

THE EMIGRATION ACT.

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THE EMIGRATION ACT.

[INDIA ACT VII, 1922.] (5th March, 1922.)

CHAPTER I.

PRELIMINARY.

1. * * * *
2. (1) In this Act, unless there is anything repugnant in the subject or Definitions. context,—
 - (a) “ dependant ” means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant ;
 - (b) “ emigrant ” means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependant of an emigrant, but does not include—
 - (i) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or

- (ii) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person ;
 - (c) "emigrate" and "emigration" mean the departure by sea out of the Union of Burma of—
 - (i) any person who departs under an agreement to work for hire in any country beyond the limits of the Union of Burma, and
 - (ii) any person who is assisted to depart, otherwise than by a relative, if he departs for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of the Union of Burma ;
 - (cc) "emigrant ship" means any ship specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number to be prescribed :
 Provided that the President of the Union may, by notification in the Gazette, declare that ships conveying emigrants to any specified port shall not be deemed to be emigrant ships ;
 - (d) "prescribe" means to prescribe by rules made under this Act ;
 - (e) "work", with its grammatical variations, means skilled or unskilled work ;
 - (f) "skilled work" means—
 - (i) working as an artisan ; or
 - (ii) working as a clerk or shop assistant ; or
 - (iii) working for the purpose of any exhibition or entertainment ;
or
 - (iv) service in any restaurant, tea-house, or other place of public resort ; or
 - (v) domestic service ; or
 - (vi) any other occupation which the President of the Union may, by notification in the Gazette, declare to be skilled work ;
 - (g) "unskilled work" includes engaging in agriculture.
- (2) In case of any doubt or dispute arising, otherwise than in the course of any legal proceedings, as to whether—
- (a) any person is an emigrant, or
 - (b) any work is skilled or unskilled, or
 - (c) any person has been assisted otherwise than by a relative,

within the meaning of this Act, the question shall be determined by such person and in such manner as the President of the Union may prescribe, and such determination shall be final.

CHAPTER II.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

3. (1) The President of the Union may appoint a person to be the Protector of Emigrants for any port situate within the Union of Burma from which emigration is lawful.

Appointment of Protectors of Emigrants.

(2) The President of the Union may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Penal Code.

4. Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall—

General duty of Protector.

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with ;
- (c) inspect, at the time of arrival to such extent and in such manner as the President of the Union may prescribe, vessels bringing return emigrants to the port for which he is Protector ;
- (d) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, and report thereon to the President of the Union ;
- (e) aid and advise return emigrants so far as he reasonably can ; and
- (f) on being satisfied that any person intending to depart by sea out of the Union of Burma comes within one of the classes expressly excluded from the definition of emigrant in section 2, furnish such person with a certificate to the effect that such person is not an emigrant for the purpose of this Act.

5. (1) In any specified area where there is not a Protector of Emigrants, the President of the Union may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

Power to appoint persons to exercise functions of a Protector.

(2) Every person so appointed shall be a public servant within the meaning of the Penal Code.

6. (1) The President of the Union may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

Appointment of Medical Inspectors.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Penal Code.

7. The President of the Union may, for the purpose of safe-guarding the interests of emigrants in any place outside the Union of Burma, appoint persons to be agents in such places, and may define their powers and duties.

Agents in foreign countries.

Advisory
Committees.

8. The President of the Union may, for the purpose of assisting any Protector of Emigrants appointed by him or any person appointed by him under section 5, constitute an Advisory Committee in such manner as he may think fit, and may prescribe the procedure to be followed and the functions to be performed by such committee.

CHAPTER III.

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

Ports from
which emi-
gration of
unskilled
workers is
lawful.

9. (1) Emigration, for the purpose of unskilled work, shall not be lawful except from such ports as the President of the Union may, by notification, declare to be ports from which such emigration is lawful.

(2) The President of the Union may, by notification, fix for the purposes of this Act the limits of any port from which such emigration is lawful.

Countries to
which emi-
gration of
unskilled
workers is
lawful

10. (1) Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the President of the Union, by notification, may specify in this behalf.

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before both Chambers of the Union Parliament and has been approved by a resolution of each Chamber, either without modification or addition or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved.

1 (3) * * * *

Power to
suspend
emigration
of unskilled
workers.

11. (1) Where the President of the Union has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, he may, by notification, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

(2)-(3) * * * *

Revocation
of prohibi-
tion.

12. Where the President of the Union is satisfied that the ground on which a notification under sub-section (1) of section 11 has been made with respect to any country has ceased to exist, he may, by notification, declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

Powers of
President
to prohibit
emigration to
specified
country.

13. (1) The President of the Union may, by notification, prohibit, from a date and for reasons to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the Union of Burma, or any specified part thereof, for the purpose of unskilled work.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) Every notification issued under this section shall be laid before both Chambers of the Union Parliament as soon as may be after it is made.

14. A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

CHAPTER IV.

EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

15. Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such other ports as the President of the Union may, by notification, specify in this behalf.

Ports from which emigration of skilled workers is lawful.

16. (1) Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of the President of the Union and shall state in his application—

Emigration of skilled workers.

