6th October, 1961

CABINET

COMMONWEALTH MIGRANTS

Memorandum by the Secretary of State for
the Home Department

When the Cabinet last considered this subject on 30th May, 1961, they invited the Lord Chancellor to arrange for the Commonwealth Migrants Committee to give further consideration to the practicability of controlling immigration to the United Kingdom from other parts of the Commonwealth (C. C. (61) 29th Conclusions, Minute 7). At a recent meeting over which I presided in the absence of the Lord Chancellor, the Committee confirmed their earlier conclusion that it was both practicable and necessary to introduce legislation controlling Commonwealth immigration; and they approved for submission to the Cabinet, subject to some revision, the draft of a Bill for that purpose. The draft Bill attached to this paper has been approved by the Legislation Committee, subject to further consideration of some points of detail which are noted in paragraph 13 below.

2. The scale of coloured immigration is already very high and is rapidly increasing. The latest monthly figure available, for August, is the highest on record at 15,700; and the estimated total for 1961 is well over 100,000 as compared with 57,700 for 1960 and 21,000 for 1959. The great bulk of coloured immigrants have always come from the West Indies but the Indian sub-continent is now a fairly close second: for some years the Indian and Pakistani Governments were able to exercise reasonably effective controls on emigration to the United Kingdom but these no longer appear to be achieving their purpose, while the West Indian Governments have never felt able to impose any kind of effective control. The case for control by Her Majesty's Government rests mainly upon two considerations - the strain imposed by coloured immigration on the housing resources of certain local authorities and the dangers of social tension inherent in the existence of large unassimilated coloured communities. The Commonwealth Migrants Committee recognise that control would represent a departure from the long-standing freedom of all British subjects to enter and stay in the United Kingdom; that unrestricted Commonwealth immigration is on balance to our economic advantage; that control cannot at present be conclusively justified on grounds of employment, health or public order; and that its introduction would give rise to sharp criticism in some Commonwealth countries and fierce controversy in Parliament. Nevertheless, taking full account of all the arguments on both sides, the Committee recommend that, since assimilation is not taking place to any significant extent while coloured immigration seems likely to go on increasing, control should be accepted as a sad necessity.
Character of the Proposed Control

3. The scheme comprised in the Bill is a flexible employment control applying, broadly, to Commonwealth citizens not either born in the United Kingdom or holding valid passports issued by the United Kingdom Government. The central feature of the scheme is that entry would depend upon possession of a voucher issued by the Ministry of Labour, which would for this purpose recognise three categories of applicant:

(a) Those having jobs to go to.

(b) Those who have undergone apprenticeship or training, or have professional or educational qualifications or experience, accepted as likely to be useful in this country.

(c) Others.

The intention is that vouchers should be issued freely to persons in categories (a) and (b); and to persons in category (c) on the principle of "first come, first served" within numerical limits determined by the Government from time to time in the light of all relevant factors - social, economic, etc. The Bill provides that entry may not be refused to anyone who can support himself without working and entry would, of course, continue to be granted unconditionally to persons of certain other types, such as genuine students. On the other hand, the Bill applies to all would-be immigrants provision that entry may be refused to anyone on specified grounds of health, criminal record or national security.

4. The great merit of this scheme is that it can be presented as making no distinction on grounds of race or colour, although in practice all would-be immigrants from the old Commonwealth countries would almost certainly be able to obtain authority to enter under either category (a) or category (b). We must recognise that, although the scheme purports to relate solely to employment and to be non-discriminatory, its aim is primarily social and its restrictive effect is intended to, and would in fact, operate on coloured people almost exclusively. This will be seen and, no doubt, laboured by some of our critics, but there is no escape from it and at least such critics will not be able to sustain any suggestion that the scheme is inherently discriminatory. The Commonwealth Migrants Committee are agreed that we should resist any attempt to write into the Bill provision against discrimination on grounds of race or colour. On the other hand, the scheme will not necessarily produce an immediate or dramatic reduction in coloured immigration; its impact will largely depend upon our decisions as a Government about the numbers to be admitted in category (c). Some of our own supporters may therefore well be far from satisfied, but we can probably hope for no better situation than one not wholly pleasing to our critics at either extreme.

5. The Commonwealth Migrants Committee are satisfied that, if we were to join the European Economic Community, the freedom of citizens of other countries in the Community to come here would remain subject to
administrative control which need be no more liberal than the proposed system of control for Commonwealth citizens.

Other Features of the Bill

6. **Landing Conditions.** An important aspect of the Bill is that it differentiates between Commonwealth citizens and aliens by not imposing upon the former a universal requirement to obtain leave to land. On the other hand, the Bill authorises Immigration Officers to grant entry subject to conditions and in consequence to require landing and embarkation cards. It seems prudent to have these additional powers, if only in reserve. Despite the best efforts of Immigration Officers the scheme is bound to cause some additional delay to all arriving at the sea and airports used by Commonwealth immigrants, but this is an unavoidable disadvantage of any scheme for controlling Commonwealth immigration.

7. **The Bill gives powers, comparable to those under the Aliens Order, to require the master, commander, owners or agents of a ship or aircraft to take back persons refused admission.** This is essential as a deterrent to any who might be tempted to bring large numbers of immigrants to this country without Ministry of Labour vouchers.

