



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 6.06

# UNDESIRABLE PERSONS EXPULSION ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

#### UNDESIRABLE PERSONS EXPULSION ACT

**Act 8 of 1920** ... in force 28th February 1920

Amended by: Act 16 of 1975

Act 6 of 1976

Expulsion Orders:

**UNDESIRABLE PERSONS EXPULSION (GERALD WILLIAM  
DESROCHES) ORDERS**, No. 34 of 1978

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**CHAPTER 6.06**  
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## **CHAPTER 6.06**

### **UNDESIRABLE PERSONS EXPULSION ACT**

AN ACT TO PROVIDE FOR THE EXPULSION OF UNDESIRABLE PERSONS FROM THE STATE;  
AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

#### **Short title.**

1. This Act may be cited as the Undesirable Persons Expulsion Act.

#### PART I

#### PRELIMINARY

#### **Power to make expulsion orders against convicted persons.**

2. The Minister may make an expulsion order requiring any person not born in the State to leave the State within a time fixed by the order, and thereafter to remain out of the State, if it is certified to him or her by any Court in the State—

- (a) where such person is an alien, that such person has been convicted by or before that Court of any felony, or misdemeanour, or other offence for which the Court has power to impose imprisonment without the option of a fine; and
- (b) where such person is a British subject, that such person has been convicted by or before that Court of sedition (including seditious libel) or riot, whether as a principal or as an accessory,

and, in either case, that the Court recommends that an expulsion order should be made in his or her case, either in addition to or in *lieu* of his or her sentence.

*(Amended by Acts 16 of 1975 and 6 of 1976)*

#### **Power to make expulsion order for peace and good order of State.**

3. The Minister may make an expulsion order in the case of any person not born in the State if it appears to the Minister that it is expedient for the peace and good order of the State that an expulsion order should be made in the case of such person:

Provided that this section shall not apply to a British subject who is domiciled in the State, or who throughout the preceding twelve months has been resident in the State:

Provided further that before the question of the expediency of an expulsion order being made in the case of such person is considered by the Minister he or she shall be given an opportunity of urging any reasons why such an order should not be made against him or her before the Minister or before some person appointed by the Minister for the purpose, and, where a person is so appointed, he or she shall communicate the substance of such reasons, if any, to the Minister.

*(Amended by Act 6 of 1976)*

#### **Contravention of expulsion order.**

4. (1) If any person against whom an expulsion order has been made is at any time after the service of such order upon him or her found in the State in contravention of the order, he or she commits an offence under this Act.

(2) Where a person has been convicted of an offence under subsection (1) of this section the Minister may order such person to comply with the expulsion order within such extended time as the Minister may fix, and, if such person fails to comply with such expulsion order within the time so extended, or if he or she is found within the State after the expiration of the time so extended, he or she shall be deemed to have committed a further offence under this Act.

(3) The Minister may order that any person who has been convicted of an offence under either of the preceding subsections of this section shall, within six weeks after the expiration of his or her sentence, be deported from the State in such manner as the State may direct and in the meantime be detained in custody.

(4) Should such person not be deported from the State within six weeks after the expiration of his or her sentence he or she shall be liberated from custody and the Minister's order shall cease to be valid.

(5) Any person who, after having been conveyed out of the State under subsection (3), returns to the State commits an offence under this Act.

*(Amended by Act 6 of 1976)*

**Power to make an expulsion order authorising arrest and deportation.**

5. (1) It shall be lawful for the Minister, in any expulsion order, instead of requiring the person against whom it is made to leave the State within a fixed time, to order that the person be arrested and deported from the State in such manner as the Minister may by such expulsion order, or subsequently, direct.

(2) Any person arrested under an expulsion order shall, pending his or her deportation from the State, be detained in custody in such manner and place as the Minister shall direct, and, if not deported from the State within six weeks after his or her arrest, shall, on the expiration of that period, be released from custody, and the expulsion order shall cease to be valid.

(3) No person in custody under an expulsion order shall be admitted to bail except with the consent of the Minister.

(4) An expulsion order whereby the arrest of any person is ordered shall be deemed to authorise any police officer to arrest such person in any part of the State and to detain him or her in custody.

*(Amended by Act 6 of 1976)*

**Power to revoke expulsion order.**

6. It shall be lawful for the Minister to revoke an expulsion order, either absolutely or subject to such conditions as he or she may think fit.

PART II  
APPEALS

**Right of appeal.**

7. (1) Subject to the provisions of this Act, any person against whom an expulsion order has been made may appeal against such order to the High Court and the appeal shall be brought to the Judge who shall after the expiration of fifteen days from the day on which such expulsion order was served upon such person first hold a sitting of the High Court for the purpose of hearing the appeal:

Provided that such appeal shall be made on all or any of the grounds mentioned in the next following section of this Act, but not on any other grounds.

