

PARLIAMENT OF CEYLON

3rd Session, 1954-55



Immigrants and Emigrants (Amendment)

Act, No. 16 of 1955

Date of Assent : April 14, 1955

Printed on the Orders of Government

Printed at the GOVERNMENT PRESS, CEYLON. To be purchased at the GOVERNMENT PUBLICATIONS BUREAU, COLOMBO. Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, POST OFFICE BOX 500, Secretariat, Colombo 1.

Price : 55 cents.

Postage : 20 cents.

L. D.—O. 38/52.

AN ACT TO AMEND THE IMMIGRANTS AND EMIGRANTS
ACT, NO. 20 OF 1948.

[Date of Assent: April 14, 1955]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Immigrants and Emigrants (Amendment) Act, No. 16 of 1955, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. Section 2 of the Immigrants and Emigrants Act, No. 20 of 1948, (hereinafter referred to as the "principal enactment"), is hereby amended, in subsection (1) of that section, by the insertion immediately after paragraph (c), of the following new paragraphs:—

Amendment
of section 2 (1)
of Act, No. 20
of 1948.

" (ca) is any expert, adviser, technician, or official whose salary or principal emolument is not payable by the Government of Ceylon and who is brought to Ceylon by the Government of Ceylon through any Specialised Agency of the United Nations Organisation, or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organisation (including its Technical Assistance Bureau), or any similar organisation approved by the Minister; or

(cb) is any trainee from abroad who is sent to Ceylon under any of the Technical Co-operation Programmes of the United Nations Organisation and its Specialised Agencies or of the Colombo Plan Organisation, or of any similar organisation approved by the Minister; or "

3. Section 6 of the principal enactment is hereby amended, by the substitution, for "section 31", of "section 2 or section 31 or section 48".

Amendment of
section 6 of
the principal
enactment.

4 *Immigrants and Emigrants (Amendment)*
Act, No. 16 of 1955

Amendment of
section 10
of the
principal
enactment.

4. Section 10 of the principal enactment is hereby amended, by the substitution, for paragraph (b) of that section, of the following new paragraph:—

“(b) if so required by regulations made under this Act, a *visa* granted to him under such regulations.”.

Amendment of
section 11
of the
principal
enactment.

5. Section 11 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the words “ *visa*, a permanent residence permit or temporary residence permit ”, of the word “ *visa* ”; and

(2) in sub-sections (2) and (3) of that section, by the substitution, for the words “ endorsement, *visa*, permanent residence permit or temporary residence permit ”, wherever those words collectively occur therein, of the words “ endorsement or *visa* ”.

Amendment of
section 13
of the
principal
enactment.

6. Section 13 of the principal enactment is hereby amended, in paragraph (c) of sub-section (2) of that section, by the substitution, for the words “ *visa*, permanent residence permit or temporary residence permit,” of the word “ *visa*,”.

Replacement
of section
14 of the
principal
enactment.

7. (1) Section 14 of the principal enactment is hereby repealed, and the following new section substituted therefor:—

“ Require-
ments as to
visa.”

14. (1) A *visa* may be granted by the prescribed authority for such period, not exceeding two years, as may be specified in the *visa*.

(2) A *visa* may, with the approval of the Minister, be granted by the prescribed authority for such period, exceeding two years but not exceeding five years, as may be specified in the *visa*.

(3) The period specified in any *visa* may be extended by the prescribed authority from time to time, for such period and subject to such conditions as may be prescribed, upon application made to that authority in that behalf. Where the authority which granted the *visa* obtained, by reason of sub-section (2) of this section, the approval of the Minister before making the grant, such

authority shall before extending the *visa* obtain in like manner the approval of the Minister.

(4) The fact that a person is in Ceylon for the time being shall not prevent or be construed to prevent the grant or issue in his case of a *visa* or endorsement, or the extension in his case of the period specified in such *visa* or endorsement."