8. **Appeals.** It is inevitable that Immigration Officers should be given wide discretion and that their decisions to grant or refuse entry should have immediate effect. The Commonwealth Migrants Committee are agreed that it would not be practicable to provide for appeals against refusal but there will be administrative arrangements whereby on occasions of doubt Immigration Officers can rapidly refer individual cases to the Home Office for confirmation.

9. **Irish Citizens.** As drafted, the Bill applies to citizens of the Irish Republic, but the Commonwealth Migrants Committee are agreed that control of entry from Ireland is not in fact practicable. Since in the last analysis the proposed control would operate on the principle of "first come, first served", thus involving no national quotas, I see no alternative but to be frank about the Irish if the question is raised, taking our stand upon the same considerations which led us in the context of nationality to treat Irish citizens as if they were British subjects - a useful precedent in the present connection. It would also be impracticable to have a comprehensive control of Commonwealth citizens entering this country via the Irish Republic. Arrangements would be made for ad hoc control where, for example, a large boatload of West Indians was expected by this route: for the rest we would hope to obtain - as we do over aliens - the co-operation of the immigration authorities of the Irish Republic in operating a control similar to ours.

10. **Deportation.** The Commonwealth Migrants Committee consider provision for deportation desirable and overdue in its own rights, quite apart from the question of controlling Commonwealth immigration, and the Bill includes provision for deportation essentially on the lines of the policy agreed when a draft Deportation Bill was considered in 1958-59.
This provision enables the Courts to recommend the deportation of Commonwealth citizens who have lived here for less than five years, do not belong to the United Kingdom by birth, descent or naturalisation and are convicted of any offence carrying liability to imprisonment. The
Legislation Committee suggested, however, that an immigrant should be liable to deportation even if he had lived here for more than five years, provided that this result could be achieved without an unfortunate discrimination between citizens of dependent and independent Commonwealth territories. There is no provision for deportation except on the recommendation of a Court and the Home Secretary will have a discretion whether or not to order deportation.

But under the British Nationality Act, 1948, as it now stands, citizens of most other Commonwealth countries could escape liability to deportation after only twelve months' residence in the United Kingdom by exercising the right given in Section 6(1) to register as citizens of the United Kingdom and Colonies. For citizens of most Commonwealth countries such registration entails loss of their former citizenship, with the result that a subsequent deportation order could not be made effective. The Commonwealth Migrants Committee consider that the British Nationality Act, 1948, should be amended by increasing the period prescribed in Section 6(1) from twelve months to five years, thus bringing it fully into line with the proposed period during which Commonwealth citizens would be liable to deportation. It is proposed that there should be a period of six months during which persons may exercise an existing right to registration which would otherwise be removed by the Bill.

The form of the Bill. In view of the importance and political sensitivity of the course which it is now proposed to take, both the Commonwealth Migrants Committee and the Legislation Committee are agreed that it would be advisable to include in the Bill itself rather than in any subordinate legislation all those provisions which we do not expect to require variation from time to time.

Miscellaneous. In accordance with the wishes of the Legislation Committee I am arranging for further consideration to be given to the following points:

(a) Short title. It may be possible to reflect in the title the importance of the deportation provisions and to reduce the emphasis on "Commonwealth". "Immigration and Deportation (Commonwealth Citizens) Bill" is a possibility.

(b) The position of West Indian recruits to the British Army who exercise while in this country the right to purchase their discharge within three months of enlistment.

(c) The application of the Bill to Scotland, Northern Ireland and the Channel Islands and the Isle of Man.

(d) The five year limit for deportation (see paragraph 10 above).
Cost

14. As far as it is possible to judge at this stage, the administrative cost of the scheme would be somewhere in the region of £500,000 a year.

Recommendations

15. I ask my colleagues -

(a) To approve the draft Bill subject to further revision as may be necessary.

(b) To agree that it should be mentioned in The Queen's Speech and published early in November.

R.A.E.

Home Office, S.W.1.

ARRANGEMENT OF CLAUSES

PART I
CONTROL OF IMMIGRATION

Clause
1. Application of Part I.
2. Power of immigration officers to refuse admission and admit subject to conditions.
3. Supplementary provisions as to control of immigration.
4. Offences in connection with control of immigration.

PART II
DEPORTATION

5. Application of Part II.
6. Power of court to recommend for deportation.
7. Deportation orders.
8. Supplementary provisions as to deportation.

PART III
MISCELLANEOUS AND GENERAL

10. Amendment of British Nationality Act, 1948, s. 6.
11. General provisions as to detained persons.
12. Appointment and powers of immigration officers, etc.
13. General provisions as to orders, directions etc.
15. Persons excepted from immigration control and deportation.
16. Application to Scotland [and Northern Ireland.]
17. Extension to Channel Islands and Isle of Man.
18. Short title, interpretation and commencement.

