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# THE EMIGRATION ACT, 1983

[31 of 1983, dt. 10-9-1983 ]

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

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

## CHAPTER I PRELIMINARY

### 1. Short title, extent, application and commencement

(1) This Act may be called the Emigration Act, 1983.

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

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

### 2. Definitions

(1) In this Act, unless the context otherwise requires,—

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

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

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

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

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

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

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

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

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

- (g) "employer" means any person providing or offering to provide, employment in any country or place outside India;
- (h) "employment" means any service, occupation or engagement (not being service, occupation or engagement under the Central Government or a State Government), in any kind of work within the meaning of clause (o), for wages or for reward, and all its grammatical variations and cognate expressions shall be construed accordingly;
- (i) "notification" means a notification published in the Official Gazette;
- (f) "prescribed" means prescribed by rules made under this Act;
- (k) "Protector of Emigrants" means a Protector of Emigrants appointed under section 3 and includes a person authorised under section 5;
- (l) "recruiting agent" means a person engaged in India in the business of recruitment for an employer and representing such employer with respect to any matter in relation to such recruitment including dealings with persons so recruited or desiring to be so recruited;
- (m) "recruitment" includes the issuing of any advertisement for the purpose of recruitment, the offering by advertisement to secure or assist in securing any employment in any country or place outside India and the entering into any correspondence, negotiation, agreement or arrangement with any individual for or in relation to the employment of such individual in any country or place outside India;
- (n) "registering authority" means the officer appointed under section 9 to be the registering authority for the purposes of this Act;
- (o) "work" means—
  - (i) any unskilled work, including any form of industrial or agricultural labour;
  - (ii) any domestic service;
  - (iii) any service, not being a service in a managerial capacity, in any hotel, restaurant, tea-house or other place of public resort;
  - (iv) work as a driver of a truck or other vehicle, mechanic, technician or skilled labourer or artisan;
  - (v) work as an office assistant or accountant or typist or stenographer or salesman, or nurse or operator of any machine;
  - (vi) work in connection with, or for the purposes of, any cinema, exhibition or entertainment;
  - (vii) any such work of a professional or of any other nature as the Central Government may, having regard to the need for the protection of citizens of India who may be employed in such work outside India and other relevant circumstances, specify by notification:

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

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

## CHAPTER II EMIGRATION AUTHORITIES

### 3. Protectors of Emigrants

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

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

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

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

### COMMENTS

Under this section, the Central Government is empowered to appoint a Protector General of Emigrants and such number of Protectors of Emigrants as it thinks fit. The Central Government may fix the territorial jurisdiction of Protector of Emigrants. The Protectors of Emigrants so appointed will perform the functions under the general superintendence and control of the Protector General of Emigrants.

### 4. General duties of Protectors of Emigrants

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

- (a) protect and aid with his advice all intending emigrants and emigrants;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with;
- (c) inspect, to such extent and in such manner as may be prescribed—
  - (i) any emigrant conveyance, or
  - (ii) any other conveyance if he has reason to believe that any intending emigrant or emigrants are proceeding from, or returning to, India to or from a place outside India by such other conveyance;
- (d) inquire into the treatment received by emigrants during their voyage or journey to, and during the period of their residence in the country to which they emigrated and also during the return voyage or journey to India and report thereon to the Protector General of Emigrants or such other authority as may be prescribed;
- (e) aid and advise, so far as he reasonably can, emigrants who have returned to India.

**5. Power to authorise persons to exercise functions of a protector**

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

COMMENTS

In the interest of the emigrants, the Central Government may authorise any person to exercise the functions of a Protector of Emigrants under this Act.

**6. Emigration check-posts**

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

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

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

COMMENTS

Under this section, the Central Government may set-up such number of emigration check-posts at such places for the purpose of preventing or checking the contravention of the provisions of the Act. Simultaneously, the Central Government may appoint an officer of the Central Government or of a State Government to be an officer-in-charge of an emigration check-post. Such officer-in-charge will function subject to control and supervision of Protector of Emigrants of whose jurisdiction that emigration check-post is situated.

**7. Other emigration officers and staff**

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

**8. Emigration officers to be public servants**

The Protector General of Emigrants, Protectors of Emigrants, the officers incharge of emigration check-posts, emigration officers and emigration employees appointed under this Act shall be public servants within the meaning of section 21 of the Indian Penal Code.

COMMENTS

The Protector General of Emigrants, Protector of Emigrants, the officer-in-charge of check-posts, emigration officers and emigration employees appointed under this Act are public servants within the meaning of section 21 of the Indian Penal Code.

**CHAPTER III**  
**REGISTRATION OF RECRUITING AGENTS**

**9. Registering authority**

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

**10. No person to function as recruiting agent without a valid certificate**

Save as otherwise provided in this Act, no recruiting agent shall, after the commencement of this Act, commence or carry on the business of recruitment except under and in accordance with a certificate issued in that behalf by the registering authority:

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

COMMENTS

No recruiting agent shall commence or carry on the business of recruitment without a valid certificate issued by the registering authority.

**11. Application for registration**

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

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

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

- (a) if the application is not in the prescribed form or does not contain any of the prescribed particulars, return the application to the applicant;
- (b) if the application is in the prescribed form and contains the prescribed particulars, inform the applicant that he is eligible for the grant of the certificate applied for and, after giving the applicant an opportunity to be heard, determine, under sub-section (3), the amount of the security which the applicant shall furnish.

(3) The registering authority shall, for securing the due performance of the terms and conditions of certificate proposed to be issued by it under sub-section (2) to an applicant and for securing compliance with the provisions of this Act and the rules made thereunder and for meeting expenses which may have to be incurred in the event of the repatriation to India of any of the emigrants who may be recruited by the applicant,



determine, in accordance with the rules made in this behalf, the amount of security (not being in any case less than one lakh of rupees) which shall be furnished by the applicant.

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

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

## 12. Terms and conditions of registration

A certificate issued under section 11 shall be—

- (a) in such form as may be prescribed;
- (b) valid for such period not exceeding five years as may be prescribed:  
PROVIDED that a certificate may be issued for a period shorter than the prescribed period—
  - (i) if the person to whom it is issued so desires; or
  - (ii) if the registering authority, for reasons to be communicated in writing to the applicant for the certificate, considers in any case that the certificate should be issued for a shorter period;
- (c) subject to such other terms and conditions, including in particular, the maintenance by the holder of the certificate of the prescribed records containing details of his financial transactions in regard to recruitment, persons recruited or assisted to emigrate by him, employers concerned, contracts and other arrangements entered into in connection with recruitment, as may be prescribed:

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

### COMMENTS

The certificate issued under section 11 shall be valid for a period of five years.

## 13. Renewal of registration

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

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

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

**14. Cancellation, suspension, etc., of a certificate**

(1) The registering authority may cancel any certificate on anyone or more of the following grounds and on no other ground, namely;—

- (a) that having regard to the manner in which the holder of the certificate has carried on his business or any deterioration in his financial position, the facilities at his disposal for recruitment, the holder of the certificate is not a fit person to continue to hold the certificate;
- (b) that the holder of the certificate has recruited emigrants for purposes prejudicial to the interests of India or for purposes contrary to public policy;
- (c) that the holder of the certificate has, subsequent to the issue of the certificate, been convicted in India for any offence involving moral turpitude;
- (d) that the holder of the certificate has, subsequent to the issue of the certificate, been convicted by a court in India for any offence under this Act, the Emigration Act, 1922 (7 of 1922), or any other law relating to passports, foreign exchange, drugs, narcotics or smuggling and sentenced in respect thereof to imprisonment for not less than six months;
- (e) that the certificate has been issued or renewed on misrepresentation or suppression of any material fact;
- (f) that the holder of the certificate has violated any of the terms and conditions of the certificate;
- (g) that in the opinion of the Central Government, it is necessary in the interest of friendly relations of India with any foreign country or in the interests of the general public to cancel the certificate.

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

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

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

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

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

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

## CHAPTER IV

## PERMITS FOR RECRUITMENT BY EMPLOYERS

**15 Competent authority**

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

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

COMMENTS

The Central Government may appoint the Protector General of Emigrants or any other officer of that government of a rank higher than that of a Protector of Emigrants as Competent Authority for issuing permit. The Central Government can also authorise any person who is employed under that Government in any country or place outside India to exercise the powers of the Competent Authority and issue permits under this chapter to employees who are not citizens of India for the purpose of recruiting any citizen of India for employment in such country or place.

