



BRITISH ANTARCTIC TERRITORY

# THE IMMIGRATION ORDINANCE 2020

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**BRITISH ANTARCTIC TERRITORY**  
**THE IMMIGRATION ORDINANCE 2020**

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# BRITISH ANTARCTIC TERRITORY

Enacted by the Commissioner,  
Ben Merrick,  
XX XXXX 2020

## Ordinance No. 13 of 2020

### THE IMMIGRATION ORDINANCE 2020

*AN ORDINANCE to provide for the control of entry into and residence in the Territory and for the removal of persons from the Territory, and to provide for matters incidental thereto.*

Citation and commencement.

1. This Ordinance may be cited as the Immigration Ordinance 2020 and shall come into force on XXXXXX.

Definitions.

2. In this Ordinance, unless the contrary intention appears –

“another Contracting Party” means any State other than the United Kingdom that is a party to the Protocol;

“the Antarctic Treaty” means the Antarctic Treaty signed at Washington on 1 December 1959;

“commander” in relation to an aircraft, means the member of the flight crew designated as commander by the operator of the aircraft or, if there is no such person, the person who is for the time being the pilot in command of the aircraft;

“expedition” includes any tour or other journey, whatever its purpose, made by one or more persons;

“master”, in relation to a vessel, includes any person for the time being in charge of the vessel (other than a pilot);

“operator”, in relation to a vessel or aircraft, means the person for the time being having the management of that vessel or aircraft;

“the Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on 4 October 1991;

“United Kingdom national” means –

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- (b) a British subject under the British Nationality Act 1981;
- (c) a British protected person within the meaning of that Act;
- (d) a Scottish partnership; or
- (e) a body incorporated under the law of any part of the United Kingdom or under the law of the Channel Islands, the Isle of Man or any British overseas territory;

“the Territory” means the British Antarctic Territory as defined by section 2 of the British Antarctic Territory Order 1989.

“vessel” includes a hovercraft.

Permits required to enter or remain.

**3.** (1) Subject to the provisions of this section, no person may enter or remain in the Territory except in accordance with a permit granted under this section.

(2) Subsection (1) does not apply to a person entering or remaining in the Territory for the sole purpose of fishing for profit.

(3) This section does not apply to a person who is on an expedition organised in and authorised in writing by another Contracting Party or in respect of whom there is in force a permit granted under section 3 of the Antarctic Act 1994 (including that section as extended by the Antarctic Act 1994 (Overseas Territories) Order 1995).

(4) Any person who contravenes subsection (1) shall be guilty of an offence.

(5) If subsection (1) is contravened by a person who –

- (a) is on an expedition in respect of which a permit has been granted under this section to another person; and
- (b) is specified or is of a description specified in that permit, that other person shall be guilty of an offence.

(6) Where a person enters the Territory in contravention of subsection (1) –

- (a) the operator of the vessel or aircraft on which he or she enters the Territory; and

(b) the master of that vessel or the commander of that aircraft,  
shall each be guilty of an offence.

(7) The Commissioner may on the application of any person grant to him or her a permit authorising any person specified or of a description specified in the permit to enter and remain in the Territory.

Permits for  
vessels and  
aircraft entering  
the Territory.

4. (1) No British vessel or British aircraft may enter the Territory except in accordance with a permit granted under this section.

(2) Subsection (1) does not apply –

(a) to a vessel or aircraft travelling to an immediate destination outside the Territory; or

(b) to a vessel entering the Territory for the sole purpose of fishing for profit.

(3) This section does not apply to a vessel or aircraft which enters the Territory under the written authorisation of another Contracting Party or in accordance with a permit granted under section 5 of the Antarctic Act 1994 (including that section as extended by the Antarctic Act 1994 (Overseas Territories) Order 1995).

(4) If subsection (1) is contravened –

(a) the operator of the vessel or aircraft; and

(b) the master of the vessel or the commander of the aircraft,

shall each be guilty of an offence.

(5) The Commissioner may on the application of any person grant to him or her a permit authorising any vessel or aircraft of which he or she is the operator and which is specified or of a description specified in the permit to enter the Territory on occasions or in circumstances specified in the permit.

(6) In this section –

“British vessel” means a ship which –

(a) is registered in a relevant country (and in this subsection “relevant country” means the United Kingdom or any of the Channel Islands or the Isle of Man or any British overseas territory); or

(b) is not registered under the law of any country but is wholly owned by persons each of whom is either a United Kingdom national or a body corporate which is established under the law of,

or of part of, a relevant country and has its principal place of business in a relevant country; and

“British aircraft” means an aircraft –

(a) which is for the time being registered in a relevant country; or

(b) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely –

(i) that he or she is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in a relevant country; and

(ii) that he or she resides or has his or her principal place of business in a relevant country; or

(c) which, being for the time being registered in some other country is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the requirements aforesaid.

Imposition of restrictions and conditions on a permit.

**5.** The Commissioner may, when issuing a permit pursuant to section 3 or section 4, impose such restrictions or conditions as the Commissioner thinks fit.

