

ANTIGUA AND BARBUDA



THE IMMIGRATION AND PASSPORT ACT, 2014

No. of 2014

THE IMMIGRATION AND PASSPORT ACT, 2014

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ANTIGUA AND BARBUDA
THE IMMIGRATION AND PASSPORT ACT, 2014
No. of 2014

AN ACT to revise and reform the law providing for the control of the entry and departure of persons into and from Antigua and Barbuda; to repeal, the Immigration Act Cap. 208 and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. Short title and commencement

(1) This Act may be cited as the Immigration and Passport Act, 2014.

(2) The Minister may, by notice published in the *Gazette*, appoint a day on which this Act shall come into force and the Minister may appoint different days for the coming into force of the different provisions of this Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“advance passenger information” means the information specified in Schedule 2 in respect of a passenger or crew member transported in a vessel;

“appropriate recognised association” means the Antigua and Barbuda Public Service Association or such other body representing the interests of immigration officers as the Governor-General may designate;

“biometrics”, in relation to an individual, means biological information that is unique to the individual that is required for immigration purposes;

“*bona fide* visitor” means a person arriving in Antigua and Barbuda for a period of not more than 6 months otherwise than for—

- (a) a professional, financial, trade or business purpose; or
- (b) the purpose of seeking or engaging in employment;

“Cabinet” means the Cabinet of Ministers referred to in section 70 of the Constitution;

“CARIFORUM Member States” means the States set out in Part A in Schedule 4;

“Chief Immigration Officer” has the meaning assigned to it in section 4;

“child” means an individual under the age of 18 years and includes a step child, an adopted child and a minor dependant;

“citizen of Antigua and Barbuda” means a person who is a citizen of Antigua and Barbuda under and by virtue of—

- (a) the provisions of Chapter VIII of the Constitution; or
- (b) any Act relating to citizenship in Antigua and Barbuda;

“citizen of a Protocol Member State” means a person who is a citizen of a Member State of the Organisation of Eastern Caribbean States that is a party to the Protocol of the Eastern Caribbean Economic Union;

“competent authority” means a person or entity as the Minister may, by Order, prescribe;

“Constitution” means the Constitution of Antigua and Barbuda;

“dependant” means—

- (a) the spouse of a person if the spouse is not living apart from the person under a deed of separation, a decree of divorce or an order of a court;
- (b) a child of a person wholly dependent on that person for his or her subsistence or maintenance; or
- (c) a parent, grandparent or sibling of a person who is, by reason of age or infirmity of body or mind wholly dependent on that person for his or her subsistence or maintenance;

“deportation order” means a court order requiring the person against whom it is made to leave, and remain out of, Antigua and Barbuda;

“domestic space” means the countries listed in Schedule 3;

“educational institution” includes an institution established or registered under the Education Act 2008 and whose primary function is to provide academic, technical or other instructions;

“employer” includes—

- (a) a person contractually bound to an employee under an employment contract;
- (b) the chief executive officer of a legal person; and
- (c) any officer of a legal person to whom authority has been bestowed to make final decisions on human resources;

“engage in gainful occupation”, in relation to any employment, profession, trade or business, means—

- (a) to take and continue in any employment;
- (b) to practise any profession;
- (c) to carry on any trade;
- (d) to engage in business; or

- (e) to engage in such other form of occupation as may be specified in regulations made under this Act;

"entry permit" means a permit to enter or remain in Antigua and Barbuda granted under section 13 or 40;

"EPA Agreement" means the EU-CARIFORUM Economic Partnership Agreement between Member States comprising the CARIFORUM grouping and the European Community, signed on October 15, 2008 including its Protocols and Annexes and ratified by the Government on [date to be inserted] as published in *Gazette* [volume and date to be inserted];

"EU Member State" means any Member State of the European Union referred to in Part B of Schedule 4;

"EU service provider" means a natural person of an EU Member State who is—

- (a) a business services seller, that is to say, a natural person of an EU Member State who is a representative of a service supplier of that EU Member State seeking temporary entry into Antigua and Barbuda for the purpose of negotiating the sale of services or entering into agreements to sell services for that service supplier; except that such a person does not engage in making direct sales to the general public and does not receive remuneration from a source located within Antigua and Barbuda;
- (b) a business visitor, that is to say, a natural person of an EU Member State working in a senior position who is responsible for setting up a commercial presence; except that such a person does not engage in making direct sales to the general public and does not receive remuneration from a source located within Antigua and Barbuda;
- (c) a contractual services supplier, that is to say, a natural person of an EU Member State who is employed by a juridical person of that EU Member State which has no commercial presence in Antigua and Barbuda; and which has concluded a bona fide contract (other than through an employment agency) to supply services with a final consumer in Antigua and Barbuda requiring the presence on a temporary basis of its employees in Antigua and Barbuda in order to fulfil the contract to provide services;
- (d) a graduate trainee, that is to say, a natural person of an EU Member State who—
 - (i) has been employed by a juridical person of that EU Member State for at least one year;
 - (ii) possesses a university degree; and
 - (iii) is temporarily transferred to a commercial presence or to the parent company of the juridical person in Antigua and Barbuda, for career development purposes or to obtain training in business techniques or methods;
- (e) an intra-corporate transfer, that is to say, a natural person of an EU Member State who—
 - (i) is a manager or specialist;
 - (ii) has been employed by a juridical person or has been a partner in the juridical person for at least one year; and
 - (iii) is temporarily transferred to a commercial presence in Antigua and Barbuda; or
- (f) a key personnel, that is to say—

- (i) any natural person employed by a juridical person of a Member State other than a non-profit organisation and who is responsible for the setting-up or for the proper control, administration and operation of a commercial presence; or
- (ii) any business visitor and intra-corporate transfer;

“extension permit” means a permit granted under section 38 extending—

- (a) the period of validity of, or varying the conditions specified in an entry permit granted under section 14 or 40;
- (b) the period of validity of a work permit; or
- (c) the period of validity of a student permit granted under section 24;

“illegal immigrant” includes—

- (a) a prohibited immigrant who has—
 - (i) entered Antigua and Barbuda without the permission of the requisite authority; or
 - (ii) resided or remained in Antigua and Barbuda beyond the termination date of a permit; and
- (b) a person, not being a citizen of Antigua and Barbuda, who has remained in Antigua and Barbuda in contravention of this Act;

“immigrant” means a person, not being a citizen of Antigua and Barbuda, who is permitted to enter and remain in Antigua and Barbuda from a place outside Antigua and Barbuda, whether for the first or at any subsequent time;

“immigration officer” includes the Chief Immigration Officer;

“master”, in relation to a vessel, means the person having command or charge of the vessel;

“medical practitioner” means a medical practitioner qualified to practise medicine in Antigua and Barbuda;

“member of a crew”, in relation to a vessel, means a person, including a master, who is employed on board or belongs to the staff or crew of the vessel;

“Member State of CARICOM” means a Member State of the Caribbean Community listed in Part A of Schedule 1;

“Member State of OECS” means a Member State of the Organisation of Eastern Caribbean States listed in Part B of Schedule 1;

“Minister” means the Minister responsible for Immigration;

“minor”, in relation to a dependant, means under the age of 18 years;

“non-immigrant student” means a person not being a citizen of Antigua and Barbuda who—

- (a) does not have a right of residence in Antigua and Barbuda under this Act; and
- (b) is seeking to enter, or has entered, Antigua and Barbuda for the purpose of attending an educational institution;

“Organisation of Eastern Caribbean States” means the Organisation of Eastern Caribbean States established by the Treaty of Basseterre on 18th June 1981;

“owner”, in relation to a vessel, includes a person in charge of the vessel;

“passenger”, in relation to a vessel, means a person not being a member of the crew, travelling or seeking to travel on the vessel;

“passport” means a valid official document issued by a Government, certifying the identity and citizenship of the holder of the document and entitling the holder of the document to travel under its protection to and from foreign countries;

“permanent residence permit” means a permit granted by the Minister under section 42;

“permanent resident” means a person who has been granted a permanent residence permit in accordance with the provisions of this Act;

“port of entry” means—

- (a) an aerodrome that has been certificated as an airport pursuant to regulations made under the Civil Aviation Act 2003 Act No. 25 of 2003; or
- (b) a port specified in the Third Schedule to the Port Authority Act, Cap. 333;

“prescribed” means prescribed in the Regulations;

“prescribed Regulations respecting discipline” means Regulations made by the Minister under this Act or by the Public Service Commission for that purpose of disciplinary actions;

“prohibited immigrant” means a person whose entry and landing into Antigua and Barbuda is prohibited under section 15 or 19;

“Protocol Member State” means a Member State of the Organisation of Eastern Caribbean States that is a party to the Protocol of the Eastern Caribbean Economic Union and listed in Part C of Schedule 1;

“public charges” includes charges against the funds of a hospital supported, wholly or in part, by moneys appropriated from the Consolidated Fund;

“residence permit” means a residence permit granted under section 40 or 47;

“Revised Treaty of Basseterre” means the Revised Treaty of Basseterre Establishing the Organization of the Eastern Caribbean Economic Union done at Gros Islet, St. Lucia on the 18th day of June 2010;

“secondary education” means full-time education suited to the requirements of students of secondary school age;

“serious offence” means any offence, whether triable on indictment or triable summarily, that carries a penalty of imprisonment for a term of 12 months or more;

“sponsor”, in relation to a *bona fide* visitor, means a person who accepts responsibility for the care, upkeep and departure of the *bona fide* visitor from Antigua and Barbuda;

“status” includes the status of a person as determined by the relevant permit granted to that person under this Act;

“tertiary educational institution” means—

- (a) the Antigua State College;
- (b) the College of Medicine, American University of Antigua;
- (c) the School of Medicine, University of Health Sciences Antigua;
- (d) Antigua and Barbuda International Institute of Technology;
- (e) the American International College of Arts and Sciences – Antigua; or
- (f) any other tertiary educational institution as the Minister may, after consultation with the Minister for Education, specify;

“Tribunal” means the Immigration Appeals Tribunal established under section 57;

“unlawful conduct” means conduct that—

- (a) if it occurs in Antigua and Barbuda, is unlawful under the criminal law of Antigua and Barbuda; or
- (b) if it occurs in a country outside Antigua and Barbuda—
 - (i) is unlawful under the criminal law applying in that country; and
 - (ii) if it occurred in Antigua and Barbuda, would be unlawful under the criminal law of Antigua and Barbuda;

“valid”, in relation to a passport, means the period for which the passport is issued, according to the law in force in that country issuing the passport, has not expired;

“vessel” means a ship, schooner, sloop, boat or other floating craft and includes any description of aircraft; and

“writing” includes communicating by facsimile transmission, electronic mail, and any other mode of representing or reproducing words in a visible form.

(2) For the purposes of this Act, a person enters Antigua and Barbuda if the person arrives by sea or by air with the intention of disembarking in Antigua and Barbuda or if the person disembarks in Antigua and Barbuda; but a person who—

- (a) arrives in Antigua and Barbuda by any ship or aircraft shall not be deemed to land or reside in Antigua and Barbuda—
 - (i) if, as respects an arrival by ship, the person does not leave that ship, or without going ashore the person transfers himself or herself to another ship with the intention of departing from Antigua and Barbuda by such latter ship, and does not leave that latter ship; or
 - (ii) if, as respects an arrival by aircraft, the person does not leave the airport within which the passengers for that aircraft are disembarked; or
- (b) is not a *bona fide* passenger in transit on a ship shall be deemed to remain and reside in Antigua and Barbuda if the person resides in the vessel (including a yacht or houseboat) within the territorial sea of Antigua and Barbuda.

(3) For the purposes of this Act, a person is to be taken to be—

- (a) an undesirable person, as the case may be, if the person—
 - (i) is known to be involved in any unlawful conduct; or
 - (ii) has been convicted of a serious offence; and

- (b) convicted of a serious offence if—
 - (i) the person is convicted, whether summarily or on indictment, of a serious offence; or
 - (ii) a court of competent jurisdiction, with the consent of the person, takes the serious offence of which the person has not been found to be guilty, into account in sentencing the person for another offence.

(4) Grammatical variations of any expression defined in subsection (1) shall be construed accordingly.

PART II

ADMINISTRATION AND DEPARTMENT OF IMMIGRATION

3. Powers and responsibilities of the Minister.

- (1) The Minister—
 - (a) is responsible for the overall management of this Act and the Regulations;
 - (b) shall exercise direction and control over the Department of Immigration; and
 - (c) has the power and authority to regulate any matter to which this Act apply in all aspects not provided for in this Act and the Regulations.
- (2) Without prejudice to the generality of subsection (1), the Minister may—
 - (a) establish the qualifications, skills and standards required for immigration officers to carry out the duties and functions under this Act and the Regulations;
 - (b) publish guidelines and targets for the provision of immigration service in Antigua and Barbuda; and
 - (c) after consultation with the Cabinet, enter into agreements with any person, organization, or Government in order to carry out the provisions of this Act and the Regulations.

(3) The Minister may, by directions in writing and subject to such conditions as the Minister thinks fit, delegate to the Chief Immigration Officer any such power or function conferred on the Minister by this Act as the Minister considers necessary for effective implementation of this Act and Regulations except the power to make Regulations; but the delegation of a power or function shall not prevent the Minister from exercising the power or function.

(4) Notwithstanding subsection (3), the Minister may from time to time give the Chief Immigration Officer directions of a general character, and not inconsistent with the provisions of this Act, as to the exercise of the powers and discretions conferred on the Chief Immigration Officer by, and the duties required to be discharged by the Chief Immigration Officer under, this Act or the Regulations, in relation to all matters which appear to the Minister to affect the immigration policy of Antigua and Barbuda.

(5) The Chief Immigration Officer shall give effect to all directions given under subsection (4).

4. Establishment of Department of Immigration.

(1) There shall be a department of Government to be known as the Department of Immigration headed by the Chief Immigration Officer.

(2) The Chief Immigration Officer shall—

- (a) be a technically qualified and fit and proper person;
- (b) be assisted by such other immigration officers as may be necessary to enforce the provisions of this Act; and
- (c) subject to section 3, have—
 - (i) responsibility for the day to day administration and enforcement of this Act and the Regulations; and
 - (ii) control and supervision of all persons employed to assist the Chief Immigration Officer in the administration and enforcement of this Act.

(3) The Chief Immigration Officer may, in writing, authorize any other immigration officer to exercise the powers of the Chief Immigration Officer under subsection (2)(c) for such period and subject to such terms and conditions as the Chief Immigration Officer may stipulate.

(4) For the purposes of subsection (2)(a), the expression “technically qualified and fit and proper person” means a person who, by reason of education, training and experience, is capable of—

- (a) administering and enforcing the provisions of this Act and the Regulations; and
- (b) coordinating the development and implementation of a fair and democratic migration policy for Antigua and Barbuda.

5. Power to appoint, remove, etc. immigration officers

(1) The appointment of immigration officers to offices in the Department of Immigration and, subject to section 4(2)(c) and subsection (2), the removal of immigration officers from offices in the Department of Immigration shall—

- (a) in the case of offices in the public service, be made and carried out in accordance with the Constitution and the Public Service Commission Regulations; and
- (b) in the case of any other offices, be made by the Governor-General in accordance with the Regulations.

(2) The power to exercise disciplinary control over persons holding or acting in offices in the Department of Immigration to which subsection (1)(b) applies shall vest in the Chief Immigration Officer, acting in accordance with Regulations respecting discipline made under subsection (3).

(3) For the purposes of subsection (1)(b), the Minister may make Regulations respecting the appointment of, and exercise of disciplinary control over, immigration officers (including the removal of immigration officers) to the offices in the Department of Immigration that are not in the public service.

