

Foreigners Act, 1946

Date of entry into force: 23 November 1946

This legislation includes amendments up to and including: 1991

PRELIMINARY

2. Definition.

In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:

- (a) "foreigner" means a person who is a Citizen of Pakistan.
- (b) "prescribed" means prescribed by orders under this Act.
- (c) "Specified" means specified by direction of a prescribed authority.

3. Powers to make orders.

(1) The Federal Government may by orders make provision either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into Pakistan, or their departure therefrom or their presence or continued stay therein.

(2) In particular and without prejudice to the generality of the foregoing power, order made under this section may provide that the foreigner:

(a) shall not enter Pakistan or shall enter Pakistan only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;

(b) shall not depart from Pakistan or shall depart only at such times and by such route from such port or place and subject to the observance of such conditions on departure as may be prescribed;

(c) shall not remain in Pakistan, or in any prescribed area therein;

(d) shall remove himself to, and remain in, such area in Pakistan as may be prescribed;

(e) shall comply with such conditions as may be prescribed or specified:

(i) requiring him to reside in a particular place;

(ii) imposing any restrictions on his movements;

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified

(iv) requiring him to allow his photograph and finger-impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;

(vi) prohibiting him from association with persons of a prescribed or specified description;

(vii) prohibiting him from engaging in activities of a prescribed or specified description;

(viii) prohibiting him from using or possessing prescribed or specified articles;

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified;

(f) shall enter into a bond with or without sureties for the due observance of or as an alternative to the enforcement of any or all prescribed or specified restrictions or conditions;

(g) shall be arrested and, in the interest of the security of Pakistan, detained or confined;

Provided that a person shall not be detained for a period longer than two months without the authority of a Board consisting of a Judge of the Supreme Court who shall be nominated by the Chief Justice of the Court and another senior officer in the service of Pakistan, who shall be nominated by the President.

(3) An order made under sub-section (2) may make provision for such incidental and supplementary matters as may in the opinion of the Federal Government be expedient or necessary for giving effect to the provisions of this Act.

(4) The Provisions of sub-section (2) of section 6 of the Security of Pakistan Act, 1952 (XXXV of 1952) and those of section 6-A of that Act, shall mutatis

mutandis, apply in relation to a person detained under this Act as they apply in relation to a person detained under that Act.

4. Internees.

(1) Any foreigner, (hereinafter referred to as an internee) in respect of whom there is in force an order under clause (g) of sub-section (2) of section 3, directing that he be detained, or confined shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Federal Government may from time to time determine.

(2) Any foreigner hereinafter referred to as a person on (parole) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set apart for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Federal Government may from time to time by order determine.

(3) No person shall :----

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

(b) give an escaped internee or a person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) Federal Government may by order provide for regulating access to, and the conduct of person in place in Pakistan where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating to dispatch a conveyance from outside such places to internees or persons on parole therein of such articles as may be prescribed.

5. Change of name.

(1) No foreigner who was in Pakistan on the date on which this Act came into force shall, while in Pakistan after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.

(2) Where, after the date on which this Act came into force, any foreigner carries on or purports to carry on (whether along or in association with any

other person) any trade or business under any name or style, other than that by which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1), be deemed to be using a name other than that by which he was ordinarily known immediately before the said date.

(3) In relation to any foreigner who, not having been in Pakistan on the date on which this Act came into force, thereafter enters Pakistan, sub-sections (1) and (2) shall have effect as if for any reference to those sub-sections to the date on which this Act came into force there were substituted a reference to the date on which the first enters Pakistan thereafter.

(4) For the purposes of this section:

(a) the expression "name" includes a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use:

(a) of any name in pursuance of a (omitted) by the Adaptation (Security Laws) Order, 1956, Sec.4(4) permission granted by the Federal Government; or

(b) by any married woman, of her husband's name.

6. Obligation of masters of vessel, etc.

(1) The masters of any Vessel landing or embarking at a port in Pakistan, passengers coming to or going from that port by sea and the pilot of any aircraft landing or embarking at any place in Pakistan, passengers coming to or going from that place by air, shall furnish to such person and in such manner as may be prescribed, a return giving the prescribed particulars with respect to any passengers or members of the crew, who are foreigners.

(2) Any District Magistrate and [* * * *] any Superintendent of Police may, for any purpose connected with the enforcement of this Act or any order made thereunder, require the master of any such vessel or the pilot of any such aircraft to furnish such information as may be prescribed in respect of passengers or members of the crew on such vessel or aircraft, as the case may be.

(3) Any passenger on such vessel or such aircraft and any member of the crew on such vessel or aircraft shall furnish to the master of vessel or the pilot of the aircraft, as the case may be, any information required by him for the

purpose of furnishing the return referred to in sub-section (1) or for furnishing the information under sub-section (2).

(4) For the purpose of this section-----

(a) "master of a vessel" and " pilot of any aircraft" shall include any person authorised by such master or pilot as the case may be, to discharge on his behalf any of the duties imposed on him by this section;

(b) "passenger" means any person not being a bona fide member of the crew, travelling or seeking to travel on a vessel or aircraft.

7. Obligation of hotel-keepers and others to furnish particulars.

(1) It shall be the duty of the keeper of any premises whether furnished or unfurnished where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed.

