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THE FOREIGNERS ACT, 1946

'ACT NO. XXXI OF 1946

[23rd November, 1946]

An Act to confer upon the ? [Federal Government] certain powers in respect of foreigners.

WHEREAS it is expedient to provide for the exercise by the [Federal Government] of certain powers in respect of the entry of foreigners into 3[Pakistan], their presence therein and their departure therefrom;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Foreigners Act, 1946.

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

2. Definitions. In this Act-

5[(a) “foreigner” means a person who is not a citizen of Pakistan;]

(b) “prescribed” means prescribed by orders made under this Act(4 & 5 GCO 17);

(c) “specified” means specified by direction of a prescribed authority.

'For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, p. 254.

This Act has been applied to Baluchistan, see Gazette of India, 1946, Pt. I, p. 1913; and also to all tribal areas, see ibid., 1947, Pt. 1, p. 343.

The Act has been extended to-

(a) the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950);

(b) the Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953);

(c) the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953); and

(d) the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953).

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th day of November, 1946, by the (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

The Act, rules, notifications and orders made under it, have been applied to the Tribal Areas or to the parts of the Tribal Areas to which they have not been already applied, see the Tribal Areas (Application of Acts) Reg., 1965, Gaz. of P., 1965, Ext., pp. 1-2.

*Subs. by the Preventive Detention Laws Amendment Act, 1975 (44 of 1975), s. 3, for “Central Government” in “British India”.

Subs. by the Adaptation (Security Laws) Order, 1956 (P.O. No. 8 of 1956), Art. 2 and Sch. (with effect from 1st January, 1956), for “British India” in “Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, for “British India”.

4Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s. 3 and 2nd Sch. (with effect from 1st January, 1961), for “British India” in “the original sub-section (2) as amended by A. O. 1949 and P. O No. 8 of 1956.”

'Subs. by the Foreigners (Amdt.) Act 1957 (35 of 1957) s. 2 for the original cl. (a) as amended by A. O. 1949.

3. Power to make orders.—(1) The '[Federal Government] may by order" 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 3[Pakistan] or their departure therefrom or their presence or continued presence therein.

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

(a)

(b)

(c)

(d)

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;

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

shall not remain in 3[Pakistan] or in any prescribed area therein;

shall remove himself to, and remain in, such area in >[Pakistan] as may be rescribed;

se}

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;

'Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975) s. 3, for "Central Governm

*For the Foreigners Order 1951, see Gaz. of P. 1951; Pt I pp 611-614; for the Enemy Foreigners Order, 1951, pp. 1019-1023; and for the Foreigners (Paroless) Order, 1965, see *ibid.*, 1965, Ext., pp. 1027-1029.

Subs. by the Adaption (Security Laws) Order, 1956 (P. O No. 8 of 1956) Art. 2 and Sch. (with effect from 23'd March, 1956), for "Provinces and the Capital of the Federation" which had been subs. by A. O., 1949 , for "British India".

4Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s. 3 and 2nd Sch. (with effect from the 14th October 1960) the original sub-section (2) as amended by A.O. 1949 and P.O. No. 8 of 1956.

(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;

'T(g) shall be arrested and in the interest of the defence or the external affairs or the security of Pakistan, or any part thereof, detained or confined.]

2((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 "[clause (b) of sub-section (1) of sub-section 3 of the Security of Pakistan Act, 1952 (XXXV of 1952), and those of *[sub-section (2) of section 6 and] section 6A 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 any order made 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 condition 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 paid) 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 a parole to escape from custody or

the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

'Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for cl. (g). This clause enacts.

*Sub-sections (3) and (4) ins. by Act 4 of 1962, s. 3.

3Subs. by F. A. O., 1975, Art. 2 and Table, for "Central Government".

4Subs. by Act 44 of 1975, s. 3 for "sub-section" (2) of section 6".

'Ins. Ibid.

'For the Enemy Foreigners Order 1965, see Gaz., of P., 1965, Ext., pp. 1019-1023 and for the Internees

1965, see Ibid, 1965, Ext., pp. 1024-1027.