6. Functions, powers, etc. of immigration officers

(1) For the purpose of exercising his or her powers and functions and carrying out his or her duties under this Act, an immigration officer may—

- (a) without a search warrant, enter upon or into and search a vessel or a vehicle being landed in Antigua and Barbuda from a vessel;
- (b) interrogate any person who wishes to enter or depart Antigua and Barbuda or any person whom the immigration officer has reasonable grounds for believing to be a prohibited immigrant or an illegal immigrant;
- (c) without a warrant, arrest any person who the immigration officer has reasonable grounds to believe has committed an offence under this Act;
- (d) with a warrant, enter and search any place in Antigua and Barbuda if the immigration officer has reasonable grounds for believing that there is in any such place a person against whom a deportation order has been made from Antigua and Barbuda;
- (e) require a person who wishes to enter or leave Antigua and Barbuda to make and sign a prescribed declaration form;
- (f) require a person, other than a citizen of Antigua and Barbuda, who wishes to enter Antigua and Barbuda to submit to be examined by a medical practitioner and to undergo and to assist in the carrying out of any test or investigation which the medical practitioner may require; and
- (g) require the master or agent of a vessel arriving from, or leaving for, a place outside Antigua and Barbuda to provide a list in duplicate signed by the master or agent of the names of all persons on the vessel and such other information as may be prescribed.

(2) An immigration officer may—

- (a) for the purposes of interrogation, summon any immigrant whom the immigration officer is empowered by subsection (1)(b) to interrogate; and
- (b) require any person referred to in paragraph (a) to produce any document relating to a matter upon which the person may be interrogated and which the immigration officer has reasons to believe is in the custody or possession of the person or under the control of the person.

(3) An immigration officer investigating an offence under this Act, whether alleged, suspected or otherwise, shall have all the powers, privileges, protections and authorities conferred by law on a police officer for and in relation to the investigation of offences.

(4) An immigration officer or a police officer may, without a warrant, arrest a person if the immigration officer or a police officer has reasonable cause to suspect that—

- (a) the person has committed an offence under this Act; or
- (b) the presence of the person in Antigua and Barbuda is unlawful.

(5) A person who, having been summoned under subsection (2) fails without reasonable excuse to attend at the time or place appointed or, where required by such summons to produce a

document that the person has in his or her possession or under his or her control, commits an offence and is liable—

- (a) in the case of a first offence, to a fine of \$3,000 or to imprisonment for a term of 6 months, or to both such fine and imprisonment;
- (b) in the case of a second offence, to a fine of \$5,000 or to imprisonment for a term of one year, or to both such fine and imprisonment;
- (c) in the case of a third or subsequent offence, to a fine of \$10,000 or to imprisonment for a term of 5 years, or to both such fine and imprisonment.

(6) An immigration officer who fails to perform any or a combination of the functions or duties under this Act is liable to disciplinary action in accordance with prescribed Regulations respecting discipline.

7. Admissibility of answers given in interrogation

(1) Subject to subsection (2)—

- (a) the answer to any question lawfully put to an immigrant in interrogation under section 6(2)(a); and
- (b) every document produced on requisition under section 6(2)(b),

shall, in all legal proceedings, be admissible in evidence in relation to any matter arising under or connected with this Act or the Regulations.

(2) Nothing in subsection (1) shall be construed as rendering any such answer or document admissible in evidence in any proceeding in which by any law in force in Antigua and Barbuda they would be inadmissible.

8. Uniform, arms, etc. supplied to immigration officers.

(1) Subject to the Regulations, every immigration officer shall wear such uniform as the Chief Immigration Officer shall direct and such uniform, together with arms and accoutrements, shall be supplied to the immigration officers at the public expense.

(2) The uniform, arms and accoutrements supplied to immigration officers shall remain the property of the Government.

(3) An immigration officer—

- (a) shall not alter the uniforms provided under this section to the immigration officer;
- (b) may be permitted to carry a Government issued firearm as determined by the Chief Immigration Officer; or
- (c) shall, for the efficient execution of the provisions of this Act, undertake any duty which may legally be assigned to the immigration officer by the Chief Immigration Officer or the designate of the Chief Immigration Officer.

9. Offences by immigration officers.

- (1) An immigration officer commits an offence if the immigration officer—
 - (a) makes or issues a false document, certificate, declaration, statement or return in connection with his or her office or duty;
 - (b) accepts, agrees to accept or induces or assists another person to accept a bribe or other remuneration or benefit with respect to a matter connected with his or her office;
 - (c) accepts or agrees to accept a bribe or other remuneration or benefit from any person for the purpose of not carrying out his or her duties in respect of the person or another person;
 - (d) contravenes a provision of this Act or the Regulations; or
 - (e) induces, aids or abets or attempts to induce, aid or abet any other person to commit an offence under this Act.

(2) An immigration officer who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years, or to both.

10. Administrative procedures

(1) Where the Chief Immigration Officer or any other immigration officer is required to make a decision under this Act including a decision respecting the refusal of an application for a grant or renewal of a permit or the revocation of a permit under this Act, the Chief Immigration Officer or the other immigration officer shall make the decision in accordance with the principles of natural justice or in a fair manner.

(2) Without limiting the generality of subsection (1), before an immigration officer refuses to grant or renew a permit or revokes a permit under this Act, the immigration officer shall—

- (a) provide a written notice to the applicant or holder of the permit of the intention of the immigration officer to refuse to grant or renew the permit or to revoke the permit;
- (b) where applicable, give the applicant or holder of the permit a reasonable opportunity to make representation; and
- (c) where representation is made under paragraph (b), take the representation into consideration in making the decision.

(3) Where an immigration officer refuses to grant a permit to an applicant or revokes the permit of a permit holder, the immigration officer shall, in writing, promptly notify the applicant or, as the case may be, the permit holder of—

- (a) the refusal or revocation and the reasons for the refusal or the revocation; and
- (b) the right of appeal of the applicant or permit holder under Part VI and Part VII.

(4) Notwithstanding subsection (3), every immigration officer who makes a decision to which this section applies and which adversely affects a person shall, on request by the adversely affected person, supply to that person a statement of the reasons for the decision.

PART III

ENTRY INTO ANTIGUA AND BARBUDA

Division 1

Right of Entry, Entry Requirements, Prohibited Immigrants and Certificates of Identity

11. Requirement for travel documents

(1) Subject to subsection (6), every person entering Antigua and Barbuda shall be in possession of a valid passport or other travel document satisfactorily establishing the citizenship and identity of the person to whom the passport or other travel document relates.

(2) A citizen of Antigua and Barbuda or a Member State of the Organisation of the Eastern Caribbean States entering Antigua and Barbuda shall be in possession of either a valid passport or other travel document or other recognised photo identification card satisfactorily establishing the citizenship and identity of the citizen to whom the passport, other travel document or other recognised photo identification card, as the case may be, relates.

(3) Subject to subsection (6)(c), a person who seeks to enter Antigua and Barbuda without a passport or travel document referred to in subsection (1) or (2), shall not be permitted to enter Antigua and Barbuda unless authorized by the Minister or the Chief Immigration Officer.

(4) Every person intending to depart from Antigua and Barbuda shall, if required to do so by an immigration officer, produce for inspection any passport, visa or document evidencing nationality and any document evidencing permission to enter any country, or other document of a like nature, in the possession of the person.

(5) A person who fails to comply with the requirements of subsection (4) commits an offence and is liable to the penalty specified in section 69.

(6) The Minister may by Order—

- (a) direct that the passport of a subject or citizen of a country outside Antigua and Barbuda shall not be accepted as such under subsection (1) unless it bears a valid visa to enter Antigua and Barbuda;
- (b) declare the circumstances or conditions under which a direction under paragraph (a) shall not apply; and
- (c) exempt from this section generally or subject to such conditions as are specified in the Order, any person or class of persons seeking to enter Antigua and Barbuda.

(7) For the purposes of subsection (2), “other recognised photo identification card” includes a valid driver’s licence or social security card which satisfactorily establishes the citizenship of the person to whom it relates.

12. Requirement for visa

(1) The Minister may, by Regulations—

- (a) specify the countries the citizens of which require visas to enter and remain in Antigua and Barbuda; and
- (b) prescribe the conditions, criteria and procedures to be complied with for and on the grant of a visa to enter and remain in Antigua and Barbuda.

(2) A person may, in writing and in accordance with the Regulations, submit to the Chief Immigration Officer an application for a visa to enter and remain in Antigua and Barbuda.

(3) Every application under subsection (2) shall be accompanied by evidence of the payment of the prescribed fees.

(4) Subject to the applicant complying with the prescribed criteria referred to in subsection (1)(b), an immigration officer or a consular officer may approve an application for a visa to enter and remain in Antigua and Barbuda.

(5) Where the Chief Immigration Officer, any other immigration officer or a consular officer refuses to grant a visa to enter and remain in Antigua and Barbuda, the Chief Immigration Officer, an immigration officer or a consular officer, as the case may be, shall, in writing, promptly inform the applicant of—

- (a) the decision and the reasons for the refusal; and
- (b) the right of the applicant to appeal the decision.

13. Requirement for entry permit

(1) Except as permitted under this Act, no person—

- (a) may be admitted into Antigua and Barbuda as an immigrant; or
- (b) being within Antigua and Barbuda, may remain in Antigua and Barbuda as an illegal or prohibited immigrant.

(2) Subject to this Act, a person shall be entitled to land in and enter Antigua and Barbuda without having obtained a visa referred to in this Act, if the person satisfies an immigration officer that the person—

- (a) comes within any category of persons enumerated in section 14; or
- (b) is a *bona fide* visitor within the meaning of section 24.

(3) Without prejudice to section 14, the Chief Immigration Officer may, on an application and subject to such special or general directions as the Minister may prescribe, grant permission to a person who is not a prohibited immigrant to enter Antigua and Barbuda.

(4) Without prejudice to the provisions of this Act, the Chief Immigration Officer may, where applicable, require a person applying for the grant of an entry permit—

- (a) to provide to the Chief Immigration Officer—
 - (i) such evidence of good character in respect of the applicant and his dependants as the Chief Immigration Officer may consider necessary,

- (ii) medical certificates with respect to the applicant and the dependants of the applicant certified by medical authorities acceptable to the Chief Immigration Officer, and
 - (iii) such particulars as the Chief Immigration Officer may consider material to the consideration of the application;
 - (b) to provide full particulars of any gainful occupation in which the applicant proposes to engage;
 - (c) to produce to the satisfaction of the Chief Immigration Officer evidence of possession of a sum of money sufficient to enable the applicant to maintain the applicant and the dependants of the applicant during the period of their stay in Antigua and Barbuda;
 - (d) to give a bond for such sum and with such securities as the Chief Immigration Officer may, from time to time, require for securing payment of any public charges that may be incurred in respect of the applicant or the dependants of the applicant; or
 - (e) to deposit with the Accountant-General such sum of money as may be prescribed to defray the expenses of the transportation of the applicant and the dependants of the applicant to a country outside Antigua and Barbuda willing to receive the applicant or the dependants of the applicant and such other sum as may be prescribed.
- (5) A permit granted under this section to an immigrant—
- (a) shall be in writing and in such form as the Minister may specify;
 - (b) shall be subject to such conditions as may be prescribed;
 - (c) may be limited in duration to a time specified in the permit; or
 - (d) may be granted subject to compliance with such conditions or restrictions (if any) as the Chief Immigration Officer may think desirable to impose.
- (6) Where the Chief Immigration Officer imposes any condition or restriction under subsection (5)(d), the Chief Immigration Officer shall, in writing, notify the immigrant of the condition or restriction.
- (7) A person seeking to enter Antigua and Barbuda shall, if so required by an immigration officer, submit to biometrics and measurements to be taken by an immigration officer or by a person authorized to do so by the Chief Immigration Officer.
- (8) An immigrant who fails to comply with a condition or restriction imposed by subsection (5) or (7) commits an offence.
- (9) A person commits an offence under this Act if the person, without lawful excuse, knowingly harbours or conceals another person who—
- (a) is in Antigua and Barbuda in contravention of this Act; or
 - (b) having entered Antigua and Barbuda under the authority of a permit granted under this section, contravenes or fails to comply with a condition to which the permit is subjected.

14. Right of entry in Antigua and Barbuda

The following persons or classes of persons have the right of entry and landing in Antigua and Barbuda—

- (a) citizens of Antigua and Barbuda; and
- (b) subject to this Act—
 - (i) persons who are holders of valid permanent residence permits or valid residence permits, so long as such persons continue to be holders of such permits;
 - (ii) persons in the service of the Government of Antigua and Barbuda and the dependant of such persons;
 - (iii) persons who are duly accredited to Antigua and Barbuda by the Government of a Commonwealth country or a foreign state;
 - (iv) the dependants, the spouse and family members and the staff or servant of persons referred to in sub-paragraph (iii);
 - (v) nationals of Member States of CARICOM seeking to enjoy rights conferred under the Revised Treaty of Chaguaramas or the Caribbean Community (Movement of Factors) Act, 2006;
 - (vi) citizens of Member States of the Organisation of Eastern Caribbean States seeking to enjoy rights conferred under the Revised Treaty of Basseterre;
 - (vii) EU service providers seeking to enjoy the right conferred under the EPA Agreement; and
 - (viii) any other persons or class of persons to whom this section may be applied by Order made by the Minister.

15. Entry and landing of certain persons prohibited

(1) Subject to this Act, the entry or landing of a person into Antigua and Barbuda is prohibited if the person belongs to any or all of the following categories of persons—

- (a) a person who is not a citizen of Antigua and Barbuda or a member of a class of persons who are not citizens of Antigua and Barbuda, whose entry into Antigua and Barbuda is deemed by Order of the Cabinet on economic grounds or on account of the standards or habit of life of such person or class of persons, to be undesirable;
- (b) a person not being a citizen of Antigua and Barbuda, who—
 - (i) from information and advice that in the opinion of the Cabinet is reliable information or advice, is deemed, by Order of the Cabinet by reasons of conviction of a serious offence, to be an undesirable resident or visitor to Antigua and Barbuda; or
 - (ii) falls or is determined to be within any of the classes or descriptions of persons specified in Schedule 5;
- (c) a person not being a citizen of Antigua and Barbuda who the Chief Immigration Officer has reasons to believe that the person is, or has been, engaged in activities that are, or are likely to be, prejudicial to—
 - (i) the national security of Antigua and Barbuda; or

(ii) the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.

(2) A person described in subsection (1) who is or remains in Antigua and Barbuda after an Order under subsection (1)(a) or (1)(b) has been made, shall be a prohibited immigrant and may be dealt with as a prohibited immigrant.

(3) Subsection (1) shall not apply to any person or category of persons specified in the Regulations as being exempt from the requirements of the Regulations.

(4) The Minister may, in writing under his or her hand or the hand of a person designated by the Minister, exempt from the operation of subsection (1)—

- (a) a person described in paragraph 1 of Schedule 5, if the Minister is satisfied that the person is a member of a family already lawfully in Antigua and Barbuda and another member of that family gives security satisfactory to the Minister against that person becoming a charge on the Consolidated Fund; or
- (b) a person described in paragraph 2 of Schedule 5 whose entry into Antigua and Barbuda to seek medical treatment and care at a hospital for that treatment and care approved by the Minister responsible for Health.

16. Certificate that a person is not a prohibited immigrant

(1) Where the Chief Immigration Officer determines that an immigrant is not a prohibited immigrant, the Chief Immigration Officer shall, if so required, give to the immigrant a certificate in the prescribed form.

(2) Where the Chief Immigration Officer—

- (a) by reason of mistake;
- (b) in ignorance of any material facts; or
- (c) in consequence of a misrepresentation by the immigrant,

inadvertently determines that a person is not a prohibited immigrant, the inadvertent determination shall not affect the liability of the immigrant to be dealt with as a prohibited immigrant.