SCHEDULES:
First Schedule—Supplementary provisions as to control of immigration.
Part I—General provisions.
Part II—Special provisions as to crews of ships and aircraft and stowaways.
Second Schedule—Supplementary provisions as to deportation.
DRAFT OF A BILL

Control the immigration into the United Kingdom of Commonwealth citizens; to authorise the deportation from the United Kingdom of certain Commonwealth citizens convicted of offences and recommended by the court for deportation; to make the like provision in respect of British protected persons and citizens of the Republic of Ireland; to amend section six of the British Nationality Act, 1948; and for purposes connected with the matters aforesaid.

B E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CONTROL OF IMMIGRATION

1.—(1) The provisions of this Part of this Act shall have application for controlling the immigration into the United Kingdom of Commonwealth citizens not belonging to the United Kingdom.  

(2) For the purposes of this Part of this Act a person shall be treated as belonging to the United Kingdom if (and only if)—

(a) he was born in the United Kingdom; or

(b) he is the holder of, or is a person whose name is included in, a valid passport issued by the Government of the United Kingdom, not being—

(i) a passport so issued on behalf of the Government of any other part of the Commonwealth; or

(ii) a passport issued, otherwise than in the United Kingdom or the Republic of Ireland, to a British protected person or to a British subject who is not a citizen of the United Kingdom and Colonies;
and references in this Part of this Act to Commonwealth citizens not belonging to the United Kingdom shall be construed accordingly.

(3) The references in paragraphs (a) and (b) of subsection (2) of this section to the United Kingdom and to the Government of the United Kingdom shall be construed as including references to the Channel Islands and the Isle of Man and to their Governments.

(4) This Part of this Act shall apply to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens.

(5) Any reference in this Part of this Act to landing or embarking is a reference to landing from or embarking in a ship or aircraft; but the provisions of this Part of this Act relating to persons landing in the United Kingdom shall not apply to persons landing from a ship or aircraft which began its voyage at a place in the United Kingdom, any of the Channel Islands or the Isle of Man, and has not during the voyage called at any place outside those countries.

2.—(1) Subject to the provisions of this section, an immigration officer may, by notice given to any Commonwealth citizen not belonging to the United Kingdom who lands or seeks to land in the United Kingdom—

(a) refuse him admission into the United Kingdom; or

(b) admit him into the United Kingdom subject to conditions for restricting the period for which he may remain there or for regulating his employment or occupation there.

(2) Except as provided by subsection (3) of this section, a Commonwealth citizen shall not be refused admission into the United Kingdom if he satisfies the immigration officer either—

(a) that he wishes to enter the United Kingdom for the purposes of employment there, and is the holder of a voucher issued in pursuance of arrangements made for the purposes of this section by the Minister of Labour and the Ministry of Labour and National Insurance in Northern Ireland; or

(b) that he is able, while in the United Kingdom, to support himself and his dependants, if any, otherwise than by taking employment or engaging for reward in any business, profession or occupation.

(3) Notwithstanding anything in the last foregoing subsection, admission into the United Kingdom may be refused in the
case of any Commonwealth citizen not belonging to the United Kingdom—

(a) if it appears to the immigration officer, or to a medical inspector, that he is a person suffering from mental disorder, or that it is otherwise undesirable for medical reasons that he should be admitted; or

(b) if the immigration officer has reason to believe that he has been sentenced in any country to imprisonment for a term not less than twelve months; or

(c) if his admission would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(4) A notice under subsection (1) of this section refusing admission into the United Kingdom may at any time be cancelled by a subsequent notice given by an immigration officer; and any condition imposed by a notice under that subsection may at any time be revoked or varied by the Secretary of State.

3.—(1) The provisions of Part I of the First Schedule to this Act shall have effect with respect to the examination of persons landing or seeking to land in the United Kingdom, the removal from the United Kingdom of Commonwealth citizens not belonging to the United Kingdom who are refused admission under section two of this Act, the detention of such persons and citizens pending further examination or pending removal from the United Kingdom, and other matters supplementary to the foregoing provisions of this Act.

(2) The provisions of Part II of the said First Schedule shall have effect for the purposes of the application of this Part of this Act (including Part I of the said Schedule) to Commonwealth citizens not belonging to the United Kingdom who arrive in the United Kingdom as members of the crews of ships and aircraft or as stowaways in ships.

(3) Any notice under subsection (1) of the said section two, and any condition imposed by such a notice shall, unless previously cancelled or revoked under subsection (4) of that section, cease to have effect if the person to whom it relates again lands or seeks to land in the United Kingdom and is on that occasion examined in pursuance of Part I of the said First Schedule.

(4) In this section, and in Part II of the said First Schedule, "member of the crew", in relation to a ship or aircraft, means any person actually employed in the working or service of the ship or aircraft, including the master of the ship or commander of the aircraft.

(5) References in this Act to this Part of this Act include references to the said First Schedule.
PART I

Offences in connection with control of immigration.

4.—(1) If any person being a Commonwealth citizen not belonging to the United Kingdom—

(a) enters or remains within the United Kingdom, otherwise than in accordance with the directions or under the authority of an immigration officer, while a refusal of admission under section two of this Act is in force in relation to him; or

(b) contravenes or fails to comply with any condition imposed on him under that section or under Part II of the First Schedule to this Act, he shall be guilty of an offence; and any offence under this subsection, being an offence committed by entering or remaining in the United Kingdom, shall be deemed to continue throughout any period during which the offender is in the United Kingdom thereafter.

