

THE EMIGRANTS PROTECTION ACT

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Power for the Minister to declare to what country provisions shall apply.
4. No person shall proceed to proclaimed place without permit.
5. Appointment of permit officers.
6. Application to leave Island.
When recruited person shall receive a permit.
7. The Minister may alter repatriation fees.
8. Deposit to be charged with expenses incurred on behalf of distressed person.
9. Registration of recruiting agents.
10. Fees on recruitment.
11. Application of money.
12. Licence to shipping agent.
13. Offences in relation to permits.
14. Offences.
15. Preliminary to booking passengers.
16. Duties of master.
17. Offences by master.
18. Powers of constables.
19. Removal of certain young persons.
20. Permit for young persons.
21. Grant and refusal of permit.
22. Use of void permit an offence.
23. False pretences to obtain permit.
24. Report as to permits granted.
25. Acts for which persons other than recognized shipping agents are liable.
26. Provisions in respect to permits granted.

EMIGRANTS PROTECTION

27. Agreement with foreign country.
28. Moneys to be carried to credit of Consolidated Fund.
29. Minister may make rules, etc.

THE EMIGRANTS PROTECTION ACT

Cap. 113.

[7th January, 1925.]

1. This Act may be cited as the Emigrants Protection Act. Short title.

2. In this Act—

Interpreta-
tion.

“passenger” means any person proceeding by any ship, directly or indirectly, to a declared place; but does not include any person arriving at any port of the Island by ship and proceeding within three months to a proclaimed place;

“permit officer” means any person authorized by the Minister under this Act to grant a permit to a person for the purpose of leaving this Island for a declared place;

“free permit” means a permit in respect of which a deposit by an intending emigrant or a payment by a recruiting agent is not required under this Act;

“recruiting agent” means a person employed in this Island to engage labourers to proceed to a declared place under contract of service;

“recognized shipping agent” means the owner or agent for the owner of any passenger ship who carries on business as a carrier of passengers to declared places at premises licensed by the Commissioner of Police whilst engaged in such business at such premises and includes his clerks and servants employed in such business acting in the course of their employment at such premises.

Power for the Minister to declare to what country provisions shall apply.

3. It shall be lawful for the Minister from time to time to declare, by order, any foreign country or place to be a country or place to which the provisions of this Act shall apply, and in the same manner to revoke any such declaration:

Provided that any proclamation in force issued under the authority of Law 23 of 1902 or any amendment thereof (now repealed), shall continue in operation until either withdrawn or replaced by order issued under the authority of this Act.

No person shall proceed to proclaimed place without permit.

4. From and after the making of any order under this Act and so long thereafter as such order remains unrevoked, no person shall proceed as a passenger from this Island to the place named in such order without a permit granted under the provisions of this Act:

Provided that no permit shall be required in respect of any person who is not a native of or domiciled in this Island.

Appointment of permit officers.

5.—(1) It shall be lawful for the Minister from time to time to appoint some fit and proper person or persons to be a permit officer or permit officers for the purposes of this Act, and to authorize such person or persons to grant a permit to a person for the purpose of leaving this Island for a declared place; unless and until any such appointment is made the Commissioner of Police or other Chief Officer of Constabulary stationed in Kingston shall be a permit officer for the purposes of this Act. It shall also be lawful for the Minister from time to time to remove any permit officer and to appoint some other person in his place.

(2) It shall be lawful for the Minister if he thinks fit to exempt any person or any class or description of persons from the obligation to obtain a permit under this Act.

6.—(1) A person desiring to leave this Island for a declared place shall make application in writing to a permit officer. Application to leave Island.

(2) It shall be lawful for a permit officer forthwith to grant a permit to the applicant if he establishes to the satisfaction of the permit officer—

- (a) that he has already made such declared place his temporary home, or is carrying on business there; or
- (b) that being a native of or domiciled in this Island he is possessed of independent means sufficient to remove all risk of his having to be repatriated at any time at the cost of this Island or that he has deposited the sum of two dollars and fifty cents in the Treasury to cover such risk, or that, if he has been recruited by a recruiting agent, such agent has paid into the Treasury the sum of two dollars and fifty cents and entered into such agreement as is hereinafter mentioned.

