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The Emigration Act, 1983

(ACT No. 31 of 1983)

[*As on the* 1*st July*, 2026]

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LIST OF ABBREVIATIONS USED

G.S.R.	*for*	General Statutory Rules.
S.O.	,,	Statutory Order.
Notifn.	,,	Notification.

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THE EMIGRATION ACT, 1983

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THE EMIGRATION ACT, 1983

ACT NO. 31 OF 1983

[10*th September*, 1983.]

An Act to consolidate and amend the law relating to emigration of citizens of India.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.—(*1*) This Act may be called the Emigration Act, 1983.

(*2*) It extends to the whole of India and applies also to citizens of India outside India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions.—(*1*) In this Act, unless the context otherwise requires,—

(*a*) "certificate" means a certificate of registration issued under section 11;

(*b*) "conveyance" includes a vessel, vehicle, country-craft and an aircraft;

(*c*) "dependent" means any person who is related to an emigrant and is dependent on that emigrant;

(*d*) "emigrant" means any citizen of India who intends to emigrate, or emigrates, or has emigrated but does not include—

(*i*) a dependent of an emigrant, whether such dependent accompanies that emigrant, or departs subsequently for the purpose of joining that emigrant in the country to which that emigrant has lawfully emigrated;

(*ii*) any person who has resided outside India at any time after attaining the age of eighteen years, for not less than three years or the spouse or child of such person;

(*e*) "emigrant conveyance" means any conveyance specially chartered for conveyance of emigrants or for conveying emigrants exceeding such number as may be prescribed:

Provided that the Central Government may, by notification, declare that any conveyance conveying emigrants to such place as may be specified in the notification shall not be deemed to be an emigrant conveyance;

(*f*) "emigrate" and "emigration" mean the departure out of India of any person with a view to taking up any employment (whether or not under an agreement or other arrangements to take up such employment and whether with or without the assistance of a recruiting agent or employer) in any country or place outside India;

(*g*) "employer" means any person providing or offering to provide, employment in any country or place outside India;

(*h*) "employment" means any service, occupation or engagement (not being service, occupation or engagement under the Central Government or a State Government), in any kind of work within the meaning of clause (*o*), for wages or for reward, and all its grammatical variations and cognate expressions shall be construed accordingly;

(*i*) "notification" means a notification published in the Official Gazette;

1. 30th December, 1983, *vide* Notifn. No. S.O. 940(E), dated 30th December, 1983, *see* Gazette of India, Extraordinary, Part II, sec. 3 (*ii*).

(*j*) "prescribed" means prescribed by rules made under this Act;

(*k*) "Protector of Emigrants" means a Protector of Emigrants appointed under section 3 and includes a person authorised under section 5;

(*l*) "recruiting agent" means a person engaged in India in the business of recruitment for an employer and representing such employer with respect to any matter in relation to such recruitment including dealings with persons so recruited or desiring to be so recruited;

(*m*) "recruitment" includes the issuing of any advertisement for the purpose of recruitment, the offering by advertisement to secure or assist in securing any employment in any country or place outside India and the entering into any correspondence, negotiation, agreement or arrangement with any individual for or in relation to the employment of such individual in any country or place outside India;

(*n*) "registering authority" means the officer appointed under section 9 to be the registering authority for the purposes of this Act;

(*o*) "work" means—

(*i*) any unskilled work, including any form of industrial or agricultural labour;

(*ii*) any domestic service;

(*iii*) any service, not being a service in a managerial capacity, in any hotel, restaurant, tea-house or other place of public resort;

(*iv*) work as a driver of a truck or other vehicle, mechanic, technician or skilled labourer or artisan;

(*v*) work as an office assistant or accountant or typist or stenographer or salesman, or nurse or operator of any machine;

(*vi*) work in connection with, or for the purposes of, any cinema, exhibition or entertainment;

(*vii*) any such work of a professional or of any other nature as the Central Government may, having regard to the need for the protection of citizens of India who may be employed in such work outside India and other relevant circumstances, specify by notification:

Provided that the Central Government may, if satisfied that it is necessary so to do having regard to the conditions of service applicable with respect to employment in any of the aforementioned categories of work or any sub-category thereof, whether generally or in relation to any particular country or place and other relevant circumstances, declare by notification that such category of work or sub-category of work shall not be deemed to be work within the meaning of this definition.

(*2*) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

EMIGRATION AUTHORITIES

3. Protectors of Emigrants.—(*1*) The Central Government may, by notification, appoint a Protector General of Emigrants and as many Protectors of Emigrants, as it deems fit, for the purposes of this Act.