(2) Sub-section (4) of section 14 of the principal enactment shall be deemed to have been included in that section on the date on which that enactment came into operation; and accordingly, any *visa* or endorsement heretofore granted or issued under that enactment, and any extension of the period specified in any such *visa* or endorsement, shall be deemed for all purposes to have been and to be as valid and effectual as though the provisions of the aforesaid sub-section (4) were in force on and after the date aforesaid.

(3) The fact that a person was in Ceylon for the time being shall not affect the validity of any permanent residence permit or temporary residence permit granted or issued before the date on which this Act came into operation or any extension of such permit allowed before such date.

8. Section 15 of the principal enactment is hereby amended as follows:—

Amendment of
section 15
of the
principal
enactment.

(1) in paragraph (a) of that section, by the substitution, for the words "*visa*, permanent residence permit or temporary residence permit," of the word "*visa*,";

(2) by the substitution, for paragraph (b), of the following new paragraph:—

"(b) if he is the holder of any *visa*, remain in Ceylon after the expiry of the period for which he is authorised to remain in Ceylon by that *visa* or by virtue of any extension of that *visa*; or";

(3) by the insertion, immediately after paragraph (b) of that section, of the following new paragraph:—

"(c) if his entry into Ceylon is in contravention of the provisions of section 9 or section 10, remain in Ceylon."; and

- (4) by the substitution, for the marginal note to that section, of the following marginal note:—

“ Stay in Ceylon
of persons to
whom this Part
applies.”.

Amendment of
section 16
of the
principal
enactment.

9. Section 16 of the principal enactment is hereby amended as follows:—

- (1) in paragraph (a) of that section, by the substitution, for the words “ *visa*, permanent residence permit or temporary residence permit,”, of the word “ *visa*, ”; and
(2) by the substitution, for paragraph (b) of that section, of the following new paragraph:—

“ (b) if he is the holder of any such *visa*, comply, so long as he remains in Ceylon, with the terms and conditions of the *visa*.”.

Amendment of
section 17
of the
principal
enactment.

10. Section 17 of the principal enactment is hereby amended, by the substitution for the words “ endorsement, *visa*, permanent residence permit or temporary residence permit ”, of the words “ endorsement or *visa* ”.

Amendment of
heading in
Part III
of the
principal
enactment.

11. Part III of the principal enactment is hereby amended, in the heading, immediately before section 21, of that enactment, by the substitution, for the words “ persons to whom endorsements are refused.”, of the words “ certain persons.”.

Amendment of
section 21
of the
principal
enactment.

12. Section 21 of the principal enactment is hereby amended as follows:—

- (1) in sub-section (1) of that section, by the substitution, for the words “ that officer.”, of the words “ that officer, or any person who enters Ceylon from that ship in contravention of the provisions of section 10.”;
(2) by the repeal of sub-section (2) of that section and the substitution therefor, of the following new sub-section:—

“ (2) Where a person to whom this Part applies is refused an endorsement by an authorised officer or where a person enters Ceylon in contravention of the provisions of section 10, he may be

temporarily detained in such manner and in such place as may be specified in any general or special directions of the Minister, if such person cannot for any reason be detained on board the ship by which he travelled to Ceylon or that ship has left Ceylon.”; and

- (3) by the substitution, for the marginal note to that section, of the following marginal note:—

“ Detention of
certain
persons.”.

13. Section 22 of the principal enactment is hereby amended as follows:—

Amendment of
section 22
of the
principal
enactment.

- (1) in sub-section (1) of that section, by the substitution, for the word “endorsement,”, of the words “endorsement, or who enters Ceylon in contravention of the provisions of section 10,”;

- (2) by the substitution, for sub-section (2) of that section, of the following new sub-section:—

“ (2) The master of any ship who knowingly allows any person to whom this Part applies and who has been refused an endorsement, to enter Ceylon in contravention of the provisions of this Act, or who knowingly allows any person to enter Ceylon from that ship in contravention of the provisions of section 10, or refuses to receive any such person on board his ship, or neglects to take reasonable measures to keep any such person on board his ship or in some place approved by an authorised officer, shall be guilty of an offence under this Act, and shall on conviction be liable to a fine not exceeding five thousand rupees.

