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← (i) for the purposes of this subsection -

(a) a person abets the commission of an offence if he aids, counsels or procures the commission of the offence, whether or not the person abetted does in fact commit the offence or is capable in law of committing it;

←
Palestine
territorial waters
to voluntarily

(b) without prejudice to the provisions of this Ordinance relating to actual abetment, the master, owner and agent of a vessel and the commander, owner and agent of an aircraft are all deemed to have abetted the unlawful immigration of any person (hereinafter called "that person") who is proved to have been on board the vessel or aircraft in Palestine or the territorial waters thereof, whether that person or the vessel or aircraft came there voluntarily or not, unless it is proved -

- person
- (1) that that person did not enter or attempt to enter Palestine and did not intend so to do, or
 - (2) that that person was a Palestinian citizen or a permanent resident and as such was not required to comply with the requirements of paragraphs (g) or (h) of subsection (1) of section 5, or that in fact he had complied with such requirements, or
 - (3) that all practicable precautions had been taken, including the examination of his papers to ensure that that person had complied with the said paragraphs (g) or (h) and that the accused bona fide believed that person to have so complied, or
 - (4) that all practicable precautions to prevent the presence of unknown persons on board the vessel or aircraft had been taken and that the accused did not know of the presence of that person on board the vessel or aircraft

From () to () inserted by Supplement 2/46, p.147

✓ (ii) any person who abets any other person in any contravention, or attempted contravention of this Ordinance or any order or rule made by virtue thereof or harbours any person whom he knows or has reason to believe to have contravened or attempted to contravene this Ordinance or any order or rule made by virtue thereof, and any master, owner or agent of a vessel or commander, owner or agent of an aircraft who is deemed for the purpose of this subsection to have abetted the unlawful immigration of any person, shall be guilty of an offence and may be tried summarily therefor by a District Court and shall be liable on conviction to a fine of One thousand pounds or to imprisonment for Eight years or to both such fine and imprisonment. It shall be lawful to charge as a separate offence the abetment of each of several persons abetted, or the abetment of the unlawful immigration of each of several persons or to include in one charge the abetment of more than one person, with or without specifying the number of persons abetted. In any prosecution for abetment under this paragraph, the onus shall be on the accused to prove that the person abetted was a Palestinian citizen or a permanent resident and as such was not required to comply with the requirements of paragraphs (g) or (h) of subsection (1) of section (5), or that in fact he had complied with such requirements, whenever those issues arise;

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(iii) if any vessel, to the knowledge of the master, owner or agent, or any aircraft to the knowledge of the commander, owner or agent, or any vehicle or other means of conveyance to the knowledge of the owner or person in charge thereof, is used in any contravention or attempted contravention of this Ordinance or any order or rule made by virtue thereof, or in the abetment of any contravention or attempted contravention of this Ordinance or any order or rule made by virtue thereof, or for

From () to () inserted by Supplement 2/46, p.147.

the harbouring of any person who there is reason to believe to have contravened or attempted to contravene this Ordinance or any order or rule made by virtue thereof, or if any person is proved to have been on board a vessel or aircraft in circumstances in which the master, owner or agent of the vessel or the commander, owner or agent of the aircraft is deemed to have abetted the unlawful immigration of that person, then -

Under this, my vessel is fit

(a) ~~the vessel, aircraft, vehicle or other means of conveyance, as the case may be, shall, save as hereinafter provided, be forfeited to the Government;~~

Section 107. (b) (iii) C

(b) if any criminal prosecution, facts, are established to the satisfaction of the Court which render a vessel, aircraft, vehicle or other means of conveyance forfeited to the Government, the Court may by order confirm such forfeiture and such order shall, save as provided in paragraph (e), be conclusive as to such forfeiture;

applies to this case

(c) in the absence of any order of a criminal Court confirming a forfeiture as above, the forfeiture may be confirmed by order of a District Court on the application by way of summons of the Attorney General or his representative, such application being served on the master, owner or agent of the vessel or the commander, owner or agent of the aircraft, or the owner or person in charge of the vehicle or other means of conveyance, as the case may be, or being served by affixing a copy thereof to the vessel, aircraft, vehicle or other means of conveyance; and the owner of the vessel, aircraft, vehicle or other means of conveyance shall have the right to show cause against the making of the order;

From () to () inserted by Supplement 2/46, p.147.

- (d) in the case of a vessel exceeding One thousand tons registered tonnage, a forfeiture shall not be effective until confirmed by order of Court as above. In the case of any other vessel or in the case of an aircraft, vehicle or other means of conveyance the forfeiture shall be effective without such confirmation but subject to any decision of the Court declining to confirm the forfeiture;
- (e) an order of any Court confirming a forfeiture shall be subject to appeal as near as may be as though it was a judgment of a District Court in a civil action between the Attorney General as plaintiff and the owner of the vessel, aircraft, vehicle or other means of conveyance as defendant".

Sections 13 and 14 of the principal Ordinance repealed and replaced

107A. Sections 13 and 14 of the principal Ordinance are hereby repealed and replaced by the following sections :-

13. (1) In this section -

⌘ "prohibited immigrant", in relation to the exercise of any power conferred by this section, means any person who has entered Palestine or the territorial waters thereof as to whom it is not proved to the satisfaction of the officer exercising the power that -

(a) if that person has entered Palestine, he was lawfully entitled so to do in accordance with the law relating to immigration at the time of such entry;

(b) if that person has entered the territorial waters of Palestine but has not entered Palestine, he did not attempt or intend to enter Palestine or that he could

⌘ 2/46, p.1383.