(*2*) The Central Government may, by general or special order, define the area to which the authority of a Protector of Emigrants so appointed shall extend and, where two or more Protectors of Emigrants are appointed for the same area, also provide, by such order, for the distribution and allocation of the work to be performed under this Act in relation to such area.

(*3*) The Protectors of Emigrants shall perform the functions assigned to them by or under this Act under the general superintendence and control of the Protector General of Emigrants.

(*4*) The Protector General of Emigrants may, in addition to the special function assigned to him by or under this Act, perform all or any of the functions assigned to any Protector of Emigrants.

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4. General duties of Protectors of Emigrants.—Subject to the other provisions of this Act, every Protector of Emigrants shall, in addition to the special duties assigned to him by or under this Act—

(*a*) protect and aid with his advice all intending emigrants and 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, to such extent and in such manner as may be prescribed—

(*i*) any emigrant conveyance, or

(*ii*) any other conveyance if he has reason to believe that any intending emigrants or emigrants are proceeding from, or returning to, India to or from a place outside India by such other conveyance;

(*d*) inquire into the treatment received by emigrants during their voyage or journey to, and during the period of their residence in the country to which they emigrated and also during the return voyage or journey to India and report thereon to the Protector General of Emigrants or such other authority as may be prescribed;

(*e*) aid and advise, so far as he reasonably can, emigrants who have returned to India.

5. Power to authorise persons to exercise functions of a Protector.—The Central Government may, if satisfied that it is necessary so to do in the interest of emigrants or intending emigrants, authorise any person to perform all or any of the functions of a Protector of Emigrants under this Act.

6. Emigration check-posts.—(*1*) Where the Central Government considers that, with a view to preventing or checking the contravention of the provisions of this Act, it is necessary so to do, it may, by notification, set up such number of emigration check-posts at such places as may be specified.

(*2*) The Central Government may, by general or special order made in this behalf, appoint an officer of the Central Government or of a State Government to be an officer in charge of an emigration check-post set up under sub-section (*1*).

(*3*) An officer in charge of an emigration check-post shall be subject to the general control and supervision of the Protector of Emigrants within the local limits of whose jurisdiction that emigration check-post is situated.

7. Other emigration officers and staff.—The Central Government may appoint such other officers and employees (hereinafter referred to as the emigration officers and emigration employees), as it may think fit, to assist the Protector General of Emigrants and the Protectors of Emigrants in the performance of their duties under this Act.

8. Emigration officers to be public servants.—The Protector General of Emigrants, Protectors of Emigrants, the officers in charge of emigration check-posts, emigration officers and emigration employees appointed under this Act shall be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

CHAPTER III

REGISTRATION OF RECRUITING AGENTS

9. Registering authority.—The Central Government may, by notification, appoint the Protector General of Emigrants or any other officer of that Government of a rank higher than that of a Protector of Emigrants to be the registering authority for the purposes of this Act.

10. No person to function as recruiting agent without a valid certificate.—Save as otherwise provided in this Act, no recruiting agent shall, after the commencement of this Act, commence or carry on the business of recruitment except under and in accordance with a certificate issued in that behalf by the registering authority:

Provided that a person carrying on the business of recruiting agent immediately before the commencement of this Act may continue to carry on such business without such a certificate for a period of one month from such commencement, and if he has made an application for such certificate under this Act within the said period of one month and such application is in the prescribed form and contains the prescribed particulars, till the disposal of such application by the registering authority.

11. Application for registration.—(*1*) An application for registration shall be made to the registering authority in such form and shall contain such particulars as to the applicant's financial soundness, trustworthiness, premises at which he intends to carry on his business, facilities at his disposal for recruitment, his antecedents (including information as to whether any certificate had been issued to him under this Chapter earlier and if so, whether such certificate had been cancelled) and previous experience, if any, of recruitment and other relevant matters as may be prescribed and shall be accompanied by a receipt evidencing the payment of the prescribed fee and an affidavit giving his current financial standing and an undertaking in the form prescribed to the effect that in the event of any information furnished in or along with the application for registration being found to be false or incorrect in any respect, the certificate shall be liable to be cancelled at any time in accordance with the procedure prescribed:

Provided that no application shall be entertained under this sub-section from a person disqualified under sub-section (*6*) of section 14 till the expiry of the period of such disqualification.

(*2*) On receipt of such application, the registering authority shall,—

(*a*) if the application is not in the prescribed form or does not contain any of the prescribed particulars, return the application to the applicant;

(*b*) if the application is in the prescribed form and contains the prescribed particulars, inform the applicant that he is eligible for the grant of the certificate applied for and, after giving the applicant an opportunity to be heard, determine, under sub-section (*3*), the amount of the security which the applicant shall furnish.