Explanation. The information referred to in this sub-section may relate to all or any of the foreigners accommodated at such premises and may be required to be submitted periodically or at any specific time or occasion.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purposes of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed and shall at all times be open to inspection by any police-officer or by a person authorised in this behalf by the District Magistrate.

8. Determination of Nationality.

(1)When a foreigner is recognised as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality, if any, is to be ascribed to a foreigner, that foreigner may be treated as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or if he is of uncertain nationality, of the country with which he was last so connected.

Provided that where a foreigner acquired a nationality by birth, he shall, except where the Federal Government so directs either generally or in a particular case, be deemed to retain that nationality unless he proves to the satisfaction of the said authority that he has subsequently acquired by naturalization or otherwise some other nationality and still recognised as entitled to protection by the Government of the Country whose nationality he has so acquired.

(2) A decision as to nationality given under sub-section (1) shall be final and shall not be called in question in any Court.

Provided that the Federal Government either of its own motion or on an application by the foreigner concerned, may revise any such decision.

9. Burden of proof.

If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Evidence Act, 1872, lie upon such person.

10. Power to except from application of Act.

The Federal Government may by order declare that any or all of the provisions of this Act or the orders made thereunder shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, in or in relation to any individual foreigner or any class or description of foreigner.

11. Power to give effect to orders, direction etc.

(1) Any authority empowered by or under or in pursuance of the provisions of this Act to give any direction or to exercise any other power, may in addition to any other action expressly provided for in this Act, take or cause to be taken such steps and use, or caused to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power, as the case may be.

(2) Any police officer may take such steps and use force as may, in his opinion, be reasonably necessary for securing compliance with any order

made or direction given under or in pursuance of the provisions of this Act or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof, as right of access to any land or other property whatsoever.

12. Power to delegate authority.

Any authority upon which any power to make or give any direction, consent or permission or to do any other act is conferred by this act or by any other made thereunder may, unless express provision is made to the contrary, in writing authorities, conditionally or otherwise, authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall subject to such conditions as may be contained in the authorisation be deemed to be the authority upon which such power is conferred by or under the Act.

13. Attempts, etc. to contravene the provisions of this Act, etc.

(1) Any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of the provision of this Act or any order made or direction given thereunder, or fails to comply with any direction given in the pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

(2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or any order made or direction given thereunder gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere, with his arrest, trial or punishment for the said contravention, shall be deemed to have abetted that contravention.

(3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves Pakistan in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened this Act.

13A. Prohibition of assisting illegal entry.

No one shall make or carry out arrangements for securing or facilitating the entry into Pakistan of any one whom he knows or has reasonable cause for believing to be an illegal entrant.

13B. Prohibition to employ an illegal entrant.

No one shall knowingly employ or provide employment to a person who has no permission to stay in Pakistan.]

14. Penalties.

Where any person contravenes any provisions of this Act or of any order made thereunder, or any direction given in pursuance of this Act or order, he shall, except as otherwise provided herein, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine, and if such person has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall liable to be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court as to why such penalty should not be paid.

(2) Where any person knowingly enters into Pakistan illegally, he shall be guilty of an offence under this Act and shall be punished with imprisonment for a term which may extend to ten years and fine which may extend to ten thousand rupees.]

14A. Restriction release on bail.

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as Code, any accused of an offence punishable under sub-section (2) of section 14 shall not be released on bail if there appear reasonable grounds for believing that he has been guilty of such offence.

14B. Deportation pending trial or undergoing sentence of imprisonment.

Notwithstanding anything contained in this Act, the Code or any other law for the time being in force, a foreigner having no permission to stay in Pakistan or for whose deportation arrangements have been made by the Federal Government may, if his presence in Pakistan is not required in connection with any other case,-----

(i) with the consent of the Federal Government, be permitted by the Court trying him for any offence under this Act to depart from Pakistan; or

(ii) under the order of the Federal Government, be permitted to depart from Pakistan while he is undergoing any sentence passed under this Act.

14C. Custody pending deportation.

A foreigner having no permission to stay in Pakistan, who has been convicted and sentenced to imprisonment under this Act shall not be released on the expiry of the sentence and shall continue to remain in custody for a period not

exceeding three months to enable arrangements for his deportation to be finalized.]

14D. Registration of illegal immigrants.

(1) The Federal Government may, by order, establish an Authority to be known as the Aliens Registration Authority, hereinafter referred to as the Authority.

(2) Any foreigner in Pakistan who immediately before the commencement of the Foreigners (Amendment) Ordinance, 2000, has no permission to stay in Pakistan shall get himself registered with the Authority.

(3) The Authority may permit a foreigner registered with it to work in Pakistan at such place and for such period as the Federal Government may, from time to time prescribe.

(4) The Federal Government may, by order, confer on the Authority such other functions in relation to foreigners in relation to foreigners as it may deem appropriate.]

15. Protection to the persons acting under this Act.

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

16. Application of other laws not barred.

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Registration of Foreigners Act, 1939 (XVI of 1939), the Passport Act, 1920, (XXXIV of 1920), and of any other enactment for the time being in force.

17. Repeals.

The Foreigners Act, 1864 (III of 1864), The Foreigner Act, 1940 (II of 1940) and the Foreigners Act (Amendment) Ordinance, 1946 (Ord. XXI of 1946), are hereby repealed.