

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

20th October, 1948

Right Hon. Mr. Fraser

ALIENS

ANALYSIS

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A BILL INTITULED

AN ACT to make Provision in respect of Aliens. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Aliens Act, Short Title.
1948.

- Commencement. (2) This Act shall come into force on the first day
of January, nineteen hundred and forty-nine.
- Interpretation. 2. In this Act, unless the context otherwise
requires,—
- “ Alien ” means a person who is not a British 5
subject, a British protected person, or an
Irish citizen:
- “ British subject ”, “ British protected person ”,
and “ Irish citizen ” have the same meanings
as in the *British Nationality and New Zealand* 10
Zealand Citizenship Act, 1948:
- “ Minister ” means the Minister in Charge of
the Police Force:
- “ Registered alien ” means an alien registered
under Part II of this Act. 15

PART I

STATUS OF ALIENS, BRITISH PROTECTED PERSONS, AND
IRISH CITIZENS

- Capacity of
aliens as to
property.
3. (1) Real and personal property of every des-
cription may be taken, acquired, held, and disposed of 20
by an alien, or a British protected person, or an Irish
citizen in the same manner in all respects as by a
British subject; and a title to real and personal
property of every description may be derived through,
from, or in succession to an alien, British protected 25
person, or Irish citizen in the same manner in all
respects as through, from, or in succession to a British
subject.
- (2) This section shall not operate so as to—
- (a) Qualify any alien for any office or for any 30
parliamentary, municipal, or other franchise:
- (b) Qualify any alien to be the owner of a British
ship or of any share in a British ship:
- (c) Entitle any alien to any right or privilege as
a British subject, except such rights and 35
privileges in respect of property as are hereby
expressly given to him.
- Trial of aliens. 4. (1) Any alien, British protected person, or
Irish citizen shall be triable in the same manner as
if he were a British subject. 40

(2) Section one hundred and forty of the Juries Act, 1908, is hereby amended by omitting the words "but he shall be triable in the same manner as if he were a natural-born subject".

See Reprint
of Statutes,
Vol. IV, p. 426

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PART II

REGISTRATION OF ALIENS

5. This Part of this Act shall not apply to any alien who is under the age of sixteen years.

Application of
this Part.

Registration

10 6. (1) Every alien who is in New Zealand at the commencement of this Act shall, within thirty days thereafter make application for registration as an alien, unless he is registered under the Aliens Emergency Regulations 1940.

Aliens to
apply for
registration.

Serial number
1940/273

15 (2) Every person who after the commencement of this Act becomes, while in New Zealand, an alien to whom this Part of this Act applies, whether by attaining the age of sixteen years or otherwise howsoever, shall within thirty days thereafter make application
20 for registration as an alien.

(3) Every alien who arrives in New Zealand after the commencement of this Act shall forthwith upon arrival make application for registration as an alien.

25 7. (1) Every application for registration as an alien shall be in writing, in duplicate, in a form to be provided by the Minister for the purpose, and shall be made by delivering it personally to a constable at the police-station nearest to which the applicant resides, or to some other constable authorized to receive it.

Applications
for
registration.

30 (2) Every application for registration shall be signed by the applicant with his usual signature, unless he is unable to write, in which case he shall, in the presence of the constable to whom the application is made, affix to the application such thumb-prints or
35 finger-prints or other means of identification as the constable may require.

(3) Every application for registration shall be accompanied by such photographs and other means of identification as may be prescribed or as may be
40 required by the constable to whom the application is made.

Certificate of registration.

8. The constable to whom any application for registration as an alien is made shall, upon receipt thereof, issue to the applicant a certificate of registration in a form to be provided by the Minister for the purpose.

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Register of Aliens.

9. (1) The Commissioner of Police shall cause to be compiled a register, to be called the Register of Aliens, showing the name, place of abode, occupation, business address, and such other particulars as he thinks fit of every registered alien.

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(2) The Register shall be amended from time to time by correcting errors therein, by entering changes of name or other particulars in respect of any alien, by adding thereto the names and particulars of aliens to whom certificates of registration are issued, and by removing therefrom the names and particulars of aliens who die, or who leave New Zealand, or who otherwise cease to be subject to this Part of this Act.

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Evidence of registration or non-registration.

10. (1) The Register of Aliens shall not be open as of right to inspection by any person.

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(2) Any certificate of registration issued under this Part of this Act shall, in the absence of proof to the contrary, be sufficient evidence of the registration as an alien of the person to whom the certificate relates.