(*3*) The registering authority shall, for securing the due performance of the terms and conditions of the certificate proposed to be issued by it under sub-section (*2*) to an applicant and for securing compliance with the provisions of this Act and the rules made thereunder and for meeting expenses which may have to be incurred in the event of the repatriation to India of any of the emigrants who may be recruited by the applicant determine, in accordance with the rules made in this behalf, the amount of security (not being in any case less than one lakh of rupees) which shall be furnished by the applicant.

(*4*) If an applicant furnishes in the prescribed manner the amount of security determined under sub-section (*3*) within a period of one month from the date on which the registering authority requires him to furnish such security, he shall be issued the certificate applied for by him together with an endorsement thereon to the effect that the security required has been furnished by him.

(*5*) If an applicant fails to furnish the security required to be furnished by him within the period specified in sub-section (*4*), his application shall be deemed to have been rejected by the registering authority on the date of expiry of that period.

12. Terms and conditions of registration.—A certificate issued under section 11 shall be—

(*a*) in such form as may be prescribed;

(*b*) valid for such period not exceeding five years as may be prescribed:

Provided that a certificate may be issued for a period shorter than the prescribed period—

(*i*) if the person to whom it is issued so desires; or

(*ii*) if the registering authority, for reasons to be communicated in writing to the applicant for the certificate, considers in any case that the certificate should be issued for a shorter period;

(*c*) subject to such other terms and conditions, including in particular, the maintenance by the holder of the certificate of the prescribed records containing details of his financial transactions in

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regard to recruitment, persons recruited or assisted to emigrate by him, employers concerned, contracts and other arrangements entered into in connection with recruitment, as may be prescribed:

Provided that a certificate may contain, in addition to the prescribed terms and conditions, such other terms and conditions as the registering authority may, for securing the purposes of this Act, impose in any particular case.

13. Renewal of registration.—A certificate may be renewed from time to time and the provisions of this Act and the rules made thereunder (including provisions as to fees) shall apply to the renewal of a certificate as they apply to the issue thereof:

Provided that no certificate shall be renewed unless, the application for its renewal is made not less than three months prior to the date on which the certificate, would, but for such renewal, cease to be valid:

Provided further that the registering authority may entertain an application for the renewal of a certificate which has been made at any time during the period of three months prior to the date on which the certificate would, but for such renewal, cease to be valid if the applicant satisfied the registering authority that he had sufficient cause for not making such application before the said period.

14. Cancellation, suspension, etc., of a certificate.—(*1*) The registering authority may cancel any certificate on any one or more of the following grounds and on no other ground namely:—

(*a*) that having regard to the manner in which the holder of the certificate has carried on his business or any deterioration in his financial position, the facilities at his disposal for recruitment, the holder of the certificate is not a fit person to continue to hold the certificate;

(*b*) that the holder of the certificate has recruited emigrants for purposes prejudicial to the interests of India or for purposes contrary to public policy;

(*c*) that the holder of the certificate has, subsequent to the issue of the certificate, been convicted in India for any offence involving moral turpitude;

(*d*) that the holder of the certificate has, subsequent to the issue of the certificate, been convicted by a court in India for any offence under this Act, the Emigration Act, 1922 (7 of 1922), or any other law relating to passports, foreign exchange, drugs, narcotics or smuggling and sentenced in respect thereof to imprisonment for not less than six months;

(*e*) that the certificate has been issued or renewed on misrepresentation or suppression of any material fact;

(*f*) that the holder of the certificate has violated any of the terms and conditions of the certificate;

(*g*) that in the opinion of the Central Government it is necessary in the interests of friendly relations of India with any foreign country or in the interests of the general public to cancel the certificate.

(*2*) Where the registering authority, for reasons to be recorded in writing, is satisfied that pending the consideration of the question of cancelling any certificate on any of the grounds mentioned in sub-section (*1*) it is necessary so to do, the registering authority may, by order in writing, suspend the operation of the certificate for such period not exceeding thirty days as may be specified in the order and require the holder of the certificate to show cause, within fifteen days from the date of receipt of such order, as to why the suspension of the certificate should not be extended till the determination of the question as to whether the registration should be cancelled.

(*3*) A court convicting a holder of a certificate for an offence under this Act may also cancel the certificate:

Provided that if the conviction is set aside in appeal or otherwise, the cancellation under sub-section (*3*) shall become void.

(*4*) An order of cancellation of a certificate may be made under sub-section (*3*) by an appellate court or by a court exercising its powers of revision.

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(*5*) Before passing an order cancelling or suspending a certificate the registering authority or the court, as the case may be, shall consider the question as to the provisions and arrangements which should be made for safeguarding the interests of emigrants and other persons with whom the holder of the certificate had any transactions in the course of his business as recruiting agent and may make such orders (including orders permitting the holder of the certificate to continue to carry on his business with respect to all or any such emigrants and other persons) as it may consider necessary in this behalf.

