

CHAPTER 159

INDIAN IMMIGRANT LABOUR

Ordinances AN ORDINANCE TO AMEND THE LAW RELATING TO INDIAN IMMIGRANT LABOURERS.
 No's. 1 of 1923,
 26 of 1937,
 44 of 1942,
 22 of 1945,
 Act
 No. 9 of 1966.

[11 th April, 1923.]

Short title. 1. This Ordinance may be cited as the Indian Immigrant Labour Ordinance.

Construction. 2. This Ordinance shall, so far as is consistent with the tenor thereof, be read and construed as one with the Service Contracts Ordinance and the Estate Labour (Indian) Ordinance.

DEPARTMENT OF INDIAN IMMIGRANT LABOUR

Appointment of Commissioner of Labour and officers. 3. There may be appointed a Commissioner of Labour and also such Deputy Commissioners, medical officers, inspectors, assistant inspectors, and other officers as may be necessary for carrying out the provisions of this Ordinance, and such officers shall be deemed to be public servants within the meaning of the term as used in the Penal Code.

Commissioner to be head of department. 4. The Commissioner shall be head of the department of Labour, and shall be entrusted with the duty of carrying out the provisions of this or any other Ordinance relating to Indian immigrant labourers, and the measures adopted for the encouragement of the introduction of such immigrant labourers into Sri Lanka.

Annual report by Commissioner. 5. The Commissioner shall, not later than the thirty-first day of March in each year, present a report to the Minister dealing generally with the carrying out of the provisions of this Ordinance and dealing specially with such matters as he may consider to be worthy of particular attention, or as he may be directed to report upon by the general or specific instructions of the Minister.

6. There may be appointed an Emigration Commissioner for the purpose of supervising and controlling the recruitment of unskilled labourers in India with a view to their emigration to Sri Lanka.

Appointment of Emigration Commissioner.

7. (1) The Commissioner or any Deputy Commissioner, medical officer, inspector, or assistant inspector may at all reasonable times, with or without notice, enter upon any premises on which Indian immigrant labourers may be employed and inspect the condition—

Inspection.

- (a) of such labourers ;
- (b) of their housing accommodation; and
- (c) of the means provided for the medical treatment of such labourers.

(2) Any person refusing to allow the Commissioner, or any such Deputy Commissioner, medical officer, inspector, or assistant inspector, to enter and inspect as aforesaid, or hindering, molesting, or obstructing the Commissioner, or any such Deputy Commissioner, medical officer, inspector, or assistant inspector in or about any such entry or inspection, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

8. If the Government of India appoints any agent for the purpose of safeguarding the interests of Indian immigrant labourers in Sri Lanka, such agent shall have the

Agent of Government of India

powers conferred upon the officers mentioned in section 7 of this Ordinance, as if he had been expressly named therein, and may exercise all the other powers conferred upon him by this Ordinance, or any regulations made thereunder.

Board of Indian Immigrant Labour.

9. (1) The Minister may appoint any number of persons, not less than nine and not exceeding twelve, two of whom shall be selected from among Members of Parliament, to be members of the Board of Indian Immigrant Labour.

(2) Each such appointment shall be for a period not exceeding three years, except that in the case of a member who is a Member of Parliament, he shall vacate his seat on the board on his ceasing to be a Member of Parliament.

(3) Any member shall be eligible for reappointment.

(4) Any member may resign by notice in writing given to the Commissioner of Labour.

(5) The Commissioner shall be *ex officio* chairman of the board.

Meetings and duties of board.

10. (1) The board shall meet at such place as may be prescribed at least once in every quarter.

(2) The Commissioner may at any time summon a meeting of the board ; and on a requisition signed by any five members, it shall be his duty to summon a meeting of the board.

(3) The duty of the board shall be to advise the Commissioner in regard to matters arising under this Ordinance, but the board shall not exercise any administrative or executive functions.

FINANCE

Establishment of immigration Fund.

11. (1) For the purposes of this Ordinance there shall be established a fund, to be called "The Immigration Fund", which shall be administered by the Commissioner.

(2) As soon as may be after the termination of each quarter, a financial

statement showing the position of the Fund shall be submitted by the Commissioner to the board for their information.

12. The Fund shall be credited with—

Formation of Fund.