**16. Recruitment by employers to be through recruiting agent or under permit**

Save as otherwise provided by or under this Act, no employer shall recruit any citizen of India for employment in any country or place outside India except—

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

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

**17. Procedure for obtaining permits**

(1) An employer desiring to obtain a permit under this chapter may make an application in that behalf in the prescribed form to the Competent Authority.

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

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

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

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

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

- (c) that the employment which the applicant proposes to offer involves work of a nature which is unlawful according to the laws of India or offends against the public policy of India or is violative of norms of human dignity and decency;
- (d) that having regard to the antecedents of the applicant, his financial standing, the facilities at his disposal, the working and living conditions of persons employed by him in the past, it would not be in the public interest or in the interest of the persons who may be recruited by him, to issue a permit to him;
- (e) that having regard to the prevailing circumstances in the country or in the place where the applicant proposes to employ the persons recruited by him, it would not be in the interests of any citizen of India to emigrate for taking up such employment.

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

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

#### **18. Period of validity of permit**

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

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

#### **19. Registration of certain permits**

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

#### **20. Cancellation or suspension of a permit**

The provisions of section 14 relating to cancellation and suspension of a certificate referred to therein shall, subject to such modifications as may be necessary (including modification for construing the references in that section to registering authority's references to Competent Authority under this chapter), apply for the cancellation or suspension of a permit.

#### **21. Power to exempt**

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

**CHAPTER V**  
**EMIGRATION CLEARANCE**

**22. Requirement, etc., as to emigration clearance**

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

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

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

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

- (a) a true copy (verified and authenticated in the prescribed manner) of the agreement with respect to the employment for the taking up of which applicant proposes to emigrate and where such agreement does not provide for all or any of the prescribed matters, also a statement (verified and authenticated in the prescribed manner) setting out the particulars with respect to such matters;
- (b) a statement (verified and authenticated in the prescribed manner) as to the provision by way of security for meeting the expenses which may be incurred in case it becomes necessary to arrange for the repatriation to India of the applicant;
- (c) a receipt evidencing the payment of the prescribed fee;
- (d) such other relevant documents or copies of relevant documents as may be prescribed.

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

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

- (a) that the terms and conditions of employment which the applicant proposes to take up are discriminatory or exploitative;
- (b) that the employment which the applicant proposes to take up involves work of a nature which is unlawful according to the laws of India or offends against the public policy of India or is violative of norms of human dignity and decency;
- (c) that the applicant will have to work or live in sub-standard working or living conditions;
- (d) that having regard to the prevailing circumstances in the country or place where the applicant proposes to take up employment or the antecedents of the employer under whom the applicant proposes to take up employment

or any other relevant circumstances, it would not be in the interests of the applicant to emigrate;

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

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

### 23. Appeals

(1) Any person aggrieved by—

- (a) an order of the registering authority rejecting his application for registration or requiring him to furnish any security or to comply with any term or condition (not being a prescribed term or condition) specified in the certificate issued to him or suspending or cancelling or refusing to renew the certificate issued to him; or
- (b) an order of the Competent Authority rejecting his application for a permit or requiring him to comply with any terms or conditions (not being a prescribed term or condition) specified in the permit issued to him, or suspending or cancelling or refusing to extend the period of the validity of the permit issued to him; or
- (c) an order of the Protector of Emigrants rejecting his application for emigration clearance; or
- (d) an order of the registering authority or the Competent Authority or the Protector of Emigrants or the prescribed authority requiring him to furnish any security, additional security or fresh security under this Act, or forfeiting or rejecting his claim for refund (whether wholly or partly in either case) of the security, the additional security or the fresh security furnished by him,

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

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

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

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

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

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

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

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

#### COMMENTS

Any person aggrieved by an order of the registering authority rejecting his application for registration or an order of the Competent Authority rejecting his application for permit or an order of the Protector of Emigrants rejecting his application for emigration clearance or an order of the registering authority or the Competent Authority or the Protector of Emigrants or the prescribed authority requiring him to furnish any security, additional security or fresh security under this Act or forfeiting or rejecting his claim for refund may prefer an appeal against such order to the Central Government.

### CHAPTER VII OFFENCES AND PENALTIES

#### 24. Offences and penalties

(1) Whoever—

- (a) except in conformity with the provisions of this Act emigrates; or
- (b) contravenes the provisions of section 10 or section 16; or
- (c) by intentionally furnishing any false information or suppressing any material information obtains a certificate or a permit or an emigration clearance under this Act; or
- (d) without lawful authority makes or causes to be made any alteration in any certificate or permit or in any document or endorsement by way of emigration clearance issued or made under this Act; or
- (e) disobeys or neglects to comply with any order of the Protector of Emigrants under this Act; or
- (f) collects from an emigrant any charge in excess of the limits prescribed under this Act; or
- (g) cheats any emigrant,

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

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

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

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

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

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

**25. Offences by companies**

(1) Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

*Explanation.*—For the purposes of this section,—

- (a) "company" means anybody corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

**COMMENTS**

Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

However, any such person liable to punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence then the aforesaid provision will not be applicable to that person.

**26. Offences to be cognizable**

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

**COMMENTS**

Sections 2(a) and 2(b) of the Code of Criminal Procedure, 1973 define "bailable offence" and "cognizable offence" respectively. "Bailable offence" is an offence which is shown as bailable in Schedule I to the Code or which is made bailable by any other law for the time being in force. "Cognizable offence" means an offence for which a police officer may, in accordance with the Schedule I or under any other law for the time being in force, arrest without warrant.

**27. Previous sanction of Central Government necessary**

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

PROVIDED that no sanction shall be required when an offence has been committed in respect of an emigrant or an intending emigrant and the complaint is filed by such emigrant or intending emigrant, or on behalf of such emigrant or intending emigrant, by the father, mother, husband, wife, son, daughter, brother, sister or guardian of such



emigrant or intending emigrant, or if such emigrant or intending emigrant is a member of a joint Hindu family, by the manager of that family.

COMMENTS

Prosecution shall not be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government.

**28. Punishment to be without prejudice to any other action**

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

**CHAPTER VIII**  
**MISCELLANEOUS**

**29. Determination of question as to whether a person is an emigrant**

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

**30. Power to prohibit emigration to any country in the interests of the general public, etc.**

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

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

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

COMMENTS

The Central Government may by notification, prohibit emigration to any country where it has reason to believe that sufficient grounds exist having regard to the sovereignty and integrity of India, the security of India and friendly relations of India with any foreign country and such notification is effective for a period of six months.

**31. Power to prohibit emigration due to outbreak of epidemics, civil disturbances, etc., in a country**

(1) Where the Central Government has reason to believe—

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

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

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

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

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

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

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

### **32. Power to prohibit emigration of any class or category of persons**

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

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

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

### **33. Provisions as to security**

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

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

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

### **34. Refund of security**

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

### **35. Power to search, seize and detain persons, conveyance, etc.**

All the powers for the time being conferred by the Customs Act, 1962 (52 of 1962), on officers of customs with regard to the searching and detention of persons, vessels or aircraft or any other conveyance, or seizure of any document or thing or arrest of any person or otherwise for the purpose of prevention or detection of any offence under that

Act or for apprehending a person suspected to have committed any offence under that Act may be exercised for the purpose of prevention or detection of any offence under this Act or for apprehending a person suspected to have committed any offence under this Act, by—

- (a) any such officer of customs, or
- (b) the Protector General of Emigrants or a Protector of Emigrants, or
- (c) an officer incharge of an emigration check-post.

#### COMMENTS

The powers with regard to searches, seizures and arrests are contained in chapter XIII of the Customs Act, 1962 (vide sections 100 to 110). All such powers are exercisable under this section for the purpose of searching and detention persons, vessels or aircraft or any other conveyance, or seizure of any document or things or arrest of any person or otherwise or for apprehending a person suspected to have committed any offence or for the purpose of prevention or detection of any offence under this Act or for apprehending a person suspected to have committed any offence under this Act by any officer of customs or the Protector General of Emigrants or a Protector of Emigrants or an officer incharge of an Emigration check-post.

#### **36. Returns and registers**

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

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

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

#### **37. Authorities and officers to have certain powers of civil court**

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

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

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

**38. Power to give directions**

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

**39. Effect of other laws**

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

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

**40. Delegation**

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

- (a) which may be exercised or performed by it under this Act, or
- (b) which may be exercised or performed by a registering authority, a Competent Authority or a Protector of Emigrants under this Act,

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

- (i) by such officer or authority subordinate to the Central Government, or
- (ii) by any State Government or by any officer or authority subordinate to such State Government, or
- (iii) in any foreign country in which there is no diplomatic mission of India, by such foreign consular office,

as may be specified in the notification.