(*6*) Where a certificate issued to any person has been cancelled under this section, such person shall not be eligible to make any application for another certificate under this Chapter until the expiry of a period of two years from the date of such cancellation.

CHAPTER IV

PERMITS FOR RECRUITMENT BY EMPLOYERS

15. Competent authority.—(*1*) The Central Government may, by notification, appoint the Protector General of Emigrants or any other officer of that Government of a rank higher than that of a Protector of Emigrants to be the authority (hereinafter referred to as the competent authority) for issuing permits under this Chapter.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may, by notification, authorise any person who is employed under that Government in any country or place outside India to exercise the powers of the competent authority, and issue permits under this Chapter to employers who are not citizens of India for the purpose of recruiting any citizen of India for employment in such country or place and a person so authorised shall endorse a duly certified copy of every permit issued by him under this Chapter to the Protector General of Emigrants.

16. Recruitment by employers to be through recruiting agent or under permit.—Save as otherwise provided by or under this Act, no employer shall recruit any citizen of India for employment in any country or place outside India except—

(*a*) through a recruiting agent competent under this Act to make such recruitment, or

(*b*) in accordance with a valid permit issued in this behalf under this Chapter.

17. Procedure for obtaining permits.—(*1*) An employer desiring to obtain a permit under this Chapter may make an application in that behalf in the prescribed form to the competent authority.

(*2*) On receipt of such application, the competent authority shall, subject to any rules made in this behalf, make such inquiry as he may deem necessary and grant the permit applied for or reject the application:

Provided that before granting a permit the competent authority may require the applicant to comply with such conditions as may be prescribed, including conditions as to furnishing of security and such other conditions as that authority may, for reasons to be recorded in writing, deem necessary in the interests of the citizens of India likely to be recruited by the applicant.

(*3*) Subject to the other provisions of this Act, the competent authority may reject an application under sub-section (*1*) on any one or more of the following grounds and on no other ground, namely:—

(*a*) that the application is not complete in all respects or that any of the material particulars furnished in the application are not true;

(*b*) that the terms and conditions of employment which the applicant proposes to offer to persons recruited or proposed to be recruited by him are discriminatory or exploitative;

(*c*) that the employment which the applicant proposes to offer involves work of a nature which is unlawful according to the laws of India or offends against the public policy of India or is violative of norms of human dignity and decency;

(*d*) that having regard to the antecedents of the applicant, his financial standing, the facilities at his disposal, the working and living conditions of persons employed by him in the past, it would not be in

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the public interest or in the interests of the persons who may be recruited by him, to issue a permit to him;

(*e*) that having regard to the prevailing circumstances in the country or in the place where the applicant proposes to employ the persons recruited by him, it would not be in the interests of any citizen of India to emigrate for taking up such employment.

(*4*) Where the competent authority makes an order under sub-section (*2*) rejecting an application, he shall record in writing a brief statement of his reasons for making such order and furnish the applicant, on demand, a copy of the same:

Provided that if the competent authority is of the opinion that it is necessary or expedient in the interests of friendly relations with a foreign country or in the interests of the general public so to do, he may refuse to provide such copy or, as the case may be, furnish a copy of only such parts of the statement as he may deem fit.

18. Period of validity of permit.—A permit issued under section 17 shall be valid till the expiry of such period, not exceeding one year, as may be prescribed, from the date of issue thereof, or till the recruitment or the persons for whose recruitment such permit is issued is completed, whichever is earlier:

Provided that where the holder of the permit has been unable for sufficient cause, to complete such recruitment before the expiry of the prescribed period, the prescribed authority may, subject to rules made in this behalf, extend the period of validity of the permit by such further period or periods, not exceeding three months at a time.

19. Registration of certain permits.—Any permit obtained from a person authorised under sub-section (*2*) of section 15 shall not be valid unless a certified copy thereof is filed in the prescribed manner with the Protector General of Emigrants.

20. Cancellation or suspension of a permit.—The provisions of section 14 relating to cancellation and suspension of a certificate referred to therein shall, subject to such modifications as may be necessary (including modifications for construing the references in that section to registering authority as references to competent authority under this Chapter), apply for the cancellation or suspension of a permit.

21. Power to exempt.—The Central Government may, if satisfied that it is necessary or expedient so to do in the public interest, by notification and subject to such conditions, if any, as may be specified in the notification, exempt any class or classes of employers from the requirement of obtaining a permit under this Chapter.

CHAPTER V

EMIGRATION CLEARANCE

22. Requirement, etc., as to emigration clearance.—(*1*) No citizen of India shall emigrate unless he obtains under this Chapter from the Protector of Emigrants authorisation in the prescribed manner and form (such authorisation being hereinafter referred to as emigration clearance) for emigration.

