

EMIGRATION ACT, 1842

ACT No. XV. OF 1842

(Rep., Act 13 of 1864)

[2nd December, 1842].

Passed by the Hon'ble the President of the Council of India in Council, on the 2nd of December, 1842, with the assent of the Right Hon'ble the Governor General of India.

An Act for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius.

I. Whereas it hath been ordered by the Queen's Most Excellent Majesty by and with the advice of Her Majesty's Privy Council, as follows:

AT THE COURT AT WINDSOR,

THE 15TH OF JANUARY, 1842.

Present.

THE QUEEN'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS PRINCE ALBERT.

Lord President.

Lord Privy Seal.

Lord Steward.

Lord Chamberlain.

Earl of Jersey.

Earl of Ripon.

Lord Stanley.

Lord Fitzgerald and Vescei.

Sir Robert Peel, Bart.

Mr. Chancellor of the Exchequer.

Sir James Graham, Bart.

Sir Edward Knatchbull, Bart.

Whereas it is probable that the laws now in force in British India for preventing the emigration of the inhabitants thereof to Her Majesty's Colonial Possessions will be shortly repealed so far as regards emigration to the Island of Mauritius, and that such last mentioned emigration will be sanctioned by Laws to be for that purpose enacted in India, subject to various provisions to be in such Laws made for the protection of such Emigrants, and for the prevention of abuses. And whereas it is probable that amongst the provisions so to be made, as last aforesaid, will be a provision for enabling the Governor General of India to appoint at ports or places in India, Officers charged with the care, protection and superintendence of all persons proposing to emigrate as Labourers from India to Mauritius. And whereas it is probable that provision will be made by Law at Mauritius for defraying from the public Revenue of that Island the expense of introducing emigration thither from British India. And whereas it is necessary that effectual provision should be made by Law at Mauritius for regulating any such expenditure, and for the prevention of abuses in the introduction of Emigrants from British India into that Island—It is therefore hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Majesty's Privy Council, that in the event of any Law being made in British India, authorizing the emigration to Mauritius of the Natives of the Natives of India, and repealing the restrictions now in force there in regard to such emigrations, and in the event of any such Laws containing provisions enabling the Governor General of India to appoint at the several ports of embarkation in

India, Officers charged with the protection of persons emigrating from such ports to Mauritius, the various Rules and Regulations comprised, and set forth in the Schedule to this present order subjoined, shall within the Island of Mauritius have the force and effect of Law, and shall be observed and carried into effect by all Her Majesty's Officers Civil and Military, in Mauritius, and by all Her Majesty's subjects within the same Island as to them may respectively appertain.

And the Right Hon'ble Lord Stanley, one of Her Majesty's Principal Secretaries of State, is to give the necessary instructions herein accordingly.

(Signed) C. GREVILLE.

The Schedule referred to in the preceding Order, comprising the Rules and Regulations to be observed at Mauritius in regard to Emigrants from British India, resorting to and arriving at that Island.

1st. The Governor of Mauritius may from time to time nominate such persons as he shall see fit to act as Emigration Agents at any port or place in India, which the Governor General of India may designate as a port or place for the embarkation of Emigrants to Mauritius and may also from time to time nominate a proper person to act as Protector of Immigrants at Mauritius.

2nd. The remuneration to be given to any such Agent in India, shall not depend upon or be regulated by the number of the Emigrants sent to Mauritius by him, but shall be in the nature of an annual salary.

3rd. Every such Emigration Agent shall ascertain by personal communication with every Emigrant previously to his or her embarkation from the port or place for which such Agent shall be appointed, that such Emigrant has not been induced to emigrate by any fraud, false nor unreasonable expectation, and is aware of the distance of Mauritius from the place where he or she is about to emigrate; and such Agent shall explain the real advantages likely to be derived by such Emigrants from a removal to Mauritius, and at the same time cautioning such Emigrant against unreasonable and unwarrantable expectations; and such Agent shall also ascertain that every such Emigrant is in good health, and not incapacitated from labour by old age, bodily infirmity, or disease.