(2) If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence under subsection (1) of this section, being an offence committed by entering or remaining within the United Kingdom, he shall be guilty of an offence.

(3) If any person—

(a) makes or causes to be made to any immigration officer or other person lawfully acting in the execution of this Part of this Act, any false return, false statement or false representation; or

(b) refuses to produce to any such officer or person any document, or to furnish him with any information, which the said officer or person may reasonably require for the purposes of this Part of this Act, or otherwise obstructs any such officer or person in the exercise of his functions thereunder; or

(c) without lawful authority, alters any voucher or other document issued or made under or for the purposes of this Part of this Act, or uses for the purposes of this Part of this Act, or has in his possession for such use, any forged, altered or irregular voucher, passport or other document,

he shall be guilty of an offence.

(4) If any person acts in contravention of, or fails to comply with, any provision of the First Schedule to this Act, or of any order made, directions given or requirement imposed thereunder, he shall be guilty of an offence.

(5) For the purposes of the trial of a person for any offence under this section, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which the offender may be.
(6) A constable or immigration officer may arrest without warrant any person whom he has reasonable grounds to believe to have committed an offence under subsection (1) of this section.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both.

**PART II**

**DEPORTATION**

10 5.—(1) This Part of this Act shall have effect for authorising the deportation from the United Kingdom of Commonwealth citizens to whom it applies, who are convicted of offences punishable with imprisonment and recommended by the court for deportation.

(2) This Part of this Act applies to any Commonwealth citizen not being—

(a) a person born in the United Kingdom, or whose father was born in the United Kingdom, or of whose parents either or both was ordinarily resident in the United Kingdom at the time of his birth;

(b) a person who became a Commonwealth citizen by being naturalised in the United Kingdom or by being adopted in the United Kingdom, or by being registered in the United Kingdom as a citizen of the United Kingdom and Colonies under section seven of the British Nationality Act, 1948; or

(c) the wife of a person satisfying the conditions specified in paragraph (a) or paragraph (b) of this subsection.

(3) The references in subsection (2) of this section to the United Kingdom shall be construed as including references to the Channel Islands and the Isle of Man.

(4) This Part of this Act shall apply to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens.

35 6.—(1) Subject to the provisions of this section, where a Commonwealth citizen to whom this Part of this Act applies, and who has attained the age of seventeen years, is convicted of an offence punishable with imprisonment, the court by or before which he is convicted, or any court to which his case is brought by way of appeal against conviction or sentence, may recommend that a deportation order be made in respect of him.
(2) No recommendation under this section (in this Part of this Act referred to as a recommendation for deportation) shall be made upon the conviction of an offender who—

(a) is ordinarily resident in the United Kingdom on the date of his conviction; and

(b) has been so resident for at least five years before that date;

and for the purposes of this subsection a period of residence in any of the Channel Islands or the Isle of Man shall be treated as a period of residence in the United Kingdom, but in calculating the period for which any person has been so resident no account shall be taken of any continuous period of six months or more during which he has been detained under a sentence or order passed or made by any court on a conviction of an offence.

(3) No recommendation for deportation shall be made in respect of an offender unless a notice has been given to him at least three days before the recommendation is made—

(a) describing the classes of persons in respect of whom such a recommendation may be made; and

(b) containing a statement of the effect of subsection (6) of this section;

and the power of adjournment conferred by subsection (3) of section fourteen of the Magistrates' Courts Act, 1952, shall include power to adjourn, after convicting an offender, for the purpose of enabling such a notice to be given to him or, if such a notice was given to him less than three days previously, for the purpose of enabling the necessary three days to elapse.

(4) Where a person convicted of an offence by any court is committed for sentence to another court, any power to make a recommendation for deportation in respect of him shall be exercisable by the court to which he is committed and not by the court by which he is convicted.

(5) For the purposes of any enactment relating to appeals in criminal cases, a recommendation for deportation shall be treated as an order made on conviction; and the validity of such a recommendation shall not be called in question except on an appeal against the recommendation or against the conviction in consequence of which it is made.

(6) If any question arises whether a person is a Commonwealth citizen to whom this Part of this Act applies or, being such a citizen, is a person in respect of whom a recommendation for deportation may be made under this section, it shall lie on him to prove that he is not such a citizen or person; and for the purposes of this section the age of an offender at the time of his conviction shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.
(7) In this section "offence punishable with imprisonment" includes an offence which would be so punishable apart from any enactment restricting the imprisonment of young offenders or first offenders.

5 7.—(1) Where a recommendation for deportation has been made in respect of an offender, the Secretary of State may, if he thinks fit, make in respect of him a deportation order, that is to say an order requiring him to leave the United Kingdom and prohibiting him from returning there so long as the order is in force.

(2) A deportation order shall not be made under this section in pursuance of a recommendation for deportation unless either—

(a) the time for bringing an appeal against the recommendation, or against the conviction upon which it was made, has expired without such an appeal having been brought; or

(b) such an appeal has been brought and abandoned, or finally determined otherwise than by the quashing of the recommendation or the conviction; or

(c) the recommendation was made on appeal and no further appeal lies.