(*2*) An application for emigration clearance shall be in the prescribed form, shall contain the prescribed particulars and shall be made by the emigrant concerned to the Protector of Emigrants:

Provided that such application may be made through the recruiting agent, if any, through whom the emigrant has been recruited or through the employer concerned.

(*3*) Every application under sub-section (*2*) shall be accompanied by—

(*a*) a true copy (verified and authenticated in the prescribed manner) of the agreement with respect to the employment for the taking up of which the applicant proposes to emigrate and where such agreement does not provide for all or any of the prescribed matters, also a statement (verified and authenticated in the prescribed manner) setting out the particulars with respect to such matters;

(*b*) a statement (verified and authenticated in the prescribed manner) as to the provision by way of security for meeting the expenses which may be incurred in case it becomes necessary to arrange for the repatriation to India of the applicant;

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(*c*) a receipt evidencing the payment of the prescribed fee;

(*d*) such other relevant documents or copies of relevant documents as may be prescribed.

(*4*) The Protector of Emigrants shall, after satisfying himself about the accuracy of the particulars mentioned in the application and in the other documents submitted along with the application, authorise in the prescribed manner and form, the emigration of the applicant or intimate by order in writing the applicant or, as the case may be, the recruiting agent or employer through whom the applications have been made about the deficiencies and required him to make good such deficiencies within such time as may be specified in the order or reject the application.

(*5*) Subject to the other provisions of this Act, the Protector of Emigrants may reject an application for emigration clearance under this section on any one or more of the following grounds and on no other ground, namely:—

(*a*) that the terms and conditions of employment which the applicant proposes to take up are discriminatory or exploitative;

(*b*) that the employment which the applicant proposes to take up involves work of a nature which is unlawful according to the laws of India or offends against the public policy of India or is violative of norms of human dignity and decency;

(*c*) that the applicant will have to work or live in sub-standard working or living conditions;

(*d*) that having regard to the prevailing circumstances in the country or place where the applicant proposes to take up employment or the antecedents of the employer under whom the applicant proposes to take up employment or any other relevant circumstances, it would not be in the interests of the applicant to emigrate;

(*e*) that no provision or arrangement has been made for meeting the expenses which may be incurred in case it becomes necessary to arrange for the repatriation to India of the applicant, or that the provisions or arrangements made in this behalf are not adequate for the purpose.

(*6*) Every order rejecting an application for emigration clearance shall set out clearly the ground or grounds on which the order has been made and the facts or circumstances on which such ground or grounds are based.

CHAPTER VI

APPEALS

23. Appeals.—(*1*) Any person aggrieved by—

(*a*) an order of the registering authority rejecting his application for registration or requiring him to furnish any security or to comply with any term or condition (not being a prescribed term or condition) specified in the certificate issued to him or suspending or cancelling or refusing to renew the certificate issued to him; or

(*b*) an order of the competent authority rejecting his application for a permit or requiring him to comply with any terms or conditions (not being a prescribed term or condition) specified in the permit issued to him, or suspending or cancelling or refusing to extend the period of the validity of the permit issued to him; or

(*c*) an order of the Protector of Emigrants rejecting his application for emigration clearance; or

(*d*) an order of the registering authority or the competent authority or the Protector of Emigrants or the prescribed authority requiring him to furnish any security, additional security or fresh security under this Act, or forfeiting or rejecting his claim for refund (whether wholly or partly in either case) of the security, the additional security or the fresh security furnished by him;

may prefer an appeal against such order to the Central Government within such period as may be prescribed.

(*2*) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

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Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within that period.

(*3*) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of periods thereunder.

(*4*) Every appeal under this section shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against and by such fee as may be prescribed.

(*5*) The procedure for disposing of an appeal (including remand of the matter for further consideration to the authority whose order has been appealed against) shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of representing his case.

(*6*) Every order made on an appeal under this section confirming, modifying or reversing the order appealed against shall be final.

CHAPTER VII

OFFENCES AND PENALTIES

24. Offences and penalties.—(*1*) Whoever—

(*a*) except in conformity with the provisions of this Act emigrates; or

(*b*) contravenes the provisions of section 10 or section 16; or

(*c*) by intentionally furnishing any false information or suppressing any material information obtains a certificate or a permit or an emigration clearance under this Act; or

(*d*) without lawful authority makes or causes to be made any alteration in any certificate or permit or in any document or endorsement by way of emigration clearance issued or made under this Act; or

(*e*) disobeys or neglects to comply with any order of the Protector of Emigrants under this Act; or

(*f*) collects from an emigrant any charges in excess of the limits prescribed under this Act; or

(*g*) cheats any emigrant;

shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of any special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees.

