



Tuvalu

IMMIGRATION ACT

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Tuvalu

IMMIGRATION ACT

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Tuvalu

IMMIGRATION ACT

AN ACT TO MAKE PROVISION FOR THE CONTROL OF IMMIGRATION¹

Commencement [1st January 1969]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Immigration Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**authorised aerodrome**” means any area of land or water designed, equipped or set apart or commonly used for affording facilities for the landing and departure of aircraft, which has been declared by the Minister by notice to be an authorised aerodrome for the purpose of this Act;

“**child**” means a legitimate or legitimated child or a stepchild or an adopted child (adopted in a manner recognised by the law of Tuvalu) or, in relation to its mother, an illegitimate child;

“**entry**” with its grammatical variations means —

- (a) in the case of a person arriving by sea, disembarking in Tuvalu from the vessel in which he arrives;
- (b) in the case of a person arriving by air at an authorised aerodrome, leaving the precincts of such aerodrome; and

- (c) in the case of a person arriving by air at any place other than an authorised aerodrome, landing in Tuvalu:

Provided that it shall not include an entry —

- (i) made for the purpose of complying with this Act;
- (ii) expressly or impliedly sanctioned by an immigration officer for the purpose of inquiry;
- (iii) caused solely by stress of weather or the condition of a ship or aircraft, if all such measures as are reasonably practical are taken forthwith to notify such entry to the Principal Immigration Officer;

“**family**” means wife and children under 18 years of age;

“**member of a crew**” means any person employed in the working or service of a ship;

“**passenger**” means any person travelling or seeking to travel on board a ship who is not a seaman;

“**passport**” has the meaning ascribed to that term by the Passports Act;

“**permit**” includes any kind of permit issued under this Act and includes an exemption stamped on a passport under section 7;

“**prohibited immigrant**” means a person declared to be a prohibited immigrant by section 10;

“**residence**” with its grammatical variations, means residence in Tuvalu which is not unlawful under this Act;

“**seaman**” means an officer or member of the crew of a ship;

“**ship**” includes aircraft and the expression “**master of a ship**” includes (except in the proviso to section 4(2)) the commander of an aircraft, or if there be no commander, the pilot thereof; and the terms “**crew**”, “**seaman**” and “**port**” shall be construed accordingly;

“**visitor**” means a person arriving in Tuvalu for an intended stay of any period not exceeding 4 months.

PART II - APPOINTMENT AND POWERS OF IMMIGRATION OFFICERS

3 Appointment of Principal Immigration Officer and other officers

- (1) The Minister may appoint a Principal Immigration Officer and such other immigration officers as he may consider necessary for the proper carrying out of the provisions of this Act.

- (2) The Minister may from time to time give to the Principal Immigration Officer directions not inconsistent with the provisions of this Act, as to the exercise of any powers, discretions or functions or the performance of any duties under this Act, and the Principal Immigration Officer and all other immigration officers shall comply with any such directions.

4 Powers of immigration officers

- (1) For the purpose of exercising his powers and functions and carrying out his duties under this Act any immigration officer may —
 - (a) without search warrant, enter upon or into and search any ship or vehicle in Tuvalu;
 - (b) interrogate any person who desires to enter Tuvalu, or any person whom he has reasonable grounds for believing to be a prohibited immigrant, or any person applying for extension of a permit or for exemption, or the master of any ship whom he reasonably believes can give material information regarding any such person as aforesaid, and may require any such person to produce such documents in his possession as may be necessary to enable the immigration officer to carry out his duties under this Act;
 - (c) require any person who desires to enter or leave Tuvalu to make and sign any prescribed form of declaration;
 - (d) require any person who desires to enter Tuvalu to submit to be examined by a Government medical officer or any medical practitioner registered under the Medical and Dental Practitioners Act, and to undergo, and to assist in the carrying out of, any test or investigation which such medical officer or practitioner may require;
 - (e) require a deposit or bond or other security to be made or given in respect of any person granted a permit and if any person who enters Tuvalu by virtue of such permit contravenes or fails to comply with any of the terms and conditions on the permit, or to which it is subject, any immigration officer may, without prejudice to proceedings in respect of any offence thereby committed, forfeit any such deposit or in the name of the Principal Immigration Officer sue and recover the amount secured by any such bond or other security; and any sum so forfeited or recovered shall be paid into the general revenues of Tuvalu.
- (2) If any immigration or police officer has reasonable cause to suspect that any person has committed an offence against this Act, or that the presence of any person in Tuvalu is unlawful, and if it appears to him to be necessary to arrest such person immediately in order to secure that the ends of justice or the purposes of this Act shall not be defeated, he may arrest such person without a warrant; and the provisions of sections 20, 23 and 24 of the Criminal Procedure Code Act shall apply in every such case and for the purposes of

