(5) The procedure for disposing of an appeal (including remand of the matter for further consideration to the authority whose order has been appealed against) shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of representing his case.

(6) Every order made on an appeal under this section confirming, modifying or reversing the order appealed against shall be final.

CHAPTER VII

OFFENCES AND PENALTIES

24. Offences and penalties.—(1) Whoever—
(a) except in conformity with the provisions of this Act emigrates; or
(b) contravenes the provisions of section 10 or section 16; or
(c) by intentionally furnishing any false information or suppressing any material information obtains a certificate or a permit or an emigration clearance under this Act; or
(d) without lawful authority makes or causes to be made any alteration in any certificate or permit or in any document or endorsement by way of emigration clearance issued or made under this Act; or
(e) disobeys or neglects to comply with any order of the Protector of Emigrants under this Act; or
(f) collects from an emigrant any charges in excess of the limits prescribed under this Act; or
(g) cheats any emigrant,

shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.

Provided that in the absence of any special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees.

(2) Whoever attempts to commit any offence under sub-section (1) shall be punishable with the punishment provided for such offence under that sub-section.

(3) Whoever contravenes any term or condition subject to which any emigration clearance has been given under this Act, shall, if no other punishment is provided elsewhere in this Act for such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

(4) Whoever abets any offence punishable under this Act shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.

(5) Whoever, having been convicted of an offence under any provision of this Act is again convicted of an offence under the same provision, shall be punishable, for the second and for each subsequent offence, with double the penalty provided for that offence.

25. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be
deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

26. Offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act shall be cognizable.

27. Previous sanction of Central Government necessary.—No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf:

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intending emigrant and the complaint is filed by such emigrant or intending emigrant, or on behalf of such emigrant or intending emigrant, by the father, mother, husband, wife, son, daughter, brother, sister or guardian of such emigrant or intending emigrant or if such emigrant or intending emigrant is a member of a joint Hindu family, by the manager of that family.

28. Punishment to be without prejudice to any other action.—The award of punishment for an offence under this Act shall be without prejudice to any other action which has been or which may be taken under this Act with respect to such contravention.

CHAPTER VIII

MISCELLANEOUS

29. Determination of question as to whether a person is an emigrant.—Where a question arises before a Protector of Emigrants as to whether a person intending to depart from India is or is not an emigrant, the Protector of Emigrants shall decide the question after holding an inquiry in such manner and upon considering such evidence as may be prescribed and such other evidence as may be relevant, and communicate the decision to such person in the prescribed manner.
30. **Power to prohibit emigration to any country in interests of the general public, etc.—** (1) Where the Central Government has reason to believe that sufficient grounds exist for prohibiting emigration to any country, having regard to the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or the interests of the general public, if may, by notification, prohibit emigration to that country.

(2) A notification issued under sub-section (1) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that the grounds mentioned in sub-section (1) continues to exist, it may, from time to time, by notification, prohibit emigration to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.

31. **Power to prohibit emigration due to outbreak of epidemics, civil disturbances, etc., in a country.—** (1) Where the Central Government has reason to believe—

(a) that intending emigrants if allowed to emigrate to any country would be exposed to serious risk to life on arrival there by reason of—

(i) outbreak of any disease or grave pollution of environment in such country, or

(ii) outbreak of hostilities or civil war or civil commotion or political disturbances;

(b) that by reason of India not being in diplomatic relations with that country it is not possible to protect the emigrants from discrimination, maltreatment and exploitation,

it may, by notification, prohibit emigration to that country.

(2) A notification issued under sub-section (1) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that any ground mentioned in sub-section (1) continues to exist, it may, from time to time, by notification, prohibit emigration to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.

32. **Power to prohibit emigration of any class or category of persons.—** (1) Where the Central Government considers that in the interests of the general public, emigration of any class or category of persons, having regard to their age, sex or other relevant factors, to any country should be prohibited, it may, by notification, prohibit the emigration to such country of such class or category of persons as may be specified in the notification.

(2) A notification issued under sub-section (1) shall have effect for such period not exceeding six months as may be specified in the notification:

Provided that if the Central Government has reason to believe that any of the grounds mentioned in sub-section (1) continues to exist, it may, from time to time, by notification, prohibit emigration of such class or category of persons to that country for such further period, not exceeding six months on each occasion, as may be specified in the notification.
33. **Provision as to security.**—(1) Any security or other financial provision which may be required to be made under this Act shall be reasonable having regard to the purpose for which such security or other financial provision is required to be made.