(*2*) Whoever attempts to commit any offence under sub-section (*1*) shall be punishable with the punishment provided for such offence under that sub-section.

(*3*) Whoever contravenes any term or condition subject to which any emigration clearance has been given under this Act, shall, if no other punishment is provided elsewhere in this Act for such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

(*4*) Whoever abets any offence punishable under this Act shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.

(*5*) Whoever, having been convicted of an offence under any provision of this Act is again convicted of an offence under the same provision, shall be punishable, for the second and for each subsequent offence, with double the penalty provided for that offence.

25. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall

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be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

26. Offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act shall be cognizable.

27. Previous sanction of Central Government necessary.—No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf:

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intending emigrant and the complaint is filed by such emigrant or intending emigrant, or on behalf of such emigrant or intending emigrant, by the father, mother, husband, wife, son, daughter, brother, sister or guardian of such emigrant or intending emigrant, or if such emigrant or intending emigrant is a member of a joint Hindu family, by the manager of that family.

28. Punishment to be without prejudice to any other action.—The award of punishment for an offence under this Act shall be without prejudice to any other action which has been or which may be taken under this Act with respect to such contravention.

CHAPTER VIII

MISCELLANEOUS

29. Determination of question as to whether a person is an emigrant.—Where a question arises before a Protector of Emigrants as to whether a person intending to depart from India is or is not an emigrant, the Protector of Emigrants shall decide the question after holding an inquiry in such manner and upon considering such evidence as may be prescribed and such other evidence as may be relevant, and communicate the decision to such person in the prescribed manner.

30. Power to prohibit emigration to any country in the interests of the general public, etc.—(*1*) Where the Central Government has reason to believe that sufficient grounds exist for prohibiting emigration to any country, having regard to the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or the interests of the general public, it may, by notification, prohibit emigration to that country.

(*2*) A notification issued under sub-section (*1*) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that the grounds mentioned in sub-section (*1*) continue to exist, it may, from time to time, by notification, prohibit emigration to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.

31. Power to prohibit emigration due to outbreak of epidemics, civil disturbances, etc., in a country.—(*1*) Where the Central Government has reason to believe—

(*a*) that intending emigrants if allowed to emigrate to any country would be exposed to serious risk to life on arrival there by reason of—

(*i*) outbreak of any disease or grave pollution of environment in such country, or

(*ii*) outbreak of hostilities or civil war or civil commotion or political disturbances;

(*b*) that by reason of India not being in diplomatic relations with that country it is not possible to protect the emigrants from discrimination, maltreatment and exploitation,

it may, by notification, prohibit emigration to that country.

(*2*) A notification issued under sub-section (*1*) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that any ground mentioned in sub-section (*1*) continues to exist, it may, from time to time, by notification, prohibit emigration to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.

32. Power to prohibit emigration of any class or category of persons.—(*1*) Where the Central Government considers that in the interests of the general public, immigration of any class or category of persons, having regard to their age, sex or other relevant factors, to any country should be prohibited, it may, by notification, prohibit the emigration to such country of such class or category of persons as may be specified in the notification.

(*2*) A notification issued under sub-section (*1*) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that any of the grounds mentioned in sub-section (*1*) continues to exist, it may, from time to time, by notification, prohibit emigration of such class or category of persons to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.

33. Provisions as to security.—(*1*) Any security or other financial provision which may be required to be made under this Act shall be reasonable having regard to the purpose for which such security or other financial provision is required to be made.

(*2*) The prescribed authority may, after giving notice in the prescribed manner to a person who has furnished any security for any purpose and after giving to such person an opportunity to represent his case, by order in writing, direct that the whole or any part of such security may be forfeited for being utilised for such purpose and in such manner as may be specified in the order.

(*3*) Where it appears to the prescribed authority that the security furnished by any person under this Act for any purpose has, for any reason, become inadequate, or has ceased to be available for any reason whatsoever, the prescribed authority may, after giving him an opportunity to represent his case, by order in writing, require such person to furnish such additional security or, as the case may be, such fresh security as may be specified in the order.

34. Refund of security.—Any security furnished under this Act shall be refunded or, as the case may be, released, when no longer required for the purpose for which it has been furnished and the other circumstances in which and the manner in which any security furnished under this Act may be released or refunded shall be such as may be prescribed.

