

CHAPTER 58

DEPORTATION

AN ACT TO MAKE PROVISION FOR THE DEPORTATION OF PERSONS WHO ARE NOT CITIZENS OF SOLOMON ISLANDS AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

9 of 1978

[7th July 1978]

1. This Act may be cited as the Deportation Act.

Short title

2. In this Act, unless the context otherwise requires —

Interpretation

“convicted person” means a person who has been convicted of an offence under the provisions of the Penal Code which would, in the opinion of the Minister, justify his deportation;

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“deportation order” means an order in the prescribed form requiring the person therein named to leave Solomon Islands and not to return;

“destitute person” means a person who by reason of mental or bodily health or lack of means is unable to support himself and his dependants;

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

“prohibited immigrant” means a person who has entered Solomon Islands in breach of any law relating to immigration other than under the Passports Act;

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“undesirable person” means a person who is or has been conducting himself in a manner prejudicial to the peace, defence, public safety, public order, public morality, public health, security or good government of Solomon Islands.

3. This Act shall not apply to persons who are citizens of Solomon Islands or who would be entitled to citizenship in accordance with Chapter III of the Constitution.

Application

4. Subject to the provisions of this Act, the Minister may, if he thinks fit, make a deportation order in such form as may be prescribed in respect of —

Power to make deportation orders

(a) a convicted person; or

- (b) an undesirable person; or
- (c) a destitute person; or
- (d) a prohibited immigrant.

Procedure

5.—(1) In any case where it is intended to make a deportation order under the last preceding section, a notice signed by or under the authority of the Minister shall be served upon the person charged specifying the facts alleged against him with sufficient particulars as to give him reasonable information of the grounds upon which it is alleged that the order may be made against him under this Act, and requiring him to show cause before a magistrate at a time to be stated in the notice, why such order should not be made against him.

(2) Where it is represented on oath or affidavit to a magistrate that a person charged is a convicted person, an undesirable person, a destitute person or a prohibited immigrant, the magistrate may issue a warrant for his arrest and if the notice mentioned in the last preceding subsection shall not have already been served upon him it shall be so served upon him not later than twenty-four hours after his arrest.

(3) Every witness whose evidence may be required before the magistrate in proceedings taken under this section shall be issued with a summons at the instance of a police officer or a person charged and any such witness who fails to appear shall be dealt with in the manner provided for in the Criminal Procedure Code.

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(4) The Attorney-General may certify to the magistrate hearing the proceedings under this section or the person charged may request such magistrate that it is desirable that the proceedings be held in camera, and the magistrate shall thereupon direct that the public shall not have access to, or be or remain in, any room, building or place in which such proceedings are taking place during the hearing thereof.

(5) A barrister and solicitor may appear with the person charged, as his legal representative.

(6) The magistrate, after considering the evidence adduced before him and making such further investigations as he may consider to be desirable, shall make a report to the Minister setting out his findings of fact and his conclusions on any questions of law involved.

(7) On receipt of a magistrate's report, the Minister may, in his discretion, having regard to the findings of facts and any

conclusions of law as stated in the report, make a deportation order.

6. Where a magistrate has made a report to the Minister under the last preceding section, he may order that the person charged be detained in such manner as he may direct, pending the decision of the Minister, for a period not exceeding twenty-eight days and such person shall be deemed to be in lawful custody whilst so detained.

Detention in custody pending decision

7.—(1) Where a deportation order is made under the provisions of section 4, a copy of such order shall, as soon as practicable, be served upon the person charged.

Execution of orders

(2) A person against whom a deportation order is in force may be detained in such manner as may be directed by the Minister and may be placed on a ship or aircraft about to leave Solomon Islands and shall be deemed to be in lawful custody whilst so detained and until the ship or aircraft leaves Solomon Islands.

(3) Where any person against whom a deportation order is in force has been placed on any ship or aircraft, the master of the ship or the commander of the aircraft shall, if so required by the Minister or by any person authorised by the Minister, take such steps as may be necessary for preventing such person from landing from the ship or aircraft before it leaves Solomon Islands and may for that purpose detain such person in custody on board the ship or aircraft.

8. If a person against whom a deportation order is in force has been sentenced to any term of imprisonment such sentence shall be served before the order is carried into effect.

Persons undergoing sentence

9.—(1) Where a deportation order is made, the Minister may if he thinks fit, apply any money or property of the person charged in payment of the whole or any part of the expenses of or incidental to his deportation from Solomon Islands and his maintenance until departure.

Expenses

(2) Subject to the provisions of the last preceding subsection, any such expenses shall be payable out of the Consolidated Fund.

(3) Any person in possession of money or property belonging to or standing to the credit of a person charged shall, if so required by notice in writing signed by or under the authority of

the Minister, deliver such money or property to such person as may be specified in the notice who may sell or convert into money any such property for the purpose of defraying any such expenses or the cost of maintenance of the person charged.

Offences and penalties

10.—(1) If a person in respect of whom a deportation order is in force is at any time found within Solomon Islands or returns or attempts to return to Solomon Islands in contravention of the provisions of such order he shall be guilty of an offence and, on conviction, shall be liable to a term of imprisonment not exceeding three years and to a fine not exceeding two thousand dollars.

(2) Any conviction under the provisions of the last preceding subsection shall not affect the original deportation order and the person charged may be deported in pursuance of such order without the necessity of complying with the provisions of section 5.

(3) Any person who, without lawful excuse, assists, harbours or conceals any person who is within Solomon Islands in contravention of the terms of a deportation order shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding eighteen months and to a fine not exceeding one thousand dollars.

(4) Any person who fails to comply with any notice issued under subsection (3) of the last preceding section shall be guilty of an offence and shall be liable on conviction—

(a) in the case of an individual, to a term of imprisonment not exceeding one year and to a fine not exceeding two hundred dollars; and

(b) in the case of a body corporate to a fine not exceeding one thousand dollars.

Evidence

11. In any proceedings under this Act—

(a) the burden of proof that the person charged is a citizen of Solomon Islands or entitled to citizenship in accordance with section 3 shall be upon that person:

(b) a document purporting to be a deportation order under this Act shall, until the contrary be proved, be presumed to be such an order;

(c) any deportation order shall, until the contrary be proved, be presumed to have been made on the date upon which it purports to have been made;

(d) any notice signed by or under the authority of the Minister shall, unless the contrary be proved, be presumed to have been validly made.

12. The Minister may make regulations for carrying into effect the provisions of this Act Regulations

(No Subsidiary Legislation)