From () to () inserted by Supplement 2/46, p.147.

lawfully enter Palestine under the law relating to immigration at the time he entered the territorial waters;

and that person shall not be deemed to have entered Palestine lawfully by reason only of the fact that he, or the vessel, aircraft or vehicle in which he arrived in Palestine or the territorial waters thereof did not enter Palestine or the territorial waters thereof voluntarily;

"authorised officer" means any immigration officer any commissioned officer of His Majesty's forces or member of His Majesty's forces generally or specially authorised by a commissioned officer thereof, and any police officer of or above the rank of Inspector or police officer generally or specially authorised by a police officer of or above the rank of Assistant Superintendent.

(2) Any Commanding Officer may pursue any vessel or aircraft within the territorial waters of Palestine which he believes may be carrying persons intending to enter Palestine and, if the vessel or aircraft does not bring to when signalled or required so to do whether by firing a gun as a signal or otherwise, may compel her to bring to by firing at her or by the use of such other force as he deems appropriate.

(3) Any Commanding Officer or person acting by his authority and any authorised officer may board any vessel or aircraft in Palestine or the territorial waters thereof, and may search the same for prohibited immigrants and may require the master or commander to give any information and produce for inspection any documents in his possession relating to persons on board the vessel or aircraft.

From () to () inserted by Supplement 2/46, p.147.

8-7 (4) Any Commanding Officer or authorised officer may require the master of any vessel or the commander of any aircraft in the territorial waters of Palestine to bring the vessel or aircraft to a specified port or place in Palestine, and if necessary may himself cause the vessel or aircraft to be brought to such port or place by force, if he has reason to suspect that the vessel or aircraft is liable to forfeiture or that any prohibited immigrant is on board.

(5) Any authorised officer may require the person in charge of any vehicle or other means of conveyance to stop or may take steps to stop the vehicle or other means of conveyance, and may board any vehicle and may enter any premises or place, and may search the vehicle or other means of conveyance, premises or place, using force if necessary, if he has reason to believe that any prohibited immigrant is therein or thereon.

(6) Any Commanding Officer or authorised officer may detain any vessel, aircraft, vehicle or other means of conveyance which he may have reason to suspect to be liable to forfeiture until the question of forfeiture is determined.

(7) Any Commanding Officer or authorised officer may seize any vessel, aircraft, vehicle or other means of conveyance which is liable to forfeiture and may detain the same pending the order of the High Commissioner as to the disposal thereof.

8 (8) Any member of His Majesty's forces, immigration officer or police officer may arrest without a warrant and search any prohibited immigrant or any person whom there is reason to suspect of having committed or attempted to commit an offence against this Ordinance or any rule or order made by virtue thereof.

8 2/46, p.1383.

From () to () inserted by Supplement 2/46, p.147.

(9) Any master of a vessel, commander of an aircraft or person in charge of a vehicle or other means of conveyance shall be guilty of an offence against this Ordinance if he fails to comply with any requirement lawfully made under this section, and may be tried summarily therefor by a Court of a Magistrate or by a District Court and -

- (a) if tried summarily by a Court of a Magistrate, shall be liable on conviction to imprisonment for one year or to a fine of One hundred pounds or to both such imprisonment and fine;
- (b) if tried summarily by a District Court, shall be liable on conviction to imprisonment for three years or to a fine of One thousand pounds or to both such imprisonment and fine;

(10) Any person authorised by this section to make any search may seize and detain any article, document or thing which he may have reason to believe to be evidence that any person is a prohibited immigrant.

(11) The High Commissioner or any person generally or specially authorised by him may by order direct that any prohibited immigrant shall be detailed and may from time to time by order specify the place and manner of detention, and while so detained the prohibited immigrant shall be in lawful custody.

* For the avoidance of doubt it is hereby declared that an order under this subsection may be made to relate to one person or to two or more persons and that it shall not be necessary in any such order to state in the order the name or names of the person or persons to whom the order relates

* 2/46, p.1383.

From () to () inserted by Supplement 2/46, p.147.

Provided that an order made under this subsection shall not of itself be an answer to any proceedings in the nature of habeas corpus which may be taken in relation to the person who is the subject of the order if the court is satisfied in respect of that person of the matters mentioned in paragraph (a) or (b), as the case may be, of the definition of "prohibited immigrant" in subsection (1).

Section 15 of the principal Ordinance repealed and replaced

* 1070. () Section 15 of the principal Ordinance is hereby repealed and replaced by the following section :-

"Passengers intending to immigrate

15. If any person is approved to have been in the territorial waters of Palestine, whether on board any vessel, aircraft, float or otherwise and whether he or the vessel, aircraft or float came there voluntarily or not, he shall be deemed to commit an offence under subsection (2) of section 12 (and the like consequences shall ensue in all respects as if he had committed such offence) unless it is proved that -

- (a) he did not enter Palestine and did not attempt or intend to enter Palestine, or
- (b) he was not prohibited from entering Palestine by any provision of this Ordinance or any rule or order made by virtue thereof, and did not enter Palestine and did not attempt or intend to enter Palestine in contravention of this Ordinance or any rule or order made by virtue thereof". ()

* 2/46, p.1367.

From () to () inserted by Supplement 2/46, p.147.

Prosecution

under 107 (G) M.C.