4th. It shall not be lawful to ship on board of any Ship or vessel carrying Emigrants from India to Mauritius, any number of Passengers exceeding the proportion of one person for every two tons of the Registered burthen of such Ship or Vessel, and no such Ship or Vessel carrying Emigrants, and having more than one Deck, shall have less than the height of six feet at the least between Decks, and in case such Ship or Vessel shall have only one Deck, a Platform shall be laid beneath such Deck, and in such manner as to afford a space of the height of six feet at the least, and that such Platform shall not be so laid as that the lower beams shall project above the same, and that no such Ship or Vessel shall have more than two tiers of berths, and that no such Ship or Vessel shall carry Passengers on any such voyage to Mauritius unless there shall be an interval of six inches at least between the Deck or Platform, and the floor of the lower tier throughout the whole extent thereof; and whatever may be the Tonnage of the Ship or Vessel, no greater number of Passengers shall be taken on board of such Ship or Vessel than shall be after the rate of one such person for every twelve superficial feet of the lower Deck or Platform, unoccupied by goods or stores, not being the personal luggage of such persons.

5th. In computation of the number of Passengers within the meaning of these Regulations, two children under the age of ten years, shall be considered as equal to and shall be reckoned as one person only.

6th. There shall be actually laden and on board of every Ship or vessel bringing Emigrants into Mauritius at the time of departure of such Ship or vessel from the port or place at which such Labourers shall be embarked good and wholesome Provisions for the use and consumption of the said Passengers over and above the victualling of the crew to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every Passenger on board such Ship or Vessel, Such water being carried in

Tanks or sweet Casks, and a supply of Rice, Bread, Biscuit, Flour, Oatmeal, or Bread Stuffs, to the amount of seven pounds weight to every week of the computed voyage for every such Passenger. Provided always that when any such Ship or vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation. And provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case where it shall be made to appear that by the special authority of the Governor General of India, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

7th. The number of weeks which shall be deemed necessary for the voyage to Mauritius from any port or ports in India, shall be such as shall from time to time be determined by any Law or Ordinance to be promulgated for that purpose by the Governor General of India in Council, and according to any such Law or Ordinance shall and may be further determined whether at different periods of the year different estimations are to be made of the probable length of any such voyage, and if by any such Law or Ordinance the removal of Emigrants should during any particular period of the year be prohibited altogether then any such removal during such prohibited period shall in Mauritius be regarded, dealt with and punished as an infringement of these present Regulations.

8th. Before any such Ship or Vessel shall be cleared out, on any such voyage the Agent appointed under this Ordinance for the port or place from which such Ship or Vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water herein before required to be on board for the consumption of Passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same there is on board an ample supply of water and stores for the victualling of the Crew of the Ship or Vessel, and shall also ascertain that such Ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for insuring the health and safety of the passengers have been complied with, and shall grant a Certificate thereof under his hand to the Master of such Ship or Vessel.

9th. The Master of every Ship or Vessel bringing Emigrants to Mauritius shall be bound to provide for and furnish to every such Emigrant and his wife and children a sufficient quantity of good and wholesome provisions, for his, her and their daily maintenance during such voyage, and during the space of 48 hours next after the arrival of such Ship or Vessel in Mauritius.

10th. Two copies of these Regulations authenticated by the signature of the Agent at the port or place from which such Emigrants shall come, shall be delivered to the Master by such Agent on demand at the time of clearance, and shall be kept on board of every Ship or Vessel carrying such Emigrants as aforesaid, and one of such copies shall upon request made at seasonable times to the Master of the Ship or Vessel be produced to any Passenger for his perusal.

11th. The Master of every Ship or vessel carrying Emigrants from India to Mauritius, shall before clearing out such Ship or Vessel deliver to such Agent at the port or place from which such vessel shall be cleared out a list in writing, together with a duplicate of the same specifying as accurately as may be the names, ages and occupations of all and every the Emigrants on board such Ship or Vessel, and such Agent shall thereupon deliver to the said Master the counterpart of such lists, signed by such Agent, and the said Master shall on the arrival of such Ship or Vessel at Mauritius, and previous to the disembarkation of any such Emigrants give notice of the arrival of such Ship or Vessel, and deliver the said counterpart of such list to the Protector of Immigrants hereinbefore mentioned. And such Protector of Immigrants shall forthwith proceed on board of such Ship or Vessel and shall ascertain as far as possible by personal inspection of the Ship or Vessel and Passengers whether the directions hereinbefore contained with regard to the situation of the berth of such Ship or Vessel, the proportion of the Passengers to the burthens and measurement of such Ship or Vessel, and the maintenance of the Emigrants during such passage have been complied with, and such Protector of Immigrants shall personally muster such Emigrants and compare the number and names of such Emigrants with the said counterparts of such lists, and shall certify in writing under his hand upon such counterpart the total number of Emigrants then living and being on board of such Vessel, and in case any such

Emigrant shall have died during the passage, or the number of names of the Emigrants shall differ from the number or names stated in such counterpart, and the Protector of Immigrants shall note such death or difference upon such counterpart, and thereupon shall grant a License under his hand for the disembarkation and landing of such Emigrants.