such application of the said section an immigration officer shall be deemed to be a police officer:

Provided that where the person arrested is a person whom the immigration or police officer has reasonable cause to suspect of being a prohibited immigrant and such person is a passenger or seaman on a ship, he may, if he consents, be handed over to the custody of the master of the ship until its departure from Tuvalu.

- (3) Any person who —
- (a) refuses or fails to answer fully and truthfully any question or inquiry lawfully put to him in the course of interrogation under subsection (1)(b); or
 - (b) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or inquiry as aforesaid; or
 - (c) when required to produce any document under subsection (1)(b), refuses or fails to produce within a reasonable time any such document which it is in his power to produce, or produces any document which he knows or has reasonable cause to believe to be false or misleading,

shall be guilty of an offence against this Act.

- (4)
- (a) All answers to questions lawfully put in interrogation and all documents produced under subsection (1)(b) shall be admissible in evidence in all proceedings under or relating to any matter arising under or connected with this Act.
 - (b) Nothing in this subsection shall be construed as rendering any such answer or document inadmissible in evidence in any proceedings in which they would otherwise be admissible.

PART III - ENTRY INTO TUVALU

5 Duties of masters of ships and passengers

- (1) The master of every ship arriving in Tuvalu from some place outside Tuvalu shall —
- (a) deliver to the immigration officer a complete list in duplicate of all passengers and seamen on the ship;
 - (b) not permit any person to disembark from a ship until disembarkation has been authorised by the immigration officer;
 - (c) inform the immigration officer if he knows or has reasonable cause for believing any person to be a prohibited immigrant, and prevent such person from disembarking unless authorised by the immigration officer;

- (d) prevent, with such reasonable force as may be necessary, the disembarkation from a ship of any person —
 - (i) who has been given into his custody under the proviso to section 4(2); or
 - (ii) who does not hold a passport and is not exempt under the provisions of the Passports Act, from holding a passport; or
 - (iii) in respect of whom to his knowledge a removal order made under section 13 or a deportation order made under this or any other Act is in force; or
 - (iv) in respect of whom he has been notified by the immigration officer that such person is prohibited from landing in Tuvalu:

Provided that where the ship is an aircraft the master shall be deemed to have complied with the provisions of this paragraph by ensuring that the person be detained in the custody of an immigration or of a constabulary officer in any place accessible to the airport until such time as the aircraft shall resume its journey.

- (2) Every person entering Tuvalu by sea or air from any place outside Tuvalu shall appear before the immigration officer at such time and place as the immigration officer may direct and shall furnish him with such information in such manner as the immigration officer may require or as may be prescribed.
- (3) If any master of a ship arriving in Tuvalu contravenes or fails to comply with any of the provisions of paragraphs (a), (b), (c) or (d) of subsection (1), or furnishes a list of passengers and seamen which he knows or has reasonable cause to believe to be false or misleading, he shall be guilty of an offence against this Act and be liable to a fine of \$400, and if the offence is failure to comply with the provisions of paragraph (b) or paragraph (d) the owner of the ship and any agent of such owner in Tuvalu shall also be guilty of a similar offence and be liable to a similar penalty.
- (4) The Minister may exempt the master of any ship or the masters of any class of ships or any person or group or class of persons from any or all of the provisions of this section.

6 Control of entry into Tuvalu

- (1) No person shall enter Tuvalu from any place outside Tuvalu unless —
 - (a) he is in possession of a valid permit lawfully issued to him under this Act; or
 - (b) he is exempted from the provisions of this section under section 7.
- (2) Subject to this Act, no person shall remain in Tuvalu after the expiry or cancellation of a permit.

