

Sri Lanka Bureau Of Foreign Employment

Sri Lanka Bureau Of Foreign Employment

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA BUREAU OF FOREIGN EMPLOYMENT AND TO REGULATE ITS POWERS AND DUTIES; TO REPEAL THE FOREIGN EMPLOYMENT AGENCY ACT, No. 32 OF 1980 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

Act Nos,

21 of 1985

4 of 1994

[7th June
, 1985]

Short title and date of operation. **1.** This Act may be cited as the Sri Lanka Bureau of foreign Employment Act, No. 21 of 1985, and shall come into operation on such date (hereinafter referred to as the “appointed date”) as the Minister may appoint by Order published in the Gazette.

Application of this Act. **2.** The provisions of this Act shall apply to the recruitment of Sri Lankans for employment outside Sri Lanka by a private sector undertaking or a public corporation.

PART I

ESTABLISHMENT OF THE SRI LANKA BUREAU OF FOREIGN EMPLOYMENT Establishment³.

of the Sri Lanka Bureau of Foreign Employment.

(1) There shall be established a Bureau which shall be called the Sri Lanka Bureau of Foreign Employment (hereinafter referred to as the “Bureau”).

(2) The Bureau shall, by the name assigned to it by subsection (1) , be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Members of the Bureau. **4.** The members of the Board of Directors of the Bureau shall be the members of the Bureau.

Board of Directors. **5.**

(1) The Bureau shall have a Board of Directors (hereinafter referred to as the “ Board “) consisting of the following eleven members:

(a) one member appointed by the Minister in consultation with the Minister in charge of the subject of Finance;

(b) one member appointed by the Minister in consultation with the Minister in charge of the subject of Foreign Affairs;

(c) one female member appointed by the Minister in consultation with the Minister in charge of the subject of Women's affairs;

(d) eight other members appointed by the Minister of whom four shall be representatives of foreign employment agencies licensed under this Act.

(2) A person shall be disqualified from being appointed or continuing as a Director if he is a Member of Parliament.

(3) Every Director shall hold office for a period of two years unless he earlier resigns, dies or is removed from office.

(4) A Director may resign his office by letter addressed to the Minister.

(5) A Director vacating his office by resignation or by the expiration of his term of office shall be eligible for re-appointment.

(6)

(a) The Minister may, without assigning a reason remove any Director from office.

(b) A Director who has been removed from office shall not be eligible for re-appointment as a Director or to serve the Bureau in any other capacity.

(7)

(a) If a Director vacates his office otherwise than by the expiration of his term of office the Minister may, having regard to the provisions of subsection (1), appoint any other person to be a Director in place of the Director who so vacates office.

(b) Any Director appointed under paragraph (a), shall, unless he earlier vacates office, hold office for the unexpired period of the term of office of his predecessor.

(8) Where a Director becomes, by reason of illness or other infirmity, or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint a fit person to act in his place for the period of such incapacity or absence.

Remuneration6. The members of the Bureau shall be remunerated In such of members manner and at such rates as may be determined by the Minister of the with the concurrence of the Minister in charge of the subject of Bureau. Finance.

Members of

the Bureau 7. A Director who is in any way directly or indirectly interested in to disclose any contract made or proposed to be made by the Bureau shall interest in disclose the nature of his interest at a meeting of the Board. The contract disclosure shall be recorded in the minutes of the Board, and proposed to such Director shall not take part in any deliberation or decision (If be made by the Board with respect to that contract:
the Bureau.

Provided, that, the interest which any Director of the Bureau may have in a contract by virtue of his being an officer of a Government department or a public corporation, or a Director of a public corporation, shall be deemed not to be an interest within the meaning of this section.

Quorum for 8. The quorum for any meeting of the Board shall be five meeting of members. Subject to the provisions of this Act, the Board may the Board regulate its own procedure in regard to meetings of such Board and and the transaction of business. at such meetings.
regulations
of
procedure.

Validity of 9. No act or proceeding of the Board shall be deemed invalid by acts or reason only of the existence of any vacancy among the Directors proceedings or any defect in the appointment of my Director thereof.
of the Board.

Members of 10. The Board shall administer the affairs of the Bureau and may the Board to for such purpose exercise and perform. all the powers and duties administer of the Bureau.
the affairs of
the Bureau.

Delegation 11.
of powers
and duties
of the Board.

(1) The Board may delegate to the Chairman, a Director or an employee of the Bureau any of its powers and duties as may be necessary for the efficient administration of the affairs of the Bureau.

(2) Every person to whom. any power or duty is delegated under subsection (1), shall exercise or perform such power or duty subject to the general or special directions of the Board.

Chairman of 12.
the Board.

(1) The Minister shall appoint the Chairman of the Board from among the Directors.

(2) If the Chairman of the Board of Directors is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one other Directors to act in his place.

(3) The Chairman shall preside at all meetings of the Board. In the absence of the Chairman at any meeting of the Board, the Directors present Shall choose one of their number to preside at such meeting.

(4) The Chairman may resign the office of Chairman by letter addressed to the Minister.

(5) The Minister may, without assigning a reason, terminate the appointment of the Chairman.

(6) Subject to the provisions of subsections (4) and (5), the term of office of the Chairman shall be the period of his office as a member of the Board.

