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*Copy of new Ordinance already signed. See Serial 2/2*  
*for definition of IG.*  
*(Buts Territorial sea is 3 miles)*  
*United Kingdom*

HM Commissioner

British Indian Ocean Territory

Foreign and Commonwealth Office

London SW1A 2AH

## THE BRITISH INDIAN OCEAN TERRITORY

RELEASED IN FULL

Ordinance No. 4 of 2000

An Ordinance to make provision to regulate immigration and residence in the Territory and for matters incidental thereto or connected therewith.

Enacted by the Commissioner for the British Indian Ocean Territory

..... 2000

.....  
Commissioner

Short title,  
commencement  
and repeal.

1. - (1) This Ordinance may be cited as the Immigration Ordinance 2000 and shall come into force forthwith.

(2) Without prejudice to sections 21 and 22(2) of the Interpretation and General Provisions Ordinance 1993, all instruments made or other things done under the 1971 Ordinance, or having effect as if so made or done, shall have effect as if made or done under this Ordinance.

Interpretation.

2. - (1) In this Ordinance, unless the contrary intimation appears-

"endorsement" means an endorsement, made under section 8, on a permit;

"immigration officer" includes the Principal Immigration Officer; and

"permit" means a permit issued under this Ordinance.

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(2) References in this Ordinance to Diego Garcia include references to the internal waters of Diego Garcia and to any part of the territorial sea appurtenant to Diego Garcia; but the foregoing, read together with section 4, shall not be construed as derogating from the right of innocent passage through that territorial sea.

Principal  
Immigration  
Officer and  
other  
officers.

3. - (1) The Commissioner's Representative shall be the Principal Immigration Officer for the Territory and shall have the superintendence and control of all immigration officers.

(2) The Commissioner may appoint such other immigration officers as he deems necessary.

(3) The Commissioner may give the Principal Immigration Officer and other immigration officers general or special directions as to the exercise of their functions under this Ordinance or under any other law for the time being in force in the Territory and any officer to whom such instructions are so given shall comply therewith.

Restriction  
on entering  
or remaining  
in the  
Territory.

4. - (1) No person shall enter the Territory, or, being present in the Territory, shall remain there, unless he is in possession of a permit issued under section 6 or his name endorsed is on a permit under section 8.

(2) This section does not apply to members of Her Majesty's Forces, or to public officers, or to officers in the public service of the Government of the United Kingdom while on duty, or to such other persons as may be prescribed.

(3) Except in respect of his entry into, or his remaining in, Diego Garcia, this section does not apply to any person who-

(a) is, under the British Nationality Act 1981 ("the 1981 Act"), a British Dependent Territories citizen; and

(b) is such a citizen by virtue of his connection with the Territory;

and it also does not apply to the spouse or to the dependent child, under the age of 18 years, of such a person.

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(4) For the purposes of subsection (3), a British Dependent Territories citizen shall be regarded as such a citizen by virtue of his connection with the Territory if (and only if) either of the following conditions is satisfied, that is to say:

- (a) he or one of his parents or one of his grandparents was born in the Chagos Archipelago (as defined in section 2 of the British Indian Ocean Territory Order 1965); or
- (b) the Commissioner, on application made to him in that behalf, determines, and so certifies, that he is such a citizen by virtue of his connection with the Territory.

(5) A person who claims to be entitled under subsection (3) to enter or remain in the Territory as a British Dependent Territories Citizen who is such a citizen by virtue of his connection with the Territory shall, if so required by an immigration officer, prove that claim to the satisfaction of the immigration officer by the production of-

- (a) a passport showing that he is a British Dependent Territories citizen; and
- (b) either-
  - (i) such further documentary evidence relating to the condition specified in subsection (4)(a) as the immigration officer may require in order to satisfy himself that the claim is well-founded; or
  - (ii) a certificate issued by the Commissioner under subsection (4)(b).