7 Persons entitled to enter without a permit²

- (1) Subject to this section, a person who satisfies the Principal Immigration Officer that he comes into any of the following categories shall be entitled to enter Tuvalu from any place outside Tuvalu without having obtained a permit under this Act —
 - (a) a citizen of Tuvalu;
 - (b) any serving member of His Majesty's Forces, and the family of such member, if the immigration officer is satisfied that responsibility for repatriation of such family has been accepted by the Service concerned;
 - (c) a person duly accredited as a diplomatic or consular representative to Tuvalu, and the family of such person;
 - (d) a person upon whom the immunities and privileges set forth in Part II or Part III of the Schedule to the Diplomatic Privileges Act have been conferred under the said Act, or the family of such person;
 - (e) any person employed by or on behalf of the Government, and the family of any such person;
 - (f) a member of the official staff of a person mentioned in paragraphs (c) or (d), and the family of such member;
 - (g) a member of the household of a person mentioned in paragraphs (c), (d) or (f) and the family of such member;
 - (h) a student of any age both of whose parents are or whose only parent is resident in Tuvalu, who is re-entering Tuvalu on vacation from or on completion of studies at a university, university college, school or other educational establishment;
 - (i) any other person or class or group of persons whom the Minister may by order specify;
 - (j) any seaman exempted by the Principal Immigration Officer under subsection (2).
- (2) The Principal Immigration Officer may exempt any seaman or group or description of seamen from the requirement to obtain a permit to enter Tuvalu, and may in like manner at any time cancel any such exemption either generally or in relation to any particular seaman or seamen.
- (3) The burden of proof that any person is a person to whom this section applies shall lie upon that person.
- (4)
 - (a) When any person referred to in subsection (1) ceases to hold or enjoy the employment, appointment, status or privileges which entitled him under this section or those paragraphs (as the case may be) to enter Tuvalu without a permit, he shall, for the purposes of this Act, be deemed to be a person seeking to enter Tuvalu with effect from the date when he ceases to hold such employment or appointment or enjoy such

status or privileges, as the case may be; and if on the expiry of 3 months from such date he shall not have been granted a permit under this Act, his presence and the presence of his family and dependants in Tuvalu shall thereupon become unlawful:

Provided that this paragraph shall not apply to any dependant or member of the family of a person as aforesaid, if such dependant or member is in possession of a valid permit lawfully issued to him under this Act.

- (b) When any person referred to in sub-paragraph (i) or (j) of subsection (1) contravenes or fails to comply with any of the terms and conditions of an order under sub-paragraph (i) or of an exemption granted under subsection (2), as the case may be, enabling him to enter Tuvalu, or when his exemption from the requirement to obtain a permit is cancelled under the said subsection (2), without prejudice to any offence thereby committed or penalty thereby incurred, his presence in Tuvalu shall forthwith become unlawful.
- (5) Any person who intends to leave Tuvalu within 6 months and who considers that he is entitled to enter Tuvalu without a permit under subsection (1)(a) may apply for such exemption to be stamped on his passport and if such person satisfies the Principal Immigration Officer that he is entitled to such exemption as aforesaid the Principal Immigration Officer shall cause the passport of such person to be stamped accordingly; and an application made under this subsection which is refused may be renewed from time to time at intervals of not less than 3 months.

8 Permits to enter and reside

- (1) The Principal Immigration Officer may issue a permit in the prescribed form authorising any person to enter and reside in Tuvalu, upon such conditions as to the security to be furnished, the profession or occupation which such person may exercise or engage in and the employer or employers by whom he may be employed within Tuvalu, and to any other matter, whether similar to the foregoing or not, which the Principal Immigration Officer may deem fit to impose or as may be prescribed and may at his discretion vary any such condition.
- (2) The Principal Immigration Officer may at his discretion extend a permit issued under subsection (1), in accordance with directions issued by the Minister.

9 Visitor's permit

- (1) The Principal Immigration Officer may, subject to the provisions of subsection (3), issue a visitor's permit or grant an extension of a visitor's permit (whether such permit has already been extended or not) and such

visitor's permit may be for such period as the Principal Immigration Officer feels fit but shall not exceed one month.

