

ACTS/ORDINANCES 1979
ORDINANCE XVIII OF 1979
THE EMIGRATION ORDINANCE, 1979

Whereas it is expedient to repeal and, with certain modifications, re-enact the Emigration Act, 1922 (VII of 1922). And whereas the President is satisfied that circumstances exist which render it necessary to take immediate action.

Now, therefore in pursuance of the Proclamation of the Fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in promulgate the following Ordinance.

- >> Preliminary
- >> Director-General and protector of emigrant
- >> Emigration
- >> General
- >> Appointment of Overseas Employment Promoters
- >> Rules
- >> Offences, Penalties and Procedure
- >> Validation, Savings, etc..

Chapter-I
PRELIMINARY

1.Short Title, extent application and commencement:

- (1) This Ordinance may be called the Emigration Ordinance, 1979.
- (2) It extends to the whole of Pakistan and applies to all citizens of Pakistan, wherever they may be.
- (3) It shall come into force at once.

2.Definitions:In this Ordinance, unless there is anything repugnant in the subject or context:

- (a) "Bureau" means the Bureau of Emigration and overseas Employment.
- (b) "Conveyance" means any vehicle, aircraft or ship used for the transportation of emigrants.
- (c) "Corporation" means the Overseas Employment Corporation limited.
- (d) "Depart" and "departure" means the departure out of Pakistan of any person for employment or self-employment by any means.
- (e) "Dependent", in relation to an emigrant, means the spouse, sons not above the age of twenty-one years, and unmarried sisters and daughters of the emigrant, and includes aged or incapacitated parents, incapacitated sons above the age of twenty one years and widowed and divorced sisters and

daughters of the emigrant wholly dependent upon and residing with the emigrant and the sons not above the age of twenty one years, and dependent unmarried daughters, of such widowed or divorced sisters or daughters.

- (f) "Director-General" means the Director-General, Bureau of Emigration and Overseas Employment, appointed under section 3, and includes any person for the time being discharging the functions of Director-General.
- (g) "Emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Ordinance and includes any dependent of an emigrant.
- (h) "Emigrate" and "emigration" means the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade profession or calling in any country beyond the limits of Pakistan.
- (i) "Foreign service agreement" means an agreement between an emigrant and his prospective employer abroad or his authorized Overseas employment promoter in Pakistan containing terms and conditions of his employment and duly registered with the prescribed authority.
- (j) "Overseas Employment Promoter" means a person licensed as such under section 12.
- (k) "Prescribed" means prescribed by rules.
- (l) "Protector of Emigrants" means a Protector of Emigrant appointed under section 5.
- (m) "Rules" means rules made under this Ordinance.

In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether any person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Federal Government, and such determination shall be final.

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Chapter-II

DIRECTOR-GENERAL AND PROTECTOR OF EMIGRANT

3. Director-General, Bureau of Emigration and Overseas Employment:

- (1) The Federal Government may appoint a person to be the Director-General, bureau of Immigration and Overseas Employment, for the whole of Pakistan and such other officers as may be necessary on-expedient to assist the Director-General.
- (2) The Director-General and every officer appointed under sub-section(1) shall be a public servant within the meaning of section 21 of the Pakistan Penal Code, (Act XLV of 1860)1

4.Function of Director-General: Subject to the provisions of this Ordinance and the overall supervision and control of the Federal Government, the Director General shall take such measures as may be necessary.

- (a) To promote emigration of citizens of Pakistan.
- (b) To control and regulate such emigration.
- (c) To look after the interest and welfare of emigrants.

And to discharge and perform such other duties and functions as may be assigned to him by the Federal Government.

*[4-A.Function of Corporation: Subject to provisions of this ordinance and the overall supervision and control of the Federal Government the corporation shall take such measures as may be necessary to promote emigration of citizens of Pakistan.]

5.Appointment of Protectors of Emigrants:

- (1) The Federal Government may appoint a person to be a Protector of Emigrants and define the area to which the authority of Protector of Emigrants so appointed shall extend.
- (2) Every Protector of Emigrants shall be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

6.General Duties of Protector of Emigrants: Every Protector of emigrants shall discharge such duties may be

7.Appointment of Labour Attaches: The Federal Government may, for the purpose of safeguarding the interests of emigrants and promoting overseas employment, appoint a person to be a Labour Attaches in a place outside Pakistan and may define duties.