(2) The decision of the Judge shall be final, and there shall be no right of appeal therefrom.

*(Amended by Act 16 of 1975)*

**Grounds of appeal.**

8. The grounds upon which an appeal against an expulsion order may be made are—

- (a) that the expulsion order could only be legally made against an alien and that the applicant is not an alien;
- (b) in any case where the expulsion order was made under section 3 against a person who is a British subject, that such person was domiciled in the State or had been resident therein throughout the three months preceding the expulsion order.

**Notice of appeal.**

9. (1) The appellant shall, within seven days after the service of the expulsion order upon him or her, transmit to the Secretary to the Cabinet, and serve upon the Registrar a written notice of his or her intention to appeal; the notice shall specify the grounds of his or her appeal, and shall be signed by the appellant or by his or her solicitor:

Provided that any Judge may, either before or after the expiration of the seven day period, if he or she considers that the interests of justice so require, extend the said period to fourteen days.

*(Amended by Act 6 of 1976)*

(2) For the purposes of section 7 and of the preceding subsection of this section, an expulsion order ordering the arrest of the appellant shall be deemed to have been served upon him or her at the time when he or she was arrested.

(3) In the notice of appeal it shall be sufficient to refer to the appeal as being to the Judge of the High Court who shall after the expiration of the period mentioned in section 7 first hold a sitting of the High Court for the purpose of hearing the appeal.

*(Amended by Act 16/1976)*

**Extent to which giving of notice of appeal suspends order.**

10. After notice of intention to appeal has been duly given, no steps to enforce the expulsion order (except the arrest and the detention of the appellant when the order orders his or her arrest) shall be taken unless and until the appeal is dismissed, and

the six weeks mentioned in subsection (2) of section 5 shall not be deemed to begin to run until such appeal has been disposed of.

**Person in custody to be given facilities for appealing.**

11. Every person detained in custody under an expulsion order shall, if he or she so desires, be given facilities for giving notice of his or her intention to appeal, and communicating, with reference to his or her appeal, with his or her friends and legal advisers.

**Onus of proof.**

12. In any appeal against an expulsion order the appellant—
- (a) shall, if the power to make the expulsion order depended upon the appellant being an alien, be presumed to be an alien; and
  - (b) shall, if a British subject against whom the expulsion order was made under section 3, be presumed neither to have been domiciled in the State nor to have been resident therein throughout the three months preceding the expulsion order,

unless the contrary is proved.

**Power of Judge on dismissal of appeal.**

13. If the appeal is dismissed the time (if any) within which the appellant is, by the expulsion order, required to leave the State, may be extended by the Judge for such period not exceeding four weeks from the dismissal of the appeal as he or she may think proper.

**Appellant to be released on allowance of appeal.**

14. If the appeal is allowed, the expulsion order shall be deemed to be revoked, and the appellant, if in custody, shall, unless his or her detention is lawful under some other power or authority, be released forthwith.

**Power to order payment of allowances to witnesses.**

15. The Judge hearing the appeal may order allowances, not exceeding those for the time being in force for witnesses in criminal proceedings in the High Court to be paid to all persons examined or detained as witnesses for the respondent, and may, if he or she thinks fit, order similar allowances to be paid to any persons examined or detained as witnesses for the appellant.

PART III

MISCELLANEOUS

**Punishment of offences.**

16. Any person who is found guilty of an offence under this Act shall, on summary conviction, be liable to be imprisoned with or without hard labour for a period not exceeding six months.

**In prosecutions expulsion orders to be deemed valid.**

17. In any prosecution for an offence under this Act the production of an expulsion order shall be conclusive evidence that the same was valid and was lawfully made.

**Power to allow expenses of conforming with expulsion order.**

18. Where an expulsion order is made against any person the Minister may, if he or she thinks fit, direct the payment from the general revenue of the State of the whole or any part of the expenses of or incidental to the departure from the State and maintenance until departure of such person and his or her dependents (if any).

**Revocation of expulsion order or allowance of appeal not to have retrospective effect.**

19. The revocation of an expulsion order by the Minister, or the allowance of an appeal against an expulsion order, shall not affect the validity of anything already done thereunder or in respect thereof, and shall not affect any liability to conviction or punishment previously incurred under the provisions of this Act.

**Actions for things done under this Act.**

20. No action shall be brought by any person against whom an expulsion order has been made with reference to anything done or omitted in the execution or purported execution of that order or of the provisions of this Act, on the ground that he or she was not a person against whom an expulsion order could be legally made.

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