Where the whole or any part of a fine imposed on the master of a ship under this section remains unpaid within seven days from the date of the imposition of the fine, the court which imposed the fine may direct the amount remaining unpaid to be levied by the distress and sale of the ship.”;

(3) in sub-section (4) of that section, by the substitution, for the word "Ceylon", of the words "Ceylon or from which a person enters Ceylon in contravention of the provisions of section 10";

(4) by the insertion, immediately after sub-section (4), of the following new sub-section:—

"(5) The master, the owner and the agent of the owner of any ship shall be jointly and severally liable to pay to the Government all costs and charges incurred by the Government in respect of any transit passenger of that ship who fails to rejoin the ship when the ship leaves Ceylon."; and

(5) by the substitution, for the marginal note to that section, of the following new marginal note:—

"Removal from Ceylon of certain persons."

Amendment of
section 23
of the
principal
enactment.

14. (1) Section 23 of the principal enactment is hereby amended as follows:—

(i) in paragraph (b) of that section, by the substitution, for the words "variation, amendment or cancellation of any such terms and conditions," of the words "cancellation, variation, or amendment of such endorsements or of any terms or conditions specified therein,";

(ii) in paragraph (c) of that section, by the substitution, for the words "visa, permanent residence permit or temporary residence permit," of the word "visa,";

(iii) by the substitution, for paragraph (d) of that section, of the following new paragraph:—

"(d) the making of applications for such visas, the form of such applications, the documents, including photographs, to be attached to such applications, and the particulars to be entered therein,";

(iv) in paragraphs (e), (f) and (i) of that section, by the substitution, for the words "visas or permits", wherever those words collectively occur therein, of the word "visas";

(v) by the substitution, for paragraph (g) of that section, of the following new paragraph:—

“(g) the furnishing, as a condition precedent to the grant or issue of such *visas* to any persons, of security, the manner in which such security shall be furnished, whether by deposit of money or by hypothecation of immovable property or otherwise and the forfeiture of the whole or part of such security;”;

(vi) by the substitution, for paragraph (h) of that section, of the following new paragraph:—

“(h) the terms and conditions subject to which such *visas* may be granted or issued (including such terms and conditions as the Minister may deem necessary in the public interest), the cancellation, variation or amendment of such *visas* or of any terms or conditions specified therein, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances;” and

(vii) by the substitution, for paragraph (j) of that section, of the following new paragraph:—

“(j) the imposition, recovery and disposal of fees in respect of the grant or issue of such *visas*, the exemption in the prescribed circumstances of persons from the payment of such fees and the refund of such fees in those circumstances;”.

(2) Regulations may be made for the purpose of the forfeiture of the whole or part of any security furnished for the grant of any *visa* or permit issued before the date on which this Act comes into operation and in force after that date, and for the purpose of the cancellation or variation of such *visa* or permit in like manner as regulations may be made for those purposes in relation to *visas* issued after the aforesaid date.

Amendment of
section 28
of the
principal
enactment.

15. (1) Section 28 of the principal enactment is hereby amended as follows:—

(a) in sub-section (1)—

(i) by the substitution, in paragraph (b), for the words “ endorsement, *visa*, permanent residence permit or temporary residence permit ”, of the words “ endorsement or *visa* ”; and

(ii) by the substitution, for the words from “ direct that such person ”, to the end of that sub-section, of the following :—

“ direct a prescribed officer to arrest, detain and take on board a ship a person so convicted and may further direct by that Order or by any subsequent Order that the master of that ship shall remove such person from Ceylon. ”;

(b) by the insertion immediately after sub-section (1), of the following new sub-section:—

“ (1A) Where the Minister is satisfied that a person to whom this Part applies—

(a) enters or remains in Ceylon in contravention of any provision of Part III or of any regulation made by virtue of the powers conferred by that Part ; or