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Chapter-III **EMIGRATION**

8.Regulation of Emigration

- (1) Emigration from Pakistan to all countries of the world for the time being recognized by Pakistan shall be lawful if it is in conformity with the provisions of this Ordinance and the rules.
- (2) Subject to the provisions of this Ordinance and the rules and any other law for the time being in force, the emigration of a citizen of Pakistan shall be lawful if he is in possession of a letter of appointment of a work permit from a foreign employer or an employment visa or an emigration visa from foreign Government; or he has been selected for emigration by the foreign employer

through the Director General or by an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a foreign Government.

- (3) If the Federal Government, having regard to the occupation, profession, provocation or qualifications of any person or class or persons, is satisfied that emigration of such person or class of persons, or class of person is not in the public interest, it may, by rules, regulate emigration of such person or class of person, and the departure of such person or class or persons otherwise than in accordance with such rules shall not be lawful.
- (4) The Federal Government may, by satisfaction in the official Gazette, prohibit, from a date and for reasons to be specified in the notification, all persons or any specified class of persons from emigrating to all or any specified country.

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Chapter-IV

GENERAL

9.Prohibition of advertisement, etc.: No person other than the Corporation shall recruit a citizen of Pakistan or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration, except with the prior permission of the Director-General or the Protector of Emigrant of the area, in accordance with such conditions, if any, as may be prescribed.

10.Advisory Committee: The Federal Government may, for the purpose of advising the Government, constitute an Advisory Committee, in such manner as it may think fit, and may prescribe the procedure to be followed and the function to be performed by such committee.

11.Power to search and detain vessels, etc.: The Director-General, a protector of emigrants or any officer authorized by the Federal Government may, for the purpose of preventing the commission any offence under this Ordinance, exercise all the powers conferred on the officers of customs by the Customs Act, 1969 (IV of 1969), with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof and, for this purpose, he shall have the authority to enter any port or point of entry or departure of inspect any conveyance carrying or bringing or believed to be carrying or bringing any emigrant.

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Chapter-V

APPOINTMENT OF OVERSEAS EMPLOYMENT PROMOTERS

12.Grant of Overseas Employment Promoters License:

- (1) whoever desire to engage, or to assist or to recruit any person to emigrate shall apply for a license to the Federal Government and shall with his application furnish such information and documents, pay such security and fee, and at such time and in such manner as may be prescribed.

- (2) On receiving any application under sub-section (1), the Federal Government may, after such inquiry as it may deem necessary, grant the license applied for on such terms and conditions, if any, and on payment of such fee and on furnishing such security, as may be prescribed, or withhold such license, and the decision of the Federal Government shall be final.
- (3) If at any time during the period for which a license is valid the Federal Government is satisfied, after making such inquiry as it may deem necessary, that the licensee has been guilty of misconduct, or that his conduct and performance as licensee has been otherwise unsatisfactory, or that he has committed a breach of any of the provisions of this Ordinance or the rules or the prescribed code of conduct, the Federal Government may, by order in writing, cancel the license or suspend it for a specified period and may also pass orders in regard to the forfeiture of the security furnished under sub-section (2) in whole or in part, and the decision of the Federal Government shall be final.
- (3-A) Before an order is passed under sub-section (3), the licensee shall be afforded an opportunity of being heard.
- (4) On the expiry of the period for which the license is granted, or on being informed by the licensee that he does not propose to continue to act as an overseas employment promoter, and on being satisfied that no ground exists for forfeiting the security in whole or in part, the Federal Government may order the return of the security or any part thereof to the person by whom it was furnished or to his authorized representative.

13. Power to withdraw Licenses: Notwithstanding anything contained in this Ordinance, if, at any time, it appears to the Federal Government that, in the public interest, it is necessary to discontinue the practice of granting licenses to overseas employment promoters, it may, by notification in the official Gazette, withdraw all such licenses and entrust the functions concerning emigration for employment abroad to the corporation or any other institution established or controlled by Government, in such manner as it may deem fit.

14. Delegation of Power to Director-General to receive and dispose of application:

- (1) The Federal Government may, by notification in the official Gazette, delegate its powers under section 12 to the Director-General or any other officer. Provided that an appeal shall lie to the Federal Government from an order passed by the Director-General or any other officer in exercise of the power delegated to him, and the decision of the Federal Government taken after the appellant has been afforded an opportunity of being heard shall, subject to sub-section (2), be final.
- (2) The Federal Government may review its decision under sub-section (1) and the decision of the Federal Government in review shall be final. Provided that, before a decision is taken in review, the licensee when the decision relates shall be afforded an opportunity of being heard.
- (3) The Director-General shall maintain, in such form as may be prescribed, a register of the names of all persons to whom licenses have been granted under sub-section (2) of section 12.