(3) A copy certified by the Commissioner of Police of any entry in the Register of Aliens shall, in the absence of proof to the contrary, be sufficient evidence of the entry.

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(4) A certificate signed by the Commissioner of Police of the absence of an entry in the Register of Aliens shall, in the absence of proof to the contrary, be sufficient evidence of the facts stated in the certificate.

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(5) The absence of an entry in the Register of Aliens relating to any person shall, in the absence of proof to the contrary, be sufficient evidence that no application for registration as an alien has been made by that person.

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(6) In any proceedings in any Court for an offence against this Part of this Act the Court may order or permit a certified copy of an entry in the Register of Aliens or a certificate signed by the Commissioner of Police as aforesaid to be produced to the Court.

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(7) Judicial notice shall be taken of the signature of the Commissioner of Police to any certified copy or certificate as aforesaid.

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11. (1) Every registered alien who changes his or her name, whether by marriage or otherwise, shall, within fourteen days thereafter, give notice in writing of the change to a constable at the police-station nearest to his or her place of abode.

Aliens to notify change of name, abode, or occupation.

(2) Every registered alien who changes his place of abode shall, within fourteen days thereafter, give notice in writing of the change to a constable at the police-station nearest to his new place of abode.

10 (3) Every registered alien who changes his occupation, employment, or calling, or his business address shall, within fourteen days thereafter, give notice in writing of the change to a constable at the police-station nearest to his place of abode.

15 (4) Every notice under this section shall be in a form provided by the Minister or, if no such form is provided, shall be in a form approved by or acceptable to the Minister.

(5) The alien shall surrender with any notice under this section his certificate of registration, which shall be returned to him when particulars of the change have been entered thereon.

12. (1) Every registered alien shall produce his certificate of registration whenever required to do so by any constable.

Production of certificate of registration and of documents of identity.

(2) Every alien, whether registered or not, shall produce such documents relating to his identity as he may have in his possession whenever required to do so by any constable.

30 13. (1) For the purposes of this section the term "document" means a certificate of registration, or any document evidencing any exemption, condition, or variation, issued to any person under this Part of this Act, and includes a duplicate of a document.

General provisions as to certificates of registration and other documents.

35 (2) No person shall lend or part with any document issued to him.

(3) No person shall alter or deface any document. Every document so altered or defaced shall be void.

40 (4) Every person to whom any document is issued under this Part of this Act shall on the expiry or revocation of the document or of the exemption or condition evidenced by it forthwith deliver the document to a constable at the police-station nearest to his place of abode.

(5) Upon the return of any document rendered illegible or spoilt by weather or otherwise, or upon proof to his satisfaction that a document has been destroyed, stolen, or lost, a constable authorized in that behalf shall, upon application by the person to whom the document was issued and upon payment of the prescribed fee, issue a duplicate of the document. The production of a duplicate document shall be of the same effect as the production of the original document. 5

Deportation

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Power to order
undesirable
aliens to leave
New Zealand.

14. (1) The Minister may, by order signed by him, order any alien to leave New Zealand in any of the following cases, that is to say:—

(a) If any Court certifies to the Minister that the alien has been convicted, either by that Court or by any inferior Court from which the case of the alien has been referred for sentence or brought by way of appeal, of an offence for which the Court has power to impose imprisonment for a term exceeding one year, and that the Court recommends that the alien should be deported either in addition to or instead of sentence; or 15

(b) If the Minister is satisfied that it is not conducive to the public good that the alien should remain in New Zealand, and the making of the order is approved by the Governor-General in Council. 20

(2) Where any case in which a Court has made a recommendation for deportation is brought by way of appeal against conviction or sentence before any higher Court, and that higher Court certifies to the Minister that it does not concur in the recommendation, the recommendation shall be of no effect, but without prejudice to the power of the Minister to make an order of deportation under paragraph (b) of the *last preceding* subsection. 30

(3) If any alien remains in New Zealand for twenty-eight days after the day on which such an order or a copy or duplicate thereof is served on him, he shall be guilty of an offence against this Part of this Act and shall be liable accordingly. 35 40

15. (1) When the Minister, in pursuance of the authority conferred on him by this Part of this Act, has ordered any alien to leave New Zealand, he may, by the same or any subsequent order, if he thinks such a course necessary in the public interest, and whether default has been made in obedience to the order or not, authorize the arrest of that alien and his deportation from New Zealand on a ship or aircraft specified by the Minister and about to leave New Zealand, and thereupon any constable may, without warrant, arrest that alien and place him on board that ship or aircraft, and detain him there until the ship or aircraft has left New Zealand.

