

## **Tea Districts Emigrant LabOur Act, 1932**

**22 of 1932**

**[08 October 1932]**

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## **SCHEDULE 1 :- THE SCHEDULE**

### **Tea Districts Emigrant Labour Act, 1932**

**22 of 1932**

**[08 October 1932]**

An Act to amend the law relating to emigrant labourers in the tea districts of Assam. WHEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam; It is hereby enacted as follows:-

### **CHAPTER 1 PRELIMINARY**

#### **1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Tea Districts Emigrant Labour Act, 1932.

{Substituted by the A.O. 1950 for the former sub-section (2).} [(2) It extends to the whole of India {Substituted by Act 3 of 1951, section 3 and Schedule, for "except Part B States".} [except the State of Jammu and Kashmir].]

(3) It shall come into force on such date {1st October, 1933: see Gazette of India, 1933, Pt. I, p. 903.} as the Central Government may, by notification in the Official Gazette, appoint.

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,-

(a) "tea district" means any of the following districts in the State of Assam, namely,-

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, {Substituted by the A.O. 1948 for "Cachar and Sylhet".} [and Cachar], and the Balipara Frontier Tract;

(b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

{Substituted by Act 3 of 1951, section 3 and Schedule, for the former cl. (c).} [(c) "recruiting State" means any State other than Assam ;]

(d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;

(e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;

(f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting State {The words "or in any Part B State" omitted by Act 3 of 1951, section 3 and Schedule}, is proceeding through {substituted by section 3 and Schedule, A.O. 1950, for "any part of any Part A State or Part C State".} [any part of the territories to which this Act extends] to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person, but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

(h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate, and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult, has taken employment not on a tea estate;

(i) the "family" of any person includes the following, if living with him, namely,-

(i) in the case of a male,-his wife and any child and aged or incapacitated relative dependent on him,

(ii) in the case of a married woman,-her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(iii) in the case of any other woman.-any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;

(j) "employing interest" means any employer of labourers, or any group or association of such employers; and

(k) "prescribed" means prescribed by rules made by the Central Government.

### **3. Appointment And Status Of Controller And Deputy Controllers :-**

(1) The Central Government may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(2) The Central Government may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the Central Government may determine.

(3) The Controller may, from time to time and subject to the control of the Central Government, make a distribution of work as between himself and the Deputy Controllers.

(4) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

### **4. Powers Of The Controller :-**

The Controller shall have power--

(a) to enter-

(i) all open places on a tea estate,

- (ii) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,
- (iii) any office of a tea estate,
- (iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting State,
- (v) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;
- (b) to inspect, in any office or depot mentioned in sub-clauses (iii) and (iv) of clause (a), any register or other document required to be kept under this Act;
- (c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and
- (d) to do any other reasonable act which may be expedient in the discharge of his duties.

#### **5. Emigrant Labour Cess :-**

- (1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess
- (2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.
- (3) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the Central Government may, by notification in the Official Gazette, determine for the year of levy.
- (4) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the Central Government.

#### **6. Power To Make Rules For The Collection Of The Emigrant Labour Cess :-**

- (1) The Central Government may, by notification in the Official Gazette, make rules {See the Tea Districts Emigrant Labour Rules, 1933, Ch. III, published in the Gazette of India, 1933, Pt. I, p. 777 et seq., and also, as subsequently amended, in the Tea Districts Emigrant Labour Manual.},
  - (a) prescribing the agency which shall collect the Emigrant Labour Cess;

- (b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;
- (c) regulating the procedure of the collecting agency;
- (d) prescribing the mode of payment of the cess;
- (e) determining the date when any sum payable as cess shall be an arrear;
- (f) declaring that an arrear of cess may be recovered as an arrear of land revenue and prescribing the procedure to be followed to secure such recovery; and
- (g) generally, to secure the equitable collection of the cess.

## **CHAPTER 2 REPATRIATION**

### **7. General Right Of Repatriation After Three Years In Assam :-**

Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

### **8. Right To Repatriation On Dismissal :-**

(1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, other wise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

(2) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

### **9. Rights Of Repatriation Of Family Of Deceased Emigrant Labourer :-**

(1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(2) Where such deceased labourer leaves a widow, she shall be

deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

### **10. Right To Apply For Repatriation In Certain Circumstances :-**

(1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:---

(a) that his state of health makes it imperative that he should leave Assam, or

(b) that his employer has failed to provide him with work suited to his capacity at the normal rate of wages for that class of work, or

(c) that his employer has unjustly withheld any portion of any wages due to him, or

(d) any other sufficient cause.

