

EMIGRATION ACT, 1922

7 of 1922

[5th March, 1922]

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STATEMENT OF OBJECTS AND REASONS " 'Emigrations defined by S. 2 (iv) of the Indian Emigration Act, 1908 (17 of 1908), i. e., what is commonly known as 'indentured emigration', is still lawful under S. 4 of the Act to the countries specified in the First Schedule, except to Natal, in respect of which a notification prohibiting emigration was issued under S. 5 of the Act in 1911. An announcement was, however made by the Government Of India in 1917, that indentured emigration would not in future be permitted. Effect has hitherto been given to this undertaking by means of R.16B of the Defence of India (Consolidation) Rules, 1915, which prohibits the emigration, except the licence of all unskilled labour,

'for the purpose of, or with the intention of, labouring for hire'. It is therefore necessary to take power before the expiry of the Defence of India Act, to prevent indentured emigration by some other means. This is the first object of the present Bill. The second object of the Bill is to provide machinery for the control of emigration in the future. The principal provisions of the Bill are as follows: (1) "Emigration" is defined as the departure by sea out of British India of any person (a) under an agreement to work for hire, or (b) when assisted so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the limits of India [Clause 2 (c).] (2) "Work" is defined as either skilled or unskilled. Skilled work means the occupations specified in Chapter XI of the present Act, working as a clerk or shop assistant, or any other occupation which may be declared by the Governor-General, in Council to be skilled work. Unskilled work includes engaging in agriculture [Clauses 2 (e), (f) and (g)] (3) Power is taken to appoint (a) Protectors of Emigrants [Clause 3] and committees to advise them [Clause 8]. (b) Agents of the Governor-General in Council in places outside India [Clause 7]. (4) Emigration for the purpose of unskilled work is prohibited 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. No such notification shall be made unless it has been laid in draft before both Chambers of the Indian Legislature and has been approved by a Resolution of each Chamber [Clause 10] (5) Emigration for the purpose of skilled work is permitted subject to certain restrictions on the lines of Chapter XI of the present Act [Clauses 16 to 20]. But the Governor-General in Council is empowered to prohibit by notification the emigration of skilled workers to any specified country, where he has reasons to believe that sufficient grounds exist for such prohibition [Clause 21]. (6) Penalties are provided for unlawful emigration or inducement to emigrate [Clauses 25 to 27], But no prosecution shall be instituted without the sanction of the Protector of Emigrants, or, where there is no Protector, of the District Magistrate [Clause 28]. (7) The Bill applies to emigration to all countries. Emigration to Ceylon and the Straits Settlements, which is excluded from the present Act, will be subject to the provisions of the Bill. The Bill does not, however, apply to the departure out of British India of persons who are neither of Indian parentage nor subjects of a State in India [Clause 31]." Gazette of India, 1921. Part V, page 109. STATEMENT OF OBJECTS AND REASONS OF

AMENDING ACT OF 1963 The Indian Emigration Act, 1922 (7 of 1922), is designed to restrict and control the emigration of skilled and unskilled workers to work beyond the limits of India. 2. In section 2(1)(c) of the Act, the term 'emigration' has been defined as "departure by sea out of India." The provisions of the Act are thus not applicable to persons proceeding abroad by air. Skilled and even unskilled workers sometimes depart by air for employment abroad to circumvent the provisions of the Act. 3. Section 22 of the Act provides that nothing in Chapter IV of the Act shall apply in any case in which a person engages another to accompany him out of India as personal domestic servant. It is felt that protection envisaged to be given to emigrants under this Chapter should be extended even to domestic servants accompanying their employers. 4. The punishments provided in section 25 to section 30 of the Act for offences under the Act are not sufficient to deter the emigrants or the touts from committing the offence. Also there is no provision in the Act prescribing a minimum punishment. 5. There is also no provision for the confiscation of vessels or country crafts used in the commission of offences of illicit emigration. 6. Section 31 of the Act provides that the provisions of the Act shall not apply to the departure out of India of "any person who is not of Indian parentage" The expression "of Indian parentage" has not been clearly defined. The intention has always been to safeguard the interests of citizens of India. 7. It has, therefore, been considered necessary (1) to extend the provisions of this Act to journeys abroad by air; (ii) to make provision for heavier punishment for certain offences under the Act; (iii) to provide that the vessel, country craft, aircraft or any other conveyance used in the commission of such offence shall be liable to confiscation; (iv) to extend the safeguards provided for emigrants under the Act to the personal-domestic servants accompanying their employees; and (v) to make the provisions of the Act applicable to all citizens of India. S.O.R. Gazette of India, 25-1-1963, Pt II, Section 2 Extra, p. 36.