17. Regulation of entry and departure

(1) Subject to this Act, no person travelling from or to a place outside Antigua and Barbuda shall enter into or depart from Antigua and Barbuda except at a designated port.

(2) Unless exempted under this Act, every person entering into or departing from Antigua and Barbuda to a place outside Antigua and Barbuda shall produce for inspection such documents as are mentioned in section 11.

(3) No person arriving in Antigua and Barbuda on a vessel from a place outside Antigua and Barbuda may disembark from the vessel without the consent of an immigration officer.

(4) Without prejudice to the generality of subsection (3), the master of a vessel in which a person arrives in Antigua and Barbuda from a place outside Antigua and Barbuda shall not allow that person to disembark without the consent of an immigration officer.

(5) Every person entering Antigua and Barbuda from a place outside Antigua and Barbuda shall—

- (a) forthwith present himself or herself in person to an immigration officer for examination;
- (b) submit to the immigration officer for examination a completed disembarkation card, whether in electronic form or otherwise, together with his or her passport or other travel document; and
- (c) if required by an immigration officer—
 - (i) make and sign a prescribed declaration, whether in electronic form or otherwise; or
 - (ii) be examined by a medical practitioner.

(6) For the purpose of this Act, a person who arrives in Antigua and Barbuda from a place outside Antigua and Barbuda shall not be deemed to land, enter, reside or remain in Antigua and Barbuda—

- (a) if, as respects an arrival by ship, the person does not leave that ship or the person immediately transfers himself or herself to another ship with the intention of departing Antigua and Barbuda by that latter ship and does not leave that latter ship; or
- (b) if, as respects an arrival by aircraft, the person does not leave the airport within which the passengers from that aircraft are disembarked.

(7) Subject to section 11, no person arriving in Antigua and Barbuda from a place outside Antigua and Barbuda shall be permitted to enter or land in Antigua and Barbuda unless the person is—

- (a) in possession of a valid permit granted to the person under the provisions of this Act; or
- (b) granted permission to enter or land in Antigua and Barbuda by or under section 13(3) or any other enactment.

(8) A person who contravenes subsection (1), (2), (3), (4) or (5) commits an offence and is liable on summary conviction—

- (a) in the case of a first offence, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or to both such fine and imprisonment.

(9) A person who remains in Antigua and Barbuda after the expiration or cancellation of a permit granted to the person—

- (a) shall be deemed to have entered Antigua and Barbuda contrary to the provisions of this section; and
- (b) commits an offence.

(10) A person who intends to leave Antigua and Barbuda to a place outside Antigua and Barbuda commits an offence if the person fails to complete and submit to an immigration officer the prescribed embarkation card, whether in electronic form or otherwise, together with his or her passport or other travel document for examination.

(11) A person arriving in Antigua and Barbuda from a place outside Antigua and Barbuda commits an offence under this Act if the person, without a reasonable excuse or the consent of the Chief Immigration Officer or the Minister, enters or lands in Antigua and Barbuda without the proper documentation.

(12) Notwithstanding anything to the contrary in the Magistrate's Code of Procedure Act, where a person contravenes or fails to comply with the provisions of subsection (2), (3), (4), (8) or (11), proceedings may be instituted at any time against the person.

18. Examination of persons entering and landing in Antigua and Barbuda

(1) Subject to this Act, a person arriving from a place outside Antigua and Barbuda who seeks to enter or land in Antigua and Barbuda shall appear before an immigration officer at a port of entry for the purpose of being examined as to whether or not the person may be permitted to land in Antigua and Barbuda.

(2) A person to whom subsection (1) applies shall, upon his or her examination by an immigration officer—

- (a) truthfully answer the questions put to the person by the immigration officer; and
- (b) if so required by the immigration officer—
 - (i) make and sign a declaration stating whether or not the person is carrying or has under his or her control any document of any description specified by the immigration officer which, in the opinion of the immigration officer, is relevant for the purpose of the examination;
 - (ii) produce to the immigration officer any document specified under sub-paragraph (i) which is in the possession or under the control of the person; or
 - (iii) submit himself or herself to be medically examined by a medical practitioner.

(3) Subject to subsection (4), an immigration officer may, for the purpose of ascertaining whether or not a person to whom subsection (1) applies is carrying or has under his or her control any document specified under subsection (2)(b)(i), require the person to submit himself or herself and any baggage belonging to the person or in the possession or under the control of the person, to be searched by a police officer acting under the authority of any immigration officer.

(4) No female person may be searched under subsection (3) except by another female person.

(5) An immigration officer may refuse permission to enter or land in Antigua and Barbuda to any person arriving in Antigua and Barbuda from a place outside Antigua and Barbuda, other than a citizen of Antigua and Barbuda, if the person—

- (a) refuses to be examined or searched as required by subsection (1) or (3); or
- (b) fails or refuses to comply with a request made by an immigration officer under subsection (2) or (3).

(6) A person arriving in Antigua and Barbuda from a place outside Antigua and Barbuda commits an offence if the person, upon landing in or entering or seeking to enter or land in Antigua and Barbuda, wilfully—

- (a) gives an untrue answer to a question put the person under subsection (2)(a); or
- (b) makes a false statement in a declaration referred to in subsection (2)(b)(i).

19. Minister may prohibit entry into Antigua and Barbuda

Subject to the provisions of this Act, the Minister may, by Order, prohibit the entry into Antigua and Barbuda of any person other than a citizen of Antigua and Barbuda.

20. Records of entry and departure

(1) The Chief Immigration Officer shall cause records to be kept and maintained of—

- (a) the entry of all persons entering Antigua and Barbuda; and
- (b) the departure of all persons from Antigua and Barbuda.

(2) Any record kept and maintained under subsection (1) shall be admissible in evidence in any court or in any tribunal in Antigua and Barbuda as *prima facie* evidence of any entry made, or particular entered, in the record.

Division 2

Immigrants and Detention of Immigrants

21. Citizens of OECS Member States

(1) A citizen of—

- (a) a Member State of the Organisation of Eastern Caribbean States lawfully landing in Antigua and Barbuda from any place outside Antigua and Barbuda, is entitled to enter and remain in Antigua and Barbuda for a period of 6 months; and
- (b) a Protocol Member State lawfully landing in Antigua and Barbuda from any place outside Antigua and Barbuda is entitled to enter and remain in Antigua and Barbuda, without any restriction or limitation as to time,

unless the permission to remain in Antigua and Barbuda is revoked by the Chief Immigration Officer in accordance with this Act and the Regulations.

(2) Notwithstanding subsection (1) but subject to section 10, an immigration officer may refuse entry in Antigua and Barbuda to a citizen of a Member State of the Organisation of Eastern Caribbean States landing in Antigua and Barbuda from any place outside Antigua and Barbuda if the immigration officer has reasons to believe that the citizen—

- (a) has been convicted of a serious offence, whether in Antigua and Barbuda or in any other jurisdiction;
- (b) is likely to become a charge on the Consolidated Fund;
- (c) is deemed, by Order of the Cabinet by reasons of conviction of a serious offence, to be an undesirable resident or visitor to Antigua and Barbuda;
- (d) falls or is determined to fall within any of the classes or descriptions of persons specified in Schedule 5;
- (e) is, or has been, engaged in activities that are, or are likely to be, prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda; or
- (f) has not met the requirements for the grant of entry by virtue of any other provision of this Act.

22. Nationals of Member States of CARICOM

(1) A national of a Member State of CARICOM landing in Antigua and Barbuda from any place outside Antigua and Barbuda is entitled to enter and remain in Antigua and Barbuda for a period of 6 months unless such permission to remain in Antigua and Barbuda is revoked by the Chief Immigration Officer in accordance with this Act and the Regulations.

(2) Notwithstanding subsection (1) but subject to section 10, an immigration officer may refuse entry in Antigua and Barbuda to a national of a Member State of CARICOM landing in Antigua and Barbuda from any place outside Antigua and Barbuda if the immigration officer has reasons to believe that the national—

- (a) has been convicted of a serious offence, whether in Antigua and Barbuda or in any other jurisdiction;
- (b) is likely to become a charge on the Consolidated Fund;
- (c) is deemed, by Order of the Cabinet by reasons of conviction of a serious offence, to be an undesirable resident or visitor to Antigua and Barbuda;
- (d) falls or is determined to be within any of the classes or descriptions of persons specified in Schedule 5;
- (e) is, or has been, engaged in activities that are or are likely to be prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.
- (f) has not satisfy the requirements for the grant of entry by virtue of any other provision of this Act.

(3) For the purposes of this section, “national”, in relation to a Member State of CARICOM, means a natural person who is a citizen of the Member State of CARICOM.

23. EU service providers

(1) Subject to subsection (3) and sections 17 and 18, the Minister may, by Regulations, provide for an EU service provider of an EU Member State who lands in Antigua and Barbuda from any place outside Antigua and Barbuda, to enter and remain in Antigua and Barbuda for a period set out in subsection (2).

(2) The period referred to in subsection (1) for which an EU service provider may be permitted to enter and remain in Antigua and Barbuda shall—

- (a) in the case of a business services seller, a business visitor or a short-term visitor for business purposes, in aggregate, not exceed 90 days in any twelve-month period;
- (b) in the case of a contractual services supplier, in aggregate, not exceed 6 months in any twelve-month period;
- (c) in the case of a graduate trainee, not exceed 12 months; and
- (d) in the case of an intra-corporate transfer, not exceed 3 years.

(3) Regulations made under subsection (1)—

- (a) shall not, in itself, be construed as exempting an EU service provider or a dependant of an EU service provider from any obligation to hold—
 - (i) a valid entry permit, a valid passport or a other valid travel document; or
 - (ii) where applicable, a licence, permit or other authorisation required to engage in gainful occupation;
- (b) shall not apply if under the law of the EU Member State reciprocal treatment is not afforded to a similar service supplier who is a citizen of Antigua and Barbuda; and
- (c) are subject to negative resolution of the Legislature.

(4) Notwithstanding subsection (1) but subject to section 10, an immigration officer may refuse entry in Antigua and Barbuda to an EU service provider of an EU Member State who lands in Antigua and Barbuda from any place outside Antigua and Barbuda if the immigration officer has reasons to believe that the EU service provider—

- (a) has been convicted of a serious offence, whether in Antigua and Barbuda or in any other jurisdiction;
- (b) is likely to become a charge on the Consolidated Fund; or
- (c) is deemed, by Order of the Cabinet by reasons of conviction of a serious offence, to be an undesirable resident or visitor to Antigua and Barbuda;
- (d) falls or is determined to be within any of the classes or descriptions of persons specified in Schedule 5;
- (e) is, or has been, engaged in activities that are or are likely to be prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda; or
- (f) has not satisfy the requirements for the grant of entry by virtue of any other provision of this Act.

24. *Bona fide* visitors

(1) Subject to the provisions of this Act, a person who arrives in Antigua and Barbuda on a vessel from a place outside Antigua and Barbuda, shall be deemed to be a *bona fide* visitor to Antigua and Barbuda for the purposes of this Act if, at the time of his or her arrival and throughout the period during which the person is permitted to remain in Antigua and Barbuda under the entry permit which shall not exceed 6 months, the person—

- (a) has a ticket or other means of travelling to some other country which the person will be able to enter;
- (b) the person does not engage in any gainful occupation;
- (c) the person does not behave in a manner prejudicial to the peace, order and good Government of Antigua and Barbuda; and
- (d) the person is able to maintain himself or herself and any of his or her dependants who are in Antigua and Barbuda.

(2) The determination as to whether a person has acted in a manner prejudicial to the peace, order and good Government of Antigua and Barbuda for the purposes of this Act shall lie with the Cabinet on the recommendation of the Minister.

(3) When a person who has entered and remained in Antigua and Barbuda as a *bona fide* visitor is in breach of any of the conditions mentioned in subsection (1), the person shall—

- (a) upon such entry, cease to be deemed to be a *bona fide* visitor for the purposes of this Act; and
- (b) be deemed to be a person who has entered Antigua and Barbuda without a permit in contravention of section 13 or 39, unless in the meantime the person—
 - (i) has taken steps to obtain an extension of the entry permit under section 16 or 39; or
 - (ii) satisfies an immigration officer that he or she comes within the provisions of section 14.

(4) Where a *bona fide* visitor is seeking—

- (a) permission to enter Antigua and Barbuda; or
- (b) an extension of the entry permit to enter and remain in Antigua and Barbuda,

any sponsor of a *bona fide* visitor may, at the discretion of an immigration officer, be required to give an undertaking in writing in the prescribed form, to be responsible for the maintenance and accommodation of that *bona fide* visitor during the period of the stay of the *bona fide* visitor in Antigua and Barbuda.

(5) Where a sponsor has given an undertaking under subsection (4) in respect of any *bona fide* visitor, the sponsor shall, within twenty-four hours of the expiration of the grant of permission, inform the Chief Immigration Officer in the prescribed manner of any failure by that *bona fide* visitor to depart from Antigua and Barbuda on the expiration of the permission granted or any extension thereof.

- (6) A person who contravenes subsection (5) commits an offence under this Act.

Division 3

Student permit and Non-immigrant students

25. Requirement for student permit

(1) A non-immigrant student may not attend an educational institution in Antigua and Barbuda unless the non-immigrant student has a valid student permit.

(2) A non-immigrant student who desires to attend an educational institution in Antigua and Barbuda shall apply for and obtain a student permit.

(3) An application for a student permit or the renewal of a student permit shall be—

- (a) made in the prescribed form;
- (b) accompanied by the prescribed fees and any other documentary evidence required by the Chief Immigration Officer; and
- (c) submitted to the Chief Immigration Officer.

(4) Subject to any general directions that the Minister may give in respect of the consideration of applications, the Chief Immigration Officer shall, in considering an application under this section, take into account—

- (a) the character, reputation and health of the applicant and the sponsor or dependants, if any, of the applicant;
- (b) any information respecting the departure of the applicant from Antigua and Barbuda at the end of the studies of the applicant;
- (c) the sufficiency of the financial resources of the parent of the applicant;
- (d) the ability of the applicant adequately to maintain the dependants, if any, of the applicant without recourse to moneys from the Consolidated Fund;
- (e) the quality of the living accommodation available to the applicant, if any;
- (f) the applicant's ability in the use of the English language;
- (g) the intention of the applicant to engage in business or take up employment, other than voluntary student work undertaken in connection with the intended course of study; and
- (h) any information available to the Chief Immigration Officer regarding the applicant's conduct and associations.

(5) Notwithstanding anything contained in this section but subject to the approval of the Minister, the Chief Immigration Officer may, in exceptional circumstances, permit a child who arrives in Antigua and Barbuda on a vessel from a place outside Antigua and Barbuda to—

- (a) enter and remain in Antigua and Barbuda; and
- (b) attend an educational institution in Antigua and Barbuda.

(6) A non-immigrant student who attends an educational institution without a valid student permit commits an offence under this Act.

26. Grant, renewal, etc. of student permits

(1) The Chief Immigration Officer—

- (a) may grant a student permit or defer the application either unconditionally or subject to such conditions as the Chief Immigration Officer thinks fit; and
- (b) where the student permit is granted, may extend, revoke, vary or modify the student permit.

(2) A student permit shall be valid for a school year from the date on which it was granted; but a student permit may, on an application, be renewed if the course of study is for a period exceeding one year.

(3) An application for the renewal of a student permit shall be—

- (a) made and submitted to the Chief Immigration Officer not less than one month before the expiry date of the student permit; and
- (b) accompanied by a report from the educational institution at which the student is studying in accordance with subsection (4).