(6) A person who claims to be entitled under subsection (3) to enter and remain in the Territory as the spouse or the dependent child, under the age of 18 years, of a British Dependent Territories citizen who is such a citizen by virtue of his connection with the Territory shall, if so required by an immigration officer, prove that claim to the satisfaction of the immigration officer by the production of-

- (a) a passport showing that the person whose spouse or dependent child he claims to be is a British Dependent Territories citizen; and

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(b) either-

- (i) such other documentary evidence relating to the condition specified in subsection (4)(a) in respect of the holder of that passport as the immigration officer may require in order to satisfy himself that the claim is well-founded; or
  - (ii) a certificate issued by the Commissioner under subsection (4)(b) in respect of the holder of that passport; and
- (c) such further documentary evidence concerning his relationship with the holder of that passport as the immigration officer may require in order to satisfy himself that the claim is well-founded.

(7) Any officer of the Government of the United Kingdom for the time being performing consular functions on behalf of that Government in Mauritius or in the Seychelles may, if satisfied of the relevant facts, issue to or in respect of any person a certificate of any matter relevant, in respect of that person, to the condition specified in subsection (4)(a) or a certificate that that person is the spouse or dependent child, under the age of 18 years, of another person named in the certificate; and the references in subsections (5)(b)(ii), (6)(b)(ii) and (6)(c) to documentary evidence include references to such a certificate.

(8) For the avoidance of doubt, a determination by an immigration officer under subsection (5) or subsection (6) that a person is not entitled under subsection (3) to enter or remain in the Territory shall be treated for the purposes of section 9 as a decision of the immigration officer to that effect, and the provisions of that section relating to appeals to the Commissioner shall apply accordingly.

(9) Pending the determination by an immigration officer, under subsection (5) or subsection (6), of a claim by any person to be entitled under subsection (3) to enter or remain in the Territory, and pending the determination by the Commissioner of any appeal to him by that person under section 9 as applied by subsection (8), the entry of that person into the Territory, or his presence there, is unlawful; and, without prejudice to any other provisions of this Ordinance, an immigration officer or a Peace Officer may, if that person has entered the Territory, cause him to be detained and kept in custody until his claim is finally

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determined or, as the case may require, until he departs from the Territory or is removed therefrom under section 11.

(10) References in this section to a person being entitled under subsection (3) to enter or remain in the Territory are references to his being entitled so to enter or remain without being in possession of a permit issued under section 6 or having his name endorsed on a permit under section 8.

Contractor  
personnel.

5. - (1) Notwithstanding section 4(1), all persons whose names are for the time being included in a list which is accepted by the Principal Immigration Officer as a list of persons who are employed or to be employed as contractor personnel shall, unless the Principal Immigration Officer otherwise determines in relation to a particular person whose name is so listed, be deemed to be in possession of a permit issued in accordance with section 6.

(2) A determination by the Principal Immigration Officer under subsection (1) in relation to a particular person shall have effect as if it were the withholding or, as the case may be, the cancellation of any permit deemed in accordance with that subsection to be issued to that person, and the provisions of this ordinance relating to the issue or cancellation of permits and to matters consequential thereon or incidental thereto shall apply accordingly.

(3) In this section, "contractor personnel" has the same meaning as in the Exchange of Notes of 20 December 1966 between the Government of the United Kingdom and the Government of the United States of America concerning the Availability for Defence Purposes of the British Indian Ocean Territory.

(4) If, in any proceedings in any court, a question arises as to whether a person's name is for the time being included in such a list as is mentioned in subsection (1) or whether the Principal Immigration Officer has made a determination in relation to him under that subsection, a certificate as to that matter signed by the Commissioner's Representative shall be conclusive of that question for all the purposes of those proceedings.

Issue,  
renewal and  
cancellation  
of permits.

6. An immigration officer, acting in his entire discretion, may issue or renew a permit and may cancel such permit before its expiration, subject to the right of appeal as provided under section 9.

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Duration of  
permits.

7. A permit shall, unless cancelled, remain in force for a period of four years from the date of issue or for such shorter period as may be stated in the permit. A permit renewed shall, unless cancelled, remain in force for a period of four years from the date on which the renewal takes effect or for such shorter period as may be stated in the permit.