CHAPTER 1
PRELIMINARY

1. Short title and extent :-

(1) This Act may be called THE ¹[* * *] EMIGRATION ACT, 1922.

² [(2) It extends to the whole of India.]

1. Original clause (a) renumbered as (aa) and new clause (a) inserted before It and In clause (c) words 'or by air' Inserted after the words 'by sea by Act 23 of 1963 , S.4(ii)p-1-1964]'
2. Substituted for "the Provinces" by the Emigration (Amendment) Act, 1949 (3 of 1949), S. 4 (16-2-1949).

2. Definitions :-

(1) In this Act, unless there is anything repugnant in the subject or context,

*[(a) "conveyance" includes a vessel, a country craft and an aircraft;]

¹[(aa)] "dependent" means any woman or child who is related to an emit grant 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

(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 ¹[or by air] out of ³[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;

⁴[(cc) "emigrant ship" means any ship specially chartered for the convey- ance of emigrants, or conveying emigrants exceeding a number to be prescribed: "A" in the citations stands for AIR Provided that the Central Government may, by notification in the Official Gazette, declare that ships conveying emigrants to any specified port shall not be deemed to be emigrant ships;]

(d) "prescribe" means to prescribe by rules made under this Act;

(e) "work", with its grammatical variations, means skilled or unskilled work;

(f) "skilled work" means •

(i) working as an artisan; or

(ii) working as a clerk or shop assistant; or

(iii) working for the purpose of any exhibition or entertainment; or

(iv) service in any restaurant, tea-house, or other place of public resort; or

(v) domestic service; or

(vi) any other occupation which the ⁵[Central Government] may, by notification in the Official Gazette, ⁶[declare to be skilled work;

(g) "unskilled work" includes engaging in agriculture.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings, as to whether

(a) any person is an emigrant, or

(b) any work is skilled or unskilled, or

(c) any person has been assisted otherwise than by a relative, within the meaning of this Act, the question shall be determined by such person and in such manner as the ⁷ [Central Government] may prescribe, and such determination shall be final.

1. Original clause (a) renumbered as (aa) and new clause (a) inserted before It and In clause (c) words 'or by air' Inserted after the words 'by sea by Act 23 of 1963 , S.4(ii)p-1-1964]'

3. Substituted for "the Provinces" by the Emigration (Amendment) Act, 1949 (3 of 1949), S. 4 (16-2-1949).

4. Inserted by the Emigration (Amendment) Act, 1927 (27 of 1927), S. 2.

5. Substituted for "Governor-General In Council" by A.O., 1937.

6. Substituted for "Gazette of India", by A.O., 1937.

7. Occupations of 'khalasis' and 'watermen'; nurse, midwife and telephone operators, 'policemen', declared as skilled work for the purposes of this Act See Gazette of India, 1927, Pt. I, pp. 6, 124, 1354. Occupations of "sales representatives" and "tailor" declared as skilled work for the purposes of this Act - See S.O. 1185, Gaz. of Ind., 21-4-1962, Pt. II, Sec. 3 (Ii), p. 1247. See also Gaz. of Ind., 1947, Pt. I, p. 1354; Gaz, of Ind,, 1948, Pt. I, p. 1814.