(b) has had his *visa* or endorsement cancelled; or

(c) has over-stayed the period specified in the *visa* or endorsement,

the Minister may by Order, direct a prescribed officer to arrest, detain and take on board a ship such person and may further direct by that Order, or by any subsequent Order that the master of that ship shall remove from Ceylon such person. ”;

(c) in sub-section (3), by the substitution, for the word and figure “ sub-section (1). ”, of the words “ this section. ” ; and

(d) by the insertion immediately after sub-section (3), of the following new sub-sections:—

“(4) Any Order made under this section shall be final and shall not be contested in any court.

(5) Where the master of a ship has been directed by any Order under this section to remove a person specified in that Order from Ceylon and that master fails so to do, he shall be guilty of an offence under this Act and shall on conviction be liable to the punishment specified in section 45.

Where the punishment imposed on the master of a ship for the said offence consists of or includes a fine and the whole or part of the fine remains unpaid within seven days from the date of the imposition of the fine, the court which imposed the fine may direct the amount remaining unpaid to be levied by the distress and sale of the ship.

(6) Where proceedings have been instituted in a court against the master of a ship for an offence under sub-section (5), clearance outwards of the ship may be refused until the conclusion of such proceedings or until the fine, if any, imposed by the court has been paid.”.

(2) The provisions of sub-section (1A) of this section shall apply to the holder of a permanent residence permit or temporary residence permit (whether such permit is in force or not) on the date on which this Act comes into operation in like manner as those provisions apply to a person to whom a *visa* or endorsement is granted, and accordingly an Order under that sub-section may be made in relation to such holder.

Any other provisions of this Part applicable to an Order under sub-section (1A) shall apply to an Order made in relation to such holder.

16. Section 29 of the principal enactment is hereby amended, by the substitution, for the words “removal Order”, of the words and figure “removal Order or any Order under sub-section (1A)”.

Amendment of
section 29
of the
principal
enactment.

Amendment of
section 31
of the
principal
enactment.

17. Section 31 of the principal enactment is hereby amended, by the insertion, immediately after sub-section (5), of the following new sub-section:—

“(6) Any powers conferred by an Order made by the Minister under this section may be exercised, in relation to any person, notwithstanding that such person is serving a sentence of imprisonment imposed by a court under this Act, or under any other law.”.

Amendment of
section 36
of the
principal
enactment.

18. Section 36 of the principal enactment is hereby amended, by the substitution, for paragraph (d) of sub-section (1) of that section, of the following new paragraph:—

“(d) the issue, refusal, renewal, cancellation and suspension of such passports, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances;”.

Amendment of
section 42
of the
principal
enactment.

19. Section 42 of the principal enactment is hereby amended by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

“(3) The owner, or agent of the owner, of every ship which departs from any port in Ceylon shall, if the Controller so requires, furnish to the Controller a list, in such form as may be prescribed for the purpose, of all the members of the crew and of all the passengers who left Ceylon in such ship.”.

Amendment of
section 45
of the
principal
enactment.

20. Section 45 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section—

(i) by the omission of paragraph (f);

(ii) by the re-lettering of paragraphs (b), (c), (d), (e), (g), (h), (i), and (j) as paragraphs (d), (e), (f), (g), (h), (i), (j) and (k) respectively;

(iii) by the insertion, immediately after paragraph (a), of the following new paragraphs:—

“(b) brings any other person into Ceylon by any means whatsoever, knowing or having reasonable grounds for knowing that the entry into Ceylon of that other person is or would be

in contravention of any provision of this Act or of any Order or regulation made thereunder;

- (c) conceals or harbours any other person in any place whatsoever, or transports any other person or causes any other person to be transported by any means whatsoever, or employs any other person, knowing or having reasonable grounds for knowing that such other person has entered Ceylon or is remaining in Ceylon in contravention of any provision of this Act or of any Order or regulation made thereunder; "
- (iv) in re-lettered paragraph (i), by the substitution, for the words "permit or certificate;"; of the word "certificate;"; and
- (v) by the substitution, for all the words from "a fine " to "months," of the words "a fine of not less than two hundred rupees and of not more than five thousand rupees or to imprisonment of either description for a term of not less than three months and of not more than five years, "; and