35. Power to search, seize and detain persons, conveyance, etc.—All the powers for the time being conferred by the Customs Act, 1962 (52 of 1962), on officers of customs with regard to the searching and detention of persons, vessels or aircraft or any other conveyance, or seizure of any document or thing or arrest of any person or otherwise for the purpose of prevention or detection of any offence under that Act or for apprehending a person suspected to have committed any offence under that Act may be exercised, for the purpose of prevention or detection of any offence under this Act or for apprehending a person suspected to have committed any offence under this Act, by—

(*a*) any such officer of customs, or

(*b*) the Protector General of Emigrants or a Protector of Emigrants, or

(*c*) an officer in charge of an emigration check-post.

36. Returns and registers.—(*1*) Every recruiting agent shall maintain such registers and other records and shall submit to the prescribed authorities such periodical or other returns as may be prescribed.

(*2*) The Protector General of Emigrants, the registering authority, the competent authority or a Protector of Emigrants may, by order, call for any other return or information from a recruiting agent.

(*3*) The Protector General of Emigrants, the registering authority, the competent authority or a Protector of Emigrants or an officer in charge of an emigration check-post may inspect any register or other record maintained by a recruiting agent under sub-section (*1*) and for the purpose of such inspection, enter, at any reasonable time, the business premises of a recruiting agent.

37. Authorities and officers to have certain powers of civil court.—(*1*) The Protector General of Emigrants, the registering authority, the competent authority and every Protector of Emigrants shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of witnesses;

(*b*) requiring the discovery and production of any document;

(*c*) requisitioning any public record or copy thereof from any court or office;

(*d*) receiving evidence on affidavits; and

(*e*) issuing commissions for the examination of witnesses or documents.

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(*2*) Every proceeding before the Protector General of Emigrants, or the registering authority or the competent authority or a Protector of Emigrants shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Protector General of Emigrants, the registering authority, the competent authority, and every Protector of Emigrants shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

38. Power to give directions.—The Central Government may give directions to the Protector General of Emigrants, the registering authority, the competent authority or any Protector of Emigrants as to the carrying into execution of any provision of this Act.

39. Effect of other laws.—(*1*) The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any agreement or other instrument having effect by virtue of any enactment other than this Act.

(*2*) Save as provided in sub-section (*1*), the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

40. Delegation.—The Central Government may, by notification, direct that any power or function—

(*a*) which may be exercised or performed by it under this Act, or

(*b*) which may be exercised or performed by a registering authority, a competent authority or a Protector of Emigrants under this Act,

may, in relation to such matters, and subject to such conditions, if any, as it may specify in the notification, be also exercised or performed—

(*i*) by such officer or authority subordinate to the Central Government, or

(*ii*) by any State Government or by any officer or authority subordinate to such State Government, or

(*iii*) in any foreign country in which there is no diplomatic mission of India, by such foreign consular office,

as may be specified in the notification.

41. Power to exempt.—(*1*) Where the Central Government, on a reference made to it or otherwise, is satisfied that having regard to—

(*a*) the friendly relations with any foreign country; or

(*b*) the known reputation of any foreign employer or class of foreign employers, for providing to emigrants standard conditions of living and working, and their methods of recruitment and conditions of employment; or

(*c*) the methods of recruitment followed and the conditions of employment provided by a public undertaking or an approved concern for the execution of its projects abroad; or

(*d*) the facilities and conditions of service provided by Government officers posted abroad to their domestic servants accompanying such Government officers, where the expenditure in respect of the passage of such domestic servants is borne by the Government; and

(*e*) all other relevant considerations,

it is necessary or expedient in the public interest so to do, the Central Government may, by notification, and subject to such conditions, if any, as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act, such foreign dignitary or class of foreign employers, public undertaking, approved concern or Government officers.

Explanation.—For the purposes of this sub-section—

(*a*) "public undertaking" means—

(*i*) an undertaking owned and controlled by Government; or

(*ii*) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*iii*) a body corporate established by or under any Central, Provincial or State Act;

(*b*) "approved concern" means such company incorporated under the Companies Act, 1956 (1 of 1956) or partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932), or society registered under the Societies Registration Act, 1860 (21 of 1860) or any other law relating to societies for the time being in force in any State, or co-operative society registered under any Central, Provincial or State law, as the Central Government may, by notification, approve for the purposes of this section.

(*2*) If the Central Government is satisfied that it is necessary for implementing any treaty, agreement or convention between India and a foreign country or foreign countries so to do, it may, by notification, and subject to such conditions, if any, as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act, recruitment by such authorities, agencies or persons as may be specified in the notification either generally or for such purposes as may be specified in the notification.

42. Act not to apply to certain emigrants.—Nothing contained in this Act shall be deemed to apply to—

(*a*) the recruitment or emigration of any person who is not a citizen of India;

(*b*) the control of recruiting in India for the service of foreign States to which the Foreign Recruiting Act, 1874 (4 of 1874) applies.