3. Appointment of Protectors of Emigrants :-

(1) ¹[The Central Government] may appoint a person to be the Protector of Emigrants for any port or airport situate ²[in India] from which emigration is lawful.

(2) The ³ [Central 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.

1. Substituted for local Government' by A. O., 1937.

2. Inserted by Act 23 of 1963, S. 5 (1-1-1964).

3. Inserted, the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964), S. 2 (1-1-1964).

4. General duties of Protector :-

Every Protector of Emigrants; in-addition to the special duties assigned to him by or under this Act, shall

(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 ¹[Central Government] may prescribe, vessels or aircraft] bringing return emigrants to the port ²[or airport] for which he is Protector:

(d) inquire into the treatment received by. return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, ³[or journey] and report thereon to the ⁴[Central 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 or by air] out of ¹ [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.

OBJECTS AND REASONS Clause(F) - "For the protection from an-themselves will not be conclusive proof that noyance at the time of

leaving India of the such persons belong to the class to which two classes of persons excluded from the they claim to belong. But we think that definition of emigrant, we have provided the grant of the certificates will afford a that the Protector of Emigrants shall, on fair measure of protection and that the pro- application, Issue certificates staling that vision Is desirable in view of the powers of the Act doea not apply to those persons. It arrest with which the Police are necessari- will not be obligatory on such persons to ly invested." S.C.R. obtain these certificates, and the certificates.

1. Substituted for local Government' by A. O., 1937.

2. Inserted by Act 23 of 1963, S. 5 (1-1-1964).

3. Inserted, the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964), S. 2 (1-1-1964).

4. Substituted lor "the Provinces" by Emigration (Amendment) Act, 1949 (3 ol 1949), 3.4 (16-2-1949).

5. Power to appoint persons to exercise functions of a Protector :-

(1) In any specified area where there is not a Protector of Emigrants, the ¹[Central Government] ² [* * *] 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.

1. Substituted by A.O., 1937, tor 'Local Government'.

2. Words "subject to the control of the Governor-General in Council", omitted by A.O., 1937.

6. Appointment of Medical Inspectors :-

(1) The ¹[Central Government] may appoint one or more Medical Inspectors of ² [Emigrants at any portor airport] from which emigration is lawful or at any other place, and, whera morethati one are appointed, may apportion their respective duties,

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

1. Substituted for "Local Government" by A.O., 1937.

2. Inserted by Act 23 of 1963, S. 2 (1-1-1964).

7. Agents in foreign coontrics :-

The Central Government may,-for the purpose of safeguarding the interests of emigrants in any place outside ¹ [India], appoint persons to be agents in such places, and may define their' powfers and duties.

1. Substituted for "the Provinces" by the Emigration (Amendment) Act, 1946 (3 of 1949), 8.4(10-2-1949).

8. Advisory Committees :-

The ¹ [Central 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.

1. Substituted for "Local Government" by A.O., 1937.

CHAPTER 3

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK

9. Ports from which emigration of unskilled workers is lawful :-

(1) Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, ¹[* * *] Negapatam, Tuticorin and Dhanushkodi, and from ²[such other ports and such airports] as the Central Government may, by notification ³[in the Official Gazette, declare to be ² [ports and airports from which] such emigration is lawful.

(2) The [Central Government] may, by notification in the [Official Gazette,] fix for the purposes of this Act the limits of any port from which such emigration is lawful.

1. Inserted by the Indian Emigration (Amendment) Act, 1963 (23 of 1963), Sections 2 and 7, respectively (1-1-1964).

2. Substituted for "Governor-General in Council" and "local Official Gazette", respectively, by A.O., 1937.

3. For such notifications, see Gaz. Ind., 1950, Pt. I, S. I, p. 285.

10. Countries to which emigration of unskilled workers is lawful :-

(1) Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Central Government, by notification in the Official Gazette, may specify in this behalf,

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before ¹[*****] ² [Parliament] and has been approved by a resolution of [Parliament], either without modification or addition, or with modifications and additions to which [Parliament] agrees], but, upon such approval being given,

the notification may be issued in the form in which it has been so approved.