15. Appearance of engaged persons before, and registration of names by, protector of emigrants: Before any person emigrates, he shall appear in person, alongwith the overseas employment promoter by whom he has been engaged or assisted or recruited for employment abroad or his duly authorized representative, before the protector of Emigrants and furnish to him such information as may be prescribed.

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Chapter-VI

RULES

16. Power to make Rules:

- (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely:-
 - (a) the powers and duties of the several officers appointed by the Federal Government under this Ordinance.
 - (b) the licensing, supervision and control of overseas employment promoters and the prohibition of unlicensed persons from being engaged in causing or assisting or recruiting persons to emigrate and in the conveyance and accommodation of emigrants.
 - (c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there
 - (d) the forms to be maintained and the returns to be submitted by the overseas employment promoters and the corporation.
 - (e) the information to be furnished by overseas employment promoters to emigrants and the language in which such information is to be furnished
 - (f) the production and examination of emigrants before the Protector of emigrants or such other authorities as may be appointed in this behalf.
 - (g) the age below which person of either sex may not emigrate except as dependents.
 - (h) the reception and the despatch to their homes of returning emigrants.
 - (i) the fees, if any, payable by overseas employment promoters to the protectors of emigrants for each emigrant departing from Pakistan.
 - (j) Execution of a bond by an emigrant, or a person proceeding abroad for education, studies or training, or any other purpose, in which he undertakes to return to Pakistan after a specific period.
 - (k) Setting up of training centers and orientation and briefing centers to guide and advise intending emigrants and their dependents proceeding aboard.
 - (l) The recall and repatriation in the public interest of such emigrants as may be prescribed.
 - (m) The time within which an appeal under the provision to sub-section (1) of section 14 may be presented.
 - (n) Creation of welfare fund and measures for the welfare of emigrants and their dependents and establishment of machinery at home and abroad for

the implementation of such rules.

- (o) The disposal of complaint against overseas employment promoters.
- (p) The formation of an Overseas Employment Promoters Association and code of conduct to be observed by overseas employment promoters
- (q) The service charges to be paid to overseas employment promoters and the corporation by the emigrants.
- (r) The depositing of fees and securities by overseas employment promoters.

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Chapter-VII

OFFENCES, PENALTIES AND PROCEDURE

17. Unlawful emigration, etc.

- (1) Whenever, except in conformity with the provisions of this Ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term which may be extended to five years, or with fine, or with both.
- (2) Whoever, except in conformity with the provisions of this ordinance or of the rules
 - (a) makes, or attempts to make any agreement with any person purporting to bind that person, or any other person, to emigrate or depart; or
 - (b) causes or assist or attempts to cause or assist, any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing; or
 - (c) causes any person engaged, assisted or recruited by him, after grant of the license referred to in section 12, to depart without appearing before the Protector of Emigrants as required by section 15 shall be punishable
 - (i) for a first offence, with imprisonment for a term which may extend to five years, or with fine, or with both; and
 - (ii) for a second or subsequent offence, with imprisonment for a term which may extend to seven years, or with fine, or with both.
- (3) When, in the course of any proceeding in connection with emigration in which an Overseas Employment Promoter is concerned, a breach of the provisions of this Ordinance or of the rules is committed, such person shall be liable to the punishment provided by subsection
 - (2) unless he proved that he was not responsible for and could not have prevented the commission of the breach.
- (4) Whoever, in contravention of the provisions of section 9, recruits a citizen of Pakistan or holds an interview or examination or issues an advertisement for such recruitment, and the editor, printer and publisher of a newspaper in which such advertisement is published, shall be liable to punishment provided by subsection (2).

18. Fraudulently Inducing to Emigrate:

- (a) Forges any document required for, or relating to, the emigration of any person,

or has in his possession or under his control any instrument or article which may be used for the purpose of such forgery, or

- (b) By means of cause or induces, any person to emigrate, or enters into any agreement to emigrate or leaves any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine, or with both.

19.False representation of Government Authority: Falsely represents that any emigrant is required by the Government or is to be engaged on behalf of the Government shall be punishable with imprisonment for a terms which may extend to five years, or with fine or with both.