(7) The chairman of any meeting of the Board shall, in addition to his own vote, have a casting vote.

13. Seal of the Bureau.

(1) The seal of the Bureau shall be in the custody of the Board or any officer of the Bureau authorized in that behalf by such Board.

(2) The seal of the Bureau may be altered in such manner as may be determined by the Board.

(3) The seal of the Bureau shall not be affixed to any instrument or document except in the presence of two Directors or where two Directors are not available, by one Director and an officer authorized specially for such purpose by the Board. Such Directors and officer as the case may be, shall sign the instrument or document in token of their presence.

14. Power of the Minister in relation to the Bureau.

(1) The Minister may give to the Bureau directions in writing as to the performance of the duties and the exercise of the powers of the Bureau, and the Bureau shall give effect to such directions.

(2) The Minister from time to time, may in writing direct the Board to furnish to him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Bureau and the Board shall carry out every such direction.

(3) The Minister may from time to time, order all or any of the activities of the Bureau to be investigated and reported upon by such person or persons as he may specify, and upon such order being made, the Bureau shall afford all such facilities and furnish all such information, to the said person or persons as may be necessary to carry out the order.

15. The objects of the Bureau shall be the Bureau.

(a) to promote and develop employment opportunities outside Sri Lanka, for Sri Lankans;

(b) to assist and support foreign employment agencies in their growth and development;

(c) to undertake measures to develop overseas markets for skills available in Sri Lanka;

(d) to assist licences in the negotiation of terms and conditions of employment with agencies abroad;

(e) to regulate the business of foreign employment agencies and. recruit Sri Lankans for employment outside Sri Lanka;

(f) to issue licences to foreign employment agencies for conducting the business of recruitment for employment outside Sri Lanka and to determine the terms and conditions of such licences;

- (g) to set standards for and to negotiate contracts of employment;
- (h) to enter into agreements with relevant foreign authorities, employers and employment agencies. in order to formalize recruitment agreements;
- (i) to formulate and implement a model contract of employment which ensures fair wages and standards of employment;
- (j) to examine the authenticity of documentation issued to Sri Lankan recruits going abroad for employment;
- (k) to undertake research and studies into employment opportunities outside Sri Lanka, for Sri Lankans;
- (l) to establish and maintain an Information Data Bank to monitor the flow of Sri Lankans for employment outside Sri Lanka and their return after such employment;
- (m) to undertake the welfare and protection of Sri Lankans employed outside Sri Lanka;
- (n) to establish a Workers' Welfare Fund ;
- (o) to undertake in collaboration with licensees, the training and orientation of Sri Lankan recruits going abroad for employment;
- (p) to provide assistance to Sri Lankan recruits going abroad for employment;
- (q) to receive donations and contributions from Sri Lankans employed outside Sri Lanka and use such donations and contributions for the rehabilitation, guidance and counseling of, and the provision of information and assistance to, the families of such Sri Lankans;
- (r) to undertake investments on behalf of Sri Lankan employed outside Sri Lanka;
- (s) to undertake programmes for the rehabilitation of Sri Lankans who return to Sri Lanka after employment outside Sri Lanka.

General powers of the Bureau. **16.**

- (1) The Bureau shall have power to do anything necessary for, or conducive or incidental to, the carrying out of its objects.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), the Bureau shall have power
 - (a) to invest such amount of money belonging to the Bureau as are not immediately required for the purpose of this Act in such shares, securities or deposits as the Board may consider fit and to sell such shares and securities ;
 - (b) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell Of otherwise dispose of, any

movable or immovable property ;

(c) to enter into and perform, either directly or indirectly through any officer or agent of the Bureau, all such contracts or agreements as may be necessary, for the exercise of the powers of the Bureau and the carrying out of the objects of the Bureau;

(d) to borrow money from any source whatsoever for the purposes of the Bureau, in such manner and upon such security as the Bureau may, with the approval of the Minister, given with the concurrence of the Minister in charge of the subject of Finance determine ;

(e) appoint, terminate the employment of, remunerate and control, its officers, servants, and representatives and to direct and decide all matters connected with the administration of its affairs;

(f) to make rules in respect of the administration of the affairs of the Bureau ;

(g) to formulate schemes to give effect to the objects of the Bureau;

(h) lay down procedures for the receipt and distribution of requests from employers outside Sri Lanka for services of Sri Lankans, among licensees;

(i) to invest such moneys as are remitted to the Bureau by Sri Lankans employed abroad, in investments of their choice.

PART II

THE FUND OF THE BUREAU

The Fund of 17.
the Bureau.

(1) There shall be a Fund of the Bureau (hereinafter referred to as the "Fund").

(2) There shall be paid into the Fund

(a) any funds provided to the Bureau by the Government by way of grant, loan or otherwise;

(b) the proceeds of any cess levied and collected under this Act;

(c) all sums received by the Bureau by way of fees and charges ;

(d) all sums received by the Bureau as income from any investments made by the Bureau; and

(e) all sums received by the Bureau in the exercise, performance and discharge of its powers, duties and functions.