(3) If an applicant for a permit, who has deposited the sum of two dollars and fifty cents in the Treasury, is recruited by a recruiting agent who pays into the Treasury in respect of such recruit the sum of two dollars and fifty cents, as he is by this Act required to do, such recruit shall, on application, have repaid to him personally or to his legal personal representative, the sum of two dollars and fifty cents deposited by him in the Treasury, and any permit granted to any such recruit by reason of the deposit by him in the Treasury of the sum of two dollars and fifty cents, shall, on his being recruited as aforesaid, be void, and a new permit shall be obtained by him.

(4) No person recruited by a duly registered recruiting agent shall receive a permit, unless a contract has been entered into between such person and the recruiting agent When recruited person shall receive a permit.

on behalf of his principal, and the form and substance of such contract has been approved by the Minister.

(5) Any such contract shall, *inter alia*, provide—

- (a) that the agent or his principal may not at any time deduct from the wages of the emigrant, or otherwise obtain from him repayment of the sum of two dollars and fifty cents, or any part thereof, paid by the said recruiting agent under the terms of this Act;
- (b) that the contract shall be cognizable before and enforceable in the courts of this Island, or at the place of employment, at the option of the emigrant; and
- (c) that no person shall be at liberty to contract himself out of the provisions of this subsection.

(6) Any such permit as aforesaid shall be in force for one week from the granting thereof.

The Minister may alter repatriation fees.

7. The Minister may, as to any declared place other than the Republic of Panama, from time to time fix and determine such sum in lieu of the sum of two dollars and fifty cents mentioned in section 6 as he may deem sufficient to remove all risk of an emigrant to such declared place having to be repatriated at any time at the cost of this Island. Any sum so fixed shall be published in the *Gazette* and thereupon, as to such declared place, the sum so fixed shall be the sum to be deposited as in section 6.

Deposit to be charged with expenses incurred on behalf of distressed person.

8. If any person who has deposited the sum of two dollars and fifty cents in the Treasury or such other sum as the Minister may have determined, and, without being recruited by a recruiting agent, has received a permit, shall proceed to a declared place, and having become distressed, shall receive any relief from Her Majesty's Consular Officer or

other like authority in such declared place, or shall be sent back to this Island at the expense of this Island, the expenditure so incurred shall be paid out of the sum so deposited in the Treasury by him as aforesaid; and, if the said sum so deposited, or any part thereof, shall not be expended for the purposes aforesaid, the same or any balance thereof, shall be refunded to such person on his return to the Island, or to his legal personal representative in the event of his death, after deducting from such balance any amount which may have been advanced or paid to his family (wife or children), or for the maintenance of any person to whose maintenance he is legally liable to contribute during his absence from the Island, out of the funds of his parish.

9.—(1) No person shall act as a recruiting agent within this Island unless registered under this Act as a person entitled so to act. Registration of recruiting agents.

(2) A register of all persons entitled to act as aforesaid shall be kept at the headquarters of the Constabulary in Kingston.

(3) Any person desirous of being registered as aforesaid shall pay into the Treasury the sum of ten dollars, and shall procure a receipt for the same. He shall then apply to the Commissioner of Police to be registered, and the Commissioner shall, on view of such receipt, and on the production of satisfactory evidence to show that such person is duly authorized by some person or body of persons to bind him or them by his contract for service, and on the applicant entering into a bond to Her Majesty the Queen, with two good sufficient sureties, in the penal sum of one thousand dollars, conditioned on the true observance on the part of the employer, on behalf of whom such person is authorized to act, of all the terms and conditions of any contract of service entered into by him on such behalf, enter in such

register as aforesaid the name of such person as is authorized to act as a recruiting agent on behalf of such employer as aforesaid:

Provided that the Minister may in his discretion at any time cancel the registration of any person as a recruiting agent, or direct that a recruiting agent shall be registered as such under this Act, notwithstanding that his application to be registered has been refused.