**41. Power to exempt**

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

- (a) the friendly relations with any foreign country; or
- (b) the known reputation of any foreign employer or class of foreign employers, for providing to emigrants standard condition of living and working, and their methods of recruitment and conditions of employment; or
- (c) the methods of recruitment followed and the conditions of employment provided by a public undertaking or an approved concern for the execution of its projects abroad; or
- (d) the facilities and conditions of service provided by government officers posted abroad to their domestic servants accompanying such government officers, where the expenditure in respect of this passage of such domestic servants is borne by the government; and
- (e) all other relevant considerations,

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

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

- (a) "public" undertaking" means—

- (i) an undertaking owned and controlled by government; or
  - (ii) a government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or
  - (iii) a body corporate established by or under any Central, Provincial or State Act;
- (b) "approved concern" means such company incorporated under the Companies Act, 1956 (1 of 1956) or partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or society registered under the Societies Registration Act, 1860 (21 of 1860) or any other law relating to societies for the time being in force in any State, or co-operative society registered under any Central, Provincial or State law, as the Central Government may, by notification, approve for the purposes of this section.

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

#### 42. Act not to apply to certain emigrants

Nothing contained in this Act shall be deemed to apply to—

- (a) the recruitment or emigration of any person who is not a citizen of India;
- (b) the control of recruiting in India for the service of foreign States to which the Foreign Recruiting Act, 1874 (4 of 1874) applies.

#### COMMENTS

The provisions of the Act shall not apply to the recruitment or emigration of any person who is not a citizen of India and the control of recruiting in India for the service of foreign States to which the Foreign Recruiting Act, 1874 applies.

#### 43. Power to make rules

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

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

- (a) the powers and duties of officers and employees appointed for the purposes of this Act and the terms and conditions of their service;
- (b) the form of—
  - (i) a certificate to commence or carry on the business of recruitment, and of an application for the issue or renewal thereof;
  - (ii) a permit for the recruitment of persons for employment outside India, and of an application for the issue thereof;
  - (iii) an application for emigration clearance;
  - (iv) an appeal to be preferred to the Central Government;
- (c) the manner and form in which an authorisation by way of emigration clearance may be given;

- (d) particulars to be contained in an application for a certificate or a permit or for an emigration clearance;
- (e) the manner in which different inquiries required to be held under this Act may be held;
- (f) the manner in which the amount of security for securing the due performance of the terms and conditions of the certificate or permit or for compliance with the provisions of this Act shall be furnished;
- (g) the manner of verifying or authenticating documents and copies of documents for the purposes of this Act;
- (h) the procedure to be followed in hearing an appeal preferred to the Central Government;
- (i) the fees to be paid in respect of applications and other matters under this Act;
- (j) the charges which a recruiting agent may recover from an emigrant in respect of services rendered and the scales and limits of such charges;
- (k) the terms and conditions subject to which a certificate or a permit or an emigration clearance may be issued under this Act;
- (l) the period of the validity of a certificate or a permit issued under this Act;
- (m) the authority competent to extend the period of validity of a permit or to forfeit security or to require any additional security or fresh security under this Act;
- (n) the accommodation, the provisions, the medical stores and staff, the life saving and sanitary arrangements and other provisions and arrangement for the well-being, security and protection of emigrants which shall be provided and the records which shall be maintained in any emigrant conveyance;
- (o) any other matter which is required to be, or may be, prescribed.

#### 44. Notification and rules to be laid before Parliament

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

#### 45. Repeal of Act

The Emigration Act, 1922 (7 of 1922) is hereby repealed.

# THE EMIGRATION RULES, 1983

[SO 941(E), dt. 30-12-1983]

(As amended vide GSR 511(E), dt. 9-7-2009)

In exercise of the powers conferred by Section 43 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby makes the following rules:

## PRELIMINARY

### 1. Short title and commencement

- (1) These rules may be called the Emigration Rules, 1983.
- (2) They shall come into force on the date of their publication in the Official Gazette.

### 2. Definitions

In these rules unless the context otherwise requires,—

- (a) "Act" means the Emigration Act, 1983 (31 of 1983);
- (b) "Certificate" means a certificate issued under Section 11 of the Act;
- (c) "Competent Authority" means competent authority notified by Central Government under Section 15 of the Act;
- (d) "demand" means the category-wise, skill-wise number of workers required by the employer for being employed in his establishment. This includes description of job-specifications and salary offered;
- (e) "emigration number" means the number assigned by the Protector of Emigrants to an emigrant at the time of granting emigration clearance;
- (f) "Form" means a Form annexed to these rules;
- (g) "permit" means permit issued under Chapter IV of the Act;
- (h) "remittable component" means a part of the wages which the emigrant is entitled to remit to India;
- (i) "unauthorised emigrant" means any person who has emigrated or intends to emigrate out of India for employment in violation of the provision of the Act and the rules.

### 3. Dependent of an emigrant

(1) A person who claims to be the dependent of an emigrant shall be required to produce in support of his claim a certificate to this effect from the District Magistrate or a revenue authority not below the rank of Tehsildar of the place where the emigrant ordinarily resides or domiciles.

(2) Determination of the purpose of visit of dependent shall be carried out with reference to the nature of the visa, sponsorship certificate and such other travel documents as may be considered necessary.

### 4. Emigrants conveyance

Any conveyance, especially chartered, for conveyance of emigrant or employed generally for conveying emigrants exceeding two in number shall be deemed to be emigrant conveyance.

**<sup>1</sup>[5. Recruiting agent representing the employer**

(1) An employer may authorise a recruiting agent in India, registered under the provisions of the Act, by a power of attorney executed in favour of the recruiting agent authorising that recruiting agent for the purposes of the recruitment of persons on his behalf.

(2) The power of attorney referred to under sub-rule (1) shall be valid for the period of the employment contract of the recruited worker even if the certificate of registration of such recruiting agent ceases to be valid before that period.]

**6. Inspection of an emigrant's conveyance**

(1) If the Protector of Emigrants has reason to believe that a conveyance is an emigrant's conveyance he may inspect such conveyance with a view to detecting the presence of unauthorised emigrants in the conveyance or for obtaining such evidence as may be necessary for protecting the interests of emigrants and he may, with such assistance, as he may think fit,—

- (i) enter such conveyance at any time;
- (ii) require the production of registration certificate of the conveyance, log book and list of passengers; and
- (iii) take such other evidence and examine any person as he may deem necessary.

(2) Person having the general management or control of the conveyance shall provide such means as may be required by the Protector of Emigrants for inspection under sub-rule (1).

**<sup>1</sup>[7. Application for registration as recruiting agent**

(1) Any person intending to engage in India in the business of recruitment for an employer may make an application for registration under section 11 of the Act to the registering authority in Form-I.

(2) The application referred to in sub-rule (1) shall be accompanied with a fee of twenty-five thousand rupees payable by a bank draft issued in favour of the Pay and Accounts Officer, Ministry of Overseas Indian Affairs, New Delhi and shall contain the following particulars and documents, namely:—

- (i) a copy of the applicant's bachelor's degree or two years diploma or equivalent from a recognised university or institute;
- (ii) a copy of the balance sheet of the previous financial year or a statement of accounts showing the assets and liabilities of the applicant, duly verified by a chartered accountant having a certificate of practice under the Chartered Accountants Act, 1949 (38 of 1949), showing the financial soundness of the applicant;
- (iii) a copy of the income-tax returns for the last three consecutive years;
- (iv) an affidavit in Form-II, executed by the applicant before a Magistrate or Notary Public.]

**<sup>1</sup>[8. Amount of security**

The Applicant, on being informed by the registering authority under sub-section (2) of section 11 of the Act, shall provide a bank guarantee of thirteen years' validity for an amount of twenty lakh rupees as security under sub-section (3) of that section.]

<sup>1</sup> Substituted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.



**9. Validity of certificate**

A certificate shall be valid <sup>1</sup>[initially for a period of ten years and shall be renewed for a further period of ten years]:

PROVIDED that a certificate may be issued for a shorter period—

- (a) if the person to whom it is issued so desires; or
- (b) if the registering authority, for reasons to be communicated in writing to the applicant for the certificate, considers in any case that the certificate should be issued for a shorter period.

**<sup>2</sup>[9A. Renewal of Certificate**

An application for renewal of certificate under Section 13 may be made to the registering authority in Form IIA and shall be accompanied with a fee of twenty-five thousand rupees payable by a bank draft issued in favour of the Pay and Accounts Officer, Ministry of Overseas Indian Affairs, New Delhi.]