(2) The prescribed authority may, after giving notice in the prescribed manner to a person who has furnished any security for any purpose and after giving to such person an opportunity to represent his case, by order in writing, direct that the whole or any part of such security may be forfeited for being utilised for such purpose and in such manner as may be specified in the order.

(3) Where it appears to the prescribed authority that the security furnished by any person under this Act for any purpose has, for any reason, become inadequate, or has ceased to be available for any reason whatsoever, the prescribed authority may, after giving him an opportunity to represent his case, by order in writing, require such person to furnish such additional security or, as the case may be, such fresh security as may be specified in the order.

34. **Refund of security.**—Any security furnished under this Act shall be refunded or, as the case may be, released, when no longer required for the purpose for which it has been furnished and the other circumstances in which and the manner in which any security furnished under this Act may be released or refunded shall be such as may be prescribed.

35. **Power to search, seize and detain persons, conveyance, etc.**—All the powers for the time being conferred by the Customs Act, 1962 (52 of 1962), on officers of customs with regard to the searching and detention of persons, vessels or aircraft or any other conveyance, or seizure of any document or thing or arrest of any person or otherwise for the purpose of prevention or detection of any offence under that Act or for apprehending a person suspected to have committed any offence under that Act may be exercised for the purpose of prevention or detection of any offence under this Act or for apprehending a person suspected to have committed any offence under this Act, by—

(a) any such officer of customs, or
(b) the Protector General of Emigrants or a Protector of Emigrants, or
(c) an officer in charge of an emigration check-post.

36. **Returns and registers.**—(1) Every recruiting agent shall maintain such registers and other records and shall submit to the prescribed authorities such periodical or other returns as may be prescribed.

(2) The Protector General of Emigrants, the registering authority, the competent authority or a Protector of Emigrants may, by order, call for any other return or information from a recruiting agent.

(3) The Protector General of Emigrants, the registering authority, the competent authority or a Protector of Emigrants or an officer in charge of an emigration check-post may inspect any register or other record maintained by a recruiting agent under sub-section (1) and for the purpose of such inspection, enter, at any reasonable time, the business premises of a recruiting agent.

37. **Authorities and officers to have certain powers of civil court.**—(1) The Protector General of Emigrants, the registering authority, the competent authority and every Protector of Emigrants shall, for the purpose of discharging
their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:

(a) summoning and enforcing the attendance of witnesses;
(b) requiring the discovery and production of any document;
(c) requisitioning any public record or copy thereof from any court or office;
(d) receiving evidence on affidavits; and
(e) issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the Protector General of Emigrants, or the registering authority or the competent authority or a Protector of Emigrants shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Protector General of Emigrants, the registering authority, the competent authority, and every Protector of Emigrants shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

COMMENTS

Sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860) are reproduced below:

193. Punishment for false evidence.—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial is judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

228. Intentional insult or interruption to public servant sitting in judicial proceeding.—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 195 of the Code of Criminal Procedure, 1973 (2 of 1974) is reproduced below:

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or
(ii) of any abetment of, attempt to commit, such offence, or
(iii) of any criminal conspiracy to commit such offence,
except on the complaint in writing of the public servant concerned or of some
other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the
Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199,
200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been
committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471,
section 475 or section 476, of the said Code, when such offence is alleged to have
been committed in respect of a document produced or given in evidence in a
proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the
abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

except on the complaint in writing of that Court by such officer of the Court
as that Court may authorise in writing in this behalf, or of some other Court to
which that Court is subordinate.

(2) Where a complaint has been made by a public servant under clause (a) of
sub-section (1) any authority to which he is administratively subordinate may
order the withdrawal of the complaint and send a copy of such order to the Court;
and upon its receipt by the Court, no further proceedings shall be taken on the
complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of
first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or
Criminal Court, and includes a tribunal constituted by or under a Central,
provincial or State Act if declared by that Act to be a Court for the purposes of
this section.