- (a) the number of persons whom he proposes so to engage or assist ;
- (b) the place beyond the limits of the Union of Burma to which each such person and his dependants are to proceed ;
- (c) the accommodation to be provided for each such person and his dependants until their departure out of the Union of Burma and during the voyage.

(2) Whoever desires to engage any person for the purpose described in sub-section (1) shall, in addition to the information which he is required by that sub-section to supply in his application, further state therein—

- (a) the provision to be made for the health and well-being of such person and his dependants during the period of the proposed engagement and for their repatriation at the end of such period ;
- (b) the terms of the agreement under which such person is to be engaged ;
- (c) the security in the Union of Burma which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependants.

17. On receiving an application under section 16, the President of the Union may, after such inquiry as he may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as he thinks fit, or withhold such permission, and the decision of the President of the Union shall be final.

Applications how to be disposed of.

18. (1) Before any person departs from the Union of Burma in accordance with permission granted under section 17, the person by whom he has been engaged or assisted shall appear in person or by his duly

Appearance of engaged persons before, and

registration
of names by,
Protector of
Emigrants.

authorized agent before the Protector of Emigrants at the port of embarkation with such first-mentioned person and with any persons intending to accompany him as his dependants.

(2) If it appears to the Protector of Emigrants—

(a) that permission to engage or assist such person has been duly obtained,

(b) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(c) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants (if any) and concerning the person engaging or assisting him, and in such form as the President of the Union may prescribe.

Provisions
as to se-
curity.

19. Where such security as is referred to in sub-section (2) of section 16 has been furnished, the President of the Union may, at any time after making such inquiry as he may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

Delegation
to Protector
of Emigrants
of authority
to receive or
dispose of
applications.

20. The President of the Union may, by notification, authorize a Protector of Emigrants to receive and dispose of applications made under this Chapter :

Provided that an appeal shall lie to the President of the Union from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

Power to
prohibit
emigration
of skilled
workers.

21. (1) Where the President of the Union has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification, declare that such emigration to that country shall cease to be lawful from a date specified in the notification : and from that date such emigration to that country shall accordingly cease to be lawful.

(2) Every notification issued under this section shall be laid before both Chambers of the Union Parliament as soon as may be after it is made.

Saving.

22. Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of the Union of Burma as his personal domestic servant.

CHAPTER V.

RULES.

23. The President of the Union may, by notification, make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the President of the Union is by this Act empowered to prescribe.

Rules under
section 2 (2).

24. (1) The President of the Union may, by notification, and after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

Power for
the President
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the powers and duties of the several officers appointed by the President of the Union under this Act ;
- (b) the licensing, supervision and control of persons in the Union of Burma engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged ;
- (c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;
- (d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (b) ;
- (e) the information to be furnished by persons licensed in accordance with rules framed under clause (b) to emigrants and the language in which such information is to be furnished ;
- (f) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf ;
- (g) the age below which persons of either sex may not emigrate except as dependants ;
- (h) the accommodation, the provisions, fuel and other necessities, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on emigrant ships ;
- (i) the reception and the despatch to their homes of return emigrants ;
- (j) the fees, if any, payable by emigration agents to Protectors of Emigrants for each emigrant departing from the Union of Burma ; and
- (k) generally, the security, well-being and protection of emigrants up to the date of their departure from the Union of Burma, during a voyage on an emigrant ship, and on their return to the Union of Burma.

CHAPTER VI.

OFFENCES.

Unlawful
emigration
or ind. ce-
ment to
emigrate.

25. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(2) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(a) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or

(b) causes or assists, or attempts to cause or assist, any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

(c) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by sea out of the Union of Burma without registration of the particulars required by sub-section (2) of section 18,

shall be punishable with fine which may extend to five hundred rupees.

(3) When in the course of any proceedings in connection with emigration in which a person licensed in accordance with rules framed under clause (b) of sub-section (2) of section 24 is concerned, a breach of the provisions of this Act or of the rules made under this Act is committed, such person shall be liable to the punishment provided by sub-section (2), unless he shows that he was not responsible for and could not have prevented the commission of the breach.

(4) If any person commits an offence under this section, any police-officer may arrest him without warrant.

Fraudulent-
ly inducing
to emigrate.

26. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

False repre-
sentation of
Government
authority.

27. Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Sanction to
prosecu-
tions.

28. No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf, or, where there is no Protector or person so appointed and empowered, of the District Magistrate :

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the

complaints is filed by such emigrant or intended emigrant, or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

29. All the powers for the time being conferred by law on officers of sea-customs, with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

Power for Customs-officer to search and detain for purposes of Act.

CHAPTER VII.

SUPPLEMENTAL.

30. (1) The departure by land out of the Union of Burma of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

Prohibition of departure by land under an agreement to work for hire in some country beyond the sea.

(2) Whoever departs, or attempts to depart, by land out of the Union of Burma in contravention of this section shall be deemed to have committed an offence under sub-section (1) of section 25.

(3) Whoever causes or assists, or attempts to cause or assist, any person to depart by land out of the Union of Burma in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

CHAPTER VIII.

SAVINGS.

131. Nothing in this Act shall be deemed to apply to the departure out of the Union of Burma of any person who is not a citizen of the Union of Burma or any person enrolled under the Burma Army Act.

Application of Act.