(3) There shall be paid out of the Fund

(a) the remuneration payable to the Directors;

(b) the salaries payable to officers, servants and employees of the Bureau;

(c) any allowances payable to representatives of the Bureau; and

(d) all sums required to defray any expenditure incurred by the Bureau in the exercise, performance and discharge of its powers, duties and functions.

Audit of **18.**
Accounts.

(1) The financial year of the Bureau shall be the calendar year.

(2) The Bureau shall cause to be prepared in respect of each financial year a statement of receipts and payments, a statement of income and expenditure, a statement of assets and liabilities and a statement of investments showing the face value, purchase price, and market value of each of the investments. A copy of each of the statements prepared under this subsection shall be transmitted to the Minister, before the thirtieth day of September of the succeeding year.

(3) Article 154 of the Constitution relating to the audit of accounts of public corporations shall apply to the audit of accounts of the Bureau.

Report to be **19.** The Bureau shall annually prepare a report of the work of the Bureau and forward such report before the Lapse of the year succeeding the year to which such report relates, to the Minister who shall table such report in Parliament.

PART III PROMOTION AND DEVELOPMENT

Promotion **20.**
and
development
of
employment
outside Sri
Lanka.

(1) In order to promote and develop employment opportunities outside Sri Lanka, for Sri Lankans, the Bureau may enter into agreements

(a) with foreign Governments, with the approval of the Minister, given with the concurrence of the Minister in charge of the subject of Foreign Affairs;

(b) with foreign employers and agencies.

(2) The Bureau shall undertake a programme of diversification of employment opportunities outside Sri Lanka for Sri Lankans.

(3) The Bureau shall have the power to support and assist licensees in their promotional activities, and sponsor visits abroad by the representatives of such licensees.

Representatives **21.** The Bureau may, with the approval of 'the Minister, given with the concurrence of the Minister in charge of the subject of Foreign Affairs appoint one or more persons to be the representatives of the Bureau in any foreign country in which

jobs are available for expatriates. Such representatives may be citizens of Sri Lanka or nationals of such country and resident there in.

Duties of representatives of a foreign country shall of the Bureau. **22.** The persons appointed by the Bureau as its representatives in a foreign country shall

(a) be responsible for the promotion of employment of Sri Lankans in that country;

(b) be responsible for the welfare of Sri Lankans employed in that country;

(c) be responsible for safeguarding the interests of Sri Lankans employed in that country including the settlement of disputes with employers;

(d) attend to complaints of Sri Lankans employed in that country and find suitable remedies therefor or make recommendations to the Bureau in respect of such remedies;

(e) send such periodical reports as may be required by the Bureau.

Joint Ventures. **23.** The Bureau shall have the power to undertake Joint ventures in association with public corporations and private ventures sector undertakings in order to ensure that Sri Lankans are found employment outside Sri Lanka.

PART IV

REGULATION OF LICENSED FOREIGN EMPLOYMENT AGENCIES

Foreign employment agencies to be licensed. **24.**

(1) A person other than the Bureau shall not carry on the business of a foreign employment agency unless he is the holder of a licence issued under this Act and otherwise than in accordance with the terms and conditions of that licence.

(2) A person who, on the appointed date, is carrying on the business of a foreign employment agency on the authority of a licence issued under the Foreign Employment Agency Act, No. 32 of 1980, may continue to carry on such business until the expiry of such licence as though such licence was issued under this Act.

Bureau to carry on business of foreign employment agency. **25.** The Bureau may carry on the business of a foreign employment agency and charge fees for any services rendered by the Bureau.

Application for a licence. **26.**

(1) Every application for a licence shall be made to the Bureau in writing and shall contain the following particulars:

(a) the full name and address of the applicant;

(b) whether the applicant is an individual, a firm, a company or a public corporation;

(c) if the applicant

(i) is an individual, whether he is a citizen of Sri Lanka;

(ii) is a firm, whether the partners or the firm are citizens of Sri Lanka;

(iii) is a company, whether the majority of the shares in the capital of the company is held by citizens of Sri Lanka;

(d) if the applicant is a firm or company, the full name and address of the persons to be in charge of the business;

(e) whether the applicant, if an individual, is a person of good repute;

(f) where the applicant is a firm or a company whether the person to be in charge of the business is a person of good repute;

(g) the address of the premises in which the business is to be carried on together with its floor area and facilities available in those premises.

(2) The particulars contained in paragraph (e) or paragraph (f), of subsection (1), shall be supported by two recent testimonials as to the character and reputation of the applicant or the person to be in charge of the business, as the case may be.

Conditions 27. A licence to carry on the business of a foreign employment for grant of agency shall not be granted unless –
licence.

(a) the applicant

(i) if an individual, is a citizen of Sri Lanka;

(ii) if a firm, is a firm all the partners of which are citizens of Sri Lanka; or

(iii) if a company, is a company the majority of the shares of which is held by citizens of Sri Lanka, and

(b) the applicant, if an individual. or in the case of a firm or company, the person to be in charge of the business, is a person of good repute;

(c) the premises in which the business is to be carried on are suitable, 'having regard to the locality in which the premises are situated, the size of the premises and the facilities in those premises;

(d) the applicant has paid the prescribed fee for the issue of the licence; and

(e) the applicant has complied with the requirements of section 28.