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

(4) The '[Federal Government] may by order' provide for regulating access to, and the conduct of persons in, places in '[Pakistan]' where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating to dispatch an conveyance from outside such places to or 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 under 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 in 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 ** * permission granted by the '[Federal Government]'; or

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

6. Obligations of masters of vessels, etc.—(1) The master 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.

'Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for "Central Government"

2For an Order imposing restrictions on communication, etc. with the person detained or confined by an order No. 145 (R)/ 65, dated the 10th September 1965, Gaz. of P., 1965, Ext., p. 1029.

3subs. by the Adaption (Security Laws) Order, 1956 (P. O No. 8 of 1956), Art. 2 and Sch, (with effect from the 23rd March, 1956), for "the Federation" which had been subs. by A. O., 1949, for "British India".

4The original words "Royal license or" omitted by the Adaptation (Security Laws) Order, 1956 (P. O. No. 8 of 1956), Art. 2 and Sch., (with effect from the 23rd March, 1956).

Ssubs. by P. O. No.8 of 1956, Art. 2 and Sch., (with effect from the 23rd March, 1956), for "the Provinces"

subs. by A. O., 1949, for "British India".

(2) Any [District Coordination Officer or any officer authorized by Federal Government or] 2« * * 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 of such vessel or aircraft shall furnish to the master of the 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 purposes 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 purpose 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 Coordination officer or any officer authorised by the Federal Government].

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 3[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.

‘Subs, by Ord. 44 of 02, s. 2 & 3.

2The words “any Commissioner of Police or, where there is no Commissioner of Police,” omitted by A. O. 33subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for “Central Govern

(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 foreigners 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 (I of 1872), lie upon such person.

210. Power to exempt 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 there under shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, to or in relation to any individual foreigner or any class or description of foreigner.

11. Power to give effect to orders, directions, 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 be conferred upon any person acting in exercise thereof a 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 order* made there under may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any 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 this 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 provisions of this Act or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

*Subs. by the Preventive Detention Laws (Amendment) Act, 1975 (44 of 1975), s. 3, for "Central Government"

2For instance of notification issued under this section, see Gaz. of P., 1954, Pt. I, p. 264; *ibid.*, 1960, Pt. I

3For the Enemy Foreigners Order, 1965, see Gaz. of P., 1965, Ext., PP. 1019-1023.

4For the Foreigners (Paroles) Order, 1965, see Gaz. of P., 1965, Ext. pp. 1027-1029.

For instance of notifications issued under this section, see Gaz. of P. 1965, Ext., p. 1029.

(2) Any person who, the knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or of 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 that said contravention, be deemed to have contravened this Act.

2[13A. Prohibition of assisting illegal entry. No one shall make or carry out arrangements for security or facilitating the entry into to 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.]

2[14. Penalties.—(1) 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 be liable to be forfeited, and any person bound thereby shall be liable to 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.]

2114A. Restriction on release on bail. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, any person 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 an 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.

'Subs. by the Adaption (Security Laws) Order, 1956 (P. O. No. 8, of 1956), Art. 2 and Sch. (with effect from Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, for "British India".

7Ins. and Subs by Ord. XXV of 2000, ss. 2-4 .

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.

1114D. Registration of illegal immigrants.—(1) Any foreigner who, before commencement of this Act, has no permission to stay in Pakistan shall for registration be required to make application on the format and in the manner as may be prescribed and shall be registered on that application by the National Database and Registration Authority established under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).

(2) The Federal Government may permit a foreigner, registered under sub-section (1), to work in Pakistan at such place, for such period and on payment of such fee as may be prescribed.]

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

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, 1974 (XX of 1974)], and of any other enactment for the time being in force.

1117. Repeals.—(1) The Alien Registration Authority (Composition and Functions) Order, 2001 is hereby repealed.

(2) On repeal under sub-section (1), all assets and liabilities of the Alien registration Authority shall stand transferred to the National Database and Registration Authority and shall be regulated under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).]

Tsubs. and added by Act No. XX of 2016, s. 2 and 3.

Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for