(4) For the purposes of clause (b) of sub-section (1), a court shall be deemed to
be subordinate to the Court to which appeals ordinarily lie from the appealable
decrees or sentences of such former court, or in the case of a Civil Court from
whose decrees no appeal ordinarily lies, to the principal court having ordinary
original civil jurisdiction within whose local jurisdiction such Civil Court is
situated:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior
jurisdiction shall be the Court to which such Court shall be deemed to be
subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall
be deemed to be subordinate to the Civil or Revenue Court according to the
nature of the case or proceeding in connection with which the offence is alleged
to have been committed.

38. Power to give directions.—The Central Government may give directions
to the Protector General of Emigrants, the registering authority, the competent
authority or any Protector of Emigrants as to the carrying into execution of any
provision of this Act.

39. Effect of other laws.—(1) The provisions of this Act or any rule made
thereunder shall have effect notwithstanding anything inconsistent therewith
contained in any enactment other than this Act or in any agreement or other
instrument having effect by virtue of any enactment other than this Act.

(2) Save as provided in sub-section (1), the provisions of this Act shall be in
addition to, and not in derogation of, any other law for the time being in force.
40. Delegation.—The Central Government may, by notification direct that any power or function—
(a) which may be exercised or performed by it under this Act, or
(b) which may be exercised or performed by a registering authority, competent authority or a Protector of Emigrants under this Act, may, in relation to such matters, and subject to such conditions, if any, as it may specify in the notification, be also exercised or performed—
(i) by such officer or authority subordinate to the Central Government, or
(ii) by any State Government or by any officer or authority subordinate to such State Government, or
(iii) in any foreign country in which there is no diplomatic mission of India, by such foreign consular office,
as may be specified in the notification.

41. Power to exempt.—(1) Where the Central Government, on a reference made to it or otherwise, is satisfied that having regard to—
(a) the friendly relations with any foreign country; or
(b) the known reputation of any foreign employer or class of foreign employers, for providing to emigrants standard conditions of living and working, and their methods of recruitment and conditions of employment; or
(c) the methods of recruitment followed and the conditions of employment provided by a public undertaking or an approved concern for the execution of its projects abroad; or
(d) the facilities and conditions of service provided by Government officers posted abroad to their domestic servants accompanying such Government officers, where the expenditure in respect of the passage of such domestic servants is borne by the Government; and
(e) all other relevant considerations,
it is necessary or expedient in the public interest so to do the Central Government may, by notification, and subject to such conditions, if any, as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act, such foreign dignitary or class of foreign employers, public undertaking, approved concern or Government officers.

Explanation.—For the purposes of this sub-section—
(a) "public undertaking" means—
(i) an undertaking owned and controlled by Government; or
(ii) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or
(iii) a body corporate established by or under any Central, Provincial or State Act;
(b) "approved concern" means such company incorporated under the Companies Act, 1956 (1 of 1956) or partnership firm registered
under the Indian Partnership Act, 1932 (9 of 1932) or society registered under the Societies Registration Act, 1860 (21 of 1860) or any other law relating to societies for the time being in force in any State, or co-operative society registered under any Central, Provincial or State law, as the Central Government may, by notification, approve for the purposes of this section.

(2) If the Central Government is satisfied that it is necessary for implementing any treaty, agreement or convention between India and a foreign country or foreign countries so to do, it may, by notification, and subject to such conditions, if any, as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act, recruitment by such authorities, agencies or persons as may be specified in the notification either generally or for such purposes as may be specified in the notification.

COMMENTS

Section 617 of the Companies Act, 1956 is reproduced below:—

617. Definition of “Government Company”.—For the purposes of this Act, Government Company means any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a Company which is a subsidiary of a Government Company as thus defined.

42. Act not to apply to certain emigrants.—Nothing contained in this Act shall be deemed to apply to—

(a) the recruitment or emigration of any person who is not a citizen of India;

(b) the control of recruiting in India for the service of foreign States to which the Foreign Recruiting Act, 1874 (4 of 1874) applies.