(2) by the insertion, immediately after sub-section (2) of that section, of the following new sub-sections:—

" (3) If in any prosecution against any person for any offence under this Act other than an offence under paragraph (b) of sub-section (1), there is produced a certificate issued by a police officer of a rank not below that of Assistant Superintendent, after such investigation as he may deem necessary, to the effect that he believes that person to have entered or remained in Ceylon in contravention of any provision of this Act or of any Order or regulation made thereunder, it shall be presumed that that person entered or remained in Ceylon in contravention of such provision, unless it is proved by that person that he—

- (a) is a person to whom Part III of this Act does not apply; or
- (b) entered Ceylon, or remained in Ceylon, as the case may be, in conformity with such provision; or

(c) was in Ceylon prior to the appointed date and did not thereafter leave Ceylon; or

(d) was born in Ceylon on or after the appointed date and did not thereafter leave Ceylon.

(4) If in any prosecution for any offence under paragraph (b) of sub-section (1) there is produced a certificate, issued by a police officer of a rank not below that of Assistant Superintendent, after such investigation as he may deem necessary, to the effect that he believes any person named in the certificate to be a person who has entered or remained in Ceylon in contravention of any provision of this Act or of any Order or regulation made thereunder, it shall be presumed that the person so named entered or remained in Ceylon in contravention of such provision, unless it is proved by the accused that the person so named—

(a) is a person to whom Part III of this Act does not apply; or

(b) entered Ceylon, or remained in Ceylon, as the case may be, in conformity with such provision; or

(c) was in Ceylon prior to the appointed date and did not thereafter leave Ceylon; or

(d) was born in Ceylon on or after the appointed date and did not thereafter leave Ceylon.

(5) The judgment of any court (against which no appeal has been preferred or which has been confirmed in appeal) convicting any person of the offence of entering or remaining in Ceylon in contravention of any provision of this Act or of any Order or regulation made thereunder shall, notwithstanding anything to the contrary in the Evidence Ordinance, be admissible, in any prosecution for any other offence under this Act which may be instituted against the person so convicted or any other person, as proof of such conviction; and thereupon it shall be presumed that the person so convicted entered or remained in Ceylon in contravention of such provision, unless the accused in such prosecution proves that the person so convicted—

(a) is a person to whom Part III of this Act does not apply; or

(b) entered Ceylon, or remained in Ceylon, as the case may be, in conformity with such provision; or

(c) was in Ceylon prior to the appointed date and did not thereafter leave Ceylon; or

(d) was born in Ceylon on or after the appointed date and did not thereafter leave Ceylon.”.

21. Section 46 of the principal enactment is hereby amended, by the addition at the end of that section, of the following:—

Amendment of section 46 of the principal enactment.

“ It shall be lawful for such Magistrate to impose any punishment prescribed by this Act, notwithstanding that such punishment exceeds the limits of his ordinary powers of jurisdiction.”.

22. The following new sections are hereby inserted immediately after section 46 of the principal enactment and shall have effect as sections 46A and 46B of the principal enactment:—

Insertion of new sections 46A and 46B in the principal enactment.

“ Certain offences to be non-bailable.

46A. Notwithstanding anything in any other law, every offence under paragraph (a) or paragraph (b) of sub-section (1) of section 45 shall be non-bailable.

Detention of persons suspected or charged with commission of offence under section 45 (1) (a).
Cap. 16.

46B. Where any person is suspected of or charged with the commission of an offence under paragraph (a) of sub-section (1) of section 45, any court which has power under any provision of the Criminal Procedure Code to authorise the detention of the accused in the custody of the Fiscal or to remand the accused or commit him to custody may, in the exercise of such power, by warrant addressed to the officer in charge of any place of detention approved by the Minister for the purpose of this section, authorise his detention in such place of detention in lieu of authorising his detention or custody in a prison.”.