1. Substituted for "Governor-General in Council" and "local Official Gazette", respectively, by A.O., 1937.
2. For such notifications, see Gaz. Ind., 1950, Pt. I, S. I, p. 285.

11. Power to suspend emigration of unskilled workers :-

(1) Where the ¹[Central Government] 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, ²[it] may, by notification in the Official Gazette, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

³ [(2) Where the Protector of Emigrants for any port has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, he may, by notification in such manner as he thinks fit, declare that emigration to that country for the purpose of unskilled work from that port [or airport] shall cease to be lawful pending a reference to the Central Government.]

(3) The [Protector of Emigrants] publishing a notification under sub-s. (2) shall forthwith report such notification with the reasons for it to the Central Government, which shall thereupon publish a notification in the Official Gazette confirming or cancelling the notification published by the [Protector of Emigrants].

1. Inserted by the Indian Emigration (Amendment) Act, 1963 (23 of 1963), Sections 2 and 7, respectively (1-1-1964).
2. Substituted for "Governor-General in Council" and "local Official Gazette", respectively, by A.O., 1937.
3. For such notifications, see Gaz. Ind., 1950, Pt. I, S. I, p. 285.

12. Revocation of prohibition :-

Where the ¹[Central Government] is satisfied that the ground on which a notification under sub-s. (1) of S. 11, or a notification under sub-sec. (3) of section 11, confirming a notification of a ²[Protector of Emigrants] has been made with respect to any country has ceased to exist, it may, by notification in the Official Gazette, 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.

1. Inserted by the Indian Emigration (Amendment) Act, 1963 (23 of 1963), Sections 2 and 7, respectively (1-1-1964).
2. Substituted for "Governor-General in Council" and "local Official Gazette", respectively, by A.O., 1937.

13. Powers of Central Government to prohibit emigration to specified country :-

(1) The ¹[Central Government] may, by notification in the ¹[Official Gazette] 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 State Government or any specified part thereof, for the purpose of unskilled work.

(2) Every notification issued under this section shall be laid before ³[* * *] ⁴ [parliament] as soon as may be after it is made.

1. Inserted by the Indian Emigration (Amendment) Act, 1963 (23 of 1963), Sections 2 and 7, respectively (1-1-1964).
3. Substituted for "Governor-General in Council" and "local Official Gazette", respectively, by A.O., 1937.
4. For such notifications, see Gaz. Ind., 1950, Pt. I, S. I, p. 285.

14. Saving :-

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 4

EMIGRATION FOR THE PURPOSE OF SKILLED WORK

15. Ports from which emigration of skilled workers is lawful :-

Emigration, for the purpose of skilled work, shall not be lawful except from a port ¹[or airport] from which emigration for the purpose of unskilled work is lawful and from such other ports ¹ [and airports] as the [Central Government] may, by notification [in the [Official Gazette] specify in this behalf,

1. Substituted for "Local Government" by A.O., 1937.

16. Emigration of skilled workers :-

(1) Whoever desires to engage, or to assist, any person to emigrate

for the purpose of skilled work shall apply for the permission of ¹ [the Central Government], and shall state in his application

(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 during the voyage [or journey.]

(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 [India] which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependents.

1. Substituted for "Local Government" by A.O., 1937.

17. Applications how to be disposed of :-

On receiving an application under section 16 , the ¹[Central 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 ¹ [Central Government] shall be final.

1. Substituted for "Local Government" by A.O., 1937.

18. Appearance of engaged persons before, and registration of names by Protector of Emigrants :-

(1) Before any person departs from ¹ [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

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

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

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

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

(c) that the conditions on which the permission was granted have been complied with, he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants (if any) and concerning the person engaging or assisting him, and in such form, as the [Central Government] may prescribe.