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:-

(a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer:

Provided that a declaration in pursuance of clause (d) of subsection (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

### **11. Power Of Criminal Courts To Order Repatriation :-**

Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code (45 of 1860) with imprisonment for one year or upwards, the convicting Court or the

appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

## **12. Incidents Of The Right Of Repatriation :-**

(1) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employers tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home:

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her:

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return Journey or subsistence allowances, the question shall be referred for decision to the Controller.

## **13. The Discharge Of An Employers Duty To Repatriate :-**

(1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey:

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of subsection (1), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default:

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate

than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

#### **14. Postponement, Waiver And Forfeiture Of The Right :-**

(1) An emigrant labourer may, by agreement with his employer, postpone his exercise the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises:

Provided that the Central Government may, by notification in the Official Gazette, make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement:

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

#### **15. Power Of The Controller To Enforce The Provisions Of This Chapter :-**

(1) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(3) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

### **CHAPTER 3 CONTROLLED EMIGRATION AREAS**

#### **16. Power To Declare Controlled Emigration Areas :-**

{Substituted by the A.O. 1937 for the original sub-section.} [(1) The Central Government may, by notification in the Official Gazette, declare any area within a recruiting State to be a controlled emigration area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may by the same or any subsequent notification declare that any of the provisions of this Chapter shall not apply in that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

#### **17. Power To Grant Licences To Local Forwarding Agents :-**

(1) The {Substituted A.O. 1937, for "L.G."}[Central Government], or any District Magistrate empowered by it in this behalf, may grant a licence to any person act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(2) Such licenses shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has

made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

### **18. Recruits In Controlled Emigration Areas To Be Sent To Forwarding Agents Depots :-**

(1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, and shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a deposit.

(2) Whoever arranges with any person {Substituted by the Adaptation of Laws (No. 3) Order, 1956, for "in a Part B State".} [in an area not being a controlled emigration area] that such person shall proceed to Assam with assistance and brings or sends such person and any of the of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

### **19. Assisted Emigrants To Be Forwarded To Assam By Local Forwarding Agents By Prescribed Routes :-**

An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

### **20. Maintenance Of Depots Along Prescribed Routes :-**

Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of

assisted emigrants and their families.

## **21. Power Of Central Government To Make Rules :-**

(1) The {Substituted by the A.O.1937 for "L.G."} [Central Government] may, by notification in the Official Gazette, make rules {For a collection of the rules made by the Provincial Govts. under this section before 1st April, 1937, see the Tea Districts Emigrant Labour Manual.} -

(a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences;

(b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents;

(c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots;

(d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots;

(e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances;

(f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied;

(g) providing for any other matter which in the opinion of the {Substituted by the A.O. 1937 for "L.G."} [Central Government] may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (e), clause (f) or clause (g) of sub-section (1), the {Substituted by the A.O. 1937 for "L.G."} [Central Government] may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

## **22. Inspection Of Depots, Vessels And Vehicles :-**

The Civil Surgeon, the District Magistrate or the Sub-divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-divisional

Magistrate, may enter a local forwarding agents depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(2) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling whether along a prescribed route or not.

### **23. Action Where Proper Arrangements Not Made For Assisted Emigrants :-**

If the Central Government is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, {Substituted by the A.O. 1937 for "he may require the L.G. to"} [the Central Government may] direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest:

Provided that the Central Government shall not {Substituted, A.O. 1937, for "make any requisition for the cancellation of"} [direct the cancellation of any] licences under this section until it has given the employing interest concerned an opportunity to submit its explanation.

### **24. Cancellation Of Licences :-**

(1) The {Substituted, A.O. 1937, for "L.G."} [Central Government] may cancel wholly or part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,-

(a) if, in the opinion of the {Substituted, A.O. 1937, for "L.G."} [Central Government] or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or

(b) if the employing interest, on whose application the licence was

granted, has applied to the {Substituted, A.O. 1937, for "L.G."} [Central Government] or to the District Magistrate, as the case may be, for the cancellation of the licence, or

(c) if, in the opinion of the {Substituted, A.O. 1937, for "L.G."} [Central Government] or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the {Substituted by the A.O. 1937 for "L.G."} [Central Government], whose decision shall be final.

## **25. Penalty For Illicit Abetment Of Emigration :-**

Where any person who is required to be taken or sent to a local forwarding agents depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## **CHAPTER 4 RESTRICTED RECRUITING AREAS**

### **26. Power To Declare Restricted Recruiting Areas :-**

{Substituted by the A.O. 1937, for the original sub-section}  
[(1)The Central Government may, by notification in the Official Gazette, declare any controlled emigration area or any part of a controlled emigration area within a recruiting State to be a

restricted recruiting area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may, by the same or any subsequent notification, declare that any of the provisions of this Chapter shall not apply in relation to that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

### **27. Grant Of Licences To Recruiters :-**

(1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

(2) The Central Government may, by notification in the Official Gazette, make rules prescribing the qualifications for persons who may be granted licences under this section.