Endorsement  
on permits.

8. An immigration officer may, in his entire discretion, but subject to the right of appeal as provided under section 9, endorse on a permit:-

(a) the name or names of the wife or the child of the holder of such permit. Such endorsement shall expire-

(i) on such wife or child ceasing to be a dependant of the holder or in the case of a male person on his attaining the age of 21 years, whichever is the earlier; or

(ii) on the cancellation or expiration of the permit on which it was made.

(b) a condition that the holder of such permit and his wife and child shall reside, or shall not reside, in such part or parts of the Territory as may be specified in the condition.

Appeal to  
Commissioner.

9. A person aggrieved by any decision of an immigration officer may appeal to the Commissioner whose decision shall be final and conclusive.

When unlawful  
for person to  
enter or to  
be present or  
remain in the  
territory.

10. It shall be unlawful for any person to enter the Territory or to be present or to remain in the Territory in contravention of the provisions of section 4 or after the expiration or cancellation of his permit or after the expiration of an endorsement on a permit made in respect of him or in contravention of a condition endorsed on his permit or on a permit made in respect of him.

Power to  
remove persons  
unlawfully in  
the Territory.

11. - (1) The Commissioner may make an order directing that any person whose presence within the Territory is, under the provisions of this Ordinance, unlawful shall be removed from and remain out of the Territory, either indefinitely or for a period to be specified in the order.

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

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(3) A person against whom an order under this section is made may, if the Commissioner so directs, while awaiting removal and while being conveyed to the place of departure, be kept in custody, and while so kept shall be deemed to be in lawful custody.

(4) An order made, and any directions given, by the Commissioner under this section may at any time be varied or revoked by the Commissioner.

(5) The master of a ship or the commander of an aircraft due to call at any port or place outside the Territory, shall, if so required by an immigration officer, receive a person against whom an order has been made under this section on board such ship or aircraft and afford him, on due payment, a passage to or towards his final destination and proper accommodation and maintenance during the passage.

(6) Where an order has been made against any person under this section directing that he be removed from the Territory and the ship or the aircraft on which he was carried into the Territory (or any other ship or aircraft owned or operated by the same person as is that ship or aircraft) is present within the Territory (which term here includes the territorial sea of the Territory), the master of that ship or the commander of that aircraft (or of that other ship or aircraft) shall, if so required by an immigration officer, receive that person on board his ship or aircraft and convey him to a place outside the Territory; and in such case no payment such as is referred to in subsection (5) shall be due.

(7) Where, under subsection (5) or subsection (6), the master of a ship is required to receive a person on board his ship, he shall, if so required by an immigration officer, take his ship to any place within the Territory designated for that purpose by the immigration officer; and, without prejudice to any other provision of this Ordinance, if the master refuses or fails to comply with any requirement under subsection (5) or subsection (6) or this subsection, an immigration officer may take such steps as are reasonably necessary, including the use of reasonable force, to secure such compliance.

(8) Any person who fails to comply with the provisions of subsection (5) or subsection (6) or subsection (7) is guilty of an offence and is liable to imprisonment for a month or to a fine of £5000 or to both such imprisonment and such fine; and when a fine is imposed under this subsection, the court may order the ship of which he is the master or the aircraft of which he is the commander to be detained, in such manner as the Commissioner's Representative may direct,

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- (e) uses or without lawful authority has in his possession any forged or unlawfully altered permit or endorsement; or
- (f) knowingly uses, or has in his possession with intent to use, any unlawfully issued or otherwise irregular permit or endorsement; or
- (g) unlawfully enters or is unlawfully present within the Territory in contravention of the provisions of this Ordinance; or
- (h) harbours any person whom he knows or has reasonable cause to believe to be a person whose presence in the Territory is unlawful; or
- (i) uses any permit issued to, or endorsement made in respect of, any other person as if it had been issued to or made in respect of himself; or
- (j) gives, sells or parts with the possession of any permit in order that, or intending or knowing or having reasonable cause to believe that, it may be used in contravention of the provisions of paragraph (i); or
- (k) having been directed by an order made under section 13 to remain out of the Territory, returns to the Territory in contravention of such order.

shall be guilty of an offence against this Ordinance.