(a) the surplus balance of the Tin Ticket Fund existing at the date on which the Immigration Fund shall come into operation;

(b) all fees received or recovered under the provisions of this Ordinance from employers in respect of the recruitment or employment of Indian immigrant labourers; and

(c) any moneys provided by Parliament in aid of immigration from India.

13. (1) The Fund shall be debited, save as is expressly provided under this Ordinance, with the whole cost of recruiting and introducing Indian immigrant labourers into Sri Lanka, and with the expenses of the department in carrying out the provisions of this Ordinance, and particularly, but without detracting from the general liability imposed by this section, with the cost of—

Charges on Fund

(a) the recruitment of Indian immigrant labourers;

(b) the payment of any prescribed allowances to such labourers in the prescribed manner;

(c) the accommodation, subsistence, and transportation of such labourers, and their reception by the employer to whom they have been allotted ;

(d) the payment of any fees or charges imposed by the Government of India in respect of any persons emigrating from India;

(e) the repatriation of such labourers and their dependants as hereinafter provided;

(f) any prescribed allowance payable to any employer in respect of each such labourer recruited directly on his behalf by any licensed recruiter;

(g) the salary of the Emigration Commissioner and of all persons employed under him for the purpose of supervising and controlling the recruitment of labourers, and the expenses attendant upon such supervision and control;

(h) the payment of contributions to any provident fund or to any scheme for the grant of pensions or gratuities established for the benefit of those persons mentioned in paragraph (g) who, in addition to their salaries, receive no regular remuneration or allowance from any source other than the Fund in respect of any services rendered or duties performed in any matter relating to Indian immigrant labourers or incidental to the recruitment of such labourers;

(i) the payment of gratuities to persons who are proved to the satisfaction of the Commissioner to have received salaries from the Tin Ticket Fund during any period preceding the 11th day of April, 1923, and to have been employed in the service of the Government of Sri Lanka during any period commencing on that day;

[§ 2, 9 of 1966.]

(j) the payment in whole or in part as is determined by the Commissioner, of rent of buildings rented out by him for work in connexion with Indian immigrant labour and the payments for electricity consumed in such buildings and sanitary rates;

[§ 2, 9 of 1966.]

(k) stationery, office furniture and such other equipment as are considered necessary by the Commissioner for the proper working of the various sections of the department for work in connexion with Indian immigrant labour.

(2) The Fund shall not be debited with the salaries and allowances, if any, of the Commissioner and other officers of the department of Labour, but such salaries and allowances shall be paid out of moneys provided by Parliament.

(3) Nothing in paragraph (i) of subsection (1) shall be deemed to authorize the payment of a gratuity to any person except upon his retirement from the service of the Government of Sri Lanka and except in respect of the period during which he is proved to the satisfaction of the Commissioner to have been paid a salary from the Tin Ticket Fund.

In every case where a gratuity is to be paid to any person under paragraph (i) of subsection (1), the amount of the gratuity shall be fixed by the Minister.

14. (1) Every employer shall pay to the Commissioner, for the purposes of the Immigration Fund, such fees in respect of the recruitment or employment of Indian immigrant labourers as may be prescribed by regulations made by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Fees payable by employers.

(2) The amount of such fees shall be ascertained in the prescribed manner, and payment thereof shall be made at the prescribed times, and may be enforced by seizure and sale in the prescribed manner.

(3) All such regulations shall be laid, as soon as conveniently may be, before Parliament, and may at any time within forty days after the date of their being so laid before Parliament, or at any of the three meetings of Parliament next succeeding such date, by resolution of Parliament, be disallowed, amended, or otherwise dealt with as may be directed by the said resolution, but without prejudice to anything that may have been done thereunder.

15. Where any fees in respect of any Indian immigrant labourer for which, under the provisions of this Ordinance, any employer is liable shall remain unpaid for a period of one month after they shall have become payable, the employer shall be subject to a penalty at the rate of ten *per centum* on the amount of such fees, to be paid and recovered together with such fees.

Penalty for "non-payment of fees."

RECRUITING

16. (1) The Emigration Commissioner may in his absolute discretion, from time to time, issue licences to fit and proper persons entitling them to act as emigration agents

Licences to recruit.

for the purpose of assisting Indian immigrant labourers to emigrate to Sri Lanka, and all such agents shall be responsible to, and subject to the orders of, the Emigration Commissioner.

(2) There may be endorsed on the licence such conditions as may be prescribed.

(3) Such licences may be withdrawn by the Emigration Commissioner at his absolute discretion at any time.