23. The following new sections are hereby inserted immediately after section 47 of the principal enactment and shall have effect as sections 47A and 47B of the principal enactment:—

Insertion of new sections 47A and 47B in the principal enactment.

“ Forfeiture of vehicles, etc. used in the commission of offences under section 45 (1) (b) or section 45 (1) (c).

47A. Upon the conviction of any person of an offence under paragraph (b) or paragraph (c) of sub-section (1) of section 45, the court may make order for the forfeiture to Her Majesty of any vehicle, vessel or other means of transport together with any equipment or accessories thereof, which are proved to have been used in, or in connection with, the commission of the offence.

Seizure and
detention by
police or
authorised
officers of
vehicles, etc.
suspected of
being used
in the
commission
of offences
under
section
45 (1) (b) or
section
45 (1) (c).

47B. (1) Where any police officer of a rank not below that of inspector or any other officer authorised by regulation to exercise the powers conferred by this section has reason to believe that any vehicle, vessel or other means of transport has been used in, or in connection with, the commission of any offence referred to in paragraph (b) or paragraph (c) of sub-section (1) of section 45, he may seize and detain such vehicle, vessel or means of transport, together with any equipment and accessories thereof.

(2) Any vehicle, vessel or other means of transport or equipment or accessories seized under sub-section (1) shall, as soon as possible, be produced before or made available for inspection by a Magistrate's Court of competent jurisdiction by the officer making the seizure, and the court shall thereupon make such order as it may deem fit relating to the custody of the things so seized pending their disposal under sub-section (3).

(3) Any vehicle, vessel or other means of transport or equipment or accessories seized under sub-section (1) from the possession of any person—

(a) shall be returned to that person forthwith upon the expiration of fourteen days after the seizure, unless a prosecution for the alleged offence is instituted before the end of that period; or

(b) shall be returned to that person forthwith after the final determination of the prosecution, unless duly declared to be forfeited to Her Majesty under section 47A. ”.

Amendment of
section 48
of the
principal
enactment.

24. Section 48 of the principal enactment is hereby amended, in sub-section (2) of that section, as follows:—

(1) in paragraph (d) of that sub-section, by the substitution, for “ circumstances). ”, of “ circumstances); ”; and

- (2) by the insertion, immediately after paragraph (d) of that sub-section, of the following new paragraphs:—

“ (e) the examination of any person, and the production, inspection and stamping of any document, for the purposes of this Act; and

(f) the taking of finger-prints from any person or from persons of any class or description specified in the regulations for the purposes of this Act. ”

25. Section 50 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—

Amendment of
section 50
of the
principal
enactment.

- (1) in the definition of the word “ dependant ”, by the substitution, for the words “ who is, or will on arrival in Ceylon be ”, of the words “ who is ”;

- (2) by the substitution, for the definition of the word “ holder ”, of the following new definition:—

“ “ holder ” in relation to any *visa*, means the person to whom such *visa* is granted or issued; ’

- (3) by the omission of the definition of “ permanent residence permit ”; and

- (4) by the omission of the definition of “ temporary residence permit ”.

26. (1) Notwithstanding the repeal, rescission, or amendment of any provision of written law relating to permanent residence permits and temporary residence permits, any such permit issued before the date on which this Act comes into operation and in force on the day immediately preceding that date shall continue in force after that date for the duration of such permit and shall thereafter cease to have effect; and the provisions of written law applicable to such permits before such date shall apply to such permits after that date during the period of the validity of such permits in like manner as they were applicable before that date.

Savings, etc.

Cap. 2.

(2) Sub-section (3) of section 6 of the Interpretation Ordinance shall apply in the case of any amendment which has the effect of omitting any provisions of written law relating to permanent residence permits and temporary residence permits in like manner as that sub-section applies in the case of any repeal.