- (2) Any visitor's permit issued or any extension of a visitor's permit granted under subsection (1) shall be subject to such conditions (if any) as the Principal Immigration Officer may specify in writing.
- (3) The Principal Immigration Officer may issue a visitor's permit or grant an extension of a visitor's permit under the provisions of subsection (1) if and only if —
 - (a) he has received written instruction signed by the Minister to do so; or
 - (b) he is satisfied that the person to whom the visitor's permit is to be issued or whose visitor's permit is to be extended —
 - (i) has a valid ticket or other means of travelling from Tuvalu to some other country which he will be able to enter; and
 - (ii) has not been in Tuvalu for a period or periods which aggregate to more than 3 months in the 12 months immediately preceding the date when such visitor's permit or such extension of a visitor's permit if granted would come into effect.
- (4) An immigration officer on the written instructions of the Minister may cancel a visitor's permit if he is satisfied that the visitor —
 - (a) is not a person to whom a visitor's permit ought to have been issued;
 - (b) has become a prohibited immigrant;
 - (c) has become incapable of supporting himself or his dependants;
 - (d) has behaved in a manner prejudicial to the peace and good order of Tuvalu; or
 - (e) is in breach of any of the conditions of his permit or to which it is subject.
- (5) The Principal Immigration Officer shall waive the entry permit requirement and issue a visitor's permit for such period as prescribed under the agreement and Regulations.³

10 Prohibited immigrants

- (1) Any person who —
 - (a) is not a person entitled to enter Tuvalu without a permit under section 7(1); and
 - (b) is a member of any of the prohibited classes as defined in subsection (2),

shall be a prohibited immigrant and, save as otherwise hereinafter expressly provided, his presence in Tuvalu shall be unlawful, notwithstanding any permit he may hold.

- (2) The following persons are members of the prohibited classes —
- (a) any person who, not being exempt, is not the holder of a valid permit issued or deemed to have been issued under this Act;
 - (b) any person in respect of whom a deportation order, made under this or any other Act, or a removal order under this Act is in force;
 - (c) any person who at the time of entry into Tuvalu is unable to show that he has the means of supporting himself and his family and dependants (if any) or that he has definite employment awaiting him or who is likely to become a pauper or a charge on the public;
 - (d) any person —
 - (i) who refuses to submit to an examination by a Government medical officer or a medical practitioner after being required to do so under section 4(1)(d) , or to undergo, or to assist in the carrying out of, any test or investigation which such medical officer or practitioner may require; or
 - (ii) who at the time of his entry into Tuvalu is certified by the Government medical officer or medical practitioner to be suffering from a contagious or infectious disease which makes his presence in Tuvalu dangerous to the community; or
 - (iii) in respect of whom at the time of his entry into Tuvalu the Government medical officer or medical practitioner certifies that he is suffering from mental disorder or is a mental defective, and that his presence in Tuvalu would be a danger to the community;
 - (e) any person who, not having received a free pardon, has been convicted by a court outside Tuvalu of an offence which, if committed within Tuvalu, is punishable with imprisonment for a term of more than 2 years and who in respect of such offence has been sentenced to imprisonment for a term of 1 year or more, or who has been convicted by courts outside Tuvalu of two or more offences, which if committed within Tuvalu would have been punishable by imprisonment, and in respect of such convictions has been sentenced to imprisonment for terms amounting in the aggregate to 18 months or more:

Provided that the Principal Immigration Officer, with the prior approval of the Minister, in the case of a person whose last sentence of imprisonment expired more than 5 years before the date upon which he desires to enter Tuvalu, may direct that such person shall be exempted from the provisions of this paragraph and any person in respect of whom such exemption is granted shall not thereafter be held to be a prohibited immigrant by reason only of his having been so convicted and sentenced;
 - (f) any person who prior to his entry into Tuvalu or within 1 year thereafter, in consequence of information received from any Government, through official or diplomatic channels, or from any other