12th.If the Protector of Immigrants on such personal inspection of the Ship or Vessel and Emigrants, shall be satisfied that the preceding Regulations have been complied with, he shall grant a Certificate under his hand of the arrival in Mauritius of such Emigrants respectively and the place from which and the Ship or Vessel in which such Emigrants shall have arrived.

13th.No money shall be payable by the Colonial Treasurer of Mauritius in respect of any such Emigrants as aforesaid except on the Warrant of the Governor of that Island, which Warrant shall not be issued except on such Certificate as aforesaid of the said Protector of Immigrants.

14th.The Protector of Immigrants shall keep a Register of all persons in respect of whom any such Certificate as aforesaid shall be granted, and of the Ship or Vessel in which, the port from which, and the time at which such person shall have arrived in this Colony, a copy of which Registry shall be laid before the Council of Government on the 31st day of March the 30th of June, the 30th day of September, and the 31st of December in each year.

15th .If any Ship or Vessel bringing Emigrants from India to Mauritius shall carry any number of Passengers exceeding the proportion authorized and allowed by these Regulations a Penalty of five pounds per head shall be payable in respect of each passenger so carried in excess of such proportion, or if such Ship or Vessel shall not be of the height between Decks hereinbefore required; or if such a Platform as herein before directed shall not be laid and continued throughout the whole duration of any such voyage, in such manner as is hereinbefore required; or if there shall be more than two tiers of berths, or if there shall not be throughout the whole duration of any such voyage, such an interval as is hereinbefore prescribed between the Deck and the Floor of the lower tier of berths, or if any such Ship or Vessel shall clear out, and put to sea not having on board such Water and Provisions as aforesaid for the use and consumption of the Passengers of the kind, and to the amount and in the proportion hereinbefore directed; or if any such Ship or Vessel shall be cleared out before such lists of Emigrants shall have been delivered in manner and form aforesaid, or if any such lists shall be willfully false; or if the copy of these Regulations be not produced as hereinbefore required, or if any Emigrant shall not be maintained during such voyage, and for 48 hours after his arrival; the Master of any such Ship or Vessel shall for and in respect of each and every such offence be liable on summary conviction before any Stipendiary Magistrate at any time within the space of 12 calendar months next after the arrival of such Master within the Colony of Mauritius to the payment of a fine not less than £5, nor more than £20 British Sterling, and in default of payment of the fine above mentioned either immediately, or at the time fixed by such Stipendiary Magistrate at the time of making such conviction to imprisonment for any time not less than one nor more than three calendar months.

16th.Provided nevertheless that nothing herein contained shall take away or abridge any right of suit or action which may accrue to any Emigrant in any such Ship or Vessel or to any other person in respect of the breach or non-performance of any contract made or entered into between, or on the behalf of any such Emigrant or other person, and the Master, Owner or Owners of any such Ship or Vessel.

17th.Provided always that nothing in these Regulations contained shall apply to any Ship or Vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's Ships of War.

18th.No Emigrant arriving from India at Mauritius shall be capable of entering into any contract of service to be performed in that Island, until he shall have been at least 48 hours on shore there, and every such contract of service made before that time shall be null and void to all intents and purposes.

19th.No Emigrant arriving from India at Mauritius, and engaging to labour in that Island shall within Mauritius be liable to any action, suit or demand, for or in respect of any debt contracted, or any contract made by such Emigrant before his arrival in the said Island.

20th.No Emigrant arriving from India at Mauritius shall in Mauritius be capable of entering into any contract for service except for the period in the manner and under the superintendence which by a Law in force there is required in the case of contracts for service made by other Labourers in Agriculture or Manufactures within the said Island.

21st.No payment shall be made from the Treasury of the said Island in respect of any Emigrants introduced there from India, unless on proof to the satisfaction of the Governor of Mauritius, that all Rules and Regulations which may be established by Law in India, for the advantage and protection of such Emigrants have been duly complied with, such Rules and Regulations not being repugnant to any thing in these Regulations contained.

22nd.In every case in which the Penalties hereby denounced against offences are imposed by the use of the words in the masculine gender or in the singular person, such word shall be understood as extending to the feminine gender also, and to any number of persons unless when the opposite construction is required in order to meet the object and to accomplish the ends with a view to which these Regulations are established and made.

(Signed) C. GREVILLE.