**10. Terms and conditions of the certificate**

(1) The registration certificate shall be subject to the following terms and conditions—

- (i) the certificate shall be valid for a period specified in the certificate;
- (ii) the certificate shall not be transferable;
- (iii) the holder of the certificate shall conduct the business under his own hand and seal;
- (iv) a photocopy of registration certificate shall be displayed prominently at a conspicuous place of business;
- (v) the certificate shall be made available for inspection to the emigration authorities, law enforcement authorities and employers;
- (vi) the certificate shall be produced on demand for satisfaction of the bona fides of the recruiting agent, when such demand is made by an emigrant;
- (vii) the holder of the certificate shall conduct the business from the place indicated in certificate. For opening a recruitment centre at a place other than the place indicated in the certificate, the holder of the certificate shall obtain the prior permission of the registering authority [or an officer specially authorised by the registering authority];
- (viii) the holder of the certificate shall not employ sub-agents for the purpose of conducting or carrying on his business; and
- (ix) the holder of the certificate shall maintain the following records at his place of business and shall make them available for inspection on demand by Protector General of Emigrants or the Protector of Emigrants,—
  - (a) a register of receipt of charges from emigrants recruited, in the form of an original acquittance roll containing the signature of each emigrant from whom the charge has been received. Each such register shall be with reference to a demand for recruitment. The register shall be maintained as permanent records;

1 Substituted for "(initially for a period of five years and shall be renewed for a further period of five years" by Emigration (Amdt.) Rules, 2009 vide GSR No. 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

2 Substituted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

- (b) a register and records of the amount and Pre-paid Ticket Advices along with their photo copies received from the employers, identified demand wise;
- (c) a register containing details of expenses incurred on the recruitment of emigrants demand wise supported by documents;
- (d) individual folders for each employer whose demands of labour, the holder of the certificate has processed, proposes to process or is processing;
- (e) bio-data of each emigrant recruited by the holder of the certificate;
- (f) copies of employment contracts of each emigrant as authenticated by the Protector of Emigrants;
- (g) original demand letter, power of attorney and correspondence with the employers;
- (h) all documents relating to the recruitment of emigrants, including office copies of all advertisements issued, letters of interview and correspondence with the applicants, original award sheets leading to the selection, names and addresses of person involved in the selection process, copies of letters of appointments, trade-testing particulars;
- (i) a register of visas received from the employers, giving separate account of block and individual visas;
- (j) a register of claims for all compensations (including for injury or death) made by the emigrants or their dependents, recruited by the holder of the certificate giving the name, address of the emigrant, emigration number, country of employment, nature of compensation (including the details in regard to the circumstances leading to the claim), address of the recipients and the name and address of the employer, and the receipt in original in token of having made the payment of compensation; and
- (k) such other records as may be required to be maintained by the registering authority;
- (x) <sup>1</sup>[the holder of certificate shall file a return every months in Form IV to the Protector General of Emigrants or the Protector of Emigrants specified by the Protector General in this behalf, by the 10th of the succeeding month;]
- (xi) copy of each advertisement for recruitment of the emigrants shall be endorsed to the Protector of Emigrants;
- (xii) the holder of the certificate shall ensure that the employer observes the terms and conditions of the contracts;
- (xiii) the holder of the certificate shall not charge any amount from the emigrant towards the repatriation expenses; and
- <sup>2</sup>(xiv) the holder of the certificate shall—
  - (a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;

<sup>1</sup> Substituted by GSR 375(E), dt 23-3-1989.

<sup>2</sup> Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

- (b) endeavor to ensure proper reception of the emigrant by the employer in the country of employment;
  - (c) endeavor to ensure that subsequent to the employment, the employer shall not alter the terms of the employment contract;
  - (d) endeavor to ensure that the employer takes timely action for renewal of documents authorising the stay of the emigrant in the country of employment;
  - (e) facilitate amicable settlement of disputes between the employer and the emigrant;
  - (f) issue receipt for the payments received from the emigrant;
  - (g) issue only such advertisements that are genuine and factually correct and shall refrain from any inducement or misrepresentation in this regard;
  - (h) file copies of all advertisements to the Protector General of Emigrants immediately after their publication or release.
- (xv) the holder of the certificate shall maintain—
- (a) office premises of not less than fifty square meters of built-up area, having a waiting hall with the capacity of sitting for at least thirty persons, a room for the purpose of conducting interview and an office space equipped with furniture, photocopier, telephone with Subscriber Trunk Dialing and International Subscriber Dialing facility, fax, computer and other office amenities as may be specified by the registering authority by order in writing;
  - (b) work stations for the office personnel;
  - (c) internet facility, email accounts and a web portal containing detailed information about the recruiting agent, the validity status of the registration certificate, the services offered, the cost of services, the mode of payment of service charges, the remedies available to emigrants for redressal of grievances, vacancies available along with the details of the jobs, the employers and the contract conditions and the recruitments made in the past with such particulars as the registering authority may require by order in writing;
  - (d) adequate and duly trained staff;
  - (e) a signboard, to be displayed in front of the business premises or so fixed that it is conspicuously visible to the public from outside the office premises indicating the name and the registration number of the recruiting agent, the year of registration and date of its expiry;
  - (f) arrangements for skill testing for the trades for which he recruits the intending emigrants.]

(2) The Certificate shall be in Form V.

#### 11. Permits for recruitment by employers

(1) Application for permits. The application for issue of the permits for recruitment by foreign employers shall be in Form VI.

(2) The application for issue of permits for recruitment by Indian employers for foreign jobs shall be in Form VII.

<sup>1</sup>[(3) The applications under sub-rules (1) and (2) above shall be accompanied by bank draft of rupees two thousand payable in favour of the Pay and Accounts Officer, Ministry of Labour (Main Secretariat), New Delhi, towards the application fee.]

#### 12. Conditions of permit

The permit shall be subject to the following conditions, namely:—

- (i) The permit is not transferable.
- (ii) The permit is valid for a period of <sup>2</sup>[one year] from the date of issue or the date of completion of the recruitment whichever is earlier.
- (iii) Workers recruited on the strength of this permit shall not be repatriated on the ground that they do not possess the required skill.
- (iv) The holder of the permit shall not obtain the assistance of recruiting agent in any manner.
- (v) The employment agreement with the worker shall be signed by the holder of the permit.
- (vi) The holder of the permit shall be under obligation to treat the contract entered into the worker as enforceable under the Labour Laws of the country of employment. It shall be his responsibility to file the copies of the contracts with the concerned authorities in the country of employment.
- (vii) The holder of the permit shall not supply manpower recruited on the strength of this permit to any other agency or concern.
- (viii) The holder of the permit shall be responsible for the general welfare and redressal of specific grievances of the workers recruited on the strength of the permit during the period of contract.
- (ix) The holder of the permit shall not extend the services of a worker after the expiry of a contract without entering into a fresh contract or without extending the existing contract.
- (x) The holder the permit shall notify to the Indian Mission in the country of employment in case of death or disability of a worker within 48 hours of the occurrence of the event. Similarly information should be communicated to the next of kin in India in case of disability/death within 48 hours.
- (xi) The holder of the permit is prohibited from supplying manpower for a work in another country to a country other than the country from which the permit has been issued.
- <sup>3</sup>(xii) The holder of the Permit shall—
  - (a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;
  - (b) ensure proper reception of the emigrant in the country of employment;
  - (c) ensure that subsequent to the employment, the employer shall not alter the contract of employment;
  - (d) ensure timely action for renewal of documents authorising stay of emigrant in the country of employment;

1 Inserted by Emigration (Amtd.) Rules, 2002, vide GSR 713(E), dt. 18-10-2002, w.e.f. 1-11-2002.

2 Substituted for "six months" vide GSR 773(E), dt. 25-11-2004, w.e.f. 25-11-2004.

3 Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

- (e) not deprive the emigrant of the custody of his travel and employment documents;
- (f) ensure advertisement for the genuineness of employer's in respect of recruitment before it is released and shall refrain any inducement or misrepresentation in this regard;
- (g) file copies of all advertisements for recruitment to the Protector General of Emigrants immediately after their publication or release.]

### 13. Issue of permit

(1) On receipt of the application, the Competent Authority may verify the facts contained in the application and may make the following enquiries to ascertain that the terms and conditions of employment are not discriminatory or exploitative—

- (a) the basis on which the demand has been computed;
- (b) the principle on which skills have been classified;
- (c) job contents of a post required to be filled;
- (d) scope of future prospects in various categories of jobs;
- (e) structure of supervisory control;
- (f) grievances procedure followed; and
- (g) general reputation of the applicant and reports of specific misconduct, if any.