- source deemed by the Minister to be reliable, is declared by the Minister to be an undesirable immigrant;
- (g) any person who is a member of any class or group of persons declared by the Minister by order, to be a prohibited class for the purposes of this section;
 - (h) any member of the family and any dependant of a prohibited immigrant, unless the Minister declares that such member of the family or such dependant is not a member of this prohibited class.
- (3) The burden of proof that any person is not a prohibited immigrant shall lie upon that person; and in any case where an immigration officer refuses to allow any person to enter Tuvalu on the ground that such person is a prohibited immigrant he shall, if so requested by such person, inform him of the class of prohibited immigrant of which in the opinion of the immigration officer he is a member.
- (4) The Principal Immigration Officer may issue a Prohibited Immigrant Notice in the manner and form prescribed by the Regulations.⁴

11 Issue of permits to be discretionary

Subject to this Act and to any directions issued by the Minister thereunder, the Principal Immigration Officer shall have complete discretion as to the persons to whom permits may be granted under this Act, and to the extension of such permits.

12 Effect of expiration or cancellation of a permit

It shall be unlawful for any person to remain in Tuvalu after the expiration or cancellation of any permit issued or deemed to be issued to or in respect of him under this Act unless he is otherwise entitled or authorised to remain in Tuvalu under this Act.

PART IV - REMOVAL OF UNLAWFUL IMMIGRANTS FROM TUVALU

13 Power to remove persons unlawfully in Tuvalu

- (1) The Minister may make an order directing that any person who has been convicted of the offence of being unlawfully present in Tuvalu shall, on the expiry of 14 days or such longer period as the Minister may specify from the date of service of the order on such person or on the completion of any sentence of imprisonment which he may be serving, be removed from and remain out of Tuvalu, either indefinitely or for a period to be specified in the order.

- (2) An order made under this section shall be carried into effect in such manner as the Minister may direct:

Provided that no such order shall be carried into effect until any appeal against conviction for the offence of being unlawfully present in Tuvalu shall have been disposed of, or the time for giving notice of such appeal shall have expired.
- (3) A person against whom an order under this section is made may, if the Minister so directs, while awaiting removal and while being conveyed to the place of departure, be kept in prison or in police custody, and while so kept shall be deemed to be in lawful custody.
- (4) A person against whom a removal order has been made may be removed to the place whence he came, or, with the approval of the Minister, to some place in the country to which he belongs, or to any place to which he consents to be removed, provided that the Government of such last-mentioned place consents to receive him.
- (5) The master of a ship which is proceeding to a place to which a person is directed to be removed and who is required by the Principal Immigration Officer to do so shall receive a person against whom a removal order has been made on board the ship and afford him a passage to that place and proper accommodation and maintenance during passage; and except as provided by section 14, the cost of such passage, accommodation and maintenance shall be paid by the person removed and the Minister may apply any money or property of the person removed in payment of the whole or any part of such cost, or if the Minister thinks fit, the whole or any part of such cost shall be paid out of the Consolidated Fund.
- (6) If any master of a ship fails to comply with subsection (5) he shall be liable to a fine of \$400, and the owner of the ship and any agent of such owner in Tuvalu shall be guilty of a similar offence and liable to a similar penalty.
- (7) If a person in respect of whom a removal order is made under this section has been sentenced to any term of imprisonment, such sentence shall be served before the order is carried into effect unless the Minister otherwise directs.

14 Liability for expenses incurred in respect of a prohibited immigrant

The master and the owner and the agent of any ship from which any prohibited immigrant disembarks shall be jointly and severally liable to pay to the Government all expenses incurred by the Government in connection with the care, maintenance or treatment of such prohibited immigrant and his removal or conveyance from Tuvalu; and the amount of any such expenses as aforesaid shall be recoverable by action in a magistrate's court brought by or in the name of the Principal Immigration Officer:

Provided that —

- (a) in no case shall the amount for which the master, owner or agent of the ship is liable in respect of such deportation or conveyance from Tuvalu exceed the cost of removing or conveying the said person to the place from which he was brought by the ship concerned;
- (b) the Minister may, if he thinks fit, direct that the whole or any part of such expenses shall be paid out of the Consolidated Fund;
- (c) the provisions of this section shall not apply in the case of a person who is a prohibited immigrant by reason of being declared by the Minister, after his entry into Tuvalu, to be in the class of undesirable immigrants under section 10(2)(f); and
- (d) the provisions of this section shall not apply in any case where the prohibited immigrant is at the time of entry in possession of a permit purporting to authorise him to enter Tuvalu and to be issued under this Act.

