

ACT No. VII OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th March, 1922.)

An Act to amend the law relating to emigration.

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Emigra- Short title and extent.
tion Act, 1922.

(2) It extends to the whole of British India.

2. (1) In this Act, unless there is anything re- Definitions.
pugnant in the subject or context,—

(a) “dependent” 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 dependent 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

(i) the

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[Price four annas.]

- (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 British India of—
 - (i) any person who departs under an agreement to work for hire in any country beyond the limits of India, 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 India ;
- (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 Governor General in Council may, by notification in the Gazette of India, 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

- (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 Local Government may prescribe, and such determination shall be final.

CHAPTER II.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

3. (1) Subject to the control of the Governor Appointment of Protectors of Emigrants. General in Council, the Local Government may appoint a person to be the Protector of Emigrants for any port situate within the territories administered by it from which emigration is lawful.

(2) The Local Government 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 Indian Penal Code. XLV of 1860.

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

emigrated, and also during the return voyage, and report thereon to the Local Government ;

(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 British India, 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.

Power to appoint persons to exercise functions of a Protector

5. (1) In any specified area where there is not a Protector of Emigrants, the Local Government, subject to the control of the Governor General in Council, may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

(2) Every person so appointed shall be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Appointment of Medical Inspectors.

6. (1) The Local Government 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.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Agents in foreign countries.

7. The Governor General in Council may, for the purpose of safeguarding the interests of emigrants in any place outside British India, appoint persons to be agents in such places, and may define their powers and duties.

Advisory Committees.

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

CHAPTER III

CHAPTER III.

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

9. (1) Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, Karachi, Negapatam, Tuticorin and Dhanushkodi, and from such other ports as the Governor General in Council may, by notification in the Gazette of India, declare to be ports from which such emigration is lawful.

Ports from which emigration of unskilled workers is lawful.

(2) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which such emigration 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 Governor General in Council, by notification in the Gazette of India, may specify in this behalf.

Countries to which emigration of unskilled workers is lawful.

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before both Chambers of the Indian Legislature 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.

11. (1) Where the Governor General in Council 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 in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

Power to suspend emigration of unskilled workers.

(2) Where a Local Government has reason to believe that such a state of affairs as is described in

sub-section

sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, it may, by notification in the local official Gazette, declare that emigration to that country for the purpose of unskilled work from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(3) The Local Government publishing a notification under sub-section (2) shall forthwith report such notification with the reasons for it to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

12. Where the Governor General in Council is satisfied that the ground on which a notification under sub-section (1) of section 11, or a notification under sub-section (3) of section 11 confirming a notification of a Local Government has been made with respect to any country, has ceased to exist, he may, by notification in the Gazette of India, 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 Governor General in Council to prohibit emigration to specified country.

13. (1) The Governor General in Council may, by notification in the Gazette of India, 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 territories under the administration of any Local Government or any specified part thereof, for the purpose of unskilled work.

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

Saving.

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 Governor General in Council may, by notification in the Gazette of India, 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 Local Government having jurisdiction at the port from which such person is to depart, 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 India to which each such person and his dependents are to proceed ;
- (c) the accommodation to be provided for each such person and his dependents until their departure out of India 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 dependents 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 British India which he proposes to furnish for the due observance of

such

such agreement and for the proper treatment of the person to be engaged and his dependents.

Applications
how to be
disposed of.

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

Appearance of
engaged
persons before,
and registra-
tion of names
by, Protector
of Emigrants.

18. (1) Before any person departs from British India 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 authorised 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 dependents.

(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 dependents (if any) and concerning the person engaging or assisting him, and in such form, as the Local Government may prescribe.

Provisions as
to security.

19. Where such security as is referred to in subsection (2) of section 16 has been furnished, the Local Government may, at any time after making such inquiry as it 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 agree-
ment

ment 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.

20. The Local Government may, by notification in the local official Gazette, authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter :

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

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

21. (1) Where the Governor General in Council has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification in the Gazette of India, 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.

Power to prohibit emigration of skilled workers.

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

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

Saving.

CHAPTER V.

RULES.

23. Subject to the control of the Governor General in Council, the Local Government may, by notification in the local official Gazette, 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 Local Government is by this Act empowered to prescribe.

Power of Local Government to make rules.

24. (1) The

Power for
the Governor
General in
Council to
make rules.

24. (1) The Governor General in Council may, by notification in the Gazette of India, and after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(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 Governor General in Council under this Act;
- (b) the licensing, supervision and control of all persons employed in British India in connection with the inducement of persons to emigrate and with the conveyance and accommodation of persons so induced;
- (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 dependents;
- (h) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on any ship specially chartered for the transport of emigrants;

(i) the

- (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 India; and
- (k) generally, the security, well-being and protection of emigrants both up to the date of their actual departure from India and on their return to India.

CHAPTER VI.

OFFENCES.

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. Unlawful emigration or inducement to emigrate.

(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) induces, or attempts to induce, 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 British India 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) If any person commits an offence under this section, any police-officer may arrest him without warrant.

26. Whoever

Fraudulently 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 representation 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 prosecutions.

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 complaint 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.

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

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.

CHAPTER VII.

SUPPLEMENTAL.

Prohibition of departure by land under an agreement to work for

30. (1) The departure by land out of British India of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise

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.

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

(3) Whoever induces, or attempts to induce, any person to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

CHAPTER VIII.

SAVINGS AND REPEAL.

31. Nothing in this Act shall be deemed to apply to the departure out of British India of—

(i) any person who is neither of Indian parentage nor a subject of a State in India, or

(ii) any person enrolled under the Indian Army Act, 1911.

VIII of 1911.

32. Notwithstanding anything contained in this Act, the provisions of this Act shall not apply for a period of twelve months from the date of the commencement of this Act to persons emigrating to Ceylon, the Straits Settlements, or any protected Native State adjoining the Straits Settlements.

33. The Indian Emigration Act, 1908, is hereby repealed.

XVII of 1908.