(2) A permit issued under Section 17 of the Act shall be in Form VIII and shall be valid for a period of one year from the date of its issue or till the recruitment of the persons for whose recruitment such permit is issued is completed, whichever is earlier.

11 [(2A) The permit shall be issued only after the applicant furnishes a bank guarantee of ten thousand rupees for every person intended to be recruited subject to a minimum of one lakh rupees and a maximum of twenty lakh rupees, valid for a period of one year over and above the duration of the employment contract.]

(3) In case the employer is not able to complete the recruitment within 12 [one] year, then he may an application under Section 18 of the Act for an extension of the period of validity of the permit, stating the reasons therein for not completing the recruitment within the prescribed period. The prescribed authority may extend the validity of the permit by such further period as it may think fit but not exceeding three months at a time.

14. (1) A foreign employer who has been granted a permit under sub-section (2) of Section 15 of the Act shall on arrival in India submit to the Protector General of Emigrants a certified copy of the permit and thereafter may proceed to make recruitments.

(2) Where the permit under sub-section (2) of Section 15 has been issued for recruitment of persons not more than two in number and where such recruitment is being made on the basis of postal communication or personal contact, a copy of the permit certified by the Indian Mission in the country of employment can be filed by such person himself.

### 15. Application for emigration clearance

(1) Every application made under sub-section (2) of Section 22 of the Act shall be made in Form IX by the applicant directly or through the recruiting agent if any or

1 Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

2 Substituted for "six months" vide GSR 773(E), dt. 25-11-2004, w.e.f. 25-11-2004.

through the employer <sup>1</sup>[including Indian employers permitted under rule 11(2)] concerned and shall be accompanied by,—

- (a) a true copy of the demand verified and authenticated by the Indian Mission in the country of employment;
- (b) a true copy of the power of attorney given by the employer to the recruiting agent verified and authenticated by the Indian Mission in the country of employment;
- (c) a true copy of the agreement under sub-sec. (3) of s. 22 of the Act verified and authenticated by the Indian Mission in the country of employment;
- (d) a statement setting out the particulars of matters prescribed under sub-rule (2) not provided in the agreement;
- (e) a statement of additional conditions, if any;
- (f) a statement as to the provision by way of security for meeting the expenses which may be incurred in case it becomes necessary to arrange for the repatriation to India of the applicant. This statement shall be verified and authenticated by the recruiting agent in case the applicant is recruited by him;
- <sup>2</sup>(g) a demand draft of <sup>3</sup>[rupees two hundred], drawn in favour of the Protector General of Emigrants as fee for emigration clearance; and]
- <sup>4</sup>(h) an insurance policy providing insurance cover for the intending emigrant for the period of employment contract.]

<sup>5</sup>[(2) An agreement under sub-section (3) of Section 22 shall provide for the following matters—

- (i) period of employment/place of employment;
- (ii) wages and other conditions of service;
- (iii) free food or food allowance provision;
- (iv) free accommodation;
- (v) provision in regard to disposal, or transportation to India, of dead body of the emigrants;
- (vi) working hours, overtime allowance, other working conditions, leave and social security benefits as per local labour laws;
- (vii) to-and-fro air-passage at the employers' cost; and
- (viii) mode of settlement of disputes.]

<sup>6</sup>[15A. x x x]

1 Inserted by Emigration (Amdt.) Rules, 2002, vide GSR 713(E), dt. 18-10-2002, w.e.f. 1-11-2002.

2 Substituted by S.O. 159(E), dt. 28-2-1996.

3 Substituted for "rupees one hundred" by Emigration (Amdt.) Rules, 2002, vide GSR 713(E), dt. 18-10-2002, w.e.f. 1-11-2002.

4 Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

5 Substituted by S.O. 111(E), dt. 24-2-1987.

6 Rule 15A omitted by Emigration (Amdt.) Rules, 2007 vide GSR 658(E), dt. 15-10-2007, w.e.f. 15-10-2007. Prior to omission, it was inserted by Emigration (Amdt.) Rules, 2002, vide GSR 713(E), dt. 18-10-2002, w.e.f. 1-11-2002 and read as under:

"15A. All applications from the persons, individually or through recruiting agents or through other permitted agents, who intend to go abroad on short term non-employment visit and requiring suspension of emigration check requirements for a limited period (emigration suspension), shall be accompanied by a demand draft of rupees one hundred drawn in favour of the Protector General of Emigrants as fee in respect of each applicant."

16. Emigration clearance under sub-section (1) of Section 22 of the Act shall be given by making an entry incorporating grant of emigration clearance to an emigrant for the country of employment for the period of contract and the attestation number of the Mission on the demand should be made in the passport of the emigrant by the Protector of Emigrants.

<sup>1</sup>[17. *Direct recruitment by foreign employer*

(1) *Where an emigrant has been recruited directly by a foreign employer, the emigrant shall be required to deposit one way return fare calculated from the place of employment to the place of origin on the basis of the International Air Transport Association fare structure as security.*

(2) *Where the liability for bearing the cost of repatriation falls on the emigrant, security deposited by him under sub-rule (2) shall be utilised for his repatriation on the orders of the Protector of Emigrants.]*

**18. Form of appeal**

(1) Every appeal presented to the Central Government under Section 23 of the Act shall be in the form of a memorandum signed by the appellant. The memorandum shall be sent in triplicate and accompanied by a copy of the order appealed against and a demand draft of <sup>2</sup>[two thousand rupees] drawn in favour of the Union of India towards the fee for the appeal.

(2) The memorandum—

- (a) shall set forth concisely the grounds of objection to the order appealed against and such grounds shall be numbered consecutively; and
- (b) shall specify—
  - (i) the address at which notices or other processes may be served on the appellant; and
  - (ii) the date on which the order appealed against was served on the appellant.

(3) Where the memorandum is presented after the expiry of the period of thirty days referred to in sub-section (2) of Section 23, it shall be accompanied by a petition, in triplicate, duly verified and supported by the documents, if any, relied upon by the appellant, showing cause how the appellant had been prevented from preferring the appeal within the said period of thirty days.

(4) Any notice required to be served on the appellant shall be served on him in the manner prescribed in rule 18, at the address for service specified in the memorandum.

**19. Procedure before the appellate authority**

(1) On receipt of an appeal under Rule 18, the appellate authority shall send a copy of the memorandum of appeal to the registering authority or the competent authority or the Protector of Emigrants or the prescribed authority against whose order the appeal has been presented.

(2) The appellate authority shall then issue notices to the appellant and the registering authority or the competent authority or the Protector of Emigrants or the prescribed authority, as the case may be, fixing a date of for hearing of the appeal.

(3) On the date fixed for the hearing of the appeal, or any other day to which the hearing of the appeal may be adjourned, the appellant as well as the representative of

1 Italicised rule 17 omitted vide GSR 511 (E), dt. 9-7-2009, w.e.f. 9-7-2009.

2 Substituted for "rupees two hundred" by Emigration (Amdt.) Rules, 2009, vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

the registering authority or the competent authority or the Protector of Emigrants or the prescribed authority, as the case may be, shall be heard.

(4) Where on the date fixed, or any other day to which the hearing of the appeal may be adjourned, the appellant fails to appear when the appeal is called on for hearing, the appellate authority may decide the appeal on the basis of the records of the case.

#### 20. Contents of the order in appeal

The order of appellate authority shall be in writing and shall state briefly the grounds for the decision and shall also be signed by the appellate authority.

#### <sup>1</sup>21. Representation of party

Any person who has filed an appeal under Section 23 of the Act, may appear himself or appoint a pleader, advocate or any of the following to appear, plead and act on his behalf before the appellate authority:

- (i) a partner, in case of a partnership firm;
- (ii) a Director, in case of a Limited Company registered under Companies Act;
- (iii) a practising advocate having vakalatnama executed by the owner, partner or Managing Director, as the case may be;
- (iv) a regular employee of the Limited Company or firm who has been in direct employment of the Company or Firm for at least a period of one year.]

#### 22. Procedure for deciding emigrant status

Where a question arises before a Protector of Emigrants as to whether a person intending to depart from India is or is not an emigrant shall be decided by the Protector of Emigrants after holding an enquiry in the following manner—

- (a) he may require the presence of the concerned person on an appointed day and time;
- (b) he may also require the concerned person to produce evidence relating to—
  - (i) the present occupation;
  - (ii) his financial status and income;
  - (iii) certificate of sponsorship from the foreign country;
  - (iv) the source of financing of the journey;
  - (v) the source of receipt of foreign exchange;

and thereafter he shall pass speaking order and copy of the same shall be provided to the persons concerned and an endorsement to this effect shall be made in the passport.