Prohibition of entry into Territory.

**6.** The Commissioner may, by order, prohibit absolutely the entry of any person into the Territory.

Presence not conducive to public good.

**7.** The Commissioner may, by order, declare that the continued presence of any person within the Territory is not conducive to the public good.

Prohibited immigrants.

**8.** (1) Any person in respect of whom an order is for the time being in force under section 6 or section 7 is a prohibited immigrant.

(2) Where a person has been convicted under section 13 of a contravention of any restriction or condition imposed under section 5, the Commissioner may, without prejudice to any penalty that may be imposed under section 13, by order declare that person to be a prohibited immigrant.

Restrictions on disembarkation of prohibited immigrants.

**9.** (1) When a prohibited immigrant arrives in the Territory from any place outside the Territory on board a ship or aircraft, any public officer may serve a notice (a “restriction notice”) on the prohibited immigrant and on the master of the ship or the commander of the aircraft.

(2) Where a restriction notice has been served pursuant to subsection (1), any public officer, for the purposes of managing the expeditious departure of the prohibited immigrant from the Territory, may –

(a) direct that the prohibited immigrant be forbidden from disembarking in the Territory;

(b) direct that the prohibited immigrant shall return to the ship or aircraft on which that person arrived in the Territory;

(c) impose conditions on the residence or movements of the prohibited immigrant, whilst that person is in the Territory.

(3) The master of a ship or the commander of an aircraft on which a prohibited immigrant has arrived in the Territory shall, if so required by a public officer, carry the prohibited immigrant away from the Territory on that ship or aircraft on its next voyage or flight to any place outside the Territory or on any subsequent such voyage or flight.

Prohibited immigrants may be deported.

**10.** (1) A person who is a prohibited immigrant by virtue of an order made under section 6 and who enters the Territory shall, without prejudice to section 9 or section 13, be liable to deportation from the Territory in accordance with section 11.

(2) A person who is a prohibited immigrant by virtue of an order made under section 7 or under section 8(2) shall leave the Territory by such date as is specified in the order and, if that person fails to do so or if, while still a prohibited immigrant, he or she subsequently re-enters the Territory, shall, without prejudice to section 9 or section 13, be liable to be deported from the Territory in accordance with section 11.

Deportation orders.

**11.** (1) On application by any public officer, the Judge of the Supreme Court or the Senior Magistrate or any magistrate may make an order for the deportation from the Territory of any person liable to deportation under section 10 and, pending the execution of that order may –

(a) make an order for the arrest and detention of the prohibited immigrant in accordance with section 47 of the Administration of Justice Ordinance 2020, or any other law in that behalf for the time being in force in the Territory; and

(b) impose such restrictions upon the prohibited immigrant's residence or movements within the Territory as may facilitate the execution of the deportation order.

(2) Where a deportation order has been made against a person (the "deportee") under subsection (1), the Commissioner shall make arrangements for the deportee to be removed from the Territory in pursuance of the order as soon as practicable and may for that purpose require the master of any ship that is about to sail from the Territory to any place outside the Territory or the commander of any aircraft that is about to fly from the Territory to any such place to receive the deportee on board the ship or aircraft and to carry the deportee to that place.

Commissioner  
may delegate  
powers.

**12.** The Commissioner may, by notice published in the *Gazette*, delegate to any public officer all or any of the powers vested in the Commissioner by this Ordinance, subject to any general or special directions.

Offences and  
penalties.

**13.** (1) The following persons shall be guilty of an offence under this Ordinance –

(a) any person who, being a prohibited immigrant by virtue of an order made under section 6, enters the Territory;

(b) any person who contravenes any restriction or condition attached to a permit, made under section 5;

(c) any person who, being a prohibited immigrant by virtue of an order made under section 7 or under section 8(2), has, after such date as is specified in the order, failed without reasonable excuse to leave the Territory or, having left the Territory, re-enters it;

(d) any person who, being a prohibited immigrant upon whom a restriction notice has been served under section 9(1), does any of the following acts in contravention of section 9(2) –

(i) disembarks in the Territory, contrary to a direction made pursuant to section 9(2)(a); or

(ii) fails, without reasonable excuse, to comply with any direction imposed pursuant to section 9(2)(b) or (c), or condition imposed pursuant to section 9(2)(d);

(e) any master of a ship or commander of an aircraft who contravenes any requirement imposed on that person under section 9(3) or section 11(2).

(2) Offences under this Ordinance are triable only summarily.

(3) A person who is convicted of an offence under this Ordinance shall be liable to a term of imprisonment or to a fine not exceeding the statutory maximum or to both such imprisonment and such fine.

(4) The prosecution of any person for an offence under this Ordinance shall not have any effect upon the operation of a restriction notice issued pursuant to section 9, or an order made pursuant to section 11.

(5) In proceedings for an offence under subsection (1)(c) or subsection (1)(d)(ii) the burden of proving a reasonable excuse shall be for the accused.