20.Violation, of terms of agreement with foreign employer by emigrant. Whoever violates the terms of the agreement with his foreign employer by abandoning his employment or otherwise shall, after his repatriation to Pakistan be punishable with fine which may extend to ten thousand rupees.

21.Certain amount recoverable as arrears of Land Revenue: The amount of any expenditure incurred by; the Federal Government for the repatriation to Pakistan of a person who is convicted of an offence punishable under subsection (1) of section 17 or section 20, and the amount payable by any person in pursuance of an agreement or bond or undertaking executed in pursuance of this Ordinance or the rules, shall be recoverable from such person as an arrear of land revenue.

22.Receiving money, etc. for providing foreign employment. Whoever, for providing or securing, or on the pretext of providing or securing, to or for any person employment in any country; beyond the limits of Pakistan.

- (a) being an overseas employment promoter, charges any fee in addition to the prescribed amount, or
- (b) not being such a promoter, demands or receives, or attempts to receive, for himself or for any other valuable thing shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine or with both.

23.Penalty for other offences. Whoever contravenes, or fails to comply with any of the provisions of this Ordinance or the rules shall, if another penalty is provided by this Ordinance for such contravention or failure, be punishable with imprisonment for a term which may extend to one year and with fine.

24.Special Courts.

- (1) the Federal Government may, by notification in the official Gazette, set up as many Special Courts as it considers necessary and, where it sets up more and one Special Court, shall specify in the notification the head-quarters of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.
- (2) A Special Court shall consist of a person who is or has been a Sessions Judge, or an Additional Sessions Judge.

- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) an offence punishable under this Ordinance shall be tried exclusively by a Special Court.
- (4) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as they are not inconsistent with the provisions of this Ordinance, shall apply to the proceedings of a Special Court and such Court shall be deemed to be Court of Session for the purposes of the necessary modifications, shall apply to the trial of cases by a Special Court under this Ordinance, and a person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor.
- (5) For the purpose of subsection (4), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Ordinance were one of the offences referred to in subsection (1) of section 337 of the Code.
- (6) ["(6) A Special Court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing which is accompanied by the previous sanction of the Federal Government:

Provided that, in a case in which the complaint is not accompanied by such sanction, the Special Court shall, immediately on its receipt, refer the matter to the Federal Government; and, if the required sanction is neither received nor refused within sixty days of the receipt of the reference by the Federal Government, such sanction shall be deemed to have been duly accorded."]

["24-A. Appeal. A person sentenced by a Special Court may within forty-five days of the order, prefer an appeal in the High Court.

- (2) Where a Special Court has passed an order of acquittal,
 - (a) The Federal Government may direct any of its Law Officer to present an appeal; and
 - (b) In the case of a prosecution for any offence punishable under this Ordinance, the person in respect of whom the offence is alleged to have been committed may, within a period of forty-five days, appeal to the High Court against the order."]

25. Indemnity. No suit, prosecution or other legal proceeding shall lie against any person for anything which is good faith done in pursuance of this Ordinance or any rule.

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Chapter-VIII **VALIDATION, SAVINGS, ETC.**

26. Validation. Any power of function of the Federal Government, the Director-General or a Protector of Emigrants under the emigration Act, 1922 (VII of 1922), or the rules made thereunder exercised or performed, before the commencement of this Ordinance, by any officer subordinate to the Federal Government shall be deemed to have been validly exercised or performed.

27. Saving. Nothing in this Ordinance shall be deemed to apply to the departure of a person

- (i) Who is not a citizen of Pakistan.
- (ii) Who is in the service of Pakistan, or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government and is proceeding on duty or for employment with any international organization or for training or on leave, with the permission of the Federal Government.
- (iii) Who is proceeding under a foreign scholarship or training scheme approved by the Federal Government.
- (iv) Who is engaged as crew on board a foreign-going vessel.
- (v) Who is engaged as crew on board a foreign-going aircraft in accordance with the provisions of Civil Aviation Ordinance, 1960 (XXXII of 1960), and the rules made thereunder
- (vi) Who is proceeding abroad for Haj or Ziarat and is certified by the Federal Government or an officer authorized by it in this behalf to be so proceeding
- (vii) Who is a dependent of a citizen of Pakistan who is already settled or employed in foreign country; or
- (viii) Who is already settled or employed in a foreign country and is on a temporary visit to Pakistan.

28.Repeal.The Emigration Act, 1922 (VII of 1922), is hereby repealed.