Applicant to 28.
comply with
directions
issued by
the Bureau
before issue

(1) Before the issue of a licence under. this Act the Bureau shall direct the applicant

(a) to enter into an agreement with the Bureau (b)

of the
licence.

(i) to carry on the business in a morally
irreproachable manner, and

(ii) to take all steps as are reasonably
possible to ensure that the terms and
conditions of any contract of
employment between a foreign
employer and a person recruited for
employment under such employer by
the applicant, are observed by that
employer;

(b) to enter into a bond with the Bureau with
two sureties in such sum not less than one
hundred thousand rupees, as may be
determined by the Bureau for the satisfaction
of claims which might arise in connection with
the business or any contract of employment
referred to in paragraph (a) ;

(c) to furnish a Bank guarantee to the
satisfaction of the Bureau in such sum not
less than one hundred thousand rupees as
may be determined by the Bureau, to be in
force for a period of twenty-four consecutive
months from the date of issue of a licence for
the satisfaction of any claims which might
arise in connection with the business or any
contract of employment referred to in
paragraph(a) ; and

(d) to pay the prescribed fee for the licence.

(2) The Bureau may exempt a public corporation
applying for a licence from the requirements specified
in paragraphs (b) and (c) of subsection (1) of this
section.

(3) Where the applicant fails to comply with the
directions issued under subsection (1), the Bureau
shall refuse to grant such applicant a licence.

Form and **29.** Every licence shall

duration of
licence.

(a) be in the prescribed form; and

(b) unless it is cancelled earlier, be in force for a period
of twelve months from the date of its issue.

Renewal of **30.** A licence may be renewed by the Bureau for a period or
licence. periods not exceeding one year at a time on application made to
the Bureau not less than thirty days before the expiry of the
licence, if,

(a) the Bureau is satisfied that: the licensee has
observed the provisions of this Act and any regulation
made thereunder, and any agreement or bond entered
into by the licensee under this Act and has not been
convicted of any offence under this Act or any
regulation made thereunder and has complied with
any direction given under this Act; and

(b) the licensee pays the prescribed fee for the renewal
of the licence.

Cancellation **31.**
of a licence.

(1) The Bureau may cancel a licence issued under this Act if it is satisfied that the licensee

(i) has contravened any of the provisions of this Act or of any regulation made thereunder or of any agreement or bond entered into by the licensee under this Act;

(ii) has been convicted of an offence under this Act or any regulation made thereunder;

(iii) has not complied with any directions issued by the Bureau to the licensee under section 42 or section 43 ;

(iv) has failed to pay any cess he is required to pay under this Act;

(v) failed to pay any person, any sum he has been directed to pay by the Bureau under section 44 ; or

(vi) has furnished in any application or in any return or in any written information or written explanation sent by the licensee under this Act, any particulars which to the knowledge of the licensee are false or incorrect.

(2) The cancellation of a licence under subsection (1) shall not take effect until the time for appealing against the decision of the Bureau has expired or if an appeal has been made within time unless and until the appeal is disallowed.

Bureau shall **32.** Where the Bureau decides to refuse the grant or the renewal of a licence or to cancel a licence, the Bureau shall communicate its decision to the applicant or the licensee, as the case may be, its decision to applicant with the reasons therefor.

or licensee
together with
its reasons
therefor.

Appeals. **33.**

(1) The applicant or licensee, as the case may be, who is aggrieved by a decision of the Bureau

(a) refusing the grant or the renewal of licence; or

(b) cancelling his licence;

may appeal against the decision to the Secretary to the Ministry of the Minister within fourteen days of the date on which the decision is communicated to him.

(2) Such Secretary may on any appeal under subsection (1)

(a) allow the appeal and direct the Bureau to grant or renew a licence; or

(b) disallow the appeal.

(3) The Bureau shall comply with any direction issued to it under subsection (2).

Licensee not to charge any fee. 34. A licensee shall not charge any fee, otherwise than as provided in section 51 for providing or securing employment for any person in any country outside Sri Lanka.

Display of licence. 35. The licensee shall display prominently in the premises in which the business is carried on, the licence granted to him.

Licensee to inform Bureau of any change of particulars. 36.

inform
Bureau of
any change
of
particulars.

(1) A licensee shall within thirty days of any change in the particulars stated in his application for a licence, inform the Bureau in writing of the change.

(2) Nothing in subsection (1) shall authorize the licensee to carry on any business otherwise than in accordance with the terms and conditions of the licence.

No action regarding recruitment to be taken without the approval of the Bureau. 37.

regarding
recruitment
to be taken
without the
approval of
the Bureau.

(1) A licensee shall not issue any advertisement or notice calling for applications from persons for employment outside Sri Lanka or take any other action in connection with, or incidental to, such employment without the prior approval in writing of the Bureau.

(2) For the purpose of obtaining the approval of the Bureau under subsection (1), the licensee shall submit to the Bureau the following particulars:

(a) the name and address of the prospective employer outside Sri Lanka;

(b) a copy of the contract or agreement entered into by the licensee and the foreign employer for recruitment of persons;

(c) the nature of employment for which persons are to be recruited ;

(d) the terms and conditions of employment including those relating to wages, holidays, hours of work and passage from, and to, Sri Lanka offered by the employer to the persons to be recruited for employment outside Sri Lanka; and

(e) such further particulars as may be prescribed.