(4) Such registration shall continue for twelve months:

Provided that at the end of such time the person registered shall be entitled to be again registered on the same conditions being complied with as are provided in the case of a first application.

Fees on
recruitment.

10. Every recruiting agent shall pay a sum of two dollars and fifty cents into the Treasury in respect of every person engaged by him or on his behalf, to proceed to a declared place under contract of service.

Application
of money.

11. The moneys arising from the payment by recruiting agents of the sum of two dollars and fifty cents in respect of each labourer recruited under this Act shall be paid into the Consolidated Fund. The recruiting agent shall not, nor shall any person recruited have any interest in these moneys.

Licence to
shipping
agent.

12.—(1) The Commissioner of Police may subject to such conditions as he may prescribe grant a licence in writing under his hand to a shipping agent to carry on business in respect of premises to be named in the licence as a carrier of passengers to declared places.

(2) The Commissioner of Police may, with the approval of the Minister, revoke any licence granted under

this section without assigning any reason for such revocation.

(3) No fee or stamp duty shall be chargeable in respect of any licence under this section.

13. Any person who shall attempt to proceed without a permit as a passenger to any declared place, or who shall obtain or attempt to obtain a permit as aforesaid, either for himself or for any other person by any false pretence, or shall use or attempt to use for the purpose of proceeding to any declared place any permit granted to any other person shall be guilty of an offence, and shall, on summary conviction, be imprisoned, with or without hard labour, for a term not exceeding three months.

Offences in relation to permits.

14. The following persons shall be guilty of an offence against this Act, and be liable on summary conviction to forfeit and pay a penalty not exceeding one hundred dollars in respect of each offence, that is to say—

Offences.

- (a) any person who, not being registered as a recruiting agent, shall engage, agree with, procure, cause, induce, or attempt to engage, agree with, procure, or induce labourers to proceed to a declared place under contract of service, or otherwise, or to leave any place in Jamaica with a view to proceeding to a declared place;
- (b) any person who, by means of intoxication, coercion or fraud, causes, or induces, or attempts to cause or induce any labourer to emigrate to a declared place, or to enter into any agreement to so emigrate, or to leave any place with a view to emigrating;
- (c) any recruiting agent who shall employ or otherwise authorize any person or persons to engage, agree with, procure or induce labourers to proceed

to a declared place, or who shall give any remuneration or reward to any person who has acted in any of the ways aforesaid;

- (d) any recruiting agent who shall make, or agree to any variation of the contract approved by the Minister;
- (e) any person who, with a view to facilitate the emigration of any labourer, shall supply him with the money required to be deposited in the Treasury by an applicant, in order to obtain a permit, or any other sum of money;
- (f) any person who shall make any promise, or give any undertaking, verbal or otherwise, to any labourer to the effect that if he proceeds to a declared place, he will be given work :

Provided always that no prosecution shall be instituted under this section without the *fiat* of the Director of Public Prosecutions.

Preliminary
to booking
passengers.

15. Subject to the provisions of this Act no recognized shipping agent shall receive or book any passenger to a declared place, who does not produce and leave with him a permit duly signed by an Inspector or permit officer as herein provided, and any shipping agent or other person as aforesaid, booking or receiving a passenger, shall sign and deliver to such passenger a receipt for such permit. Every recognized shipping agent who shall book any person as aforesaid without such person producing or giving up a permit to the person named therein to proceed to the declared place named therein, shall be guilty of an offence, and shall, on a summary conviction thereof forfeit and pay a penalty not exceeding ten dollars.

Duties of
master.

16.—(1) Subject to the provisions of this Act, the master of any ship or vessel bound, either directly or in-

directly, for any port in a declared place, shall not receive or have on board as a passenger, any person who is not furnished with a permit under this Act.