In conformity with which said Order, and for the purpose of giving effect thereto, it is hereby enacted, that Act No. XIV. of 1839, and all Acts repealed thereby, so far as the same are applicable to the emigration of Natives from the Port of Calcutta, Madras, and Bombay respectively, to the Mauritius, shall be repealed from the day when the Governor General of India in Council, or, in his absence, the President in Council shall notify in the Gazette that it hath been duly certified to him that such Regulations have been provided and that such measures have been taken by the Government of Mauritius as he may deem necessary for the protection of Emigrant Laborers from India on their passage to the Mauritius, and during their residence there, and for their safe return at the expiration of five years, or any subsequent period, should they be desirous of returning to India. Provided always that the aforesaid Act. No. XIV. of 1839, shall remain in full force in all the Ports of India except the ports aforesaid, and in regard to Emigrants from India proceeding to other places than the Mauritius.

II. And it is hereby enacted, that after this Act shall come into operation, Emigrant Laborers being Native Inhabitants of the Territories under the Government of the East India Company, shall be allowed to pass and to be conveyed from India to the Mauritius from the Ports of Calcutta, Madras and Bombay respectively, in compliance with the Provisions hereinafter mentioned, but not otherwise.

III. And it is hereby enacted, that at each of the three Ports aforesaid, it shall be lawful for the Government of the Presidency within which the Port is situated to authorize the persons nominated by the Government of Mauritius, under the Order herein before inserted, to act as Emigration Agents at the aforesaid Ports respectively, and to exercise the powers conferred on Emigration Agents by this Act. And every such Emigration Agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

IV. And it is hereby enacted, that it shall not be lawful to convey any Emigrant, being a Native of India, who may embark for the purpose of laboring for hire in the Colony of Mauritius from either of the Ports aforesaid, in any Ship or Vessel unless a License be obtained for carrying Emigrants in such Ship or Vessel from the Government of the Presidency in which the Port is situated. A fee not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such License, which fee shall be carried to the credit of the said Government, and the granting or withholding any such License shall be entirely discretionary with the Government, and in consideration of such License the Master of every Ship conveying or destined to convey Emigrants from India shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees to conform to the several conditions hereunder provided, and the said Bond shall be executed in

duplicate that it may be put in suit either at the place of execution or in the Colony of Mauritius, and one copy shall be forwarded to the Government of Mauritius to be dealt with as the case may require. And every Ship or Vessel in which any such Emigrant shall be conveyed without a License being obtained as aforesaid shall be liable to be forfeited, and the Master thereof shall be liable as for a misdemeanor in a fine of 1,000 Rupees for every such Emigrant so illegally conveyed.

V. And it is hereby enacted, that it shall not be lawful for the Master of any Vessel licensed as above to receive on board any Emigrant Laborer as above provided, unless such Laborer shall have in his possession and show a Certificate or Pass to be given to him by the Emigration Agent of the Port, stating his name and the name of his father and his age, and certifying that having appeared before such Agent he has declared his willingness and desire to proceed to work for hire in the said Colony of Mauritius.

VI. And it is hereby enacted, that before any Ship or Vessel so licensed to carry Emigrant Laborers as above provided, shall be cleared out from any of the aforesaid Ports for the Mauritius, it shall be necessary for the Master of such Ship or Vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Emigration Agent so nominated and authorized at such Port as aforesaid, a Certificate under the hand of such Agent to the effect following, that is to say---

1. That such Agent has, by personal communication, done what is required on the part of such Agent by the *third* Article of the Schedule hereinbefore inserted; provided always that every such Agent shall make the inquiries specified in such Schedule, in and open Court or public office, to which all persons shall have admission.
2. That all the directions contained in the 4th, 5th, 6th, and 8th Articles of the Schedule hereinbefore inserted for ensuring the health and safety of Passengers have been duly complied with.
3. That (in addition to the directions contained in the said Schedule) such rules have been complied with as the Governor General in Council, or in his absence, the President in Council, shall from time to time frame, touching the Medical attendance and Medical Stores to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

VII. And it is hereby, that with reference to Article 7 of the Schedule hereinbefore inserted, the probable lengths of a voyage to the Mauritius from the respective ports aforesaid, shall, for the purposes of this Act be deemed to be for the port of Calcutta,

Between the months of April and October inclusive, ten weeks.

Between the month of November and March inclusive, eight weeks.

For the Port of Madras, between the months of April and October inclusive, seven weeks, and between the months of November and March inclusive, five weeks.

For the Port of Bombay, between the months of April to September inclusive, five weeks, and between the months of October to March inclusive, six weeks.