(4) The report referred to in subsection (3)(b) shall specify the current information respecting the applicant's—

- (a) observance of the approved standards respecting general deportment, attire, courtesy and respect for the rights of other persons applicable to the educational institution;
- (b) standard of diligence in pursuing the prescribed curriculum; and
- (c) standard or frequency of attendance at classes and participation in the educational programmes in which the applicant is or was enrolled.

27. Refusal, revocation, etc. of student permits

Subject to section 10, the Chief Immigration Officer may—

- (a) refuse to grant or renew a student permit if—
 - (i) the applicant does not satisfy the requirements for the grant or renewal of the student permit; or
 - (ii) the Chief Immigration Officer has reasons to believe that the refusal of the application would be in the interest of the public; or
- (b) revoke a student permit if the Chief Immigration Officer is of the opinion that the revocation of the student permit would be in the interest of the public and if the non-immigrant student fails to comply with—
 - (i) any term or condition specified in the student permit;
 - (ii) any provision of this Act or any other law that applies to the student; or
 - (iii) any applicable direction issued by the Chief Immigration Officer under this Act within the time specified.

28. Obligations of non-immigrant students

(1) A non-immigrant student who is the holder of a student permit may not, without first obtaining the permission of the Chief Immigration Officer in writing, attend an educational institution other than the educational institution specified in his or her student permit.

(2) Where a non-immigrant student desires to transfer from the institution at which the non-immigrant student is studying, the non-immigrant student shall submit an application in that regard to the Chief Immigration Officer in the prescribed form.

(3) A non-immigrant student who is the holder of a student permit —

- (a) shall not engage in gainful or unpaid occupation in Antigua and Barbuda other than unpaid student work undertaken in connection with his or her course of study; and
- (b) shall submit to the Chief Immigration Officer—
 - (i) every year during his or her residency in Antigua and Barbuda, a written notice of his or her address; and
 - (ii) within 30 days after the date of the occurrence of a change in his or her address, a written notice of that change.

(4) Where a non-immigrant student who is the holder of a student permit fails to comply with this section, the non-immigrant student—

- (a) is liable to have his or her student permit revoked in accordance with section 27; and
- (b) may be required to leave Antigua and Barbuda.

29. Obligations of educational institutions

(1) Every educational institution shall—

- (a) before enrolling a student at the educational institution, await receipt from the student of the endorsement in respect of the valid student permit; and
- (b) annually submit to the Chief Immigration Officer a report in the prescribed form, containing information concerning every non-immigrant student enrolled at that educational institution.

(2) An educational institution who admits a non-immigrant student without the required student permit commits an offence under this Act and is liable on summary conviction to a fine not exceeding \$50,000.

Division 4

Advance Passenger Information and Arrival and Departure of Vessels

30. Master of vessel to provide passenger information.

(1) This section applies to a vessel which—

- (a) is expected to arrive in Antigua and Barbuda; or
- (b) has left or is expected to leave Antigua and Barbuda.

(2) The master of a vessel to which this section applies, shall, at such time as provided in subsection (3), provide to the competent authority in such form and manner as may be approved by the Minister, the relevant advance passenger information data set out in Schedule 2, in respect of the vessel and each person on board.

(3) Where—

(a) subsection (1)(a) applies, the data referred to in subsection (2) shall be provided—

(i) in the case of a commercial aircraft, no later than 15 minutes after departure from the last port of call;

(ii) in the case of a private aircraft, no later than 30 minutes before the departure from the last port of call;

(iii) in the case of a ship arriving from outside the domestic space, no later than 24 hours before arrival; and

(iv) in the case of a ship arriving from a destination within the domestic space, no later than one hour before the arrival of the vessel from the last port of call; and

(b) subsection (1)(b) applies, then, subject to subsection (4), the data referred to in subsection (2) shall be provided no later than 15 minutes after departure from Antigua and Barbuda.

(4) Subsection (3)(b) shall not apply to the departure of a vessel from Antigua and Barbuda to a destination within the domestic space.

(5) The Minister may, in writing, waive the requirements of subsection (2) or (3) in such circumstances and on such conditions as the Minister may decide.

(6) The master of a vessel commits an offence and is liable on summary conviction to a fine not exceeding \$300,000 if the master of the vessel who intentionally or recklessly—

(a) fails to transmit the data in accordance with subsection (2) or (3); or

(b) transmits incomplete, inaccurate or false data.

(7) Any passenger intending to enter Antigua and Barbuda who knowingly and wilfully supplies any false information in respect of such advance passenger information or in answer to any proper question put to him by an immigration officer in respect of the particulars required for such advance passenger information or otherwise for the purposes of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years, or to both.

(8) The master of a vessel to which this section applies shall, if so required by an immigration officer, truthfully answer all questions for the purposes of this Act, additional to the information referred to in subsection (2), relating to the passengers and crew of the vessel.

(9) A master who knowingly and wilfully gives an untrue answer to a question put to the master by an immigration officer under subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years, or to both.

31. Duty of master may prevent landing, etc.

(1) The master of a vessel to which section 30 applies may use all reasonable and proper means to prevent a person entering Antigua and Barbuda contrary to the provisions of this Act.

(2) Without prejudice to subsection (1), where the master of a vessel arriving in Antigua and Barbuda from a place outside Antigua and Barbuda has reasons to believe that—

- (a) a member of the crew of the vessel has deserted from the vessel while in Antigua and Barbuda;
- (b) a stowaway has unlawfully landed from on board the vessel while in Antigua and Barbuda; or
- (c) a prohibited immigrant has unlawfully landed from on board the vessel while in Antigua and Barbuda,

the master of the vessel—

- (i) shall in writing, notify the Chief Immigration officer of his belief and reasons for the belief including the particulars of the member of crew, stowaway or prohibited immigrant, and
- (ii) may apply to a Magistrate for a warrant for the arrest and convey back on board ship of such member of crew, stowaway, or prohibited immigrant.

(3) Where the master of a vessel is unable to comply with the provisions of subsection (1) by reasons of exceptional circumstances beyond the control of the master, the master of the vessel shall be held harmless of all pains and penalties at law for so doing.

32. Liability for repatriation

(1) A person arriving in Antigua and Barbuda on a vessel from a place outside Antigua and Barbuda and who has not been permitted to enter Antigua and Barbuda shall be removed from Antigua and Barbuda—

- (a) by the master of the vessel, in that vessel; or
- (b) with the consent of an immigration officer by the owner or agent of the vessel in which the person arrived, in any other vessel,

to the country to which the person belongs or from which the person embarked for Antigua and Barbuda.

(2) If an immigrant, in respect of whom direction has been given to the master or local agent or owner of a vessel as required by section 50(2), is ordered to be removed from or to leave Antigua and Barbuda within 60 days from the date of the arrival of the immigrant in Antigua and Barbuda, the master of—

- (a) the vessel in which the immigrant arrived; or
- (b) any other vessel belonging to, or chartered by, the same owner,

shall, at the request of an immigration officer and on production of the order to him or her, receive the immigrant (and any of the dependants of the immigrant whom the immigrant may have brought with him or her by the same vessel into Antigua and Barbuda) on board and afford the immigrant and, where applicable, the dependants passage to the country to which the immigrant belongs or from which the immigrant embarked for Antigua and Barbuda.

(3) Where an immigrant, or any dependant of an immigrant, referred to in subsections (1) and (2) is unable to defray the expenses of the passage required to be provided under those subsections, the master shall, at the expense of the master, provide the immigrant (and where applicable, any of such dependants) with suitable accommodation and maintenance, during the passage.

(4) Except as provided in the preceding subsections, the expenses of passage of a prohibited immigrant and where applicable, the dependants of a prohibited immigrant removed from Antigua and Barbuda shall be payable from the moneys from the Consolidated Fund in so far as they are not defrayed by—

- (a) the immigrant and his dependants; or
- (b) the owner of the vessel used for the repatriation.

(5) Where a person who is not permitted to enter Antigua and Barbuda appeals against the decision of the Chief Immigration Officer, the liability of the owners or agents of the vessel in which the person arrived in Antigua and Barbuda for his removal from Antigua and Barbuda shall not be affected by the appeal.

33. Discharge of crew on vessel, etc.

(1) A member of the crew of a vessel, other than a citizen of Antigua and Barbuda, shall not be discharged from the vessel while in Antigua and Barbuda without the consent of an immigration officer.

(2) An immigration officer shall not consent to the discharge in Antigua and Barbuda of a member of the crew of a vessel unless the owner, master or agent of the vessel has made arrangements to the satisfaction of the immigration officer for ensuring that the member of the crew will not become a charge on the Consolidated Fund.

(3) A Magistrate may, on the application of the Chief Immigration Officer, make a deportation order against a member of the crew of a vessel, other than a citizen of Antigua and Barbuda if the member—

- (a) is discharged from the vessel while in Antigua and Barbuda in contravention of subsection (1); or
- (b) deserts from the vessel while in Antigua and Barbuda; or
- (c) is left behind in Antigua and Barbuda by the vessel.

34. Liability of master, etc. for expenses

(1) The master, owner and agent of a vessel from which a person arrives or lands in Antigua and Barbuda contrary to the provisions of this Act shall be jointly and severally liable for all expenses incurred by the Government in detaining and maintaining such person pending the deportation of the person.

(2) Any expenses incurred by the Government in detaining and maintaining such person pending deportation under subsection (1) shall be recoverable from the master, owners and agents of the vessel concerned as a civil debt.

35. Offences committed by member of crew of vessel, etc.

Where a member of the crew of a vessel, a stowaway or an extra hand, other than a citizen of Antigua and Barbuda, is charged before a Magistrate with an offence committed before the arrival in Antigua and Barbuda of the vessel or while the vessel is in Antigua and Barbuda, the Magistrate may—

- (a) in awarding punishment, order that the member of the crew of the vessel, the stowaway or the extra hand shall, on the expiration of the sentence or on the sooner readiness of the vessel to proceed from Antigua and Barbuda, be taken in custody aboard the vessel for removal from Antigua and Barbuda, if the member of the crew of the vessel, the stowaway or the extra hand is convicted; or
- (b) order the member of the crew of the vessel, the stowaway or the extra hand to be immediately taken back to the vessel if the charges against the member of the crew of the vessel, the stowaway or the extra hand are dismissed or discharged.

Division 5

Antigua and Barbuda Passports, Travel Documents, Etc

36. Antigua and Barbuda passports, travel documents and visas

(1) Unless provided otherwise, persons who are citizens of Antigua and Barbuda are entitled to be issued Antigua and Barbuda passports for the purposes of this Act and the Regulations and such passport are to be renewed in accordance with this Act and the Regulations.

(2) The design, form and contents of Antigua and Barbuda passports shall be such as are approved by the Cabinet from time to time.

(3) The Minister may, by Regulations, prescribe—

- (a) the forms of application for Antigua and Barbuda passports; and
- (b) the fees to be charged for the issue and renewal of passports and related matters.

37. Offences respecting passports and other travel documents

(1) A person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years, or to both if the person—

- (a) receives a passport or other travel document of another person that he or she knows or ought to reasonably know to have been lost, mislaid, or delivered under a mistake as to the identity or address of the holder of the passport or other travel document; and
- (b) retains possession of a passport or other travel document with intent to use, sell or traffic the passport or travel document to a person other than the person in whose name the passport or other travel document is issued.

(2) A person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years, or to both if the person receives and retains possession of a passport or other travel document issued in the name of another person, which passport or other travel document he or she has knowledge was taken or retained under circumstances which constitute theft.

(3) A person commits an offence if the person—

- (a) forges, alters or tampers with an Antigua and Barbuda passport;
- (b) is found in unlawful possession of an Antigua and Barbuda passport;
- (c) falsely holds himself or herself out as the rightful owner of an Antigua and Barbuda passport;
- (d) by any false representation, procures, obtains or attempts to procure or obtain the issue of an Antigua and Barbuda passport to himself or herself or to another person;
- (e) parts with the possession of a passport to another person without lawful authority or for an unlawful purpose;
- (f) destroys, makes away with or by wilful neglect allows any other person to obtain possession of an Antigua and Barbuda passport;
- (g) not having actual personal knowledge of the applicant for a passport makes any declaration—
 - (i) verifying the identity of such applicant or vouching the fitness of such applicant to receive a passport, or
 - (ii) merely on information gained from the applicant or from any other person; or
- (h) comes into, remains in or attempts to leave Antigua and Barbuda by means of an Antigua and Barbuda passport, or has in his possession a passport, that—
 - (i) has been tampered with;
 - (ii) is fraudulent; or
 - (iii) has been fraudulently or improperly issued, whether or not it has been issued to the person.

(4) A person who commits an offence under subsection (3) is liable, on summary conviction, to a fine of \$50,000 or to imprisonment for a term not exceeding 3 years, or to both, and in the case of a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years, or to both.

PART IV

RESIDENCE REQUIREMENTS

Division 1

Applications for Extension of Stay and Residence Permits

38. Application for extension of time, etc.

(1) Subject to this Act, the holder of any permit granted under this Act who wishes to remain in Antigua and Barbuda for a period longer than the time specified in the permit—

- (a) may apply, in the prescribed form, to the Chief Immigration Officer for an extension of the time;
- (b) shall, unless otherwise directed in writing by the Chief Immigration Officer, attend in person at the office of the Chief Immigration Officer or at such other office as may be designated for the purpose by the Chief Immigration Officer; and
- (c) shall submit to the Chief Immigration Officer such other information, including information referred to in subsection (2), as the Chief Immigration Officer may require to consider the application and to make a decision.

(2) In considering an application under this section, the Chief Immigration Officer may take into consideration information that the applicant—

- (a) has no criminal conviction;
- (b) is in good health and possesses adequate health insurance coverage;
- (c) has a continuous source of annual income of at least the prescribed amount without the need to engage in employment in Antigua and Barbuda;
- (d) has invested in developed residential real estate in Antigua and Barbuda in such amount as may have been prescribed; or
- (e) owns, in whole or in part, a residential building in Antigua and Barbuda.

(3) Subject to this Act, the Chief Immigration Officer may grant to an applicant referred to in subsection (1)—

- (a) an extension of time not exceeding 90 days to remain in Antigua and Barbuda;
- (b) an extension of time to remain in Antigua and Barbuda for a time stipulated in a work permit; or
- (c) an extension of time to remain in Antigua and Barbuda while attending an educational institution.

(4) Subject to the approval of the Minister and the payment of the prescribed fees, the Chief Immigration Officer may, in accordance with Regulations, grant to an applicant an extension of time not exceeding 24 months to remain in Antigua and Barbuda without the right to work to-

- (a) any immigrant who is a homeowner in Antigua and Barbuda or who has made Antigua and Barbuda his country of retirement; or

(b) any other class of immigrant as the Cabinet may by Order specify.

(5) Where an extension of time is granted under subsection (4), the Chief Immigration Officer may, on an application in the prescribed form and subject to the payment of the prescribed fees, grant to the spouse or any other dependant of the holder of the permit an extension of time not exceeding 24 months to reside in Antigua and Barbuda without the right to work if the dependant—

- (a) in the case of a dependant other than the spouse, has attained the age of 18 years as at the date of the application;
- (b) is found to be of good character and conduct; and
- (c) is otherwise not disqualified for a grant of an entry permit to enter and land in Antigua and Barbuda.

(6) Where an application has been made in accordance this section, the applicant may continue to reside in Antigua and Barbuda upon the same terms and conditions as specified in the entry permit or issued in respect of the entry permit until the Chief Immigration Officer determines the application.

(7) Subject to section 10, the Chief Immigration Officer may make to the Minister a recommendation respecting the revocation of a permit extended under subsection (4) or (5) if the holder of the permit fails to comply with the conditions of the extension of time.