(2) Any person who commits an offence against this Ordinance for which no other penalty is provided by this Ordinance is liable to imprisonment for three years and to a fine of £3000.

(3) The master of a ship or the commander of an aircraft which enters into the Territory any person in respect of whom there is in force an order made under section 13 requiring that person to remain outside the Territory is guilty of an offence and is liable to imprisonment for 3 months or to a fine of £5000 or to both a fine and such imprisonment; and when a fine is imposed under this subsection, the court may order the ship or aircraft in which he is the master or the commander of which he is the commander to be detained, in such manner as the Commissioner's Representative may direct, pending payment of the fine and, if the fine has not been paid in full (or security therefor given to the satisfaction of the court) within 30 days or such longer period as the court may allow, may order the ship or aircraft to be forfeited to the Crown and thereafter to be disposed of as the Commissioner

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pending the payment of the fine and, if the fine has not been paid in full (or security therefor given to the satisfaction of the court) within 30 days or such longer period as the court may allow, may order the ship or aircraft forfeited to the Crown and thereafter to be disposed of as the Commissioner may direct.

(9) Any person who, in contravention of the terms of any order made under this section, enters or is found within the Territory, having previously left or been removed from the Territory in virtue or in pursuance of such order, may again be removed from the Territory without further order, and the provisions of this section and of the Ordinance shall apply in any case as if an order had been made against such person under subsection (1) of this section directing that he be so removed, and he shall be liable under this Ordinance to which such person is liable under this Ordinance or any other law then in force.

Place of  
residence.

12. A person who is removed from the Territory under section 11 shall be removed to the place whence he came, or, with the approval of the Commissioner, to a place in the Territory to which he belongs, or to any place to which he is permitted to be removed if the Government of the Territory mentioned place consents to receive him.

offences and  
penalties.

13. - (1) Any person who

(a) for the purpose of obtaining for himself or for any other person or of assisting any other person to obtain a permit or an endorsement, or with intent to deceive any immigration officer, makes or causes to be made any declaration, return or statement which he knows or has reasonable cause to believe to be false or misleading;

(b) otherwise obtains the authority of the Principal Immigration Officer alters or wilfully defaces or removes a permit or an endorsement; or

(c) resists, obstructs or hinders any immigration officer or person in the lawful execution of his duty, or in the lawful exercise of this Ordinance; or

(d) knowingly furnishes any immigration officer in connection with the performance of his duty material to the exercise by any immigration officer of his function, power or discretion under this Ordinance; or



may direct.

(4) In any proceedings for an offence under subsection (3) brought against the master of a ship or the commander of an aircraft which has (or which is owned or operated by the same person as is any other ship or aircraft which has) previously carried the person in question into the Territory, the burden of proof that he did not know that there was in force with respect to that person such an order as is referred to in subsection (3) shall be on the master or the commander.

(5) In any proceedings for an offence under this section a person shall be deemed to know the contents of any declaration, return or statement which he has signed or made, whether he has read such declaration, return or statement or not, if he knows the nature of the document.

(6) The punishment authorised by any provision of this Ordinance to be imposed on any person who commits an offence against this Ordinance may be so imposed by the Magistrates' Court notwithstanding section 194(1) of the Criminal Procedure Code 1986.

Burden of  
proof.

14. For the purposes of this Ordinance, the burden of proof that the presence in the Territory of any person is or was at any time shall be on that person.

Regulations.

15. The Commissioner may make regulations, which shall be published in the Gazette, to carry out the objects and provisions of this Ordinance; and, without prejudice to the generality of the foregoing power, such regulations may—

- (a) prescribe any fee which is required to be or may be prescribed under the provisions of this Ordinance;
- (b) prescribe the amount to be charged for anything done, or for any permit or endorsement issued, made or renewed under this Ordinance or any regulation made thereunder.