(2) Every such master as aforesaid shall, on demand made by any Superintendent or Assistant Superintendent of Constabulary, or by any constable deputed by any such Superintendent or Assistant Superintendent, in writing for the purpose, furnish such Superintendent or Assistant Superintendent or constable deputed as aforesaid, with a complete list of all passengers going by such ship, giving the names of all such passengers and the places to which they have respectively taken passages. If after furnishing such list, any other person is taken on board such ship as a passenger by such ship, the master shall without any request made, furnish the local Superintendent or Assistant Superintendent of Constabulary with the name of such person, and the place to which he has taken passage.

When any demand as aforesaid has been made, any officer of Customs shall be entitled to refuse a clearance to the ship on the master of which such demand has been made, unless such master has complied with such demand, and further satisfies such officer of Customs either that he has no passenger on board whose name was not included in the list furnished in compliance with such demand or else that he has furnished the name and destination of any such person to the local Superintendent or Assistant Superintendent of Constabulary.

17. The master of any ship or vessel as aforesaid, on whom any such demand has been made as aforesaid, who shall clear out of any port or harbour of this Island having on board any passenger whose name has not been either included in the list furnished as aforesaid, or furnished to the local Superintendent or Assistant Superintendent of Constabulary as aforesaid, or the place of whose destination has not been truly stated as aforesaid, or who after

Offences by
master.

receiving a clearance shall take on board any passenger whose name has not been included in the list or furnished as aforesaid, shall be guilty of an offence, and shall, on summary conviction, forfeit and pay a sum not exceeding twenty dollars.

Powers of
constables.

18. It shall be lawful for the Superintendent or Assistant Superintendent of Constabulary at any port, or any constable authorized by him in writing, to go on board any ship or vessel bound, either directly or indirectly, for any port in any declared place, and require the master to produce to him any passenger on board such ship who has taken passage from Jamaica, and any such master who shall wilfully fail to comply with such requisition shall be guilty of an offence, and shall on summary conviction thereof, forfeit and pay a sum not exceeding ten dollars. It shall also be lawful for the said officer or constable to search such ship for and if found to cause to be removed from any such ship, any passenger to a declared place, who shall not have been furnished with a permit under the provisions of this Act.

Removal of
certain
young
persons.

19. It shall be lawful for the said officer or constable to cause to be removed from any such ship any young person who in his judgment is under sixteen years of age, and who is not shown to his satisfaction to be either—

- (a) one of the ship's crew;
- (b) a passenger from some place beyond the limits of the Island;
- (c) *bona fide* bound for some country or place not being one to which the provisions of this Act apply; or
- (d) furnished with a permit under the provisions of this Act.

20. It shall not be lawful for any person under the age of sixteen years, at any port or place in this Island to embark on any ship bound for any country or place to which the provisions of this Act apply, with a view to going to such country or place, without a permit from the principal officer of Constabulary at the port of embarkation.

Permit for young persons.

21. Such officer shall grant such permit, without fee or reward, when he is satisfied that such person is going to such country or place—

Grant and refusal of permit.

- (a) accompanied by his lawful parents or guardians;
- (b) to rejoin his lawful parents or guardians; or
- (c) consigned to the care of responsible relatives.

In all other cases he shall refuse the said permit:

Provided that such officer may with the approval of the Minister refuse the said permit in any case coming within paragraphs (a), (b) or (c) if such officer has reason to believe that such person is a Commonwealth citizen and has reason to suspect that such person may after arriving at such country or place be removed from the care of his lawful parents or guardians or responsible relatives and that such removal would not be in the best interests of such person.

22. Any person who shall attempt to proceed as a passenger to any declared place with a permit which has become void, shall be guilty of an offence, and shall on summary conviction, be imprisoned with or without hard labour, for a term not exceeding three months.

Use of void permit an offence.