39. Application for residence permit

(1) A person may apply, in the prescribed form, to the Chief Immigration Officer for a residence permit if the person—

- (a) has been granted an entry permit;
- (b) intends to permanently reside in Antigua and Barbuda;
- (c) has not been convicted of an offence under this Act or specified under this Act;
- (d) is not a prohibited immigrant or otherwise disqualified from entering Antigua and Barbuda;
- (e) is not suffering from a contagious disease which is evidenced by a certificate in that regard issued by a medical practitioner; and
- (f) is, immediately before the date of the application, resident, and has been lawfully ordinarily resident for the period specified in section 40(1), in Antigua and Barbuda.

(2) Every application under subsection (1) shall be accompanied by—

- (a) evidence of the payment of the prescribed fees;
- (b) a police certificate of character from Antigua and Barbuda or a place where the person has resided for over 6 months; and
- (c) any other documentation that the Chief Immigration Officer requires to consider the application and to make a decision.

(3) On receipt of an application under subsection (1), the Chief Immigration Officer or the designee of the Chief Immigration Officer may, in considering an application, require the

applicant to submit to an examination which may include submission of biometrics and measurements and medical examination.

40. Grant of residence permit

(1) The Chief Immigration Officer may, upon consideration of an application under subsection (1), grant a residence permit to the applicant if the Chief Immigration Officer is satisfied that the applicant—

- (a) has demonstrated an intent to permanently reside in Antigua and Barbuda;
- (b) has been lawfully resident in Antigua and Barbuda for a period of not less than 4 years, immediately preceding the date of the application;
- (c) has, for a period of at least one year immediately preceding the date of the application, been married to a citizen of Antigua and Barbuda; and
- (d) meets the other requirements for the grant of a residence permit.

(2) Subject to subsection (3), in calculating the period of residence in Antigua and Barbuda for the purposes of this section, a period of absence from Antigua and Barbuda by the applicant shall be treated as residence in Antigua and Barbuda if that period of absence is—

- (a) for less than 6 months in any one year;
- (b) for the purpose of tertiary education and so long as the applicant remains enrolled in the tertiary educational institution as certified by the Director of Education before the commencement of studies; or
- (c) for reasons of health as certified by the Chief Medical Officer.

(3) In calculating the period of residence in Antigua and Barbuda for the purposes of this section, account shall not be taken—

- (a) subject to subsection (4), of any period during which a person was not, or was not deemed to be, lawfully resident in Antigua and Barbuda;
- (b) of any period spent by a person as an inmate in a prison serving a duly authorized sentence, under the provisions of any enactment in force in Antigua and Barbuda;
- (c) of any period for which a person remains in Antigua and Barbuda after a deportation order has been made against him; or
- (d) of any period of absence by a person from Antigua and Barbuda for a period of 6 months or more with the consent of—
 - (i) the Chief Medical Officer for the purpose of medical care; or
 - (ii) the Director of Education for the purpose of education.

(4) Where the Chief Immigration Officer is satisfied with the results of any examination under subsection (3)(a), the Chief Immigration Officer may grant a residence permit subject to the conditions and provisions specified in this Act.

(5) Where, subsequent to the grant of a residence permit, there is, by reason of the birth of a child of the holder of the residence permit, a change in the number of children who are dependants of the holder of the residence permit—

- (a) the holder of the residence permit shall inform the Chief Immigration Officer of the change; and
 - (b) the Chief Immigration Officer may, subject to such conditions as the Chief Immigration Officer may determine, amend the residence permit to include any additional children.
- (6) A residence permit—
 - (a) is valid for 3 years from the date of grant unless revoked earlier under section 45; and
 - (b) may, on application in the prescribed form, be renewed by the Chief Immigration Officer upon payment of the prescribed fee.
- (7) Section 39 shall apply with the necessary modifications for the renewal of a residence permit.

41. Refusal of grant of residence permit

- (1) Subject to section 10, the Chief Immigration Officer shall not grant a residence permit if the Chief Immigration Officer—
 - (a) is satisfied that the applicant does not meet the residence permit requirements specified under section 39; or
 - (b) has reasons to believe that the applicant is, or has been, engaged in activities that are prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.
- (2) Where an applicant fails to lodge, or loses, an appeal against a decision refusing the applicant a grant of residence permit, the applicant may not re-apply for a grant of a residence permit within any period of 6 months from the date of receipt of notice of the refusal of the grant of the residence permit.

42. Permanent residence permit

- (1) The Minister, acting on the advice of the Cabinet—
 - (a) may grant to the person a permanent residence permit if the person, on an application in the prescribed form, satisfies the requirements set out in subsection (2); and
 - (b) shall cause the person referred to in paragraph (a) to be registered as a permanent resident.
- (2) A person to whom subsection (1) applies must—
 - (a) maintain a permanent place of abode in Antigua and Barbuda for at least 30 days in a calendar year; or
 - (b) be engaged in a substantial economic activity in Antigua and Barbuda which is approved by the Cabinet;

- (c) not be a prohibited immigrant or otherwise be disqualified from entering Antigua and Barbuda; and
 - (d) satisfy the Minister that the person—
 - (i) is not suffering from any contagious disease and has a certificate of his medical condition issued by a medical practitioner;
 - (ii) has an annual income of not less than US\$100,000 or such other sum as may be prescribed; and
 - (iii) is not otherwise disqualified under any other Act or declined by Cabinet.
- (3) Every application referred to in subsection (1) shall be accompanied by—
- (a) evidence of the payment of the prescribed fees;
 - (b) a police certificate of character from Antigua and Barbuda or a place where the person has resided for over 6 months;
 - (c) documentary evidence respecting the factors referred to in subsection (2); and
 - (d) such other documentation as the Minister may require to consider the application and make a decision.
- (4) Where a person is the holder of a valid permanent residence permit granted under this Act and the permit holder is registered under section 43 as a permanent resident—
- (a) the permit holder is entitled to accept employment in Antigua and Barbuda without the requirement of a work permit; and
 - (b) every dependant of the permit holder is entitled to reside with the person if that dependant—
 - (i) is lawfully resident with the permit holder in Antigua and Barbuda; and
 - (ii) is listed as a dependant in the application for the permanent residence permit.
- (5) A permanent residence permit granted under this section—
- (a) shall be in the prescribed form; but the Chief Immigration Officer shall ensure that the person is registered in accordance with section 43 before the permanent residence permit is granted to the person;
 - (b) shall be valid for a period of 12 months; and
 - (c) subject to subsections (2), (3) and (7), may, on an application, be renewed by the Minister.
- (6) A person who is granted a permanent residence permit shall, while the person remains a permanent resident under the scheme, pay annually to the Commissioner of Inland Revenue the prescribed fees.
- (7) The Minister shall not renew any permanent residence permit granted under this section, unless the Minister is satisfied, on the recommendation of the Chief Immigration Officer, specifying that the Chief Immigration Officer—
- (a) is satisfied that the applicant meets the residence permit requirements specified under section 42; and

- (b) has no reasons to believe that the applicant is, or has been, engaged in activities that are or are likely to be prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.

43. Registration of holders of residence permits and permanent residence permits

The Chief Immigration Officer shall, in electronic form or otherwise, keep and maintain a register to be called the Register of Residency in which shall be recorded the particulars of every—

- (a) person who has been granted a residence permit or a permanent residence permit; and
- (b) residence permit or permanent residence permit granted under this Act.

44. Resident students

Notwithstanding the provisions of Division 3 of Part III, where a person has been granted a residence permit under this Act, the Chief Immigration Officer may, on application in the prescribed form, grant a student permit to a child of the person if the child is attending an educational institution in Antigua and Barbuda.

45. Revocation, variation, etc. of permits

(1) Subject to section 10, the Chief Immigration Officer may revoke a permit or recommend the revocation of a residence permit if the holder of the residence permit—

- (a) organises or engages in subversive political activity, or organises, causes or promotes racism within Antigua and Barbuda;
- (b) gives, in the application for permission to remain in Antigua and Barbuda, information that the Chief Immigration Officer has reasons to believe is false in a material particular or concealed a material fact;
- (c) is convicted of an offence against the laws of Antigua and Barbuda including serious offence reasonably believed to be facilitating the commission of any serious offence in Antigua and Barbuda;
- (d) is convicted of an offence under the laws of another country, the nature of which offence would, in the opinion of the Chief Immigration Officer, make his or her continued presence in Antigua and Barbuda contrary to the public interest;
- (e) becomes a charge on the Consolidated Fund;
- (f) is reasonably believed to be living on or receiving the proceeds of crimes;
- (g) is deemed by the Cabinet to be an undesirable resident of Antigua and Barbuda;
- (h) resides outside Antigua and Barbuda continuously for a period of 6 months or more; or
- (i) is reasonably believed to be, or has been, engaging in activities that are or are likely to be prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.

(2) Subject to section 10, the Minister may, on a recommendation of the Chief Immigration Officer and acting on the advice of Cabinet, revoke a permanent residence permit if the holder of the permanent residence permit—

- (a) fails to maintain the level of financial investment stated in his application for permission to remain in Antigua and Barbuda;
- (b) organises or engages in subversive political activity, or organises, causes or promotes racism within Antigua and Barbuda;
- (c) gives, in the application for permission to remain in Antigua and Barbuda, information that the Chief Immigration Officer has reasons to believe is false in a particular material or concealed a material fact;
- (d) is convicted of an offence against the laws of Antigua and Barbuda including serious offence reasonably believed to be facilitating the commission of any serious offence in Antigua and Barbuda;
- (e) is convicted of an offence under the laws of another country, the nature of which offence would, in the opinion of the Chief Immigration Officer, make his or her continued presence in Antigua and Barbuda contrary to the public interest;
- (f) becomes a charge on the Consolidated Fund;
- (g) is reasonably believed to be living on or receiving the proceeds of crimes; or
- (h) is reasonably believed to be, or has been, engaging in activities that are or are likely to be prejudicial to the national security of Antigua and Barbuda or the maintenance of law, public order, public health, public morality and good Government in Antigua and Barbuda.

(3) Where the substantive holder of a residence permit or permanent residence permit loses his or her right of residence under this Act—

- (a) a person who had acquired a residence permit or permanent residence permit by virtue of being a dependant of the substantive holder, may make representations to the Chief Immigration Officer as to why the person should not lose his or her right to a residence permit; and
- (b) the Chief Immigration Officer may grant the person a residence permit in his or her own right or recommend the grant of a permanent residence permit to the person in his or her own right.

(4) The Chief Immigration Officer may—

- (a) modify or cancel or recommend the modification or cancellation of a condition specified in a residence permit granted under section 40 or 47; or
- (b) revoke or recommend the revocation a residence permit granted under section 40 or 47.

46. No exemption from other requirements

A residence permit shall not, in itself, be construed as exempting the holder of the permit or a dependant of the holder of the permit from any obligation to hold a licence, permit or other authorisation required for engaging in any profession or occupation in Antigua and Barbuda.

47. Residence permit for spouses, etc. of citizens of Antigua and Barbuda

(1) The spouse of a citizen of Antigua and Barbuda may, after one year of marriage, apply under section 39 for a residence permit.

(2) The application shall be accompanied by an affidavit sworn to by the applicant attesting—

- (a) that the applicant is married to a citizen of Antigua and Barbuda;
- (b) that the applicant and the spouse of the applicant are living together as husband and wife;
- (c) where applicable, to the number of dependants of the applicant; and
- (d) such other documentary evidence respecting factors referred to in subsection (3) as the Chief Immigration Officer may require to complete the consideration of the application.

(3) The Chief Immigration Officer shall, upon consideration of the application, grant the residence permit to the applicant if the Chief Immigration Officer is satisfied that—

- (a) the spouse of the applicant is a citizen of Antigua and Barbuda;
- (b) the applicant is a person of good character;
- (c) the applicant is in good health as evidenced by a recent certificate issued by a medical practitioner; and
- (d) the applicant or the spouse of the applicant has the financial means to support himself or herself and the dependants listed on the application.

(4) Where—

- (a) a residence permit is granted under this section to an applicant—
 - (i) the applicant shall, so long as the marriage subsists, be entitled to remain and work in Antigua and Barbuda in any occupation; and
 - (ii) subject to paragraph (b), every dependant of the person listed on the application shall, so long as the marriage subsists, be entitled to reside in Antigua and Barbuda until that dependant attains the age of 18 years; and
- (b) a dependant to which subsection (a)(ii) applies attains the age of 18 years—
 - (i) the dependant may apply under section 39 for a residence permit; and
 - (ii) the Chief Immigration Officer may grant the dependant a residence permit in his or her own right.

48. Loss of right of residence.

(1) The Chief Immigration Officer may revoke a residence permit granted to a person who is the spouse of a citizen of Antigua and Barbuda if—

- (a) section 45(1) applies;
- (b) the spouse of the person ceases to be a citizen of Antigua and Barbuda;
- (c) within 3 years of the marriage, the marriage is dissolved or annulled;
- (d) the person ceases to be lawfully ordinarily resident in Antigua and Barbuda; or
- (e) the person and the spouse of the person are living apart pursuant to a deed of separation.

(2) A holder of a residence permit who is the surviving spouse of a citizen of Antigua and Barbuda may apply to the Chief Immigration Officer for the extension of his or her residence permit.

(3) The Chief Immigration Officer may, on an application made under subsection (2)—

- (a) subject to section 10, revoke the residence permit; or
- (b) allow the extension of the residence permit.

Division 3

Temporary permits

49. Temporary permits for sick persons

(1) The Chief Immigration Officer may, upon the recommendations of the Chief Medical Officer, grant a temporary permit to an immigrant suffering from a contagious or infectious disease to remain in Antigua and Barbuda for the purposes of treatment, subject to such conditions as the Chief Medical Officer may deem necessary for the protection of the community.

(2) The immigrant shall, on the conclusion of the treatment or at such earlier time as the Chief Immigration Officer may specify in the permit or communicate to the immigrant, present himself or herself in person to an immigration officer for the purpose of departing from Antigua and Barbuda.

(3) For the avoidance of doubt, the grant of a permit under this section to an immigrant shall not prejudice a subsequent decision that the immigrant is a prohibited immigrant.

PART V

REFUSAL OF ENTRY, REMOVAL, DEPORTATION AND DETENTION OF PERSONS

50. Order respecting refusal of entry into Antigua and Barbuda

(1) Subject to section 10, an immigration officer may make an order for the refusal of entry of a person seeking to enter Antigua and Barbuda if the immigration officer, after examination of the person seeking entry, is satisfied or has reasons to believe that the person—

- (a) does not come within any category of persons enumerated in section 14; or
- (b) has not satisfied the requirements respecting entry into Antigua and Barbuda under this Act.

(2) Where an immigration officer makes an order under subsection (1), the immigration officer may give directions—

- (a) to the master of the vessel on which the person arrived in Antigua and Barbuda, requiring the master of the vessel to remove the person from Antigua and Barbuda in that vessel;
- (b) to the owner of the vessel or the agent of the owner of the vessel, requiring the owner and the agent to remove the person from Antigua and Barbuda in a vessel of which they are owners or agents; or
- (c) to the owner of the vessel or agent of the owner of the vessel requiring the owner and the agent to arrange for the person's removal from Antigua and Barbuda in a vessel bound for a country specified in the directions, being a country—
 - (i) of which the person is a citizen;
 - (ii) in which the person obtained any other document evidencing residency;
 - (iii) from which the person embarked for Antigua and Barbuda; or
 - (iv) which there are reasonable grounds for believing that the person will be permitted to enter, and for securing the person a passage to that country.

(3) A person in respect of whom an order for refusal of entry has been made under subsection (1) who is aggrieved by the decision may forthwith give notice of review to the Chief Immigration Officer.