(3) The Secretary of State may, if he thinks fit, revoke a deportation order at any time, whether before or after the person to whom it relates has left or been removed from the United Kingdom, but the revocation of a deportation order shall not affect the validity of anything previously done thereunder.

8. The provisions of the Second Schedule to this Act shall have effect with respect to the removal from the United Kingdom of persons in respect of whom deportation orders are made, and with respect to the detention or control of persons in respect of whom recommendations for deportation or deportation orders are in force.

9.—(1) If any person in respect of whom a deportation order is in force—

(a) having left the United Kingdom after the coming into force of the order, subsequently returns to the United Kingdom; or

(b) having been placed on board a ship or aircraft under the Second Schedule to this Act, lands from that ship or aircraft before it has left the United Kingdom, he shall be guilty of an offence; and any offence under this subsection shall be deemed to continue throughout any period during which the offender is in the United Kingdom after its commission.
PART II

(2) If any person upon whom any restriction or requirement is imposed under paragraph 2 of the Second Schedule to this Act fails to comply with that restriction or requirement, he shall be guilty of an offence.

(3) Where a person in respect of whom a deportation order is in force is convicted of an offence under subsection (1) of this section, the deportation order shall cease to have effect, but without prejudice to the power to make a recommendation for deportation upon that conviction.

(4) If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence under subsection (1) of this section, he shall be guilty of an offence.

(5) For the purposes of the trial of a person for any offence under this section, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which the offender may be.

(6) A constable or immigration officer may arrest without warrant any person whom he has reasonable grounds to believe to have committed an offence under subsection (1) or subsection (2) of this section.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both.

PART III

MISCELLANEOUS AND GENERAL

10.—(1) Subsection (1) of section six of the British Nationality Act, 1948 (which relates to the registration as citizens of the United Kingdom and Colonies of certain Commonwealth citizens and citizens of the Republic of Ireland) shall be amended as follows—

(a) in paragraph (a) (under which the right to be registered arises at the end of twelve months' ordinary residence in the United Kingdom, or such shorter period of ordinary residence there as the Secretary of State may in the special circumstances of any particular case accept), for the words “twelve months” there shall be substituted the words “five years”; and

(b) in paragraph (b) (which confers the said right on any person who is in Crown service under Her Majesty’s government in the United Kingdom), after the word “Kingdom” there shall be added the words “and
(2) A person in respect of whom a recommendation for deportation or deportation order under Part II of this Act is for the time being in force shall not be entitled to be registered as a citizen of the United Kingdom and Colonies under subsection (1) of the said section six; but the Secretary of State may, if he thinks fit, register under that subsection any person who would be entitled to be so registered but for this subsection.

(3) Any person who within six months after the date of the passing of this Act makes application for registration under subsection (1) of the said section six shall be entitled to registration thereunder as if subsection (1) of this section had not been enacted if he satisfies the Secretary of State either—

(a) that he was ordinarily resident in the United Kingdom on that date and had been so resident throughout the period of twelve months ending with that date, or such shorter period so ending as the Secretary of State may in the special circumstances of any particular case accept; or

(b) that he was in Crown service under Her Majesty's government in the United Kingdom on that date;

and subsection (2) of section three of the British Nationality Act, 1958 (which extends the power of the Secretary of State to register persons under subsection (1) of the said section six) shall have effect accordingly.

(4) This section shall be construed as one with the British Nationality Act, 1948.
PART III

Attendance is required for the purpose of ascertaining his citizenship, or of making arrangements for his admission to any country or territory.

(4) Any person required or authorised by this Act to be detained may be arrested without warrant by a constable or an immigration officer; and any such person who is so detained, or is being removed in pursuance of this section, shall be deemed to be in legal custody.

12.—(1) Immigration officers for the purposes of this Act shall be appointed by the Secretary of State, and the Secretary of State may arrange with the Commissioners of Customs and Excise for the employment of officers of Customs and Excise as immigration officers under this Act.

(2) In the exercise of their functions under this Act, immigration officers shall act in accordance with such instructions as may be given by the Secretary of State.

(3) Medical inspectors for the purposes of this Act may be appointed by the Minister of Health in pursuance of arrangements made between that Minister and the Secretary of State; and such inspectors shall, in the exercise of their functions under this Act, act in accordance with such instructions as may be given by that Minister in pursuance of such arrangements as aforesaid.

(4) An immigration officer or medical inspector may board any ship for the purpose of exercising any of his functions under this Act.

13.—(1) Any power to make orders or give directions under this Act includes power to revoke or vary such orders or directions.

(2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Act, and to be signed by him or on his behalf, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.

(3) Prima facie evidence of any such order, notice or direction as aforesaid may, in any legal proceedings, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice or direction.

(4) Where any such order applies to persons specified in the Schedule thereto, prima facie evidence of the provisions of the order other than the Schedule and of any entry contained in the
Schedule may, in any legal proceedings, be given by the pro-
duction of a document purporting to be signed as aforesaid and
stating that the document is a true copy of the said provisions
and of the relevant entry.