(3) Where the particulars submitted under subsection (2) are insufficient, the Bureau may call for such additional particulars as it may consider necessary.

(4) The Bureau may refuse to grant approval under subsection (1) in any case where it is satisfied that the nature of the employment for which persons are to be recruited is degrading or inhuman or that the terms and conditions of such employment are unreasonable having regard to the average standards of employment of persons.

(5) The Bureau shall not disclose to any person other than the officers of the Bureau for the purposes of the discharge of their functions under this Act, or to any court of law, any information submitted to it under subsections (2) and (3), except with the consent of the licensee.

Authorized officer may be present at interview of persons for recruitment for employment outside Sri Lanka. **38.** An officer authorized in writing for the purpose by the Bureau may be present at any interview for the recruitment of persons for employment outside Sri Lanka, held in pursuance of an approval granted under section 37, for the purpose of ensuring conformity with the provisions of this Act or any regulation made thereunder and it shall be the duty of such licensee to afford all facilities to such officer to be so present.

for employment outside Sri Lanka.

Grounds on which approval may not be granted. **39.**

(1) The Bureau may refuse to grant approval under section 37 for the recruitment of any class or category of persons for employment outside Sri Lanka.

(i) if in its opinion

(a) the terms and conditions of employment offered to them are not satisfactory; or

(b) such persons would be exposed to serious risk to life by reason of any civil war, civil commotion or political disturbances in the country in which they are to be employed;

(ii) if the employment offered is not regulated by law in the country in which such employment is offered.

(2) A licensee who is aggrieved by a decision of the Bureau refusing to grant approval under section 37 for the recruitment of any class or category of persons for employment outside Sri Lanka may, within fourteen days of the date on which such decision is communicated to him, appeal against such decision to the Secretary to the Ministry of the Minister.

(3) Such Secretary may, on any appeal made under subsection (2),

(a) allow the appeal and direct the Bureau to approve the recruitment of the class Or category of persons to whom the appeal relates; or

(b) disallow the appeal.

(4) The Bureau shall comply with any direction issued to it under subsection (3).

Contract or employment. **40.**

(1) The contract of employment between the employer abroad and the person recruited for employment by such employer shall, before it is signed by such employer or his agent and such person, be read and explained to such person in a language that he understands.

(2) Two copies of the contract referred to in subsection (1) shall as soon as the contract is signed, be forwarded to the Bureau by the licensee or such

agent to” be certified by such Bureau, prior to the departure from Sri Lanka, of the person recruited for employment.

(3) As soon as the Bureau certifies the copies of such contract under the provisions of subsection (2), the Bureau shall inform such licensee or agent of the same and shall forward for registration, one copy of such contract to the Ministry of Labour of the country in which the contract of employment is to be performed.

41. Every licensee shall maintain such records as may be prescribed.

Returns. 42.

(1) The Bureau may at any time by written directions require a licensee to send before the date specified in any such direction

(a) a return containing such particulars as it may require in relation to the business of foreign employment agency carried on by the licensee;

(b) evidence of remittance to a bank in Sri Lanka, of the commission paid or payable by the employer on whose behalf the licensee recruits any person for employment outside Sri Lanka; and

(c) such written information or written explanation as the Bureau may require in respect of any particulars stated in any return sent by the licensee.

(d) such documents as it may require in relation to the business of foreign employment agency carried on by the licensee.

(2) The licensee to whom a direction under subsection (1) is issued shall comply with such direction within such time as shall be specified in the direction.

43. The Bureau may issue to a licensee such directions as it may think necessary for the purpose of making the licensee comply with the provisions of this Act and any regulation made thereunder and any licensee to whom any such direction is issued shall comply with such direction within such time as shall be specified in the direction.

Inquiry into 44.

complaints made by persons recruited for employment outside Sri Lanka.

(1) Where the Bureau receives a complaint from, or on behalf of, any person recruited for employment outside Sri Lanka or employed outside Sri Lanka, or a report from any of its representatives abroad

(a) that the terms and conditions imposed on any employer by the contract of employment in relation to that person have not been observed by that employer; and

(b) that the licensee who recruited him for employment outside Sri Lanka has, in breach of the agreement entered into by the licensee

with the Bureau under section 28 (1) (a) failed to take such steps as are reasonably possible to ensure that those terms and conditions are observed by the employer,

an officer authorized by the Bureau shall, if he finds, after such inquiry as he may deem necessary that the matters set out in such complaint or report are proved, make an award directing the licensee to pay such person such sum of money as may be determined by him to be sufficient to defray the cost of unpaid wages, payments in lieu of holiday, leave and terminal benefits due to such person and other expenses including the cost of passage to Sri Lanka, incurred by such person as a result of the breach of those conditions by .the employer.

(2) The officer referred to in subsection (1) shall, for the purpose of holding an inquiry under subsection (1) have the power

(a) to require the licensee and the complainant to be present for interrogation in regard to the complaint or report which is the subject of the inquiry ;

(b) to require the licensee and the complainant to produce such documents as he may consider necessary for the purposes of the inquiry; and

(c) to require any person to give evidence on oath or otherwise before him.