1. Substituted for "Local Government" by A.O., 1937.

19. Provisions as to security :-

Where such security as is referred to in sub-section (2) of section 16 has been furnished, the ¹ [Central Government] may, at anytime 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 agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative. OBJECTS AND REASONS" This clause as introduced reproduces work shall in no case be returned to him verbatim the contents of section 78 of the until after the expiry of that period covered Emigration Act, 1908; but we consider that it should be amplified in order to Government is satisfied that the emigrant make it clear that the security furnished by has been fairly treated." S.C.R. a person engaging an emigrant for skilled.

1. Substituted for "Local Government" by A.O., 1937.

20. Delegation to Protector of Emigrants of authority to receive or dispose of applications :-

The ¹ [Central Government] may, by notification ² [in the ³ [Official

Gazette,] authorize a Protector of Emigrants to receive and dispose of applications made under this Chapter: Provided that an appeal shall lie to the ¹ [Central Government] from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

1. Substituted for "Local Government" by A.O., 1937.
2. For notifications under the section, see Gazette of India, 1945, Pt. I, p. 354, the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964), 1946, Pt. I, pp. 609 and 1043: the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964), 1951, Pt. II, S. 3, p. 409.
3. Substituted for "Local Official Gazette", the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).

21. Power to prohibit emigration of skilled workers :-

(1) Where the ¹[Central Government] has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, ²[it] may, by notification in the ³[Official Gazette], declare that such emigration to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful,

(2) Every notification issued under this section shall be laid before ⁴[***] ⁵ [Parliament] as soon as may be after it is made.

1. Substituted for "Governor-General in Council" by A.O., 1937.
2. Substituted for 'he', the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).
3. Substituted for "Gazette of India" by A.C.A.O., 1948.
4. Words "both Chambers of" were omitted by the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).
5. Substituted for "the Central Legislature" by A. L. O., 1950.

22. Saving :-

Omitted by Act 23 of 1963, S. 9 (1-1-1964).]

CHAPTER 5

RULES

23. Power of Central Government to make rules :-

¹[* * *] The ²[Central Government] may, by notification in the ³ [Official Gazette], make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in subsection (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 ⁴[Central Government] is by this Act empowered to prescribe.

1. Substituted for "Local Government" by A.O., 1937.
2. Substituted for "local Official Gazette", the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).
3. For Indian Emigration Rules, 1923, see Gazette of India, 1923, Pt. I, p. 214. For the modifications with which the rules apply to emigrant labour to Ceylon, the Straits Settlements, the Federated Malay States and Unfederated Malay States, see *ibid*, p. 236.

24. Power for the Central Government to make rules :-

(1) The ¹[Central Government] may, by notification in the ²[Official Gazette], and after previous publication, make rules ³[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 ⁴[Central Government] under this Act;

⁴[(b) the licensing, supervision and control of persons in ⁵[India] engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged;]

(c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there;

(d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (b);

(e) the information to be furnished by persons licensed in accordance with rules framed under clause (b) to emigrants and the language in which such information is to be furnished;

(f) the production and examination of emigrants before District Magistrate or such other authorities as may be appointed in this behalf;

(g) the age below which persons of either sex may not emigrate except as dependants;

(h) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on ⁶[emigrant

ships];

(i) the reception and the despatch to their homes of return emigrants;

(j) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India; ⁷[* * *]

⁸[(k) the issue of the permits referred to in sub-section (1) of section 30A ; and]

⁹[(l) generally, the security, well-being and protection of emigrants ¹⁰[up to the date of their departure from India], during a voyage on an emigrant ship ¹¹[or a journey on an aircraft] and on their return to India.

12 [(3) Every rule made under this Act shall be laid, as soon as may be after it is 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 in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made 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 rule.]

1. Substituted for "Local Government" by A.O., 1937.

2. Substituted for "local Official Gazette", the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).

3. For Indian Emigration Rules, 1923, see Gazette of India, 1923, Pt. I, p. 214. For the modifications with which the rules apply to emigrant labour to Ceylon, the Straits Settlements, the Federated Malay States and Unfederated Malay States, see *ibid*, p. 236.