(4) Where a notice of review has been given under subsection (3), the Chief Immigration Officer—

- (a) shall forthwith make arrangements for the review of the decision; and
- (b) may cause such person to be detained pending the determination of the review.

(5) Where a person who is not permitted to enter Antigua and Barbuda appeals against the decision of the immigration officer, the liability of the owners or agents of the vessel in which the immigrant arrived in Antigua and Barbuda for the removal of the immigrant from Antigua and Barbuda is not affected by the review or any appeal under this Act.

(6) Nothing in subsection (5) shall affect the liability of a person who is not permitted to enter Antigua and Barbuda to pay to the owner or agents of the vessel in which the person arrived in Antigua and Barbuda the cost of the passage of the person from Antigua and Barbuda.

(7) Where, in the circumstances of any particular case, it appears to the Minister that—

- (a) it is not practicable for directions to be given under subsection (2) in respect of a person who is not permitted to enter Antigua and Barbuda; or
- (b) the directions given under subsection (2) would be ineffective,

the Minister or a person acting under the authority of the Minister may give to the owners or agents of the vessel in which the person arrived in Antigua and Barbuda, any directions that an immigration officer is empowered to give under subsection (2); but, in any such case, the costs of complying with the directions shall be defrayed out of money provided for that purpose by Parliament.

(8) A person in respect of whom directions are given under this section may be placed, under the authority of an immigration officer, on board a vessel in which the person is to be removed from Antigua and Barbuda in accordance with the directions given under subsection (2) or (7).

(9) A person to whom directions are given under subsection (2) or (7) commits an offence if the person fails or refuses to comply with the directions.

51. Removal of prohibited and illegal immigrants from Antigua and Barbuda

(1) Subject to subsections (4), (5) and (6), where the Chief Immigration Officer has reasons to believe that a person is a prohibited immigrant or an illegal immigrant, the Chief Immigration Officer may—

- (a) require the prohibited immigrant or illegal immigrant to voluntarily leave Antigua and Barbuda within a specified period, and, if the Chief Immigration Officer sees fit, by a specified vessel; and
- (b) cause the prohibited immigrant or illegal immigrant to be arrested and brought before a Magistrate with a view to an order being made for the deportation of the prohibited immigrant or, as the case may be, the illegal immigrant, if the prohibited immigrant or illegal immigrant does not comply with the order to leave voluntarily.

(2) Without prejudice to the generality of subsection (1), where an immigrant to whom a permit has been granted under this Act remains in Antigua and Barbuda after the expiry or revocation of the permit, the Chief Immigration Officer may make an order against the person requiring the person to be removed voluntarily from Antigua and Barbuda.

(3) Where a person to whom subsection (1)(a) or subsection (2) applies is removed voluntarily from Antigua and Barbuda, the person shall not be permitted to enter Antigua and Barbuda within such period commencing from the date of being removed from Antigua and Barbuda as the Chief Immigration Officer may specify.

(4) Subject to subsections (5) and (6), an illegal immigrant or any other immigrant to whom subsection (1), (2), or (3) applies may make an application to the Tribunal for the grant of relief from voluntary removal if the immigrant—

- (a) is aggrieved by the decision to be voluntarily removed from Antigua and Barbuda; and
- (b) has reasons to believe that he or she is entitled to the grant of relief from voluntary removal from Antigua and Barbuda.

(5) An application under this section must be in writing and accompanied by documentary evidence respecting—

- (a) continuous residency requirements;
- (b) a good character certificate issued by the Commissioner of Police; and
- (c) the likelihood of extreme hardship to the applicant if the application were to be refused.

(6) The Minister may, in accordance with the Regulations, grant to an immigrant to whom this section applies, including immigrants who have been residing in Antigua and Barbuda before the commencement of this Act, a permit to—

- (a) allow the immigrant to lawfully remain in Antigua and Barbuda;
- (b) regularise the residential status of the immigrant in Antigua and Barbuda; or
- (c) validate another permit granted to the immigrant.

52. Deportation orders

(1) Subject to the provisions of this Act and the Regulations and the terms and conditions of a permit granted under this Act, where a person is a prohibited immigrant or is deemed to be a prohibited immigrant, a Magistrate may, on the application of the Chief Immigration Officer or any authorized person, order the prohibited immigrant—

- (a) subject to paragraph (b), to be deported from Antigua and Barbuda; and
- (b) pending deportation from Antigua and Barbuda, to be detained in custody in place specified in section 54.

(2) Unless otherwise provided in this Act, a deportation order shall be executed as soon as practicable.

(3) A deportation order in the prescribed form or a copy thereof shall be served on the person against whom it is made and on such other persons as may be prescribed.

(4) Subject to subsections (8) and (9), an immigrant ordered to be deported from Antigua and Barbuda—

- (a) shall be removed from Antigua and Barbuda in accordance with the terms and conditions of the order;
- (b) may be placed on board a suitable vessel by a police officer or an immigration officer;

- (c) may be lawfully detained in custody on board a vessel so long as the vessel is within the territory of Antigua and Barbuda; and
- (d) upon being so removed, shall, so long as the order is in force, remain out of Antigua and Barbuda.

(5) A person who, having been removed, deported or otherwise lawfully sent out of Antigua and Barbuda, enters or resides in Antigua and Barbuda without the permission in writing of the Chief Immigration Officer commits an offence and, without prejudice to any action which may be instituted under this Act or any other enactment, is liable to be removed from Antigua and Barbuda; but the person shall be required to undergo any punishment imposed upon the person in respect of that offence before the person is deported.

(6) A deportation order— descent

- (a) shall not become invalid only by reason of effluxion of time between its making and execution; and
- (b) shall remain valid after execution unless vacated by the Court issuing the deportation order.

(7) Where—

- (a) a deportation order is made against a person; and
- (b) the person, at the time of the making the order or before the execution of the order is serving a sentence of imprisonment in a prison,

the deportation order may not be executed until the completion of the sentence and that person has been released.

(8) For the purposes of this section “authorized person” means a person deputed in writing by the Chief Immigration Officer for the purpose of making an application for an order for a prohibited immigrant to be removed from Antigua and Barbuda.

53. Detention of persons

(1) Where an immigration officer has reasons to believe that a person arriving in or seeking to enter Antigua and Barbuda from a place outside Antigua and Barbuda commits an offence referred to in this Act, the immigration officer may, subject to subsection (2), detain the person or may cause the person to be detained for the purposes of examining the person; but the person shall not be detained for a period exceeding 48 hours except by an order of a court of law.

(2) Where a person is the subject of a deportation order, the Chief Immigration Officer may, pending the execution of a deportation order, detain the person against whom the order is made if the residence permit of the person has been modified, varied or revoked under section 45.

(3) A person referred to in subsection (1) or (2) may be—

- (a) detained on the vessel on which the person arrived in Antigua and Barbuda; or
- (b) may be removed to and detained in a place specified in section 54.

(4) For the avoidance of doubt, the detention of the person in Antigua and Barbuda under subsection (1) or the removal of a person under subsection (3) from the vessel on which the person arrived in Antigua and Barbuda for the purpose of detention under this section, shall not—

- (a) constitute entry into Antigua and Barbuda by that person; and
- (b) exempt the owners of the vessel from the provisions of section 32.

(5) Where a person detained under subsection (1) is refused permission to enter Antigua and Barbuda, the person shall be removed from Antigua and Barbuda in accordance with this section.

(6) Where a person required to be removed or deported is detained, an immigration officer, a police officer, a prison officer or any other person authorized by the Minister may take such steps as may reasonably be necessary to identify the person by taking biometrics and measurements.

(7) Where a deportation order is made against a person, the Magistrate may, on an application by the Chief Immigration Officer or any authorized person, order that person be detained in custody—

- (a) in such place as the Magistrate directs; and
- (b) for such period as may be necessary for the purpose of making arrangements for the removal of the person from Antigua and Barbuda.

(8) A person who—

- (a) is detained pursuant to an order of a court; and
- (b) would otherwise be liable to be detained under this section,

may be taken in the custody of a member of the Police Force or a prison officer to or from any place where the attendance of the person is required for the purpose of—

- (i) ascertaining the identity or citizenship of the person; or
- (ii) making arrangements for the removal of the person from Antigua and Barbuda.

(9) A person who is ordered or authorized to be detained under section 52 or this section, may be arrested, without warrant, by an immigration officer or a police officer.

(10) Subject to subsection (11)—

- (a) a person taken into custody or detained under this Act may be granted conditional release, or an order of supervision in the prescribed form, under such terms and conditions respecting the time and place at which the person must report for examination, inquiry, or refusal subject to payment of such security deposit or such other conditions as may be required by the Chief Immigration Officer; and
- (b) the person may be retaken into custody forthwith, without a warrant, and any security deposit made as a term or condition of the release is liable to be forfeited to Antigua and Barbuda, if the person fails to comply with any term or condition under which the person is released from custody or detention under paragraph (a).

(11) Subsection (10) shall not apply to persons ordered to be taken into custody or detained by any court.

54. Place of detention

Where a person who is required to be detained in custody under this Act is not serving a sentence of imprisonment, the person may be detained—

- (a) as a prisoner on remand at Her Majesty's Prison; or
- (b) in the Immigration Detention Centre; or
- (c) in a place of detention in Antigua and Barbuda approved by the Minister for the purpose.

55. Notification of reasons for detention and arrest.

(1) Where an immigration officer or a police officer detains or arrests any immigrant under this Act, the immigration officer or, as the case may be, the police officer, shall promptly give to the detained or arrested immigrant a notice, in the prescribed form, specifying the reasons for the detention or arrest.

(2) If notice under subsection (1) is given within 7 days of the arrival of an immigrant in Antigua and Barbuda, the immigration officer or the police officer giving such notice shall also inform, if possible, the master, owner or local agent of the vessel by which the immigrant arrived that such notice has been given.

56. Recovery of expenses

(1) Where a Magistrate is satisfied that any expenses have been or are likely to be incurred by the Government in connection with the maintenance, the medical treatment or the removal of an immigrant or the spouse, children, or dependants of an immigrant, the Magistrate may issue a warrant for the levy of the amount by distress and sale of any property belonging to the immigrant.

(2) A warrant issued under subsection (1) may be executed in the same manner as a warrant for the levy of the amount of a fine under the Magistrate's Code of Procedure Act, Cap. 255.

(3) The partial recovery of expenses under this section shall not prejudice the liability of a surety for the balance, nor shall the issue or execution of a warrant under this section be a condition precedent to the liability of a surety.

PART VI

IMMIGRATION APPEALS TRIBUNAL

57. Establishment of Immigration Appeals Tribunal

(1) There is established a tribunal which shall be called the Immigration Appeals Tribunal comprising 8 members.

(2) The members of the Tribunal shall—

- (a) be appointed by the Cabinet; and

(b) hold office for a term of 3 years at the pleasure of the Cabinet; but each member is eligible for re-appointment for a further two successive terms.

(3) The members of the Tribunal are—

- (a) the Chairperson, who shall be an attorney-at-law of not less than 7 years in practice;
- (b) two deputy Chairpersons, each of whom shall be an attorney-at-law of not less than 5 years in practice; and
- (c) five other members, appointed from among persons having qualification and experience in the field of industrial relations, economics, law, accounting or public administration.

(4) For the purposes of exercising its jurisdiction, the Tribunal may, if the Chairperson so directs, sit in two divisions simultaneously or otherwise.

(5) Where the Tribunal sits in two divisions under subsection (4), each division shall be—

- (a) presided over by the Chairperson or a deputy Chairperson sitting simultaneously with not less than 2 other members; and
- (b) deemed to be a fully constituted Tribunal to hear and determine appeals under this Part.

(6) The Cabinet shall appoint a Secretary and an Assistant Secretary to the Tribunal.

(7) The Secretary and the Assistant Secretary to the Tribunal shall record and keep minutes of the meetings, proceedings and decisions of the Tribunal and shall have no right to vote.

(8) The Tribunal shall have the power to regulate its own procedure.

58. Remuneration and indemnification of members

(1) Every member of the Tribunal who is not a public officer shall receive such remuneration in respect of each meeting attended, but the Chairperson and deputy Chairpersons shall receive such additional remuneration, as may be determined, from time to time, by the Cabinet.

(2) Every member of each Tribunal shall be personally indemnified against all claims, damages, costs, charges or expenses incurred by that member in the discharge or purported discharge of his or her functions or duties under this Act done or exercised in good faith.

59. Duty of confidentiality

(1) Every member of the Tribunal—

- (a) shall treat as confidential the facts and any particulars relating to any matter falling for consideration by the Tribunal or the decision of the Tribunal; and
- (b) shall not disclose any such facts or particulars otherwise than in—
 - (i) the proper performance of the duties of that member under this Act; or
 - (ii) compliance with the order of a court of competent jurisdiction.

(2) The failure of any member to comply with subsection (1)—

- (a) is an offence; and
- (b) constitutes a sufficient ground for the termination of the appointment of the member.

(3) Any allegation of a breach of subsection (1) shall be fully investigated by a police officer of the rank of Inspector or above.

60. Right of appeal to Tribunal

(1) Subject to subsections (2) and (6), any person aggrieved by, or dissatisfied with, any decision of an immigration officer may, within 7 days of the communication of the decision to the person, appeal against the decision to the Tribunal.

(2) Save as otherwise provided in this Act—

- (a) any person aggrieved by, or dissatisfied with, any decision of the Chief Immigration Officer under this Act, may appeal against the decision—
 - (i) within 28 days of the communication of the decision to the person; or
 - (ii) within such longer period as the Chairperson of the Tribunal may, for good reason shown; and
- (b) matters referred to the Tribunal may not be remitted to that Tribunal or to the Chief Immigration Officer.

(3) The appeals to which subsection (1) refers is restricted to any appeal against the decision of an immigration officer—

- (a) to refuse permission to enter Antigua and Barbuda;
- (b) to refuse permission to remain in Antigua and Barbuda in circumstances where the appeal is—
 - (i) against the decision to grant an extension beyond the final extension already granted; and
 - (ii) lodged before the expiration of that final extension; or
- (c) to revoke permission to remain in Antigua and Barbuda.

(4) Every appeal under this Part shall be commenced by notice of appeal, in writing, addressed to the Secretary to the Tribunal.

(5) Every notice of appeal under this Part shall—

- (a) set forth the decision against which the appeal is made and the reasons for the appeal;
- (b) indicate whether or not the appellant wishes to be heard personally or by a representative; and
- (c) be accompanied by a copy of the original application and in the case of an appeal to the Tribunal, by the prescribed non-refundable processing fee.

(6) Without prejudice to the generality of subsection (5)(a), an appeal under subsection (1) may be lodged on the ground that the decision appealed against is—

- (a) erroneous in law;

- (b) unreasonable;
- (c) contrary to the principles of natural justice; or
- (d) at variance with this Act or the Regulations.

(7) Where an appeal is made under this section, the appeal shall operate as a stay pending the determination of the tribunal.

(8) Notwithstanding subsection (3)(a), where a passenger holds a valid visa to enter Antigua and Barbuda, the passenger may, from within Antigua and Barbuda, appeal against the decision of the immigration officer to refuse the passenger entry.

61. Appeals against decisions of immigration officers

(1) Except as provided in this section, an immigrant who is aggrieved by a decision of an immigration officer detaining the immigrant or refusing the immigrant entry into Antigua and Barbuda—

- (a) may appeal to the Tribunal against the decision to refuse entry to the immigrant or detain the immigrant; and
- (b) shall promptly give to the Chief Immigration Officer a copy of the notice of the appeal.

(2) On an appeal, the Tribunal may make an award as to cost in the appeal.