#### 23. Forfeiture of security deposit

Where the competent authority or the registering authority has reason to believe that it is expedient to forfeit the whole or any part of security furnished by any person for being utilised for such purpose and in such manner as may be specified in the order, he may, after giving a notice to this effect to such person and thereafter giving him an opportunity to represent his case, by order in writing, forfeit the whole or any part of the security.

#### 24. Authorities and officers to have certain powers of civil courts

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

<sup>1</sup> Substituted by Emigration (Amdt.) Rules, 2007 vide SO 776(E), dt. 18-5-2007, w.e.f. 2-6-2007.



- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring any public record or copy thereof, from any court or office;
- (c) requisitioning any public record or copy thereof, from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

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

#### 11 [Service charges

No recruiting agent shall collect from the worker the charges more than the equivalent of his wages for forty-five days as offered under the employment contract, subject to a maximum of twenty thousand rupees, in respect of services provided by it to that worker and the recruiting agent shall issue a receipt to that worker for the amount collected by it in this regard.]

#### 26. Service of notice and orders

A notice or an order issued under these rules shall be served on any person in the following manner, that is to say—

- (a) by delivering or tendering the notice or order to that person or his duly authorised agent; or
- (b) by sending a notice or order to him by Registered Post with acknowledgment due to the address of his place of residence or his last known place of residence or the place where he carries out or last carried out business or personally works or last worked for gain; or
- (c) if the notice or order cannot be served under clause (a) or clause (b), by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided, or carries out or last carried out business or personally works or last worked for gain and that written report thereof should be witnessed by two persons.

#### 26-A. Withdrawal of the Certificate of registration of recruiting agent during suspension

Where an order suspending the operation of the registration certificate of the recruiting agent has been issued by registering authority, under sub-section (2) of Section 14 of the Act, the certificate of that recruiting agent may be withdrawn by the registering authority, for the period for which the suspension of certificate has been ordered and for the periods of further extension of suspension of such certificate, if any.

1 Substituted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009. Prior to substitution, rule 25 read as under :

#### "25. Service charge

The charges which the recruiting agent may recover from an emigrant in respect of services rendered shall not exceed rupees five thousand in the case of skilled workers, rupees three thousand in the case of semi-skilled workers, rupees two thousand in the case of unskilled workers and other than the above categories rupees ten thousand for which the recruiting agent shall give a receipt to the emigrant."

<sup>1</sup>[FORM I

[(See rule 7(1)]

## FORM OF APPLICATION FOR REGISTRATION OF A RECRUITING AGENT

1. Name of the Applicant:
2. Address and Telephone number:
3. Status (Company/partnership firm/sole proprietor):
4. Date of setting up of the establishment:
5. Name, designation and address of the managing director/managing partner/proprietor (as the case may be):
6. Educational qualification of the proprietor/managing partner/managing director (attach copy):
7. Name and address of Bankers:
8. Financial Status :
  - (i) Net Worth (assets minus liabilities):
  - (ii) Permanent Account Number (PAN) of the applicant:
  - (iii) Permanent Account Number (PAN) of the proprietor/partners/directors of the company/firm (if the applicant is a company/firm):
  - (iv) Income-tax paid during each of the last 3 years:
  - (v) income-tax paid during each of the last 3 years by the proprietor/partners/ directors:
9. Nature of business and turnover during each of the last five years:
10. Experience, if any, in recruitment of Manpower for overseas employment, if so :—
  - (a) Whether the applicant was registered earlier as Recruiting Agent and if so, the details:
  - (b) Whether any director/partners/proprietor had been associated with any recruiting agent in the past if so, give details:
11. If previously in the business of recruitment, total number of workers deployed abroad year-wise, country-wise and category-wise during the last five years:
12. Whether there has been any complaints against the recruiting agent in respect of workers recruited, during the last five years; if so, details thereof:
13. Whether there is any criminal or civil case pending in any court against the applicant or any Director (partner, proprietor) if so, details thereof:
14. Whether any Director/Partner/Proprietor have been convicted if so, details thereof:
15. Whether any Certificate issued under Emigration Act, 1983 was cancelled; if so, details thereof:
16.
  - (a) Name of the countries where the applicant proposes to concentrate his efforts to deploy Indian workers:
  - (b) Number of workers proposed to be recruited annually:
  - (c) Plans for market development:

<sup>1</sup> Substituted vide GSR 511 (E), dt. 9-7-2009, w.e.f. 9-7-2009.

17. Period for which registration is applied for, if less than ten years:
18. Address of the premises where the Applicant proposes to conduct business of recruitment:
19. The size of the premises and whether it is easily accessible to the public:
20. Whether the business premises is owned, on hire or on lease; if hired/leased—name and address of the owner:

UNDERTAKING

- (a) I undertake that in the event of any of the information furnished above being found to be false or incorrect in any respect, the Certificate is liable to be cancelled;
- (b) I undertake to furnish the proof of being in possession of the office premises comprising built-up area of minimum 50 square metre and the facilities as specified under rule 10 within one month of receiving the eligibility letter under section 11(2) from the registering authority;

Date  
Place

Signature of applicant  
(with Seal)

Check List of Documents to be attached

- 1 Demand Draft for Rs. 25,000/- in favour of 'Pay and Accounts Officer, Ministry of Overseas Indian Affairs, New Delhi' payable at New Delhi, under rule 7(i).
- 2 Three Passport-size photographs of Proprietor/Managing Partner/Managing Director, duly attested on the back side by a Gazetted Officer of the State/Central Government.
- 3 Statement showing the name/Age and Residential Address of Proprietor/All Partners/All Directors along with designation and business activities undertaken during the last five years.
- 4 Specimen signature of the Proprietor/Managing Partner/Managing Director duly attested by a Gazette Officer.
- 5 Copy of the Certificate of Educational Qualification as per rule 7(2)(i).
- 6 A statement showing the assets and liabilities of the proprietor if the applicant is sole proprietor, and of the managing partner or the managing director if the applicant is a firm or a company, as the case may be, under rule 7(2)(ii).
- 7 Income-tax returns for the last three consecutive years, under rule 7(2)(iii).
- 8 A copy of PAN card.
- 9 IN CASE OF PARTNERSHIP FIRM—
  - (a) Resolution taken by all the partners authorizing one of the partners to act as Managing Partner and to sign papers on behalf of the firm.
  - (b)\* Copy of partnership deed (which must provide for recruitment of workers for overseas employment).
  - (c) True extracts from the Registrar of firms in support of registration of the partnership deed.
  - (d) \*A copy of the Balance Sheet as at the close of the previous financial year.

## 10 IN CASE OF COMPANY

- (a) A resolution passed to authorize one of the Directors to act as Managing Director and to sign papers on behalf of the Company.
- (b) A copy each of the memorandum of Association and Articles of Association (which must provide for recruitment of workers for overseas employment as one of its objectives).
- (c) A copy of the certificate of registering the company.
- (d) A copy of the Balance Sheet as at the close of the previous financial year.]

**FORM II**  
**AFFIDAVIT**

I,..... son of Shri.....resident of .....do hereby solemnly affirm and declare as under:—

1. That I the Company /firm own(s) fixed assets of the value of rupees....
2. That I the Company /firm hold(s) bank deposits of rupees....
3. That I the Company /firm have made the following other investments:
  - (a)
  - (b)
  - (c)
  - (d)
4. That/the Company /firm have the following liabilities:
  - (a)
  - (b)
  - (c)

**VERIFICATION**

I do hereby solemnly affirm and declare that the contents of paras 1 to 4 above are true to the best of my knowledge and nothing has been concealed.

Verified at..... on.....

!1 [(i) on the right hand side of the opening paragraph, the following shall be inserted, namely:—

The passport size photograph of the proprietor/managing partner/partners/managing director/directors duly attested by the registering authority shall be affixed.]