Application to Commissioner for labourers.

17. (1) Any person who desires to obtain Indian immigrant labourers may send in to the Commissioner an application in the prescribed form specifying the number of labourers he requires.

(2) The Commissioner may in his discretion refuse to accept any such application, or may accept the same, subject to such conditions as he may impose.

INTRODUCTION OF LABOURERS INTO SRI LANKA

On entry into territorial waters Commissioner to take charge of immigrant labourers.

18. (1) Immediately upon the entry into territorial waters of any vessel containing Indian immigrant labourers, such labourers shall come, and thenceforward, until they shall have reached their place of employment, remain under the care and protection of the Commissioner and of the officers of his department appointed by him for the purpose.

(2) Any person who molests or interferes, or attempts to molest or interfere, with any such labourer, or induces or attempts to induce any such labourer to withdraw himself from the care or protection of the Commissioner, or of any of such officers, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

Recruitment, transport, &c., of Indian immigrant labourers to be free of charge to labourers.

19. All expenses in respect of the recruitment, accommodation, subsistence, and transport of Indian immigrant labourers shall be paid out of the Immigration Fund, and it shall be the duty of the Commissioner to make all necessary and proper arrangements, free of charge to

the labourer, for his reception by his employer.

GENERAL

20. No contract of service between an employer and an Indian immigrant labourer shall be deemed to be for a period longer than one month from the making of such contract, and any contract of service entered into before such immigrant labourer leaves India for any longer period shall be void and of no effect whatsoever.

No contracts of hire to be for longer than one month.

21. No payment made in India by any recruiter to any person intending to emigrate from India to Sri Lanka to enable such person to pay off any debt before emigrating shall be recoverable in any court in Sri Lanka.

Advances by recruiters to immigrant labourers not recoverable.

22. (1) If the agent referred to in section 8 of this Ordinance shall, at any time within one year of the arrival in Sri Lanka of an Indian immigrant labourer who has been assisted to come to Sri Lanka at the cost of the Fund referred to in section 11, be satisfied that the return of such immigrant labourer to his home is desirable, either on the ground of the state of his health, or on the ground that the work which he is required to do is unsuitable to his capacity, or that he has been unjustly treated by his employer, or for any other sufficient reason, such immigrant labourer shall be repatriated, free of cost, to the place of recruitment, and the cost of so repatriating him shall be payable out of the said Fund.

Repatriation of Indian immigrant laborers

(2) If no such agent is appointed, the Commissioner shall perform the duties and exercise the powers conferred upon the agent under this section.

23. The Minister may make regulations for all purposes connected with the carrying out of the provisions of this Ordinance, and all such regulations shall, after publication in the Gazette, be as valid and have the same effect as if they had been contained in this Ordinance.

Minister may make regulations.

24. (1) In this Ordinance, unless the Interpretation context otherwise requires—

"Commissioner" means the Commissioner of Labour appointed under this Ordinance, and includes a Deputy Commissioner to the extent to which he is, by the authority of the Commissioner, empowered to exercise or perform any of the powers and duties of the Commissioner under this Ordinance;

"dependant" means any woman or child who is related to an Indian immigrant, or any aged or incapacitated relative of an immigrant;

"employer" means the proprietor of an estate and any person who employs any Indian immigrant labourer and includes the agent, superintendent, or manager of any such proprietor or person;

"Indian immigrant" means any Indian who emigrates or has emigrated to Sri Lanka, and includes any dependant of an immigrant;

"Indian immigrant labourer" means—

(a) any Indian immigrant who comes to Sri Lanka under an agreement to perform unskilled work for hire in Sri Lanka;

(b) any Indian immigrant who is assisted to come to Sri Lanka otherwise than by a relative, if he comes for the purpose or with the intention of performing unskilled work for hire in Sri Lanka;

"introduce", "introduced", "introduction", with reference to the immigration into Sri Lanka of an Indian immigrant labourer, means the bringing in of such labourer with a view to his being employed in unskilled work in Sri Lanka;

"unskilled work" includes engaging in agriculture, whether as a *kangany*, *sub-kangany*, or labourer ;

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether—

(a) any person is an immigrant; or

(b) any work is unskilled ; or

(c) any person has been assisted otherwise than by a relative,

within the meaning of this Ordinance, the question shall be determined by the Commissioner, and such determination shall be final.