Minister may order arrest and detention of alien ordered to be deported.

(2) When any alien ordered to leave New Zealand has been so arrested, he may, pending his deportation from New Zealand, be detained in such custody as the Minister may direct.

16. No alien ordered to leave New Zealand as aforesaid shall at any time after compliance with the order, or after having been placed on board any ship or aircraft as aforesaid, return to or land in New Zealand without the permission in writing of the Minister, and every alien who so returns or lands shall be guilty of an offence against this Part of this Act.

Aliens deported not entitled to return without permission.

17. Such sum as the Minister of Finance considers reasonable may be paid out of the Consolidated Fund, without further appropriation than this Act, to the owner, charterer, or master of any ship or aircraft on account of the carriage from New Zealand of any alien so ordered to leave New Zealand and placed on board that ship or aircraft under arrest; and if after payment or offer of that sum the owner, charterer, or master of that ship or aircraft refuses to receive or retain on board the alien so arrested or the officer in whose custody he is, or connives at or is privy to the escape from the ship or aircraft of any alien so ordered to leave New Zealand, he commits an offence against this Part of this Act and shall be liable accordingly.

Costs of deportation.

General

18. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the intent and purpose of this Part of this Act.

Regulations.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Providing for periodical reporting by aliens: 5
- (b) Prescribing conditions and restrictions upon aliens or any class or classes of aliens as to engaging or being employed in any occupation, and making such provisions in relation thereto as appear necessary or expedient: 10
- (c) Requiring aliens to notify such particulars about themselves and their families as appear necessary or expedient, and to notify changes of those particulars:
- (d) Exempting or providing for the exemption of any aliens or classes of aliens from the provisions of this Part of this Act, either wholly or partly, and either unconditionally or upon or subject to such conditions as may be prescribed by the regulations. 20

(3) All regulations made under this section shall be laid before Parliament within twenty-eight days after they are made if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 25

Offences.

19. (1) Every person commits an offence against this Part of this Act who—

- (a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Part of this Act or any condition imposed under this Part: 30
- (b) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application to the Minister or any constable or other person (whether in writing or otherwise) for the purposes of this Part of this Act: 35
- (c) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under this Part of this Act. 40

(2) Every person who commits an offence against this Part of this Act shall be liable on summary conviction to imprisonment for a term not exceeding *three months*, or to a fine not exceeding *one hundred* 5 pounds, and (if the offence is a continuing one) to a further fine not exceeding *ten* pounds for every day during which the offence continues.

(3) Section fifty of the Justices of the Peace Act, 1927, shall have no application to a prosecution for an 10 offence against this Part of this Act. See Reprint of Statutes, Vol. II, p. 365.

20. If any question arises under this Act as to whether any person is an alien or not, or is an alien of a particular class or not, the burden of proving that that person is not an alien, or, as the case may be, 15 is not an alien of that class, shall be upon that person. Evidence of nationality.

21. (1) The following enactments are hereby repealed, namely:— Repeals and revocations and savings.

- (a) Section thirteen of the British Nationality and Status of Aliens (in New Zealand) Act, 1928: Ibid., Vol. I, pp. 162, 173, 176, 178
- 20 (b) The Registration of Aliens Act, 1917:
- (c) The Registration of Aliens Amendment Act, 1920:
- (d) The Registration of Aliens Suspension Act, 1923.

25 (2) Sections seventeen and eighteen of the British Nationality and Status of Aliens Act, 1914, of the United Kingdom Parliament shall at the commencement of this Act cease to have effect in New Zealand. Ibid., p. 171

(3) The following regulations are hereby revoked, 30 namely:— Serial numbers- 1940/273, 1943/60, 1943/147, 1945/169

- (a) The Aliens Emergency Regulations 1940:
- (b) The Aliens Emergency Regulations 1940, Amendment No. 1:
- 35 (c) The Aliens Emergency Regulations 1940, Amendment No. 2:
- (d) The Aliens Emergency Regulations 1940, Amendment No. 3.

(4) All applications, registrations, certificates, registers, and conditions, and generally all acts of 40 authority which originated under any of the provisions of the enactments hereby repealed or revoked, and are subsisting or in force at the commencement of this Act,

shall enure for the purposes of this Part of this Act as fully and effectually as if they had originated under the corresponding provisions of this Part, and accordingly shall, where necessary, be deemed to have so originated.

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(5) All matters and proceedings commenced under any such enactment, and pending or in progress at the commencement of this Act, may be continued and completed under this Part of this Act.