**DEPONENT**

*Attested before Metropolitan Magistrate/Judicial Magistrate*

Name, Signature and Seal

11 [FOIAM

## FORM OF APPLICATION FOR RENEWAL OF REGISTRATION

(See rule 9A)

1. Name of the Applicant:
2. Educational qualification of the proprietor/managing partner/managing director (attach copy):
3. Status (whether public or private limited company or a Partnership or sole proprietorship firm registered under relevant Act—Quote Registration No.):
4. Number and date of issue of Registration Certificate under The Emigration Act, 1983:
5. Date upto which certificate is valid:
6. Number of workers deployed against the certificate:
7. Whether any complaints are outstanding in respect of workers recruited and if so, details thereof:
8. Whether there is any civil or criminal case pending against the applicant:
9. Whether any Director/Partner/Proprietor have been convicted, if so, details thereof:
10. Any relevant change in respect of business premises, financial status etc. since the issue of registration certificate under the Emigration Act, 1983:
11. Have you been associated with any other Recruiting agent, if so, in what capacity:

## UNDERTAKING

I undertake that in the event of any information furnished above being found to be false or incorrect in this respect, the certificate of registration granted is liable to be cancelled.

Date :

Place :

Signature of Applicant  
(with Seal)]

1 Inserted vide GSR 511 (E), dt. 9-7-2009, w.e.f. 9-7-2009.

<sup>1</sup>[FORM IV  
[See rule 10(1)(x)]

Name of the Firm .....

Registration No. ....

Return for the month of .....

MONTHLY RETURN TO BE SUBMITTED BY THE RECRUITING AGENT  
BY THE 10TH OF EVERY MONTH

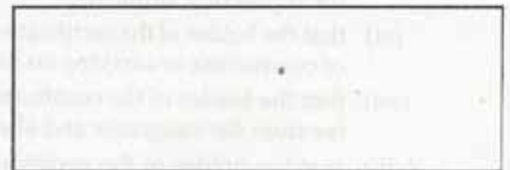
- (1) Number of workers recruited for overseas employment (country wise, employer wise, state wise and trade wise) during the month and cumulative during the calendar year.
- (2) Number of workers actually deployed abroad (country wise, state wise and trade wise) during the month and cumulative for the calendar year.
- (3) List of workers actually deployed abroad indicating the name, age and sex of the worker, the nature of employment (trade), the name of the country of employment, the employer's name and address, the period of contract, the monthly wage, other contractual entitlements, the amount collected as service charges, total expenses incurred by the worker and the status of worker's passport (ECR or ECNR).
- (4) List of complaints received from emigrants during the month showing the nature of grievance, action taken to resolve the grievance and the current status.
- (5) Number of times the website was updated during the month with the dates.
- (6) Whether statutory dues including income-tax and service tax have been paid in time.
- (7) Whether any of the employers on whose behalf recruitment is done has been blacklisted.
- (8) Whether any action has been initiated under section 14 or section 24, if so, the status.

Date :

Place :

Signature  
Seal of the Company

FORM V



The passport size photograph of the proprietor managing partner/partners/managing director/directors duly attested by the registering authority shall be affixed.]

Certificate No. ....

<sup>1</sup> Substituted vide GSR 511 (E), dt. 9-7-2009, w.e.f. 9-7-2009.

## CERTIFICATE

[Rule 10(2)]

With reference to the application dated..... for grant of a Certificate under Section 10 of the Emigration Act, 1983 to commence or carry on the business of recruitment for deployment of Indian workers with foreign employers, M/s..... is hereby granted the said certificate effective from the date of issue of this certificate, subject to the following terms and conditions, namely,—

- (i) that the business shall be conducted at .....
- (ii) that this certificate is valid for a period of ..... years or till the completion of the recruitment of ..... workers, whichever is earlier. In the event of the recruitment of the specified number getting completed before the specified period, the holder of the certificate can be permitted to continue recruitment up to the expiry of the certificate on production of evidence of actual demand and on furnishing additional security under sub-rule (2) of rule 8;
- (iii) that the holder of the certificate shall conduct business under signatures and seal of the director/partners/proprietor and the certificate shall not be transferable;
- <sup>1</sup>(iv) that a photocopy of this registration certificate shall be prominently displayed at a conspicuous place in the premises of the business. Also, a copy attested by the registering authority with an endorsement of having authorised the recruiting agent to carry on the business at additional premises, if any, shall be displayed at conspicuous place in the business premises of such Branch Office. Original Certificate shall be produced on demand by the emigration authorities/law-enforcing authorities and employers;
- (v) that the holder of the certificate shall normally conduct the business from the place indicated in the application for registration. For opening a recruitment centre at a place other than the place indicated in the Application, the holder of the certificate has to obtain the prior approval of the registering authority;
- (vi) that the holder of the certificate shall not employ sub-agents for the purpose of conducting or carrying on his business;
- (vii) that the holder of the certificate shall not charge more than the prescribed fee from the emigrants and also adhere to prescribed standard wages;
- (viii) that the holder of the certificate shall maintain the following permanent records at his place of business—
  - (a) a Register of receipt of charges from emigrants recruited, in the form of an original acquittance Roll containing the signature of each emigrant from whom the charge has been received. Each such Register shall be with reference to a demand for recruitment,

<sup>1</sup> Substituted by G.S.R. 111(E), w.e.f. 24-2-1987.

- (b) a register and record of the amounts and Pre-paid Ticket Advices, along with their photocopies received from the employers, identified demand-wise,
- (c) a register containing details of expenses incurred on the recruitment of emigrants demand-wise supported by documents,
- (d) individual folders for each employer whose demands of labour, the holder of the certificate has processed, proposed to process or is processing,
- (e) bio-data (giving full particulars including name, address, age, skill, experience and name and address of next of kin) of each emigrant recruited by the holder of the certificate,
- (f) copies of employment contracts of each emigrant as authenticated by the Protector of Emigrants,
- (g) original demand, power of attorneys and correspondences with the employers,
- (h) all documents, relating to recruitment of emigrants, including office copies of all advertisements issued, letters of interviews and correspondence with the applicants, original award sheets leading to the selection, names and addresses of persons involved in the selection process, copies of letters of appointments, trade-testing particulars, etc.,
- (i) a register of visas received from the employers, giving separate account of block and individual visas,
- (j) a register of claims for compensation for injury or death made by the emigrants or their dependents, recruited by the holder of the certificate giving the name, address of the emigrant, emigration number, country of employment, nature of injury or death, as the case may be, date of accident, name, address of the recipients, name and address of the employer, and the receipt in original in token of having made the payment of compensation be pasted,
- (k) such other records as may be required to be maintained by the registering authority.
- (ix) that the holder of the certificate shall furnish return of the preceding month in Form IV by the 10th of the succeeding month;
- (x) that copies of advertisements for recruitment of the emigrants shall be filed with the Protector of Emigrants;
- (xi) that recruiting agent shall not charge the repatriation expenses from the emigrants; and
- <sup>1</sup>(xii) the holder of the certificate shall—
- (a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;
- (b) endeavor to ensure proper reception of the emigrant by the employer in the country of employment;
- (c) endeavor to ensure that subsequent to the employment, the employer shall not alter the terms of the employment contract;

<sup>1</sup> Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.



- (d) endeavor to ensure that the employer takes timely action for renewal of documents authorising the stay of the emigrant in the country of employment;
  - (e) facilitate amicable settlement of disputes between the employer and the emigrant;
  - (f) issue receipt for the payments received from the emigrant;
  - (g) issue only such advertisements that are genuine and factually correct and shall refrain from any inducement or misrepresentation in this regard;
  - (h) ensure that the employer observes the terms and conditions of the employment contract.
- (xiii) The holder of the certificate shall maintain—
- (a) office premises of not less than fifty square meters of built-up area, having a waiting hall for at least thirty persons, a room for the purpose of conducting interview and an office space equipped with furniture, photocopier, telephone with subscribers truck dialing and international dialing facility, fax, computers and other office amenities as may be specified by the registering authority by order in writing;
  - (b) work stations for the office personnel;
  - (c) internet facility, email accounts and a web portal containing detailed information about the recruiting agent, the validity status of the registration certificate, the services offered, the cost of services, the mode of payment of service charges, the remedies available to emigrants for redressal of grievances, vacancies available along with the details of the jobs, the employers and the contract conditions as well as the recruitments made in the past with such particulars as the registering authority may specify by order in writing;
  - (d) adequate and duly trained staff;
  - (e) a signboard, to be displayed in front of the business premises or so fixed that it is conspicuously visible to the public from outside the office premises indicating the name and the registration number of the recruiting agent and the year of registration;
  - (f) arrangements for skill testing for the trades for which he recruits the intending emigrants.]

Date  
Place

Signature, name and seal of  
the registering authority.

#### FORM VI

#### FORM OF APPLICATION FOR A PERMIT FOR RECRUITMENT BY A FOREIGN EMPLOYER

[Rule 11(1)]

1. Name of the employer.
2. Status (Company/a partnership firm/sole proprietor).  
(in case of a company copy of the registration certificate and memorandum of articles, and in case of a firm copy of the registration certificate and partnership deed shall be annexed to this application).
3. Has the applicant obtained the permission of his government to employ foreign workers? (attach photocopy of the permission).