(3) The officer referred to in subsection (1) shall, at any inquiry held under that subsection, give the parties affected an opportunity to be heard.

(4) Any sum of money that the officer referred to in subsection (1) may direct a licensee to pay to any person under that subsection shall be recoverable by that person or by the Bureau on his behalf by an action instituted in the District Court within the administrative limits of which, the place at which the licensee has been licensed to carry on the business of a foreign employment agency is situated, by way of summary procedure. The provisions of the Civil Procedure Code relating to actions of which the procedure is summary shall apply to an action under this subsection.

(5) For the purpose of this section " licensee", includes a person to whom a licence has been issued under this Act, whether or not such licence is in force on the date on which a complaint is made, or an inquiry is held, or an action is instituted or continued, against such person, under this section.

PART V
WORKERS WELFARE FUND

Workers Welfare Fund. **45.**

(1) The Bureau shall, for the benefit of Sri Lankans employed outside Sri Lanka establish a Workers Welfare Fund (hereinafter referred to as the "Welfare Fund").

(2) There shall be payable into the Welfare Fund

(a) all donations and contributions received from Sri Lankans employed outside Sri Lanka ;

(b) all donations and contributions received from foreign employers and licensees ;

(c) donations and contributions received from any source other than those specified in paragraphs (a) and (b) ;

(d) such sums of money as may be transferred to the Welfare Fund by the Bureau.

Moneys payable into Welfare Fund shall be lodged with an approved bank and shall be credited to an account entitled the "Workers' Welfare Fund Account".
lodged with the bank.

In this section "approved bank" means a bank specified by the Minister with the concurrence of the Minister in charge of the subject of Finance, by Order published in the Gazette, as a bank in which the moneys payable into the Welfare Fund may be lodged.

Power to invest any moneys of the Fund. **47.** Any moneys of the Welfare Fund may be invested by the Bureau in any investment approved by the Minister.

Application of the Fund. **48.**

(1) There shall be paid out of the Welfare Fund by the Bureau

(a) all expenses incurred by the Bureau in the implementation of rehabilitation programmes for Sri Lankans who return to Sri Lanka after employment outside Sri Lanka;

(b) all expenses incurred by the Bureau in providing guidance and information to the families of Sri Lankans employed outside Sri Lanka ;

(c) all expenses incurred in training and orientation of Sri Lankans recruited for employment outside Sri Lanka;

(d) all expenses incurred in providing assistance to Sri Lankans employed outside Sri Lanka and their families.

(2) No payment shall be made out of the Welfare Fund except on the authority of a resolution of the Bureau.

Orders & c. account of the Welfare Fund shall be signed by the Chairman or for payment a Director authorized by him to sign on his behalf and one other out of the officer from among the officers specially authorized by the Fund. Bureau for that purpose, and the bank in which the moneys of the account of the Welfare Fund are deposited may pay all orders or cheques against the said account which are so signed.

Statement of receipts, & c. on account of the Welfare Fund. **50.** At each meeting of the Board the Chairman shall submit to the Board a statement of receipts and disbursements on account of the Welfare Fund.

& c. on
account of the
Welfare Fund.

PART VI PAYMENTS AND CESS

Payment by recruits. **51.**

[4,4 of 1994]

(1) Every person who is recruited for employment outside Sri Lanka shall pay the Bureau such sum as may be determined by the Minister, by Order published in the Gazette, for the category under which such employment falls. Different sums may be determined by the Minister in respect of different categories of employment, having regard to the skills required for employment in that category and other relevant circumstances.

(2) Every person who is recruited for employment outside Sri Lanka shall prior to his departure from Sri Lanka pay the Bureau a sum of two hundred rupee-J being payment for facilities provided by the Bureau.

(3) Payments shall be made to the Bureau through any bank approved by the Bureau.

[4,4 of 1994]

(4) Where a licensee has provided or secured employment for any person outside Sri Lanka the Bureau shall, pay out of the sum paid to it by such person under subsection (1)

(a) an amount equivalent to seventy per centum of such sum to such licensee ; and

(b) an amount equivalent to ten per centum of such sum to the Workers Welfare Fund, established under section 45,

and shall retain the balance .

(5) Where the Bureau is satisfied after inquiry that a recruit is unable to make payment in full of the sum he is required to pay under subsection (1), the Bureau shall make arrangements for such recruit to make the payment in instalments through any bank approved by the Bureau.

(6) The Minister may make regulations in regard to the procedure for payments to the Bureau by a bank.

Cess. **52.**

(1) There shall be charged and levied on every licensee, a cess calculated at the rate of five per centum of every commission received by him in respect of the recruitment of any person for employment outside Sri Lanka,

(2) Every licensee shall furnish to the Bureau, before the fifteenth day of every month, a return of the commissions received by him in the previous month in respect of recruitment of persons for employment outside Sri Lanka.

(3) Every licensee shall pay to the Bureau, the cess it is liable to pay under this section, within three months of receiving the commission in respect of which the cess is levied.

(4) The assessment, collection and recovery of the cess levied and charged under this section shall be as prescribed.

PART VII

INFORMATION DATA BANK

Information **53.**
Data Bank.