5 14. There shall be defrayed out of moneys provided by Par-
liament any administrative expenses incurred for the purposes
of this Act by the Secretary of State, the Minister of Labour or
the Minister of Health, including expenses incurred by the Sec­
retary of State in connection with the removal from the United
Kingdom, and the detention pending removal, of persons to
whom permission to enter the United Kingdom is refused and
of persons ordered to be deported and their dependants, if any,
so far as those expenses are not otherwise defrayed in pursuance
of the Second Schedule to this Act.

15 15. The following persons shall be exempt from control under
Part I of this Act, and from deportation under Part II of this
Act, that is to say any person who—

(a) is a member of any of Her Majesty's forces; or
(b) being a member of the naval, military or air forces of
any Commonwealth country, is serving in the United
Kingdom or undergoing training therein with Her
Majesty's forces; or

(c) is entitled to diplomatic immunities under any of the
following enactments, that is to say the International
Organisations (Immunities and Privileges) Act, 1950,
the Diplomatic Immunities (Commonwealth Countries
and Republic of Ireland) Act, 1952, or the Diplomatic
Immunities (Conferences with Commonwealth
Countries and Republic of Ireland) Act, 1961, or by
virtue of his employment in the service of the
Government of any foreign country; or

(d) is a person of any such class as may be prescribed by
order of the Secretary of State.

(2) The power of the Secretary of State to make orders under
subsection (1) of this section shall be exercisable by statutory
instrument; and any statutory instrument containing such an
order shall be subject to annulment in pursuance of a resolution
of either House of Parliament.

16.—(1) The following provisions of this subsection shall have
effect for the purposes of the application of this Act to Scotland.
that is to say—

(a) the power to make a recommendation for deportation
under section six shall be exercisable only by the
sheriff or by the High Court of Justiciary, or by the
latter Court on appeal against a conviction on indict­
ment or a sentence upon such a conviction;
PART III

(b) in subsection (3) of that section, for the reference to subsection (3) of section fourteen of the Magistrates' Courts Act, 1952, there shall be substituted a reference to section twenty-six of the Criminal Justice (Scotland) Act, 1949;

to subsection (5) of the said section six as confers a right of appeal against a recommendation for deportation shall not apply, but any person in respect of whom such a recommendation is made by a court in Scotland may, without prejudice to any other form of appeal under any rule of law, appeal against the recommendation in the same manner as against a conviction;

(d) a deportation order may be made under section seven of this Act pursuant to a recommendation for deportation made by a court in Scotland where—

(i) no appeal against the recommendation or the conviction in consequence of which it was made has been brought within a period of fourteen days from the date on which the recommendation was made; or

(ii) such an appeal has been brought and abandoned, or deemed to have been abandoned, or finally determined otherwise than by the quashing of the recommendation or conviction; or

(iii) the recommendation was made on an appeal; and subsection (2) of that section shall not apply;

(e) in subsection (3) of section twelve, for references to the Minister of Health there shall be substituted references to the Secretary of State, and the words "in pursuance of arrangements made between that Minister and the Secretary of State" and the words "in pursuance of such arrangements as aforesaid" shall be omitted.

(2) [Northern Ireland]

Extension to Channel Islands and Isle of Man.

17. Her Majesty may by Order in Council direct that the provisions of this Act other than section ten and this section shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to the Isle of Man or any of the Channel Islands; and any Order in Council under this section may in particular direct that, for the purposes of the extension as aforesaid of any such provision specified in the order, any reference to the United Kingdom shall be construed as or as including a reference to any of those islands.

Short title, interpretation and commencement.

18.—(1) This Act may be cited as the Commonwealth Immigrants Act, 1961.
(2) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say,—

"Commonwealth citizen not belonging to the United Kingdom" has the meaning assigned by section one of this Act;

"immigrant" means a Commonwealth citizen not belonging to the United Kingdom who has landed or seeks to land in the United Kingdom;

"port" includes any place where a person lands or embarks in the United Kingdom;

"ship" includes every description of vessel used in navigation;

and subsection (5) of section thirty-two of the British Nationality Act, 1948 (which relates to persons born aboard ships or aircraft) shall apply for the purpose of this Act as it applies for the purpose of that Act.

(3) This Act shall come into operation on such date as the Secretary of State may by order appoint; and different dates may be appointed by order under this section for different purposes of this Act.
SCHEDULES
FIRST SCHEDULE
SUPPLEMENTARY PROVISIONS AS TO CONTROL OF IMMIGRATION

PART I
GENERAL PROVISIONS 5

Examination of persons landing in the United Kingdom

1.—(1) Subject to the provisions of this paragraph, an immigration officer may examine any person who lands or seeks to land in the United Kingdom for the purpose of ascertaining whether that person is or is not a Commonwealth citizen not belonging to the United Kingdom, and if so for the purpose of determining what action, if any, should be taken in his case under Part I of this Act; and it shall be the duty of every such person to furnish to an immigration officer such information as that officer may require for the purpose of his functions under this paragraph.

(2) A person shall not be required to submit to examination under this paragraph after the expiration of the period of twenty-four hours from the time when he lands in the United Kingdom unless, upon being examined within that period, he is required by an immigration officer to submit to further examination.

(3) Any person liable to be examined by an immigration officer under the foregoing provisions of this paragraph shall, if directed to do so by such an officer in the course of his examination—

(a) declare whether or not he is carrying or conveying any documents;

(b) produce to the officer any documents which he is carrying or conveying.

