

REGISTRATION OF FOREIGNERS ACT, 1939

16 of 1939

[8th April, 1939]

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"Apart from the fact that from the Census Report of 1931, it is known that in that year there were in India some 4,50,000 persons who stated that they had been born outside His Majesty's dominions; there is no information as to the number, nationality and whereabouts of foreigners in India, nor, in the absence of any statutory obligation on foreigners to report their presence and movements, is it possible to obtain such information. The only law which provides for the registration of foreigners as a class is that which is contained in sections 6 to 9 of the Foreigners Act (111 of 1864). Those Provisions, however, are intended for use in emergency only, and, apart from this, even if they were brought into force. they would apply only to foreigners arriving, and not to those already resident in British India. In the majority of other countries, both within and outside the British Commonwealth, foreign visitors and residents are required to report their presence and movements to specified authorities, and the Governments of those countries are thereby possessed at all times of complete information as to the number and whereabouts of foreigners in

their countries. It is desirable that the Govt. of India should also be at all times in possession of similar information, not only because it may be required for the purpose of national defence but also because, in its absence, it has from time to time been impossible to reply satisfactorily to questions asked in the Legislature and much difficulty and inconvenience has also been experienced in replying to enquiries as to the whereabouts of foreigners in India which have been received from their relatives. The Bill which is based upon provisions contained in the Foreigners Act, 1864, the British Aliens Registration Act, 1914, and the British Aliens Order of 1920 is intended to provide the statutory powers necessary for the collection of such information." - Gaz. of India, 1939, Extra., p. 59.

1. Short title and extent :-

(1) This Act may be called the Registration of Foreigners Act, 1939.

(2) It extends to ¹[the whole of India] ² [* * *].

1. Substituted for the words "all the Provinces of India" by the Registration of Foreigners (Amendment) Act, 1941 (37 of 1949), section 3 (28-4-1949).

2. The words "except the State of Hyderabad" inserted by A. L. O., 1950, were omitted by the Part B States (Laws) Act, 1951 (3 of 1951), section 3 and Schedule (1-4-1951).

2. Definitions :-

In this Act-

¹[(a) "foreigner" means a person who is not a citizen of India;) ² [* * * * *]

(b) "prescribed" means prescribed by rules made under this Act.

1. Substituted for the former Cl. (a) by the Foreigner Laws (Amendment) Act, 1957 (11 of 1957), section 8 (with retrospective effect from 19-1 -1957).

2. Clause (aa) inserted by A. L. O., 1950. was "omitted by the Part B States (Laws) Act, 1951 (3 of 1951). section 3 and Schedule (1-4-1951).

3. Power to make rules :-

¹[(1)] The Central Government may after previous publication, by notification in the official Gazette, make rules² with respect to foreigners for any or all of the following purposes, that is to say.-

(a) for requiring any foreigner entering, or being present in,

³[India] to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(b) for requiring any foreigner moving from one place to another place in "findia] to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed:

(c) for requiring any foreigner who is about to leave ³[India] to report the date of his intended departure and such other particulars as may be prescribed to such authority and within such period before departure as may be prescribed;

(d) for requiring any foreigner entering, being present in, or departing from ³[India] to produce,-on demand by a prescribed authority, such proof of his identity as may be prescribed:

(e) for requiring any person having the management of any hotel, boarding house, sarai or any other premises to like nature to report the name of any foreigner residing therein for whatever duration, to a prescribed authority within such time and in such manner and with such particu- lars as may be prescribed;

(f) for requiring any person having the management or control of any vessel or aircraft to furnish lo a prescribed authority such information as may be prescribed regarding any foreigner entering. or intending to depart from ³[India], in such vessel or aircraft, and to furnish to such authority such assistance as may be necessary or prescribed for giving effect to this Act;

(g) for providing for such other incidental or supplementary matters as may appear to the Central Government necessary or expedient for giving effect to this Act.

2 [(2) Every rule made under this section 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, arid if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifica- tion 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 any thing previously done under that rule.)

1. Section 3 renumbered as sub-sec. (1) and after sub-sec, (1) so renumbered sub-sec. (2) inserted by Delegated Legislation Provisions (Amendment) Act (4 of 1986), S. 2 Sch. (15-5-86).

2. See Registration of Foreigners Rules, 1939, published in Gaz. of Ind., 1939, It. 1. page 1059. Amended by S. O. 742 of 1959; o. S. Rs. 644 of 1963 and 1887 of 1963; G. S. Rs. 160, 597 and 867 of 1965. For exemption from application and modification of these rules, see section 6 and the Registration of Foreigners (Exemption) Order. 1957, Gazette of India, 1957, Pt. II, S. 3, p. 867; Registration of Foreigners (Bangladesh) Rules, 1973 - Gaz. of Ind., 1973, Pt. II, section 3(i), p. 886.

3. Substituted for the words "the Provinces" by the Registration of Foreigners (Amendment) Act. 1949 (37 of 1949), section 4 (28-4-1949).

4. Burden of proof :-

If any question arises with reference to this Act or any rule made thereunder, whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act. 1872, be upon such person.

5. Penalties :-

Any person who contravenes, or attempts to contravene, or fails to comply with any provision of any rule made under this Act shall be punished, if a foreigner, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both. or if not a foreigner, with fine which may extend to five hundred rupees.

6. Power to exempt from application of Act :-

The Central Government may, by order¹ declare that any or all of the provisions of the rules made under this Act shall not apply or shall apply only with such modifications or subject to such conditions as may be specified in the said order, to or in relation to any individual foreigner or any class or description of foreigner : Provided that a copy of every such order shall be placed on the table of ²[* * *] ³ [Parliament] as soon as may be after its promulgation.

1. For Registration of Foreigners (Exemption) Order. 1957, see Gaz. of Ind., 1957. Pt. II. sec. 3. page 867.
2. The words "both Houses of were omitted by A. C. A. O., 1948 (23-3-1948).
3. Substituted for the words "the Central Legislature" by A. L. O., 1950 (26-1-1950).

7. Protection to persons acting under this Act :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

8. Application of other laws not barred :-

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Foreigners Act,¹ [1946 and any other law for the time being in force.

1. Substituted for the figures "1864" by the Registration of Foreigners (Amendment) Act, 1949 (37 of 1949). section 5 (28-4-1949).

9. Application of Act to Part B States :-

¹ [Repealed by the Part B States (Laws) Act, 1951 (3 of 1951), section 3 and schedule (1-4-1951).]

1. Section 9 was added by the Registration of Foreigners (Amendment) Act. 1949 (37 of 1949), section 6 (28-4- 1949).