(3) Where the Tribunal sends notice of its decision to an appellant by post, such notice shall be deemed to have been communicated to the appellant at the time at which it should have been received by the appellant in the ordinary course of post.

62. Conduct of appeals by the Tribunal

(1) Appeals to the Tribunal shall be by way of rehearing.

(2) On receipt of the notice of appeal the Tribunal shall, within 14 days, notify the Chief Immigration Officer, as the case may be, of the decision against which the appeal is made.

(3) The Chief Immigration Officer shall, within 28 days of receipt of the notice referred to in subsection (2), deliver to the Tribunal and the appellant a copy of the decision and the reasons for the decision.

(4) The appellant shall, within 28 days of receipt of the reasons referred to in subsection (3), file the grounds of the appeal with the Tribunal, as the case may be, and serve a copy thereof on the Chief Immigration Officer.

(5) The Chief Immigration Officer may, within 28 days of the receipt of the grounds of appeal referred to in subsection (4), provide a written defence which shall be filed with the Tribunal and served on the appellant.

(6) Where the appellant has applied to be heard personally or by a representative, the Tribunal shall fix a time and a date for such hearing and notify the appellant and, as the case may be, the Chief Immigration Officer thereof.

(7) The Tribunal, when hearing an appeal, may take into account fresh evidence and any change in circumstances that may have arisen in relation to the parties.

(8) At every hearing of an appeal where the appellant or the representative of the appellant is present—

- (a) the appellant or representative shall be given an opportunity to address the Tribunal; and
- (b) the Chief Immigration Officer or the representative of the Chief Immigration Officer, as the case may be, shall be heard in answer,

but the Tribunal may, in its absolute discretion, call upon either party further to address it.

(9) Representatives appearing on behalf of either party need not be persons having legal qualifications.

(10) The decision of the Tribunal shall be notified to the appellant with the least possible delay.

63. Decisions of Tribunal

(1) Every appeal made to the Tribunal shall be determined by a majority of the members of the Tribunal.

(2) Every decision of the Tribunal shall be signed by the members; and the Chairperson shall transmit the decision to the Chief Immigration Officer for implementation.

(3) Subject to Part VII, a decision of the Tribunal shall be binding on the parties to the appeal and on all immigration officers and shall be final.

(4) Where the Tribunal refuses to hear an appeal under section 62, in whole or in part, the Tribunal shall give the appellant brief reasons for that refusal and inform the appellant of the right of appeal under Part VII.

(5) Where the Tribunal fails to—

- (a) inform an appellant of the right of appeal referred to in subsection (4); or
- (b) give reasons as required by subsection (4) when first promulgating its decision to refuse to hear the appeal,

the failure shall not of itself give rise to a right of appeal under Part VI if the Tribunal, within 30 days of having made the decision, gives the reasons to the applicant.

64. Temporary permits pending appeal etc.

(1) Where—

- (a) a prohibited immigrant has delivered a notice of appeal;
- (b) a prohibited immigrant is ordered to leave Antigua and Barbuda;
- (c) the Chief Immigration Officer postpones deciding whether a person is a prohibited immigrant; or
- (d) security is required to be given in respect of an immigrant,

the Chief Immigration Officer may grant a permit for the immigrant to remain in Antigua and Barbuda for so long as the Chief Immigration Officer considers necessary.

(2) In lieu of not granting the permit or on revocation or expiration of the permit, the Chief Immigration Officer may cause the immigrant to be arrested and brought before a High Court which may order the immigrant to be detained in custody until the matter is disposed of or until an opportunity occurs for the immigrant to leave Antigua and Barbuda.

(3) Where an appeal is made under subsection (1)(a) the High Court may order the detention or admission to bail of the appellant pending the determination of the appeal.

65. Application of alternative dispute resolution techniques

The Tribunal may, in the exercise of its powers, duties and functions under this Part apply conciliation, mediation or other alternative dispute resolution techniques or processes.

PART VII

APPEALS TO HIGH COURT AND COURT OF APPEAL

66. Appeals to High Court and the Court of Appeal

- (1) Subject to subsections (2) and (4), an appeal shall lie—
 - (a) from the decision of the Tribunal to the High Court; and
 - (b) from the decision of the High Court to the Court of Appeal.
- (2) An appeal may be made to the High Court from a decision of the Tribunal on a point of law only.
- (3) Where a person lodges an appeal under subsection (1)—
 - (a) the person lodging the appeal shall, within 2 days of lodging the appeal, give a copy of the notice of the appeal to the Chief Immigration Officer and the High Court; and
 - (b) no warrant respecting the removal of the person so appealing shall be issued or enforced, unless the High Court or, as the case may be, the Court of Appeal, on the hearing of the appeal, affirms the decision of the Tribunal.
- (4) Notwithstanding any law to the contrary, where a person fails or neglects to lodge an appeal under subsection (1)(b) to the Court of Appeal within 2 days of the time of notification of the decision of the High Court, the Chief Immigration Officer may cause the immigrant to be removed or deported from Antigua and Barbuda.

(5) An appeal made under this section against a deportation order shall operate as a stay of the execution of the deportation order pending the determination of the appeal.

PART VIII

OFFENCES AND FIXED PENALTIES

67. Specific offences

- (1) A person commits an offence if the person—
- (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 for the purposes of inducing the immigration officer in any way to fail or neglect to perform his or her duties or to conceal or connive at an act or an article under this Act or the Regulations;
 - (b) personates or holds himself or herself out to be an immigration officer;
 - (c) takes or uses any name, title, uniform or description or otherwise acts in a manner that may lead a person wrongly to infer that the person is an immigration officer;
 - (d) makes a charge to or receives a fee, recompense or reward to secure or assist in securing—
 - (i) the entry to Antigua and Barbuda of any person; or
 - (ii) permission for any person to remain in Antigua and Barbuda;
 - (e) obstructs or impedes an immigration officer in the performance of the duties of the immigration officer under this Act;
 - (f) escapes or attempts to escape from lawful custody or detention under this Act;
 - (g) refuses to swear, affirm or declare, as the case may be, or to answer a question put to the person or does not truthfully answer any question put to the person at an examination or inquiry under this Act;
 - (h) knowingly and wilfully makes a false or misleading statement at an examination or inquiry under this Act or in connection with the entry or application for entry of any person to Antigua and Barbuda;
 - (i) makes a false promise of employment or a false representation by reason of which another person is induced to seek entry into Antigua and Barbuda or is assisted in an attempt to seek entry unlawfully to Antigua and Barbuda or by reason of which the entry of that other person is procured;
 - (j) induces, aids or abets or attempts to induce, aid or abet any other person to commit an offence under this Act or the Regulations;
 - (k) comes into, remains in or attempts to leave Antigua and Barbuda by means of any false, misleading, fraudulent or otherwise improper travel document, knowing the travel document to be false, misleading, fraudulent or otherwise improper;
 - (l) assaults, resists, obstructs or hinders or uses threatening, insulting, indecent or abusive language to, an immigration officer, a police officer or a person acting under the authority of this Act in the execution of his or her duty under this Act; or

(m) knowingly aids, assists or procures a person who has not been permitted to enter Antigua and Barbuda or against whom a deportation order is in force to enter Antigua and Barbuda.

(2) A person commits an offence if the person, with the intention of entering, remaining in or departing from Antigua and Barbuda—

(a) fabricates, procures or falsifies a passport, permit or other document; or

(b) uses, utters or attempts to use or utter—

(i) a passport, permit or other document which has not been lawfully granted or issued or which the person is not entitled to use or utter; or

(ii) a fabricated or falsified passport, permit or other document knowing the same to be fabricated or falsified.

(3) A person commits an offence if the person, with the intention of assisting another person to enter, remains in or departs from Antigua and Barbuda—

(a) fabricates, procures or falsifies a passport, permit or other document; or

(b) uses, utters or attempts to use or utter—

(i) a passport, permit or other document which has not been lawfully granted or issued or which the person is not entitled to use or utter; or

(ii) a fabricated or falsified passport, permit or other document knowing the same to be fabricated or falsified.

(4) A person who commits an offence under this section is liable—

(a) on summary conviction for a first offence, to a fine of \$15,000 or to imprisonment for a term not exceeding 12 months, or to both, and on summary conviction for a second or subsequent offence, to a fine of \$25,000 or to imprisonment for a term not exceeding 18 months, or to both; and

(b) on conviction on indictment for a first offence, to a fine of \$30,000 or to imprisonment for a term not exceeding 18 months, or to both, and on conviction on indictment for a second or subsequent offence, to a fine of \$50,000 or to imprisonment for a term not exceeding 2 years, or to both.

68. General penalty.

Where a person commits an offence under this Act or the Regulations in respect which a penalty is not provided in the provision creating the offence, the person is liable on summary conviction—

(a) for a first offence, to a fine of \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) for a second or subsequent offence, to a fine of \$20,000 or to imprisonment for a term not exceeding 18 months, or to both.

69. Power of the Chief Immigration Officer to impose fixed penalties, etc.

(1) Notwithstanding section 67 but subject to subsection (2), the Minister may, by Regulations, create offences and impose administrative fines or fixed penalties to be enforced by the Chief Immigration Officer in certain cases of non-compliance with the Regulations or breaches of the Regulations; but no such penalty shall be in excess of the amount stipulated in section 68 for the breach.

(2) Where the non-compliance with the Regulations or breaches of the Regulations is committed in regard to a vessel, the power to impose the administrative fines or fixed penalty in respect of the owner, master or representative of the vessel is exercisable only at the election of such owner, master or representative.

(3) Regulations made under this section shall be subject to negative resolution of the House.

PART IX

MISCELLANEOUS

70. Authority of Chief Immigration Officer to regularize resident status

Subject to the written approval of the Minister, the Chief Immigration Officer may, in accordance with the Regulations, grant to any person, residing in Antigua and Barbuda in contravention of this Act, a permit to remain in Antigua and Barbuda.

71. Certificate of identity

The Chief Immigration Officer may, on an application in writing, authorize the issue of a certificate of identity to a citizen of Antigua and Barbuda if the citizen—

- (a) wishes to leave Antigua and Barbuda with the intention of returning; and
- (b) is for any reason apprehensive that he or she will be unable to prove on his or her return that he or she is not a prohibited immigrant.

72. Evidence, generally

(1) Where, in any proceedings under this Act, a question arises whether a person is an immigration officer, his or her own evidence thereof shall be *prima facie* evidence thereof and every such officer shall be deemed a competent witness upon the trial of a matter arising under this Act.

(2) The contents of all registers, permits, certificates and other documents recorded, kept, maintained, granted or prepared under this Act shall be admissible in evidence in any court upon matters coming before the court under this Act.

(3) The production of a register or a copy of the relevant portion of register certified by an officer designated by the Minister for that purpose shall be *prima facie* proof of the facts recorded in the register.

73. Evidence of administrative matters

- (1) Any matter relating to the administration of this Act including—
 - (a) a matter relating to the records in the possession of an immigration officer;
 - (b) the delivery or non-delivery or the receipt or non-receipt of a document;
 - (c) the failure to do or the doing of any act; or
 - (d) the date or time for the doing of any act remaining undone,

may be proved by the sworn affidavit of an immigration officer setting out that the immigration officer has examined the records maintained by or under the authority of the Chief Immigration Officer or the Minister and the contents of the records with respect to the matter.

- (2) An affidavit under subsection (1) shall be *prima facie* evidence of the facts set out in it and the correctness of any records referred to in it including the time of occurrence of an act.

- (3) Proof of the signature or status of the person making an affidavit under subsection (1) or the official character of the person before whom an affidavit under subsection (1) is sworn is not necessary for the admissibility of the affidavit in evidence.

74. Minister may approve form of permits

- (1) A permit granted under this Act shall—
 - (a) be in the form approved by the Minister; and
 - (b) contain such particulars and marks, including photographs and finger prints, as may be necessary for the purpose of identifying the person to whom it relates.

- (2) Without prejudice to subsection (1), the Minister may direct that a permit granted under this Act be—

- (a) endorsed on the passport or other document establishing the identity and national status of the person to whom it relates; or
- (b) granted in such other manner as the Minister thinks fit.

- (3) Upon an application for a permit under this Act, the applicant shall be subject to the biometrics and measurements required by this Act to the satisfaction of an immigration officer.

75. Production of permits

- (1) Where an immigration officer or a police officer demands the production of a permit granted under this Act, the holder of the relevant permit shall produce the permit to an immigration officer or a police officer on demand or within 24 hours after such demand at such place as the immigration officer or a police officer may specify.

- (2) A holder of a permit granted under this Act commits an offence if the holder of the permit intentionally fails or refuses to comply with subsection (1).

76. Notification of change of address

(1) A holder of a permit granted under this Act shall, within 30 days after the date of the occurrence of a change in his or her address, submit to the Chief Immigration Officer a written notice of that change.

(2) Where a holder of a permit fails or neglects to comply with subsection (1), the holder of the permit—

- (a) is liable to have his or her permit revoked in accordance with section 27; and
- (b) may be required to leave Antigua and Barbuda.

77. Police officers, etc. to assist immigration officers

(1) Any police officer shall, whenever necessary or at the request of an immigration officer, assist the immigration officer in the exercise of his or her powers and performance of his or her duties under this Act.

(2) Where a customs officer or police officer has reasonable grounds to believe that a person on board a vessel which is in the territorial waters of Antigua and Barbuda outside a port of entry is preparing to land in Antigua and Barbuda in contravention of the provisions of this Act, the customs officer or police officer may board such vessel and exercise the powers conferred on an immigration officer under section 6.

78. Power to postpone decision

(1) The Chief Immigration Officer may, for the purpose of making inquiry whether the immigrant is or is not a prohibited immigrant and for such period as may be necessary for the making of such further inquiry—

- (a) postpone deciding whether or not a person is a prohibited immigrant; and
- (b) grant a permit to an immigrant to disembark from a vessel arriving in Antigua and Barbuda from a place outside Antigua and Barbuda.