VIII. And it is hereby enacted, that before any Ship or Vessel shall be cleared out from any of the aforesaid Ports for the Mauritius, it shall be necessary for the Master thereof to deliver to the Emigration Agent so nominated and authorized at such Port as aforesaid the list specified in Article 11 of the Schedule hereinbefore inserted, and to obtain such duplicate thereof as is required by the said Article.

IX. And it is hereby enacted, that if Master of any Ship or Vessel shall at any of the Ports aforesaid take on board such Ship or Vessel any Emigrant Laborer of the description aforesaid, and shall clear such Ship or vessel any Emigrant Laborer of the description aforesaid, and shall clear such Ship or Vessel for the Mauritius without having fully complied with every particular hereinbefore required previous to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, in a penalty of 200 Rs. For every Emigrant Laborer so taken on board his Ship or Vessel.

X. And it is hereby enacted, that if Master of any Ship or Vessel shall, *after having cleared such Ship or Vessel* at any such Port as aforesaid for Mauritius, take on board any such Emigrant Laborer as aforesaid without having entered such Emigrant Laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant, Prior to clearance, he shall be liable, on conviction, before any Magistrate or Justice of the Peace, in a Penalty not exceeding 500 Rs. For every Emigrant so taken on board his Ship or Vessel.

XI. And it is hereby enacted, that if Master of any Ship or Vessel cleared for the Mauritius as aforesaid shall, after having obtained such Certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such Certificate shall become inapplicable to the altered state of the Ship or Vessel, its Passengers, or other matter to which such Certificate relates, such Master shall be liable on conviction, in any Penalty not exceeding 5,000 Rupees, beside incurring a forfeiture of any Bond executed in consideration of any License Obtained for the Vessel as originally described.

XII. And it is hereby enacted, for the greater security against Emigrant Laborers being embarked for the Mauritius contrary to the provisions of this Act, that all the powers vested by law in the Officers of Customs in regard to the searching and detention of Ships or Vessels, or otherwise for the prevention of smuggling on board thereof may be exercised by such Officers for the prevention of the illegal embarkation of such Emigrants as aforesaid on board Ships or Vessels bound for the Mauritius, and of other offences against this Act; and it is further enacted, that all Pilots in the service of the East India Company shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

XIII. And it is hereby enacted, that every person who shall attempt by means of intoxication, or by false imprisonment, or other means of crimping to export any native on board any Ship or Vessel contrary to the provisions of this Act, shall be liable to be punished before a Magistrate in a fine not exceeding 500 Rupees, or imprisonment not exceeding six months, provided that nothing in this Act contained shall prevent the offender from being proceeded against by indictment; but the offender shall only be liable to one of these courses of proceeding.

XIV. And it is hereby enacted, that whenever a Vessel shall clear from Calcutta for Mauritius with Emigrant Laborers duly embarked thereon, the Customs Officer on board such Vessel shall countersign the Pass or Certificate brought on board by every such Emigrant Laborer, and shall keep a Register of every such Emigrant Laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and Passengers has been made in his presence and in that of the Pilot in charge of the Vessel: and after the Customs Officer has taken muster, and quitted the Vessel the Pilot shall continue to exercise the duties indicated in Section XII. of this Act. And it shall be lawful for him if he shall deem it necessary to require the Master or Commander to take a general Muster of the Crew and Passengers and Emigrant Laborers on board, and to sign a Muster Roll so taken. And every such Custom House officer and Pilot shall make a complete report of the Emigrant Laborers on board of any Ship at the time of his quitting the same, and such report shall contain a declaration, that to the best of the Declarant's belief no additional Coolies have been received on board since obtaining the Certificate, and that nothing else has been done or omitted to be done in the Ship or Vessel contrary to the provisions of this Act, and every such report, or muster, if any, shall be transmitted without delay to the Emigration Agent of the Port. And any Custom House Officer or Pilot who shall willfully make a false, erroneous or incomplete report of the Emigrant Laborers on board of any Ship, or who shall connive at the unauthorized embarkation of any such Emigrant Laborers, shall be liable, besides dismissal, to a fine of 500 Rupees, commutable, if not paid, to imprisonment in the Calcutta Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

XV. And it is hereby enacted, that if any person shall forge or shall use knowing it to be forged, and document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

XVI. And it is hereby enacted, that all the several penalties to which Masters of Ships or Vessels are liable by this Act shall be enforced by information laid before any Justice of the Peace at the instance of the Emigration Agent, or of any Officer appointed for the purpose by the Government of the Place or Presidency, or may be enforced by putting in suit the Bond given by the Master if such Bond has been given in consideration of the licence granted to the Ship.
