Assisting<br>illegal landing<br>and<br>harbouring | Section<br>117(2)    | Knowingly makes any statement or uses any document which he knows to be false in a material particular for the purpose of assisting or facilitating any persons to enter or remain in The Bahamas unlawfully.   | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to  |

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|    |  |                   |   | imprisonment for a term not exceeding 2 years.  |
| 33 | Assisting illegal landing and harbouring | Section 117(3)    | Knowingly assists or facilitates any person to breach a deportation order to secure that person's illegal entry into The Bahamas or to secure a person's continued illegal residence in The Bahamas.                              | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years  |
| 34 | Assisting illegal landing and harbouring | Section 117(4)    | Knowingly harbours, conceals, or gives shelter to any person whom he knows or has reasonable cause for believing to have illegally entered or remain in The Bahamas or to be a person who has committed an offence under Part II. | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years. |
| 35 | Assisting illegal landing and harbouring | Section 117(5)(a) | For or in expectation of any fee, gain or reward. assists, encourages or induces any other person to harbour, conceal or give shelter to any person   | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five   |



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|    |  |                   | who has illegally entered The Bahamas.  | thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years.   |
| 36 | Assisting illegal landing and harbouring | Section 117(5)(b) | For or in expectation of any fee, gain or reward. assists, encourages or induces any other person to harbour, conceal or give shelter to any person who has illegally remained in The Bahamas.    | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years. |
| 37 | Assisting illegal landing and harbouring | Section 117(5)(c) | For or in expectation of any fee, gain or reward. assists, encourages or induces any other person to harbour, conceal or give shelter to any person who has committed an offence under this Part. | Summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; conviction on indictment to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding 5 years or to both such fine and imprisonment. summary conviction to imprisonment for a term not exceeding 2 years. |
| 38 | Marriage of Convenience                  | Section 119(2)(a) | Contracts or enters into a marriage of convenience for the  | Conviction on indictment to a fine not exceeding ten thousand dollars or to   |

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|    |  |                | purpose of circumventing immigration laws.  | imprisonment for a term not exceeding 5 years or to both such fine and imprisonment.  |
| 39 | Duty to report suspicious marriages        | Section 120(6) | Marriage officers who have a duty to report and fail to report suspicious marriages.              | Summary conviction to a fine of one thousand dollars.   |
| 40 | Helping asylum seeker to enter The Bahamas | Section 128    | Knowingly and for gain facilitates the arrival of asylum seekers into The Bahamas.                | Summary conviction to a fine of three thousand dollars or imprisonment for two years or to both such fine and imprisonment. |
| 41 | Forging of certificates or other documents | Section 129(a) | Forges or alters any certificate, passport, visa or other document.                               | Summary conviction to a fine of five thousand dollars.  |
| 42 | Forging of certificates or other documents | Section 129(b) | Utters any forged or altered certificate, passport, visa or other document issued under this Act. | Summary conviction to a fine of five thousand dollars.  |
| 43 | Forging of certificates or other documents | Section 129(c) | Possesses for uttering any forged, or altered certificate, passport, visa or other document.      | Summary conviction to a fine of five thousand dollars.  |

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## **OBJECTS AND REASONS**