4. Substituted for original clause (b) by the Emigration (Amendment) Act, 1932 (16 of 1932), S. 2.

5. Substituted for "the Provinces" by the Emigration (Amendment) Act, 1949 (3 of 1949), S. 4 (16-2-1949).

6. Substituted for "any ship specially chartered for the transport of emigrants" by the Emigration (Amendment) Act, 1927 (27 of 1927), S. 3.

7. Word "and" was omitted by the Emigration (Amendment) Act, 1938 (21 of 1938), Section 2.

8. Inserted *ibid*.

9. Original Clause (k) was relettered as (1), *ibid*.

10. Substituted for "both up to the date of their actual departure

from India", *ibid*, S. 3.

11. Inserted by Act 23 of 1963, S. 10.

12. Inserted by Indian Emigration (Amendment) Act, 1963 (23 of 1963), S. 10 (1-1-1964).

CHAPTER 6

OFFENCES

25. Unlawful emigration or inducement to emigrate :-

(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 ¹[imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or both.]

(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 purport- ing to bind that person, or any .other person, to emigrate, or

(b) ²[causes or assists, attempts cause or assist], any person to emig- rate 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 per- mission referred to in section 17 , to depart by sea ³ [or by air] out of [India] without registration of the particulars required by sub-sec. (2) of section 18 , shall be punishable with [imprisonment which may extend to two years and with fine:] [Provided that in the absence of 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.]

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

[(4)] If any person commits an offence under this section, any

police officer may arrest him without warrant.

1. Substituted for "officers of Sea Customs" by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 15(1-1-1884)
2. Inserted, the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).
3. Substituted for "may be exercised by those officers for the prevention of offences against the Act" by the Emigration (Amendment) Act, 1940 (8 of 1940), S. 2.

26. Fraudulently inducing to emigrate :-

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 ¹ [with imprisonment for a term which may extend to three years and with fine: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment at the Court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees.]

1. Substituted for "officers of Sea Customs" by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 15(1-1-1884)

27. False representation of Government authority :-

Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable ¹ [with imprisonment of a term which may extend to three years and with fine:

Provided that in the absence of 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.]

1. Substituted for "officers of Sea Customs" by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 15(1-1-1884)

27A. Punishment for second or subsequent offences :-

¹ In the event of second or subsequent offence under any of the following provisions, namely, sub-section (1) or sub-section (2) of section 25 , section 26 , section 27 , or sub-section (4) of section 30A , a person shall be punishable with imprisonment which may extend to four years and with fine:

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

1. Substituted for "officers of Sea Customs" by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 15(1-1-1884)

27B. Confiscation of conveyance used for committing offence against the Act :-

In any case in which an offence has been committed against this Act, any conveyance used in commission of such offence shall be liable to confiscation.

27C. Confiscation how ordered :-

(1) When the offender is convicted or when the person charged with an offence against this Act is discharged or acquitted, and the Court decides that any conveyance is liable to confiscation, such confiscation may be ordered by the Court.

(2) When an offence against this Act has been committed but the offender is not known or cannot be found and any conveyance is used in the commission of such offence, or when any conveyance is liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by such officer as may be authorised by the Central Government in this behalf, who may on seizure thereof, order such confiscation

Provided that no such order of confiscation shall be made until the expiration of thirty days from the date of the seizure of the conveyance intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their case.]

28. Sanction to prosecutions :-

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. OBJECTS AND REASONS "In adding the provision in this clause, we have been victimised, he or certain near relatives have followed a suggestion of the Allahabad Bench should have the right to complain." High Court. It appears to us desirable that, S.C.R. where an emigrant or intended emigrant.