(4) The power to examine a person seeking to land in the United Kingdom conferred on an immigration officer by the said provisions shall include power to search him and any baggage belonging to him or under his control with a view to ascertaining whether he is carrying or conveying any documents; and the immigration officer may examine, and may detain for such time as he thinks proper for the purposes of examination, any documents produced to him or found on such a search.

(5) The powers of an immigration officer under this paragraph may be exercised also by a medical inspector, and references in this paragraph to examination shall be construed accordingly.

General provisions as to refusal of admission and admission subject to conditions

2.—(1) A notice under subsection (1) of section two of this Act shall not be given to any person later than twelve hours after the conclusion of his examination under paragraph 1 of this Schedule.

(2) Any such notice as aforesaid shall be in writing and, subject to sub-paragraph (3) of this paragraph shall be delivered by the immigration officer to the immigrant to whom it relates.
(3) Where an immigrant who is to be admitted into the United Kingdom subject to conditions is a member of a party in the charge of a person appearing to the immigration officer to be a responsible person, the notice shall be duly given if given to the person in charge of the party.

(4) The power of the Secretary of State to vary conditions imposed by a notice under section two of this Act may be exercised either by notice in writing to any immigrant to whom such a condition applies or by order applying to immigrants of any class to whom such conditions for the time being apply.

**Removal of immigrants on refusal of admission**

3.—(1) Where an immigrant is refused admission into the United Kingdom an immigration officer may, subject to sub-paragraph (2) of this paragraph, give directions—

15 (a) to the master of the ship or commander of the aircraft in which the immigrant arrived in the United Kingdom, requiring him to remove the immigrant from the United Kingdom in that ship or aircraft; or

(b) to the owners or agents of the said ship or aircraft, requiring them to remove the immigrant from the United Kingdom in any ship or aircraft specified in the directions, being a ship or aircraft of which they are the owners or agents; or

(c) to the said owners or agents, requiring them to make arrangements for the removal of the immigrant from the United Kingdom in any ship or aircraft bound for a country or territory specified in the directions, being either—

(i) a country of which the immigrant is a citizen; or

(ii) a country or territory in which he has obtained a passport or other document of identity; or

(iii) a country or territory in which he embarked for the United Kingdom; or

(iv) a country or territory to which there is reason to believe that the immigrant will be admitted, and for securing him a passage to that country or territory.

(2) No directions shall be given under this paragraph in respect of an immigrant after the expiration of two months beginning with the date on which he arrived in the United Kingdom.

(3) An immigrant in respect of whom directions are given under sub-paragraph (1) of this paragraph may be placed, under the authority of an immigration officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.

**Detention of immigrants pending further examination or removal**

4.—(1) An immigrant who is required to submit to further examination under this Schedule, or who is refused admission into the United Kingdom under section two of this Act, may be detained under the authority of an immigration officer or constable pending
that further examination, or pending the giving of directions under paragraph 3 of this Schedule and pending removal in pursuance of such directions, as the case may be; and where any such immigrant is on board a ship or aircraft, he may, under the like authority, be removed therefrom for detention under this paragraph.

(2) The master of a ship shall, if so required by an immigration officer, take such steps as may be necessary for preventing—

(a) an immigrant who arrived in the ship and to whom admission into the United Kingdom has been refused; or

(b) an immigrant who has been placed on board the ship under paragraph 3 of this Schedule,

from landing from the ship before it leaves the United Kingdom; and for that purpose the master may detain the immigrant in custody on board the ship.

(3) The commander of an aircraft shall, if so required by an immigration officer take such steps as may be necessary for preventing an immigrant who has been placed on board the aircraft under paragraph 3 of this Schedule from landing from the aircraft before it leaves the United Kingdom; and for that purpose the commander may detain the immigrant in custody on board the aircraft.

Landing and embarkation cards

5.—(1) The Secretary of State may by order make provision for requiring passengers landing or embarking in the United Kingdom, or any class of such passengers, to produce to an immigration officer, if so required, landing or embarkation cards in such form as the Secretary of State may direct, and for requiring the owners or agents of ships and aircraft to supply such cards to those passengers.

(2) The power of the Secretary of State to make orders under this paragraph shall be exercisable by statutory instrument.

PART II

SPECIAL PROVISIONS AS TO CREWS OF SHIPS AND AIRCRAFT AND STOWAWAYS

British seaman's cards

6.—(1) If a Commonwealth citizen who holds a British seaman's card arrives in the United Kingdom as a member of the crew of a ship, that card shall be treated for the purposes of section one of this Act as a passport issued by the government of the United Kingdom.

(2) In this paragraph "British seaman's card" means a card issued under any order in force under section four of the Emergency Laws (Miscellaneous Provisions) Act, 1953, or any card having effect as a card so issued.
Examination of crews

7.—(1) An immigration officer may examine under paragraph 1 of this Schedule any person who arrives at a port in the United Kingdom as a member of the crew of a ship, whether or not he lands or seeks to land in the United Kingdom and the provisions of that paragraph shall apply to any such person as they apply to persons landing or seeking to land in the United Kingdom.