43. Power to make rules.—(*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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(*a*) the powers and duties of officers and employees appointed for the purposes of this Act and the terms and conditions of their service;

(*b*) the form of—

(*i*) a certificate to commence or carry on the business of recruitment, and of an application for the issue or renewal thereof;

(*ii*) a permit for the recruitment of persons for employment outside India, and of an application for the issue thereof;

(*iii*) an application for emigration clearance;

(*iv*) an appeal to be preferred to the Central Government;

(*c*) the manner and form in which an authorisation by way of emigration clearance may be given;

(*d*) particulars to be contained in an application for a certificate or a permit or for an emigration clearance;

(*e*) the manner in which different inquiries required to be held under this Act may be held;

(*f*) the manner in which the amount of security for securing the due performance of the terms and conditions of the certificate or permit or for compliance with the provisions of this Act shall be furnished;

(*g*) the manner of verifying or authenticating documents and copies of documents for the purposes of this Act;

(*h*) the procedure to be followed in hearing an appeal preferred to the Central Government;

(*i*) the fees to be paid in respect of applications and other matters under this Act;

(*j*) the charges which a recruiting agent may recover from an emigrant in respect of services rendered and the scales and limits of such charges;

(*k*) the terms and conditions subject to which a certificate or a permit or an emigration clearance may be issued under this Act;

(*l*) the period of the validity of a certificate or a permit issued under this Act;

(*m*) the authority competent to extend the period of validity of a permit or to forfeit security or to require any additional security or fresh security under this Act;

(*n*) the accommodation, the provisions, the medical stores and staff, the life saving and sanitary arrangements and other provisions and arrangement for the well-being, security and protection of emigrants which shall be provided and the records which shall be maintained in any emigrant conveyance.

(*o*) any other matter which is required to be, or may be, prescribed.

44. Notifications and rules to be laid before Parliament.—Every notification issued under clause (*o*) of sub-section (*1*) of section 2, section 30, section 31 or section 32 and every rule made under section 43 shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or both Houses agree that the notification or the rule should not be issued or made, the notification or the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

45. Repeal of Act 7 of 1922.—The Emigration Act, 1922 is hereby repealed.

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STATEMENT OF OBJECTS AND REASONS

The Emigration Act, 1922 which governs the regulation of emigrationn of skilled and unskilled workers from India was tailored to meet the requirements of a different era and has gradually ceased to be an effective regulatory instrument. During the past five years or so, with the rapidly increasing flow of Indian workers to foreign countries for employment purposes, the subject emigration has become a matter of increasing concern both for Government and the public in general. The Government had initiated a system of registration of recruiting agents and laid down certain minimum terms and conditions of service on which emigration of different categories of workers was to be allowed. The Supreme Court in its order dated 20th March, 1979 in the case of Kanga and others versus the Union of India laid down four basic conditions according to which emigration of Indian workers was to be regulated until the passage of a new legislation on the subject. This order was issued on the basis of information provided to the Supreme Court that Government was in the process of introducing a new legislation on the subject which was expected to be finalised by July, 1979. This, however, could not be accomplished and on August 21, 1979, the Supreme Court reiterated that emigration applications will be processed in accordance with the conditions laid down earlier and that no new conditions should be imposed by the Government except by new legislation or rules. Following the Supreme Court order of August, 1979, which, in effect, took away from the Government the power to scrutinise terms and conditions of Indian workers emigrating abroad for employment, action had been taken to bring legislation for the purpose. The present Bill is the culmination of these efforts.

2. The following are the salient features of the Bill:—

(*i*) No Indian citizen (unless exempted) can leave India for taking up abroad work as defined in the Bill without obtaining a certificate of emigration clearance from the Protector of Emigrants.

(*ii*) An emigrant worker can be recruited for a job in a foreign country either by a recruiting agent registered under the Act or by an employer, subject to his being permitted to do so under the Act.

(*iii*) No prior scrutiny of applications for registration of agents is required. Registration of recruiting agent has been made subject to an affidavit, an undertaking and an amount of security which shall not be less than rupees one lakh. When a certificate issued to a per- son has been cancelled, he shall not be eligible to make any application for another certificate until a period of two years from the date of such cancellation.

(*iv*) The decisions of the specified authorities in regard to cancellation, suspension and rejection of permits, registration and other matters are appealable to the Central Government.

(*v*) Taking into account the concern expressed at various forums on the matter of exploitation of emigrants by recruiting agents and employers, provision has been made for offences of this nature and punishment by way of imprisonment up to a period of two years and fine up to two thousand rupees have been provided in the Bill.

(*vi*) Provision has been made for the repeal of the Emigration Act, 1922.

3. The Bill seeks to achieve the above objects.

VEERENDRA PATIL

NEW DELHI;
The 18*th July*, 1983.

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