

THE FOREIGNERS ACT, 1946

(XXXI of 1946)

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TEXT

THE FOREIGNERS ACT, 1946

(XXXI of 1946)

[23 November, 1946]

An

Act

to confer upon the Federal Government Certain powers in respect of foreigners.

Preamble. Whereas it is expedient to provide for the exercise by the Federal Government of certain powers in respect of the entry of the Foreigners into Pakistan, their presence and their departure there from. It is hereby as follows:—

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

Extent, commencement.— (1) It extends to the whole of Pakistan and it shall come into force on the 23rd day of November, 1946.

2. Definitions.— 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 not a Citizen of Pakistan.]

(b) 'Prescribed' means prescribed by orders made 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 there from or their presence or continued 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 and 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;

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



- (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 person 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 or 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 provisions 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 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 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 offence 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

(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) 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 or conveyance from outside such places to or internees or persons on parole therein of such articles as may be prescribed.

5. Change of name.— 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 alone 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 in those sub-sections to the date 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 [\* \* \* \*] 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.

The Original words "Royal Licence or" (P.O. no. 8 of 1956), Art 2 and Sch (w.e.f the 23rd March, 1956),

6. Obligations of masters of vessels, 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 Coordination Officer or any officer authorized by Federal Government] [\* \* \* \*] 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 vessel or the pilot of the aircraft, as the case may be, any information required by him for the purpose of furnishing the returned 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.— 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 subsection 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 keepers 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 opened to inspection by any police-officer or by a person authorised in this behalf by the "[District Coordination Officer] District Magistrate.

Sub. By amendment Ord. no XLIV of 2002, dated 22-08-2002.

"Words omitted by A.O 1949.

5Sub. By Amendment Ord. No. XLIV of 2002, dated 22-08-2002.

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 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 there under, whether any person 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 there under 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, directions etc.— (1) Any authority was powered 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 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 authorization, 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 of any order made or direction given there under, 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.

[(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, give 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.

[13A. Prohibition of assisting illegal entry— No one shall make or carry out arrangements for security or facilitating the entry into to Pakistan or any one whom he knows or has reasonable cause for believing to be an illegal entrant.

13B. Prohibition of employ an illegal entrant— No one shall knowingly employ or provide employment to a person who has no permission to stay in Pakistan].

114. Penalties. If any person contravenes the provisions of this Act or of any order made there under, or any direction given in pursuance' of this Act or such order, he shall be punished with imprisonment for a term which may extend to five 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 forfeited, and any person bound thereby shall pay the penalty thereof or, show cause to the satisfaction of the convicting court why such penalty should not be paid.

[14A. Restriction release on bail— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code, any accused of an offence punishable under sub-section (2) of Section 14 shall not be released on bail there appear reasonable grounds for believing that ha 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 stab in Pakistan or for whose deportation arrangements have been required in connection with any other case.

<sup>1</sup>inserted by Ord. XXV of 2000, dated 10-07-2000.

Sub. By Ord. XXV of 2000, dated 10-07-2000.

Sections 14A and 14B added by Ordinance XXV of 2000, dated 10.07.2000.

(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 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 as it may deem appropriate.] pp

**15. Protection to person 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), (111 of 1864) the Foreigners Act, 1940, (II of 1940) and the Foreigners Act (Amendment) Ordinance, 1946, (Ord. XXI of 1946), are hereby repealed.

<sup>o</sup>Section 14D added by Ordinance XXV of 2000, dated 10.07.2000.