(1) The Bureau shall maintain an Information Data Bank in respect of Sri Lankans employed outside Sri Lanka and who return on completion of such employment.

(2) Every licence shall furnish to the Bureau, prescribed information in respect of Sri Lankans who are recruited by such licensee for employment outside Sri Lanka.

(3) Every Sri Lankan leaving for employment outside Sri Lanka, shall, prior to such leaving register with the Bureau.

PART VIII

ASSOCIATION OF LICENSED FOREIGN EMPLOYMENT AGENCIES

Constitution **54.**
of
Association
of Licensed
Foreign
Employment
Agencies.

(1) The Minister shall, as soon as may be after the appointed date, by Order published in the Gazette constitute the Association of Licensed Foreign Employment Agencies (hereinafter referred to as the "Association").

(2) The Association constituted under subsection (1), shall be a body corporate with perpetual succession and a common seal and may sue and be sued by such name as is assigned to it by the Order constituting such Association.

(3) Every licensee shall become a member of the Association.

Functions of **55.** The functions of the Association shall be
the
Association.

(a) to resolve disputes and licensees; disagreements between licensees.

(b) to make recommendations to the Bureau in regard to the promotion and regulation of employment outside Sri Lanka;

(c) to advise on, and assist in, the promotion of employment opportunities for Sri Lankans outside Sri Lanka;

(d) to formulate a code of good conduct for licensees and to ensure its enforcement;

(e) to make representations to the Bureau and to the Minister on matters relating to the recruitment of Sri Lankans for employment outside Sri Lanka.

Management56.

of affairs of
the
Association.

[5,4 of 1994]

(1) The affairs of the Association shall be administered by an Executive Committee of the Association consisting of the President, Vice-President, Secretary, Assistant Secretary, Treasurer and four other members elected in that behalf by the members of the Association from among themselves.

(2) The term of office of the Executive Committee of the Association shall be one year.

General 57. Subject to the provisions of this Act and any other written powers of law, the Executive Committee of the Association, shall, on behalf of the Association, have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the performance of the functions of the Association.

Procedure & 58. Regulations may be made under this Act in regard to the c. of the procedure for the election of the Executive Committee of the Association . Association and in respect of the convening of meetings of the Association and its Executive Committee and the transaction of business thereat. Subject to any such regulations, the Association and the Executive Committee may regulate its own procedure.

PART IX
STAFF OF THE BUREAU

Appointment59.

of officers
and
servants.

(1) The Bureau may appoint such officers and servants as it considers necessary for the efficient discharge of its functions.

(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Bureau.

(3) At the request of the Bureau, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Bureau for such period as may be determined by the Bureau with like consent, or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Bureau, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall mutatis mutandis, apply to, and in relation to, him.

(5) Where any officer in the public service is permanently appointed to the staff of the Bureau, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to, and in relation to, him.

(6) Where the Bureau employs any person who has agreed to serve the Government for a specified period, any period of service to the Bureau by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

(7) At the request of the Bureau any member of the Local Government Service Or any other officer or servant of a local authority or a Development Council, as the case may be, may with the consent of such member, officer or servant and the Local Government Service Advisory Board or the local authority or a Development Council, as the case may be, be temporarily appointed to the staff of the Bureau for such period as may be determined by the Bureau with like consent or be permanently appointed to' such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Bureau and the Local Government Service Advisory Board or that local authority or Development Council, as the case may be.

(8) At the request of the Bureau any officer or servant of a public corporation may, with the consent of such officer or servant, be temporarily appointed to the staff of the Bureau for such period as may be determined by the .Bureau with like consent, or be permanently appointed to such staff on such terms and conditions including those elating to pension and provident fund rights, as may be agreed upon by the Bureau and the Board of Management 9 of that public corporation.

(9) Where any person is temporarily appointed to the staff of the Bureau in pursuance of subsection (7) or sub section (8), such person shall be subject to the same disciplinary control as any other member of such staff.

PART X
GENERAL

Powers of **60.**
entry
inspected
and
interrogation.

(1) Any officer of the Bureau authorized by the Bureau in writing in that behalf may –

(a) for the purpose of ascertaining' whether the provisions of this Act and any regulations made there under are complied with, enter and inspect, at all reasonable hours of the day or night, the premises in which the business of a foreign employment agency is carried on ;

(b) inspect, and take copies of any records required by, or under, this Act or any regulation made there” under, to be kept in respect of that business; and

(c) interrogate any person who is in such premises.

(2) Every person who obstructs or. resists such officer in the exercise of any power conferred by subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to li fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

Bureau deemed to be a scheduled institution within the meaning of the Bribery Act. **60A.** The Bureau shall be deemed to be a scheduled institution within the meaning, and for the purposes, of the Bribery Act, and the provisions of that Act, shall be construed accordingly.

[6,4 of 1994]

Regulations. **61.**

(1) The Minister may make regulations relating to any matter in respect of which regulations are authorized by this Act to be made or required by this Act to be prescribed.