PART V - MISCELLANEOUS

15 No suit or damages maintainable for things done in good faith under this Act

No suit or other legal proceedings for damages shall be instituted in any court of law against the Government or any immigration officer or any other officer of the Government or any other person for or on account of or in respect of any act, matter or thing done or omitted to be done or purported to be done or omitted to be done, in good faith, in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act; and the provisions of this section shall extend to the protection from liability as aforesaid of any person deputed by delegation under this Act or under any other law for the time being in force to perform or exercise any such duty or power as aforesaid.

16 Appeals

- (1) Any person aggrieved by a decision of an immigration officer under this Act may, within 14 days of such decision, or 28 days if the person aggrieved is resident outside Tuvalu, in writing record his reasons for being so aggrieved and require the matter to be referred to the Minister and the Minister may confirm, vary or overrule the decision of the immigration officer.
- (2) The Principal Immigration Officer may grant to any person who intends to appeal to the Minister, and to any member of the family and to any dependant of such person, an interim permit allowing him to enter and remain in Tuvalu or to remain in Tuvalu pending the determination of such appeal.

- (3) An immigration officer shall not grant an interim permit under this section unless he is satisfied that the person is unlikely to become a charge on the public during the currency of the permit; and any such permit may be cancelled by an immigration officer if the person concerned appears likely to become a charge on the public or if the appeal is not prosecuted with all due despatch and, if not cancelled, shall expire on the giving of a decision by the Minister.

17 Offences and penalties

- (1) Any person who —
- (a) for the purpose of obtaining for himself or for any other person or of assisting any other person to obtain any permit, exemption or other advantage under this Act or, with intent to deceive any immigration officer, makes or causes to be made any declaration, return or statement which he knows or has reasonable cause to believe to be false or misleading, or uses any forged or unlawfully altered birth certificate, marriage certificate or any other forged or unlawfully altered document whatsoever (whether or not of the like sort) or any passport which or in which any visa, entry or endorsement has been forged or unlawfully altered, knowing or having reasonable cause to believe such certificate, document, passport, visa, entry or endorsement to be forged or unlawfully altered; or
 - (b) otherwise than with the authority of the Principal Immigration Officer (the burden of proof whereof shall be upon the accused person) alters, or wilfully defaces, any permit or any entry or endorsement in any passport issued or made under or in pursuance of the provisions of this Act, or any official or certified copy of any such permit, entry or endorsement; or
 - (c) resists, hinders or obstructs any immigration officer or other officer or person in the lawful execution of his duty, or in the lawful exercise of his powers, under this Act; or
 - (d) knowingly misleads or attempts to mislead any immigration officer in relation to any matter material to the performance or exercise by any immigration officer of any duty, function, power or discretion under this Act; or
 - (e) unlawfully uses or without lawful authority (the burden of proof whereof shall be upon the accused person) has in his possession any forged or unlawfully altered permit or other document issued or purporting to have been issued under this Act; or
 - (f) knowingly uses or has in his possession any unlawfully issued or otherwise irregular permit or other document issued or purporting to have been issued under this Act; or

- (g) refuses or fails to submit to a medical examination, or to undergo or assist in carrying out any test or investigation in connection with a medical examination when so required under section 4(1)(d); or
- (h) having arrived in Tuvalu as a passenger by sea or air from any place outside Tuvalu fails to appear before an immigration officer as directed by him, unless exempt under section 5(4); or
- (i) unlawfully enters or is unlawfully present in Tuvalu; or
- (j) refuses or fails to comply with any notice issued to him under this Act or any regulations made thereunder, with which he is required by this Act or such regulations to comply; or
- (k) contravenes or refuses or fails to comply with any lawful term or condition subject to which any permit or exemption is or has been issued to him under this Act; or
- (l) harbours any person whom he knows or has reasonable cause to believe to be a person whose presence in Tuvalu is unlawful; or
- (m) uses any certificate, permit or exemption issued under this Act to or in respect of any other person as if it has been issued to or in respect of himself; or
- (n) gives, sells or parts with possession of any such certificate, permit or exemption in order that, or intending or knowing or having reasonable cause to believe that, it may be used in contravention of paragraph (m) of this subsection; or
- (o) having been directed by any order made under section 13 to remain out of Tuvalu, fails so to do in contravention of such order,

shall be guilty of an offence against this Act and shall, except in the case of an offence under paragraph (o), be liable to a fine of \$400 and to imprisonment for 6 months.

