

**Government of India
Ministry of External Affairs**

Salient aspects of Emigration Bill, 2019

I) Brief justification for legislation

The extant legislative framework for all matters related to emigration of Indian nationals is prescribed by the Emigration Act 1983.

2. Over three-and-a-half-decades down the line; the nature, pattern, directions and volume of migration have undergone a paradigm shift. The large scale migration of our skilled professionals to developed countries, students pursuing higher studies abroad and increasing presence of our nationals in the Gulf for employment, are some of the salient developments. At the global level, the contemporary debate on migration management as well as migration and development has gained traction and these issues are increasingly being mainstreamed in the global discourse. There is focus on safe, orderly and regular migration. Thus, there is need to have a strengthened legislative framework that is fully aligned with the contemporary realities and harmonized with relevant international conventions.

3. The Emigration Act, 1983 was enacted in a specific context of large scale emigration of Indian workers to the Gulf region. It has its intrinsic limitations while addressing the contemporary migration trends. The limitations of Emigration Act, 1983 are at times manifested in sub-optimal utilization of existing resources, delays in prosecution of illegal agents, lack of legislative provisions in working out effective framework for various programmes like pre-departure orientation, skill up gradation and other measures aimed at welfare and protection of migrant workers.

4. There is an imperative need for putting in place an enabling framework, institutional and legislative, aimed at efficient management of emigration and to address migration related issues in a comprehensive manner with a holistic approach.

(II) Essential elements of proposed legislation

i) Institutional framework

Emigration Management Authority

5. The Bill proposes to constitute an Emigration Management Authority (EMA) by the Central Government to ensure the overall welfare and protection of emigrants. It will be the overarching authority to provide policy guidance, undertaking comprehensive review and stocktaking on emigration management related matters. EMA will be led by Secretary level Officer from Ministry of External Affairs, the nodal Ministry for all emigration related matters and will have

representation from Ministry of Home Affairs and Ministry of Human Resource Development. It will also have representation from States and recruitment industry on rotation basis. EMA will meet periodically and will have powers to co-opt additional members and setup Committees on need basis for effective discharge of its responsibilities.

Bureau of Emigration Policy and Planning and Bureau of Emigration Administration

6. These Bureaus will be led at Joint Secretary level and will take care of day-to-day operational matters and will be responsible for all emigration related issues as well as welfare and protection of Indian nationals abroad. Bureau of Emigration Administration will have offices in different parts of the country.

Nodal Authorities in States and Union Territories

7. Nodal authorities will be setup by respective States and Union Territories that will be chaired at Principal Secretary level and will have representation from Home, NRI, Labour and Skill Departments. Nodal authorities will work in close coordination with other competent authorities of the Central government so as to ensure safe, orderly and regular migration and addressing various aspects related to returnee migrants.

ii) Registration/Intimation

8. The Bill makes mandatory registration/intimation of all categories of Indian nationals proceeding for overseas employment as well as students pursuing higher studies abroad. Registration/intimation is proposed to be technology/digital platform driven so as to keep emigration a swift, efficient and hassle-free process without causing any inconvenience to our workforce and students pursuing higher studies abroad. Necessary provisions have been incorporated to exempt certain categories in this regard on a need basis.

iii) Registration and Rating of Recruitment Agencies and student Enrollment Agencies

9. Registration of recruitment agencies and student enrollment agencies has been made mandatory. Sub-agents working with recruitment agencies have also been brought under the ambit of proposed Bill. The Bill also incorporates provision for rating of Recruitment Agents and student Enrollment Agencies.

iv) Duties and Functions of Recruitment Agencies

10. The duties and functions of recruitment agencies are centered on the comprehensive welfare of emigrants and their empowerment. This inter alia includes employment and travel documents, insurance policy, renewal of documents, skill upgradation and pre-departure orientation programmes.

v) Welfare and Protection

11. The Bill has comprehensive provisions including insurance, pre-departure orientation, skill up gradation, legal assistance, Migrant Resource Centres, Help Desks, Migration and Mobility Partnerships, Labour and Manpower Cooperation Agreements/MoUs etc aimed at strengthened welfare and protection of Indian workforce abroad.

vi) Offences and Penalties

12. The proposed Bill also takes into account the increasing incidents of human trafficking, illegal recruitment, illicit trafficking of drugs, harbouring offenders under the garb of recruitment or those offering emigration services without due process. The Bill proposes to provide for stringent punishment, in particular for categories classified as aggravated form of offences with regard to women and children. Offences that invoke criminal liability under the Bill are cognizable under the Code of Criminal Procedure, 1973. Penalties prescribed are commensurate with the gravity of the offences committed.

vii) Rules and regulations

13. Appropriate rules and regulations will be drafted in pursuant to the Act in consultation with all relevant stakeholders.

(III) Financial Implications

14. Not applicable

(IV) Assessment of impact of the current legislation

15. The proposed Emigration Bill,2019 is aimed at providing a progressive enabling legislative framework based on whole-of-cycle migration approach and empowerment of our workforce through informed choices. It caters to all aspects of migration. The Bill seeks to put in place a robust institutional framework that is responsive, easily accessible, technology driven and strengthens the welfare and protection of Indian nationals in distress abroad. With notable initiatives including MADAD, e-Migrate, Indian Community Welfare Fund, Pravasi Bharatiya Sahayata Kendras, Pravasi Bharatiya Bima Yojana, Pravasi Kaushal Vikas Yojana, Pre-Departure Orientation Programmes; the government has already put in place well-functional institutional support structures that will constitute the core of enabling framework that is envisaged through the proposed Bill and would serve the country in decades to come.

16. Provisions regarding mandatory registration/intimation by students and Indian nationals working abroad are aimed at assisting them in times of distress and emergency and putting in place an effective emigration management framework. The Bill aims at optimum utilization of existing resources and manpower rather than creating new elaborate structures.