4. Has the applicant arranged to obtain employment visa for the proposed number of workers? Whether on block/individual basis?
5. How does the applicant propose to carry out the recruitment?
6. What is present requirement? (Attach detailed demand containing information about category of workers required, wages offered and a copy of specimen of the employment contract).
7. Has the applicant earlier employed any Indian workers in his establishment? If so, give the total number.
8. Are there any pending complaints from the Indian workers; if so details thereof.

#### UNDERTAKING

I undertake that in the event of the foregoing information being found to be incorrect or false in any respect, the permit shall be liable to be cancelled.

Applicant.

Seal (Chamber of Commerce)

Seal (Foreign Affairs)

Seal (Indian Embassy)

#### FORM VII

#### FORM OF APPLICATION FOR A PERMIT FOR RECRUITMENT BY AN INDIAN PROJECT EXPORTER

[Rule 11(2)]

1. Name of the employer.
2. Status (Company/a partnership firm/sole proprietor).  
(in case of a company, copy of the registration certificate and memorandum of articles and in case of a firm copy of the registration certificate and partnership deed shall be annexed to this application).
3. Has the applicant arranged to obtain employment visa for the proposed number of workers? Whether on block/individual basis?
4. How does the applicant propose to carry out recruitment?
5. What is present requirement? (attach detailed demand containing information about category of workers required, wages offered and a copy of the specimen of the employment contract).
6. Name of the country for which workers are required.
7. Name of the project undertaken in the foreign country and whether prime or sub-contract basis and details thereof.
8. Total value and nature of contract (attach a copy of the contract with the foreign principal).
9. Has the applicant obtained Reserve Bank of India/Screening Committee clearance? (Photo-copy to be attached).
10. What will be the arrangement for payment of wages and remittances of wages?
11. If prime contractor, is the applicant employing a sub-contractor? If so, give details.
12. Does the applicant undertake to bear the liabilities of the sub-contractor towards workers in the event of the failure of the sub-contractor to discharge his liabilities?

13. What arrangements the applicant shall make for accommodating the workers in the foreign country?
14. Total number of Indian workers already employed by the applicant abroad. Date up to which their wages have been paid and date up to which arrangements for remittance of remittable components have been made.
15. Are there any pending complaints from workers?
16. If so, give details and actions being taken to settle the same.

#### UNDERTAKING

I undertake that in the event of the aforesaid information being found to be false or incorrect in any respect, the permit shall be liable to be cancelled.

Applicant.

#### FORM VIII

#### FORM OF PERMIT GRANTED UNDER CHAPTER IV

[Rule 13(2)]

With reference to his application dated..... for grant of a permit under Chapter IV of the Act to recruit and employ..... number of persons, M/s.....is hereby granted this permit effective from the date of issue of this permit subject to the following conditions:—

- (i) The permit is not transferable.
- (ii) The permit is valid for a period of <sup>1</sup>[one year] from the date of issue or the date of completion of the recruitment, whichever is earlier.
- (iii) Workers recruited on the strength of this permit shall not be repatriated on the ground that they do not possess the required skill.
- (iv) The holder of the permit shall not obtain the assistance of recruiting agent in any manner.
- (v) The employment agreement with the worker shall be signed by the holder of the permit.
- (vi) The holder of the permit shall be under obligation to treat the contract entered into with the worker as enforceable under the labour laws of the country of employment. It shall be his responsibility to file the copies of the contracts with the concerned authorities in the country of employment.
- (vii) The holder of the permit shall not supply manpower recruited on the strength of this permit to any other agency or concern.
- (viii) The holder of the permit shall be responsible for the general welfare and redressal of specific grievances of the workers recruited on the strength of the permit during the period of contract.
- (ix) The holder of the permit shall not extend the services of a worker after the expiry of a contract without entering into a fresh contract or without extending the existing contract.
- (x) The holder of the permit shall notify to the Indian Mission in the country of employment each case of death or disability of a worker within 48 hours of the occurrence of the event. Similarly information should be communicated to the next of kin in India in case of disability/death within 48 hours.

<sup>1</sup> Substituted for "six months" vide GSR 773(E), dt. 25-11-2004, w.e.f. 25-11-2004.

- (xi) The holder of the permit is prohibited from supplying manpower for a work in another country to a country other than the country from which the permit has been issued.
- <sup>1</sup>[(xii) The holder of the Permit shall—
- (a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;
  - (b) ensure proper reception of the emigrant in the country of employment;
  - (c) ensure that subsequent to the employment, the employer shall not alter the contract of employment;
  - (d) ensure timely action for renewal of documents authorising stay of emigrant in the country of employment;
  - (e) not deprive the emigrant of the custody of his travel and employment documents;
  - (f) issue only such advertisements that are genuine and factually correct and shall refrain from any inducement or misrepresentation in this regard;
  - (g) file copies of all advertisements for recruitment to the Protector General of Emigrants immediately after their publication or release.]

**FORM IX****APPLICATION FOR EMIGRATION CLEARANCE***[Rule 15(1)]*

- |                                |                          |
|--------------------------------|--------------------------|
| 1. Agent's Registration Number | To be filled in by Agent |
| 2. Permission number and date  |                          |
- To be filled in by the Application*
1. Applicant's name
  2. Age.
  3. Had been abroad before; Yes/No
  4. Sex: Male/Female
  5. State of domicile
  6. Passport number, date and place of issue
  7. Rural/Urban
  8. Number dependents
  9. Been employed during the last 12 months. Yes/No
  10. If yes, with government or private establishment
  11. Earning in India (rupees... per month)
  12. Belonging to SC/ST, if yes, whether SC/ST
- 
1. Job for which to be employed
  2. Country of employment
  3. Salary abroad (including food allowance)
  4. Contract period (months)
  5. Free food: Yes/No
  6. Employer's name

Applicant

<sup>1</sup> Inserted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.

<sup>1</sup>[FORM X

## FORM OF APPLICATION FOR RENEWAL OF REGISTRATION

[Rule 9-A]

1. Name of the applicant;
2. Status (Whether a Public or Private Ltd. Co. or a Partnership or sole proprietorship firm registered under relevant Act—Quote Registration No.);
3. Number and date of issue of registration certificate under the Emigration Act, 1983;
4. Date upto which certificate is valid;
5. Number of workers deployed against the certificate;
6. Whether any complaints are outstanding in respect of workers recruited and if so, details thereof;
7. Whether there is any civil or criminal case pending against the applicant;
8. Whether any Director/Partner/Proprietor have been convicted, if so, details thereof;
9. Any relevant change in respect of business premises, financial status etc., since the issue of registration certificate under the Emigration Act, 1983;
10. Have you been associated with any other recruiting agency, if so, in what capacity;
11. Undertaking.

I undertake that in the event of any information furnished above being found to be false or incorrect in this respect, the certificate of registration granted is liable to be cancelled.

Date

Place

Applicant]

**Note :** The Principal Emigration Rules were published in Part II, Section 3, Sub-section (ii) of the Gazette of India (Extraordinary) vide S.O. 941(E), dt. 30-12-1983, and subsequently amended vide:

- (1) S.O. 665(E), dt. 10-9-1986.
- (2) G.S.R. 111(E), dt. 24-2-1987.
- (3) G.S.R. 375(E), dt. 23-3-1989.
- (4) S.O. 111(E), dt. 8-2-1996.
- (5) S.O. 159(E), dt. 28-2-1996.
- (6) S.O. 526(E), dt. 22-7-1996,
- (7) G.S.R. 713(E), dt. 18-10-2002,
- (8) S.O. 1205(E), dt. 14-10-2003,
- (9) G.S.R. 143(E), dt. 26-2-2004,
- (10) G.S.R. 773(E), dt. 25-11-2004,
- (11) G.S.R. 50(E), dt. 6-2-2006,
- (12) S.O. 289(E), dt. 7-3-2006,
- (13) S.O. 856(E), dt. 6-6-2006
- (14) S.O. 2161(E), dt. 8-12-2006
- (15) S.O. 366(E), dt. 14-3-2007,
- (16) S.O. 776(E), dt. 18-5-2007,
- (17) GSR 658(E), dt. 15-10-2007, and
- (18) GSR 511(E), dt. 9-7-2009.

<sup>1</sup> Italicised Form X omitted vide GSR 511(E), dt. 9-7-2009, w.e.f. 9-7-2009.