79. Power to make Regulations

(1) The Minister may, by Regulations, make provisions—

- (a) respecting the entry of persons who are nationals or citizens of a country that refuses to re-admit any of its nationals or citizens who are ordered, deported or removed from Antigua and Barbuda;
- (b) respecting the entry of persons by reason of unsuitability having regard to the economic, social, industrial, educational, labour, health or other conditions or requirements existing, temporarily or otherwise, in Antigua and Barbuda;
- (c) respecting the designation of places in Antigua and Barbuda as ports of entry for the examination by immigration officers of person seeking to enter or entering Antigua and Barbuda;
- (d) respecting persons disembarking or embarking in Antigua and Barbuda; and

- (e) generally, for the purpose of carrying this Act into effect and for the better carrying out of the objects and purposes of this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may, by Regulations—
- (a) make provision for or with respect to any matter that may be prescribed under this Act, including prescribing—
 - (i) the powers and duties of immigration officers;
 - (ii) the steps to be taken to prevent the entry of prohibited immigrants to Antigua and Barbuda;
 - (iii) prescribing the ports of entry and the times, places and conduct of the inquiry or examination, medical or otherwise, of persons entering or wishing to enter Antigua and Barbuda, or who being found in Antigua and Barbuda are suspected of being prohibited immigrants;
 - (iv) the means to be taken for the identification of a person believed to be a prohibited immigrant, including the taking of biometrics and measurements;
 - (v) lists of contagious or infectious diseases, the affliction with which will render a person a prohibited immigrant;
 - (vi) the procedure for and the manner of the detention of prohibited immigrants pending their removal from Antigua and Barbuda and the procedure necessary for and the manner of such removal;
 - (vii) the fees to be paid for the issue and renewal of passports and other travel documents and for Antigua and Barbuda visas on passports;
 - (viii) penalties for the breach of a regulation made under this Act;
 - (ix) penalties on persons who aid or abet a contravention of a regulations made under this Act;
 - (x) the terms, conditions and requirements with respect to the means of support, or passports, visas or other documents pertaining to entry;
 - (xi) the circumstances in which a vessel is to be deemed to be arriving in or departing from Antigua and Barbuda;
 - (b) prescribe the conditions of entry into Antigua and Barbuda of persons generally or different classes of persons;
 - (c) prescribe the conditions applicable to the grant of permission to acquire the status of a resident and the manner of making application in respect of such grant;
 - (d) prescribe the registration of persons to whom a residence permit or a permanent residence permit has been granted and the registration and recording on travel documents of the status of such persons;
 - (e) prescribe the registration and recording of persons who are not citizens or residents of Antigua and Barbuda;
 - (f) prescribe the forms of warrants, permits, certificates or other documents prescribed by this Act or the regulations made under this Act or granted or issued or used for the purposes of this Act;
 - (g) prescribe medical and other examinations or tests and the prohibiting or limiting the entry of persons;

- (h) prescribe the procedure to be followed upon examination and inquiries under this Act and the duties and obligations of immigration officers and the methods and procedure for carrying out such duties and obligations, whether in Antigua and Barbuda or elsewhere;
- (i) prescribe such forms and notices as he considers necessary for the carrying out of this Act;
- (j) prescribe the provision, equipping and maintenance of building accommodation or other facilities for the proper detention and examination of persons illegally entering Antigua and Barbuda, or to be deported from Antigua and Barbuda, on the vessels of transportation companies and also respecting the requirement that such transportation companies pay the costs incurred in detaining persons at detention stations provided by Government;
- (k) prescribe manifests, bills of health or other records or documents concerning the persons carried by vessels to or from Antigua and Barbuda;
- (l) prescribe the obligations and duties of transportation companies and members of a crew of vessels to safeguard persons on board vessels, to report escape from custody of persons in their custody and to take such other precautions or steps as may be required to prevent such persons from unlawfully entering Antigua and Barbuda or, in the case of persons in their custody who are ordered deported, from failing to leave Antigua and Barbuda;
- (m) prescribe the responsibilities of employers in relation to the repatriation of an employee who is the holder of a work permit;
- (n) prescribing the means to be taken for identifying persons suspected of being in Antigua and Barbuda contrary to the former Act or this Act; and
- (o) prescribe anything that is by this Act authorized or required to be prescribed, relating to the fees to be paid in respect of—
 - (i) an application under this Act or the Regulations; and
 - (ii) a permit, certificate or other document approved, made or prescribed by or under this Act.

(3) Regulations made under this Act may—

- (a) make different provision in relation to different cases or circumstances;
- (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases;
- (c) define a class by reference to any circumstances whatsoever; and
- (d) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the Regulations.

(4) Regulations made under this Act may create offences punishable by fines not exceeding \$50,000 or imprisonment for a term not exceeding 3 years.

(5) Regulations made under subsection (1) shall be subject to negative resolution of the House.

80. Amendment of Schedules 1 and 2

The Minister may, by Order subject to affirmative resolution of the House, amend Schedule 1 and Schedule 2.

PART X

SAVINGS, TRANSITIONAL PROVISIONS AND REPEAL

81. Interpretation of this Part

In this Part, “former Act” means the Immigration and Passport Act, Cap. 208 repealed by this Act.

82. Continuance of applications

(1) Every application made under the former Act and which is wholly or partly heard when this Act comes into force shall be continued and dealt with in all respects as if this Act had not come into force.

(2) A permit granted as a result of an application determined under subsection (1) shall be granted on the same terms and conditions that would have applied if this Act had not come into force.

(3) Every application made under the former Act that has not been wholly or partly heard when this Act comes into force, shall be taken to be an application made under this Act and this Act shall apply accordingly.

83. Preservation of rights of appeal

(1) Where an appeal under the former Act has been commenced but has not been finally determined before this Act comes into force, the Court shall continue to deal with the appeal as if this Act had not come into force.

(2) When an appeal referred to in subsection (1) is finally determined, this Act shall apply subject to any necessary modifications as if the appeal had been finally determined before the commencement of this Act.

84. Continuance of pending proceedings

(1) Proceedings in respect of offences committed or alleged to be committed against the former Act may be commenced or continued as if this Act had not come into force.

- (2) Every proceeding commenced under the former Act may be continued and completed—
- (a) if the proceeding has been wholly or partly heard, as if the former Act was still in force; and
 - (b) in other cases, as if the proceeding had been commenced under this Act.

(3) Except as may be expressly provided in this Act, this Act shall not affect the rights of any party to any proceedings commenced in any court before this Act came into force.

(4) Except as otherwise expressly provided in this Act, every matter and proceeding commenced in any court under the former Act and pending or in progress immediately before this Act came into force may be continued, completed and enforced under this Act.

85. Preservation of effect of conviction under former Act

For the purposes of determining the punishment which may be imposed on a person in respect of the commission by the person of an offence under any provision of this Act, an offence committed by that person under the corresponding provision of the former Act shall be deemed to have been committed under that provision.

86. Transitional provisions respecting employment, etc.

(1) Subject to the written directions of the Minister, a person who, immediately before or on the commencement of this Act, is resident in Antigua and Barbuda shall, for the purpose of this Act and any other law, be deemed to have been lawfully resident in Antigua and Barbuda throughout the period of his or her residence in Antigua and Barbuda if the Chief Immigration Officer grants to the person a permit to remain in Antigua and Barbuda.

(2) The Minister may, by Regulations, provide for—

- (a) the grant of permits to immigrants who have been residing in Antigua and Barbuda before the coming into operation of this Act—
 - (i) to allow the immigrants to lawfully remain in Antigua and Barbuda;
 - (ii) to regularise the residential status of the immigrants in Antigua and Barbuda; or
 - (iii) to validate another permit granted to the immigrants; or
- (b) such further transitional, consequential and saving provisions to have effect in connection with the coming into operation of any provision of this Act as are necessary or expedient.

(3) Regulations made under subsection (2)—

- (a) may be given retrospective operation to a day not earlier than the day this Act comes into force; and
- (b) shall expire two years after they come into force.

(4) Regulations made under this section may make modifications to this Act or to any other enactment.

(5) Regulations made under this section shall be subject to negative resolution of the House.

(6) Where a period of time specified in the former Act has not expired at the commencement of this Act, this Act shall have effect as if the provision corresponding to that enactment were in force when that period began to run.

(7) For purposes of this section, “former Act” means the Immigration and Passport Act repealed under section 87.

87. Repeal and savings

- (1) The Immigration and Passport Act, Cap. 208 is repealed.
- (2) Notwithstanding subsection (1)—
 - (a) the Chief Immigration Officer and every immigration officer appointed in accordance with the immigration laws in force immediately before the commencement of this Act—
 - (i) shall continue to hold the posts to which the Chief Immigration Officer and every immigration officer were appointed under such immigration laws at a remuneration and on terms and conditions of service that are not less favorable than the remuneration and terms and conditions of service that were enjoyed by the immigration officer immediately before the commencement of this Act; and
 - (ii) are vested with all the powers, functions and responsibilities that are vested in the Chief Immigration Officer or immigration officers, as the case may be, by this Act; and
 - (b) Regulations made under the former Act shall, in so far that the Regulations are not inconsistent with this Act, continue in force until replaced or revoked by Regulations made under this Act.

SCHEDULE 1

(Sections 2(1) and 80)

PART A

CARICOM MEMBER STATES

- (i) Antigua and Barbuda
- (ii) Barbados
- (iii) Belize
- (iv) Commonwealth of Dominica
- (v) Grenada
- (vi) Guyana
- (vii) Haiti
- (viii) Jamaica
- (ix) St. Kitts and Nevis
- (x) Saint Lucia

- (xi) Saint Vincent and the Grenadines
- (xii) Suriname
- (xiii) Trinidad and Tobago

PART B

MEMBER STATES OF THE OECS

- (i) Antigua and Barbuda
- (ii) Commonwealth of Dominica
- (iii) Grenada
- (iv) Montserrat
- (v) St. Kitts and Nevis
- (vi) Saint Lucia
- (vii) Saint Vincent and the Grenadines

PART C

PROTOCOL MEMBER STATES

- (i) Antigua and Barbuda
- (ii) Commonwealth of Dominica
- (iii) Grenada
- (iv) Montserrat
- (v) St. Kitts and Nevis
- (vi) Saint Lucia
- (vii) Saint Vincent and the Grenadines

SCHEDULE 2

(Section 2(1), 30(2), 80)

ADVANCE PASSENGER INFORMATION

Data relating to the flight or voyage

Flight Identification

(IATA Airline code and flight number)

Vessel Identification

(Vessel name and voyage number)

Vessel Registration

(Vessel Registration Number)

Country of Registration

(Country where vessel registered)

Agent or Owner (where applicable)

(Name of Agent for the vessel or where no Agent, name of Owner)

Scheduled Departure Date

(Date of scheduled departure of vessel or aircraft (based on local time of departure location))

Scheduled Departure Time

(Time of scheduled departure of vessel or aircraft (based on local time of departure location))

Scheduled Arrival Date

(Date of scheduled arrival of vessel or aircraft (based on local time of arrival location))

Scheduled Arrival Time

(Time of scheduled arrival of vessel or aircraft (based on local time of arrival location))

Last Place/Port of Call of Vessel or Aircraft

(Vessel or Aircraft departed from this last place/port of call to go to “place/port of vessel or aircraft initial arrival”)

Place/Port of Vessel or Aircraft’s Initial Arrival

(Place/port in the country of destination where the vessel or aircraft arrives from the “last place/port of call of vessel or aircraft”)

Subsequent Place/Port of Call within the country

(Subsequent place/port of call within the country)

Number of Persons on board

(Total number of passengers, crew on board)

Place/Port of Onward Foreign Destination

(For departure from Antigua and Barbuda)

Data relating to each individual on board

Core Data Elements of the Official Travel Document

Official Travel Document Number

(Passport or other official travel document number)

Issuing State or Organisation of the Official Travel Document

(Name of the State or Organisation responsible for the issuance of the official travel document)

Official Travel Document Type

(Indicator to identify type of official travel document)

Expiration Date of Official Travel document

(Expiration date of the official travel document)

Surname/Given Name(s)

(Family name and given name(s) of the holder as it appears on the official travel document.)

Nationality

(Nationality of the holder)

Date of Birth

(Date of birth of the holder)

Gender

(Gender of the holder)

SCHEDULE 3

(Section 2)

DOMESTIC SPACE COUNTRIES

- (i) Antigua and Barbuda
- (ii) Barbados
- (iii) Commonwealth of Dominica
- (iv) Grenada
- (v) Guyana
- (vi) Haiti
- (vii) Jamaica
- (viii) St. Kitts and Nevis
- (ix) Saint Lucia
- (x) Saint Vincent and the Grenadines
- (xi) Trinidad and Tobago

SCHEDULE 4

(Section 2)

PART A

CARIFORUM MEMBER STATES

- (i)* Antigua and Barbuda
- (ii)* Barbados
- (iii)* Belize
- (iv)* Commonwealth of Dominica
- (v)* Dominican Republic
- (vi)* Grenada
- (vii)* Guyana
- (viii)* Haiti
- (ix)* Jamaica
- (x)* St. Kitts and Nevis
- (xi)* Saint Lucia
- (xii)* Saint Vincent and the Grenadines
- (xiii)* Suriname
- (xiv)* Trinidad and Tobago

PART B

EU MEMBER STATES / Member States of the European Union

- (i)* The Republic of Austria
- (ii)* The Kingdom of Belgium
- (iii)* The Republic of Bulgaria
- (iv)* The Republic of Cyprus
- (v)* The Czech Republic
- (vi)* The Kingdom of Denmark
- (vii)* The Republic of Estonia
- (viii)* The Republic of Finland
- (ix)* The French Republic
- (x)* The Federal Republic of Germany
- (xi)* The Hellenic Republic
- (xii)* The Republic of Hungary
- (xiii)* Ireland
- (xiv)* The Italian Republic
- (xv)* The Republic of Latvia
- (xvi)* The Republic of Lithuania
- (xvii)* The Grand Duchy of Luxembourg

- (xviii) Malta
- (xix) The Kingdom of the Netherlands
- (xx) The Republic of Poland
- (xxi) The Portuguese Republic
- (xxii) Romania
- (xxiii) The Slovak Republic
- (xxiv) The Republic of Slovenia
- (xxv) The Kingdom of Spain
- (xxvi) The Kingdom of Sweden
- (xxvii) The United Kingdom of Great Britain and Northern Ireland

SCHEDULE 5

(Sections 5 and 8)

Prohibited Immigrants

1. Persons who have become, or are likely to be become, a charge on the Consolidated Fund.
2. Persons who become convicted of committing a serious offence or have been associated with unlawful conduct.
3. Persons who otherwise treated as undesirable visitor, immigrant or resident.
4. Persons who—
 - (a) are addicted to the use of any drug;
 - (b) are or have been at any time engaged or reasonably suspected of being likely to engage in the unlawful giving or using, the offering or exposing for sale, or the buying of, or the trading or trafficking in, any drug; or
 - (c) have been convicted of an offence under an enactment relating to dangerous or narcotic drugs, other than persons—
 - (i) who have been convicted of one offence only of the possession of cannabis, the amount of which was less than a trafficable quantity; and
 - (ii) whose sentence in respect of that offence was a non-custodial sentence.
5. Persons who—
 - (a) have been convicted of, or admit to having committed, a criminal offence which, if committed in Antigua and Barbuda, is punishable with imprisonment for a term of one year or longer;

- (b) knowingly or for profit aid, encourage or procure other persons who are not citizens of Antigua and Barbuda, to enter Antigua and Barbuda, illegally; or
 - (c) are stowaways or seek to enter Antigua and Barbuda, illegally.
- 6. Persons who are or have been at any time advocates of—
 - (a) the overthrow by force or violence of the Government or any other country or of all forms of law;
 - (b) the abolition of organised Government; or
 - (c) the assassination of a person or the unlawful destruction of property.
- 7. Persons who are or have been members of or affiliated to an organisation which entertains or teaches any doctrine or practice specified in sub-paragraphs (a) to (c) of paragraph 5.
- 8. Persons in respect of whom there are reasonable grounds for believing that they are likely to engage in espionage, sabotage or other subversive activity directed against or detrimental to the security of Antigua and Barbuda.
- 9. Persons against whom deportation orders have been made.
- 10. Persons seeking to enter Antigua and Barbuda who are without proper documentation of identity.
- 11. A person not being a citizen of Antigua and Barbuda who is declared by the court prohibited.
- 12. A person not being a citizen of Antigua and Barbuda who is ordered by the court to be removed.
- 13. The dependants of prohibited immigrants who are not citizens of Antigua and Barbuda.
- 14. A person or class of persons prohibited from entering Antigua and Barbuda under the provisions of section 9.
- 15. A person who, not having received a free pardon, has been in any country convicted of an offence for which a sentence of imprisonment has been passed and who, for this reason, appears to be an undesirable immigrant.
- 16. A person who is likely to become a public charge by reason of infirmity of body or mind or who is not in possession of sufficient means to support himself and such of his dependants as he shall bring with him to Antigua and Barbuda.
- 17. A person who, since attaining the age of fourteen years, has been convicted in any place of murder or an offence of a nature punishable in Antigua and Barbuda with imprisonment for a term of three years or more and who by reason of such conviction is deemed by an immigration officer to be an undesirable immigrant.

Passed the House of Representatives
on the , 2014.

Passed the Senate on the , 2014.

No. of 2014

The Immigration and Passport Act, 2014

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.