23. Any person who shall obtain or attempt to obtain a permit as aforesaid, either for himself or for any other person, by any false pretence, shall be guilty of a misdemeanour, and shall on conviction thereof be imprisoned with or without hard labour, for a term not exceeding twelve calendar months.

False pretences to obtain permit.

Report as to permits granted.

24. Any officer of Constabulary granting any permit as aforesaid shall furnish the Minister with particulars of the same, showing—

- (a) the name of the person to whom it was granted;
- (b) the destination of such person;
- (c) the circumstances under which the permit was granted.

Acts for which persons other than recognized shipping agents are liable.

25.—(1) No person who is not a recognized shipping agent shall either directly or indirectly, by himself, or any other person on behalf of himself or any other person—

- (a) book any passages; or
- (b) sell, procure, obtain or engage any ticket for a passage; or
- (c) make or be concerned in any bargain, agreement or contract to book any passage or to sell, procure, obtain or engage any ticket for a passage,

for, to, with or on behalf of any person to proceed to a declared place.

(2) Any person who acts, or aids, or assists any person in acting in contravention of this section shall on summary conviction be liable either to a penalty not exceeding one hundred dollars or to imprisonment with or without hard labour for a term not exceeding six months, or to both such penalty and imprisonment.

(3) Any person who accepts or receives any benefit or consideration whatsoever in respect of advising or assisting any person with regard to obtaining, booking or procuring a passage to, or obtaining or procuring a passport or permit for a declared place shall be liable on summary conviction either to a penalty not exceeding forty dollars or to imprisonment with or without hard labour for a term not exceeding three months, or to both such penalty and imprisonment.

26.—(1) Where permits are granted under this Act the following provisions shall apply—

Provisions
in respect
to permits
granted.

- (a) there shall be paid the sum of twenty cents in respect of every free permit;
- (b) there shall be deducted the sum of twenty cents from every deposit made by an intending emigrant under this Act;
- (c) there shall be appropriated the sum of ten cents out of the amount paid by a recruiting agent into the Treasury in respect of every person engaged by him or on his behalf to proceed to a declared place under a contract of service in pursuance of this Act.

(2) Each amount of twenty cents paid or deducted in pursuance of paragraphs (a) and (b) of subsection (1) shall be paid into the Consolidated Fund; ten cents shall be deemed a fee in respect of the permit, and ten cents shall be appropriated as a contribution towards the costs and expenses of such Commonwealth Consulates in declared places as the Minister may think fit.

(3) The amount of ten cents mentioned in paragraph (c) of subsection (1) shall be appropriated as a contribution towards the costs and expenses of such Commonwealth Consulates in declared places as the Minister may think fit.

27. Anything in this Act to the contrary notwithstanding, it shall be lawful for the Minister on behalf of the Government, to make any agreement, which to him may seem advisable, with a foreign Government, or with any person, in connection with the recruiting or engagement of labourers from Jamaica to proceed to work at some place outside the Island:

Agreement
with foreign
country.

Provided always, that such agreement shall be published twice in the *Gazette* and in two local newspapers, and shall be submitted for the approval of the Senate and of the House of Representatives to be signified by a resolution thereof, before the same shall take effect under this Act. When the said agreement has been published and approved as aforesaid, it shall have the force of law, as if its terms had been herein enacted, and that notwithstanding the effect may be for the time being to suspend or alter any provision of this Act.

Moneys to be carried to credit of Consolidated Fund.

28. All moneys coming into the hands of the Accountant-General under this Act shall be paid into the Consolidated Fund :

Provided always, however, that the sum of fifty thousand dollars shall be invested by the Accountant-General in such securities as the Minister shall from time to time approve and be always kept available as a fund for the repayment of such expenses as may from time to time be incurred in repatriating or otherwise relieving natives of or persons domiciled in any place outside of this Island, as also in making any repayments that may have to be made under the provisions of section 8.

Minister may make rules, etc.

29. The Minister may make rules and prescribe forms for carrying into effect the provisions of this Act.