(2) Every regulation made under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made under subsection (1) shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Unauthorized recruitment an offence **62.**

(1) Any person who, except in conformity with the provisions of this Act

(a) makes, or attempts to make, any agreement with any person purporting to assist that person or any other person to emigrate or depart from Sri Lanka for purposes of employment or demands or receives any money from such person;

(b) causes or assists, 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 purposes of emigrating or departing from Sri Lanka for purposes of employment,

shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

[7,4 of 1994]

(2) Every person who carries on the business of a foreign employment agency without a licence in that behalf issued under this Act shall be guilty of all offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not less than twenty thousand rupees and not exceeding one hundred thousand rupees and an additional fine of one thousand rupees for each day on which such offence is continued after conviction.

(3) No prosecution under this section shall be instituted except with the sanction of the Secretary to the Ministry of the Minister.

Forgery or 63. Any person who

inducement
an offence.

(a) forges or alters any document required for, or relating to, the emigration of any person for the purpose of employment or has, in his possession or under his control any instrument or article which may be used for the purpose of such forgery or alteration;
or

(b) by means of intoxication, coercion, fraud or wilful misrepresentation, causes or induces, or attempts to cause or induce, any person to emigrate , or enter into any agreement to emigrate or leave any place with a view to emigrating for the purpose of employment,

shall be guilty of an offence under this Act, and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

Charging fee 64. Any person who

an offence.

(a) being a licensee, charges any fee otherwise than as provided in section 51 for the purposes of providing , or securing employment outside Sri Lanka for any other person;

(b) not being a licensee, demands or receives or attempts to receive for himself or any other person, any money for the purpose of providing or securing employment for any person outside Sri Lanka,

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial by a Magistrate to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years. The Magistrate shall, in addition, order the offender to refund the fee or money which is the subject of the offence, to the person from whom the offender received such fee or money.

Offence relating to returns, & c.

65. Any person who

- (a) fails to furnish any return, information or explanation which he is required to furnish under this Act or furnishes any return, written information or written explanation containing any particulars which to his knowledge are false and incorrect; or
- (b) gives any evidence at any inquiry held under this Act, which to his knowledge is false or incorrect.
- (c) fails to comply with the terms of any award made under section 44,

shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

Offence relating to inquiry.

66. Any person who fails or refuses-

- (a) without reasonable cause, to be present at an inquiry when required to do so under section 44 (2) (a);
- (b) to answer when interrogated under that paragraph
- (c) to produce any document which he is required to produce under section 44 (2) (b);
- (d) to be sworn to give evidence, when required to do so under section 44 (2) (c).

shall be guilty of an offence under this Act and shall on conviction after summary trial by Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment other description for a term not less than twelve months and not exceeding two years.

Miscellaneous offences.

67. Every licensee who fails to comply with

- (a) the provisions of section 35 or section 35 or section 37 or section 40(1) or (2) or section 41 or section 53 ;
[8,4 of 1994]
or
- (b) any requirement imposed on him by or under section 42 or section 43 or section 52,

shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

General penalties.

67A.

(1) Any person who contravenes, or fails to comply with, any provision of this Act or any regulation, direction or requirement made or given thereunder shall be guilty of an offence under this Act.

(2) Every person who is guilty of an offence under this Act for which no punishment is expressly prescribed by any other provision of this Act, shall be liable on conviction after summary trial, by a Magistrate to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not less than twelve months and not exceeding two years.”.

Punishment 68. Where any person convicted of an offence under section 63 or section 64 is subsequently convicted of an offence under the subsequent same section, he shall, on conviction for the second or offences subsequent offence, be liable to double the punishment provided under for that offence by that section.
section 63 or
section 64.

Offences by 69. Where any offence under this Act is committed by a body of persons then-
body of persons then-
persons.

(a) if the body of persons is a body Corporate, every person who at the time of the communication of that offence was a director or officer of that body corporate; or

(b) if the body of persons is a body other than a body corporate, every person who at the time of commission of the offence was a members of that body,

shall be deemed to be guilty of an offence:

Provided however that, such director, officer or member shall not be deemed to be guilty of that offence if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of that offence.

Transitional 70. Notwithstanding the repeal by this Act of the Foreign Employment Agency Act, No. 32 of 1980, all agreements and bonds entered into by a licensee with the Commissioner of Labour under section 6 of Act No. 32 of 1980 shall be valid and effective until the expiry of the licence issued under that Act and be enforceable as fully and effectually as if instead of the Commissioner of Labour the Bureau had been named therein or have been a party thereto.

Repeal of 71.The Foreign Employment Agency Act, No. 32 of 1980, is Act No.32 of hereby repealed.
1980

Interpretation.72. In this Act, unless the context otherwise requires-

“business of a foreign employment agency” means business (whether or not carried on by charging fees or otherwise and whether or not carried on in conjunction with any other business) of providing services (whether by provision of information or otherwise) for the purpose of finding persons for employment (including apprenticeship and training) with employers outside Sri Lanka or of supplying employers outside Sri Lanka with Sri

Lankan labour, and includes the issue of an advertisement or notice calling for applications from persons for employment outside Sri Lanka or taking of any other action in connection with or incidental to such employment;

“Chairman” means the Chairman of the Board; ” employer” includes a body of employers;

” licence” means a licence issued under this Act;

” licensee” means a person licensed under this Act to carry on the business of a foreign employment agency;

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

“private sector undertaking” means any undertaking carried on by an employer in the private sector and includes any undertaking carried on by an individual.