29. Power for Customs Officer to search and detain for purposes of Act :-

All the powers for the time being conferred by law on ¹[officers of Customs] with regard to the searching and detention of vessels ²[or aircraft or any other conveyance] or otherwise for the prevention of smuggling on board thereof ³ [may be exercised, for the prevention of offences against this Act, by any such officer, or by a Protector of Emigrants, or a person appointed under section 5].

1. Substituted for "officers of Sea Customs" by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 15(1-1-1884)
2. Inserted, the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).
3. Substituted for "may be exercised by those officers for the prevention of offences against the Act" by the Emigration (Amendment) Act, 1940 (8 of 1940), S. 2.

CHAPTER 7
SUPPLEMENTAL

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

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

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

(3) Whoever ³[causes or assists, or attempts to cause or assist],

any person to depart by land out of ¹ [India] in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25 .

1. Inserted by the Emigration (Amendment) Act, 1938 (21 of 1938), S. 3.

3. For such notifications, see Gaz. of Ind., Extra, 1939, p. 157; Gaz. of Ind., 1941, Extra, p. 421; Gazette of India, 1945, Pt. I, p. 1500; Gazette of India, 1952, Pt. II, S. 3, p. 1500.

30A. Power to prohibit departure by sea from India for the purpose of unskilled work :-

(1) The Central Government may, by notification ¹[in the Official Gazette from a date and for reasons to be specified in the notification, prohibit all persons or any specified class of persons from departing by sea ²[or by air] out of ³[India] to any specified country beyond the limits of India for the purpose of unskilled work unless possessed of a prescribed permit or otherwise exempted by general or special order of the Central Government from the provisions of the notification.

(2) Every notification issued under this section shall be laid before ⁴[* * *] ⁵[Parliament] as soon as may be after it is made.

(3) Whoever departs or attempts to depart out of ³[India] in contravention of the notification issued under sub-section (1) shall be punishable with punishment provided for an offence under sub-section (1) of section 25 .

(4) Whoever causes or assists or attempts to cause or assist any person to depart out of ³[India] in contravention of a notification issued under sub-section (1) shall be punishable with the punishment provided for an offence under ⁸[sub-section (2) of section 25 .]

⁹ [(5) If any person commits an offence under this section, any police officer may arrest him without warrant.]

1. For such notifications, see Gaz. of Ind., Extra, 1939, p. 157; Gaz. of Ind., 1941, Extra, p. 421; Gazette of India, 1945, Pt. I, p. 1500; Gazette of India, 1952, Pt. II, S. 3, p. 1500.

2. Inserted by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 16, (1-1-1964).

3. Substituted for "the Provinces" by the Emigration (Amendment) Act, 1949 (3 of 1949), S. 4 (16-2-1949).

4. Words "both Chambers of" were omitted by A.C.A.O., 1948.

5. Substituted for "the Central Legislature", by A.L.O., 1950.
8. Substituted for "sub-section (1) of section 25" by Act 20 of 1963, S. 16 (1-1- 1964).
9. Added by the Emigration (Amendment) Act, 1940 (8 of 1940), S. 3,

CHAPTER 8

SAVINGS AND REPEAL

31. Application of Act :-

Nothing in this Act shall be deemed to apply to the departure out of ¹[India] of

²[(i) any person who is not a citizen of India, or];

(ii) any person enrolled under the ³ [Air Force Act, 1950 or the Army Act, 1950, or the Navy Act, 1957.]

1. Substituted for "the Provinces" by Emigration (Amendment) Act, 1949 (3 of 1949), S. 4 (16-2-1949).

2. Substituted for former clause (i) by the Indian Emigration (Amendment) Act, 1963 (20 of 1963), S. 17 (1-1-1964).

3. Substituted for "Indian Army Act, 1911", the Indian Emigration (Amendment) Act, 1963 (28 of 1963), S. 3 (1-1-1964).

32. Saving :-

Repealed by the Repealing and Amending Act, 1939 (34 of 1939), Section 3 and Schedule II.]

33. Repeal :-

Repealed by the Repealing Act, 1927 (12 of 1927), Section 4 and Schedule.]