(3) {Substituted by the A.O. 1937 for "the L.G. having jurisdiction over any restricted recruiting area"} [The Central Government] may, by notification in the Official Gazette, make rules {Ins. by the A.O. 1937} [as respects any restricted recruiting area]-

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences and the fees, not exceeding ten rupees, to be paid therefor.

### **28. Grant Of Certificates To Garden-Sardars :-**

(1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person, employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified:

Provided that {Substituted by the A.O. 1937 for "the L.G. having jurisdiction over any restricted recruiting area"} [the Central

Government] may, by notification in the Official Gazette, make rules {Inserted by the A.O. 1937} [as respects any restricted recruiting area] directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorized by the District Magistrate in this behalf.

(2) The {Substituted, by the A.O. 1937, for "L.G. of Assam"} [Central Government] may make rules {Inserted A.O. 1937} [for Assam]-

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

### **29. Cancellation And Suspension Of Recruiters Licence :-**

The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act:

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

### **30. Cancellation Of Garden-Sardars Certificate :-**

(1) The District Magistrate of any district in respect of any art of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

### **31. Penalty For Illicit Recruitment :-**

Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray

any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## **CHAPTER 5 SUPPLEMENTAL**

### **32. Prohibition Of The Recruitment Of Children :-**

(1) No person shall in any way assist a child to proceed from any recruiting State to Assam, to work in any capacity in a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is a dependent, and no person shall so assist married woman who is living with her husband unless she is so proceeding with the consent her husband.

(2) Any person who knowingly contrivances the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

### **33. Power To Detain And Return Sick Persons :-**

(1) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may--

(a) detain such person and his family,

(b) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and

(c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(2) Where it appears that a sufferer detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

### **34. Power To Return Person Improperly Recruited :-**

Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance-

(a) has been recruited by coercion, undue influence, fraud or misrepresentation, or

(b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder, the Controller may direct that such person and his family shall, if such person so desires, be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

### **35. Power To Enforce The Provisions Of Sections 33 And 34 :-**

If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(2) In making a direction under sub-section (2) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the State where such person then is.

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the costs out of any funds at the Controller's disposal.

(4) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

### **36. Magistrates And Medical Officers Who May Exercise The**

## **Powers Of The Controller :-**

(1) Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his exercise district any power which the Controller by or under this Act could exercise in such district.

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) {Substituted by the A.O. 1937 for "The L.G. of a recruiting province may invest a District Magistrate or a Sub-divisional Magistrate and the L.G. of Assam may invest a Sub-divisional Magistrate".} [The Central Government may invest a District Magistrate or a Sub-divisional Magistrate in any recruiting State and a Sub-divisional Magistrate in Assam] with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be.

(4) The {Substituted, A.O. 1937, for "L.G."} [Central Government] may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

## **37. Power Of Central Government To Make Rules :-**

(1) The Central Government may, by notification in the Official Gazette, make rules {see the Tea Districts Emigrant Labour Rules, 1933, published in the Gazette of India, 1933, Pt. I, p.777 et seq., as subsequently amended}-

(a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;

(b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities;

(c) prescribing scales of subsistence allowances for the purposes of section 12;

(d) prescribing the form of agreements under section 14;

(e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts;

(f) prescribing the manner in which assisted emigrants and their

families shall be forwarded to Assam from the depots of local forwarding agents;

(g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder;

(h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;

(i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers and their families, and of their journeys to and from Assam, and prescribing the form of such registers;

(j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the Central Government may think expedient for carrying out the purposes of this Act; and

(k) generally, to carry out the purposes of this Act.

(2) The {Substituted by the A.O. 1937 for "L.G. of Assam"} [Central Government] may, by notification in the Official Gazette, make rules {Ins., A.O. 1937} [for Assam] requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) {Substituted by the A.O. 1937, for "In making rules under sub-section (1), the G.G. in C., and in making rules under sub-section (2) the L.G."} [Rules made under this section] may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

### **38. Powers To Extend The Scope Of This Act :-**

(1) The Central Government may, by notification in the Official Gazette, declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(2) {Substituted by the A.O. 1937, for "Subject to the control of the G.G. in C., the L.G. of Assam"} [The Central Government] may,

by notification in the Official Gazette, declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

**39. Saving For Acts Done In Good Faith Under The 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.

**40. Bar Of Jurisdiction Of Civil Courts :-**

No Civil Court shall have jurisdiction-

(a) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act.

**41. Repeal Of Act 6 Of 1901 And Certain Consequences :-**

**SCHEDULE 1**

THE SCHEDULE

Rep. by the Repealing and Amending Act, 1937 (20 of 1937), section 3 and Schedule II.