(2) The Secretary of State may by order make provision for requiring the masters of ships and commanders of aircraft arriving at ports in the United Kingdom to furnish to immigration officers particulars of the members of the crews of those ships or aircraft, and for enabling an immigration officer to dispense with the furnishing of such particulars.

(3) The power of the Secretary of State to make orders under sub-paragraph (2) of this paragraph shall be exercisable by statutory instrument.

Seamen overstaying shore leave

8.—(1) If any Commonwealth citizen not belonging to the United Kingdom—
5 (a) arrives at a port in the United Kingdom as a member of the crew of a ship, not being a ship which began its voyage at a place in the United Kingdom, any of the Channel Islands or the Isle of Man and has not during the voyage called at any place outside those countries; and

(b) remains in the United Kingdom after his ship has left the port and without having been examined by an immigration officer under paragraph 1 of this Schedule,

he shall, subject to the following provisions of this paragraph, be treated for the purposes of this Act as if he had been refused admission to the United Kingdom.

(2) An immigration officer may, by notice given at any time to any such Commonwealth citizen as aforesaid, authorise him to remain in the United Kingdom either without conditions or subject to any such conditions as could be imposed by notice under section two of this Act, including in particular conditions requiring him to leave the United Kingdom in a specified ship or to leave the United Kingdom within a specified period in accordance with arrangements for his repatriation; and where such a notice is given to any person, he shall not be treated as a person to whom admission to the United Kingdom has been refused unless, in the case where he is subject to conditions requiring him to leave the United Kingdom as aforesaid, he fails to comply or is reasonably suspected of intending to fail to comply with those conditions.

(3) In relation to any person to whom it applies by virtue of this paragraph, paragraph 3 of this Schedule shall have effect as if sub-paragraph (2) of that paragraph were omitted.

(4) Any conditions imposed under this paragraph may at any time be revoked or varied by the Secretary of State; and sub-paragraph 137 D
1ST SCH. (4) of paragraph 2 of this Schedule shall apply in relation to any conditions so imposed as it applies in relation to conditions imposed by a notice under section two of this Act.

Stowaways

9.—(1) The provisions of paragraph 8 of this Schedule shall, subject to the provisions of this paragraph, apply to any Commonwealth citizen not belonging to the United Kingdom who arrives at a port in the United Kingdom as a stowaway in a ship as they apply in relation to any such citizen who arrives at such a port as a member of the crew of a ship.

(2) In relation to any person to whom it applies by virtue of this paragraph, sub-paragraph (1) of the said paragraph 8 shall have effect as if paragraph (b) were omitted.

SECOND SCHEDULE

Supplementary Provisions as to Deportation

Removal of persons subject to deportation orders

1.—(1) The Secretary of State, or any person acting under his authority may give directions to the master of any ship or commander of any aircraft which is about to leave the United Kingdom, requiring him to afford to any person against whom a deportation order is in force, and to any dependants of his specified in the directions, a passage to any port so specified (being a port at which the ship or aircraft is to call or land in the course of the voyage) and proper accommodation and maintenance during the passage.

(2) A person in respect of whom directions are given under sub-paragraph (1) of this paragraph may be placed, under the authority of the Secretary of State, on board any ship or aircraft in which he is to be removed in accordance with the directions.

(3) The Secretary of State may, if he thinks fit, apply in or towards payment of the expenses of or incidental to the voyage from the United Kingdom of a person against whom a deportation order is in force, or the maintenance until departure of such a person and his dependants, if any, any money belonging to that person.

Detention and control of persons subject to deportation

2.—(1) Where a recommendation for deportation is in force in respect of an offender and the offender is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him, he shall, unless the court by which the recommendation is made otherwise directs, be detained under the authority of the Secretary of State until the Secretary of State either—

(a) makes a deportation order in respect of him; or
(b) notifies him that no such order is to be made; or
(c) directs him to be released pending further consideration of
of his case.

(2) Where a deportation order is in force in respect of an offender,
the offender may be detained under the authority of the Secretary
of State until he is removed from the United Kingdom pursuant
to this Schedule.

(3) The master of a ship or commander of an aircraft shall, if
so required by a person acting under the authority of the Secretary
of State, take such steps as may be necessary for preventing any
person placed on board the ship or aircraft under paragraph 1 of
this Schedule from landing from the ship or aircraft before it leaves
the United Kingdom; and for that purpose the master or commander
may detain the said person in custody on board the ship or aircraft.

(4) Where a person is released from detention by direction of
the Secretary of State under sub-paragraph (1) of this paragraph
pending further consideration of his case, or, being liable to be
detained under sub-paragraph (2) of this paragraph, is not for the
time being so detained, the Secretary of State may by order impose
on him such restrictions as to his place of residence, and such re­
quirements as to reporting to the police, as the Secretary of State
thinks fit.
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To control the immigration into the United Kingdom of Commonwealth citizens; to authorise the deportation from the United Kingdom of certain Commonwealth citizens convicted of offences and recommended by the court for deportation; to make the like provision in respect of British protected persons and citizens of the Republic of Ireland; to amend section six of the British Nationality Act, 1948; and for purposes connected with the matters aforesaid.

CXL—C (5)

4th October, 1961