- (2) For the purposes of any proceedings for an offence under subsection (1)(a) a declaration, return or statement to which that paragraph relates shall be deemed to have been made, or, as the case may be, the causing thereof to be made shall be deemed to have been done, at the time and place at which the same was received by the officer or person to whom it was addressed.
- (3) For the avoidance of doubt, it is hereby declared that the presence of any person within Tuvalu under or in pursuance of a permit, exemption or other authority which is or was obtained by, or is or was issued, granted or conferred as a result or by reason of fraud, misrepresentation, concealment or non-disclosure, whether intentional or inadvertent, of any material fact or circumstance, is unlawful presence.
- (4) Where any person is convicted of an offence under subsection (1)(a) the court may, in addition to any penalty imposed for such offence, cancel any permit which was issued in consequence of such false declaration, return or

statement, or the use of any forged or unlawfully altered certificate, document, passport, visa, entry or endorsement as is mentioned in that paragraph.

- (5) Where any person is convicted of an offence under subsection (1)(k) the court shall, in addition to any penalty imposed for such an offence, cancel the permit or exemption in respect of which the offence was committed.
- (6) Any person who is convicted of an offence under subsection (1)(o) shall be liable to a fine of \$2,000 and to imprisonment for 3 years.
- (7) Where any prohibited immigrant enters Tuvalu on or from any ship, whether or not with the knowledge of the owner or master or of any agent thereof, such owner and master and such agent shall each be guilty of an offence and shall be liable to a fine of \$400 and the ship may, by order of the court, be detained until provision has been made by the owner or master or agent, as the case may be, to the satisfaction of an immigration officer for the conveyance out of Tuvalu of such prohibited immigrant:

Provided that this subsection shall not apply in any case where the prohibited immigrant is at the time of entry in possession of a permit purporting to authorise him to enter Tuvalu, and to be issued under this Act.

- (8) Where any fine is imposed under this Act upon any owner, agent or master of any ship, such ship may, by order of the court, be detained until such fine has been paid and it shall be lawful for the court when imposing any such fine to order execution against such ship in satisfaction of such fine.
- (9) In any proceedings for an offence under this section a person shall be deemed to know the contents of any declaration, return or statement which he has signed or marked, whether he has read such declaration, return or statement or not, if he knows the nature of the document.

18 Power to make regulations

The Minister may make regulations for all or any of the following matters —

- (a) the procedure to be followed by persons applying for permits to enter Tuvalu, the particulars or documents to be supplied by them, and the persons through whom applications may be made;
- (b) the forms to be used for the purposes of the Act, and the stamps to be used by immigration officers;
- (c) the amount of the security which the Principal Immigration Officer may require to be furnished by persons entering Tuvalu;
- (d) further terms and conditions upon which permits may be issued;
- (e) the procedure to be followed by persons entering Tuvalu;
- (f) the fees to be charged for anything done, and for any permit, exemption or document issued, granted, renewed, extended or replaced under this Act; and
- (g) generally, the carrying into effect of the provisions of this Act.

ENDNOTES

¹ Acts 10 of 1968, 2 of 1969, 9 of 1971, L.N.65/1968, L.N. 16/1974, Acts 1 of 1979, 7 of 1979, 6 of 1982

Amended by Act 6 of 1997, commencement 4 September 1997 by LN 11/1997

Amended by Act 12 of 2008, commencement 1 January 2009

Amended by Act 2 of 2019, commencement 17 April 2019

² Amended by Act 12 of 2008

³ Inserted by Act 2 of 2019

⁴ Inserted by Act 2 of 2019