43. Power to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and duties of officers and employees appointed for the purposes of this Act and the terms and conditions of their service;

(b) the form of—

(i) a certificate to commence or carry on the business of recruitment, and of an application for the issue or renewal thereof;

(ii) a permit for the recruitment of persons for employment outside India, and of an application for the issue thereof;

(iii) an application for emigration clearance;

(iv) an appeal to be preferred to the Central Government;

(c) the manner and form in which an authorisation by way of emigration clearance may be given;

(d) particulars to be contained in an application for a certificate or a permit or for an emigration clearance;
(e) the manner in which different inquiries required to be held under this Act may be held;

(f) the manner in which the amount of security for securing the due performance of the terms and conditions of the certificate of permit or for compliance with the provisions of this Act shall be furnished;

(g) the manner of verifying or authenticating documents and copies of documents for the purposes of this Act;

(h) the procedure to be followed in hearing an appeal preferred to the Central Government;

(i) the fees to be paid in respect of applications and other matters under this Act;

(j) the charges which a recruiting agent may recover from an emigrant in respect of services rendered and the scales and limits of such charges;

(k) the terms and conditions subject to which a certificate or a permit or an emigration clearance may be issued under this Act;

(l) the period of the validity of a certificate or a permit issued under this Act;

(m) the authority competent to extend the period of validity of a permit or to forfeit security or to require any additional security or fresh security under this Act;

(n) the accommodation, the provisions, the medical stores and staff, the life saving and sanitary arrangements and other provisions and arrangement for the well-being, security and protection of emigrants which shall be provided and the records which shall be maintained in any emigrant conveyance.

(o) any other matter which is required to be, or may be, prescribed.

44. Notifications and rules to be laid before Parliament.—Every notification issued under clause (o) of sub-section (1) of section 2, section 30, section 31 or section 32 and every rule made under section 43 shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or both Houses agree that the notification or the rule should not be issued or made, the notification or the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

45. Repeal of Act 7 of 1922.—The Emigration Act, 1922 is hereby repealed.
THE EMIGRATION RULES, 1983

In exercise of the powers conferred by Section 43 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby makes the following rules:—

PRELIMINARY

1. Short title and commencement.—(1) These rules may be called the Emigration Rules, 1983.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules unless the context otherwise requires,—

(a) "Act" means the Emigration Act, 1983 (31 of 1983);

(b) "Certificate" means a certificate issued under Section 11 of the Act;

(c) "Competent Authority" means competent authority notified by Central Government under Section 15 of the Act;

(d) "demand" means the category wise, skill wise number of workers required by the employer for being employed in his establishment. This includes description of job specifications and salary offered;

(e) "emigration number" means the number assigned by the Protector of Emigrants to an emigrant at the time of granting emigration clearance;

(f) "Form" means a Form annexed to these rules;

(g) "permit" means a permit issued under Chapter IV of the Act;

(h) "remittable component" means a part of the wages which the emigrant is entitled to remit to India;

(i) "unauthorised emigrant" means any person who has emigrated or intends to emigrate out of India for employment in violation of the provision of the Act and the rules.

3. Dependent of an emigrant.—(1) A person who claims to be the dependent of an emigrant shall be required to produce in support of his claim a certificate to this effect from the District Magistrate or a revenue authority not below the rank of Tehsildar of the place where the emigrant ordinarily resides or domiciles.

(2) Determination of the purpose of visit of dependent shall be carried out with reference to the nature of the visa, sponsorship certificate and such other travel documents as may be considered necessary.

4. Emigrants conveyance.—Any conveyance, especially chartered, for conveyance of emigrant or employed generally for conveying emigrants exceeding two in number shall be deemed to be emigrant conveyance.

1. Vide S.O. 941(E), dated 30th December, 1983, published in the Gazette of India, Extra., Pt. II, Sec. 3(iii), dated 30th December, 1983 and subsequently amended by:
   S.O. 665(E), dated 10th September, 1986, G.S.R. 713(E), dated 18th October, 2002,
   S.O. 111(E), dated 8th February, 1996, G.S.R. 50(E), dated 6th February, 2006,
   S.O. 159(E), dated 28th February, 1996, S.O. 776(E), dated 18th May, 2007,
   S.O. 526(E), dated 22nd July, 1996, G.S.R. 658(E), dated 15th October, 2007,

2. Came into force on 30-12-1983.
5. Recruiting agent representing the employer.—(1) An employer may authorise a recruiting agent in India, registered under the provisions of the Act, by a power of attorney executed in favour of the recruiting agent authorising that recruiting agent for the purposes of the recruitment of persons on his behalf.

(2) The power of attorney referred to under sub-rule (1) shall be valid for the period of the employment contract of the recruited worker even if the certificate of registration of such recruiting agent ceases to be valid before that period.

6. Inspection of an emigrant's conveyance.—(1) If the Protector of Emigrants has reason to believe that a conveyance is an emigrant’s conveyance he may inspect such conveyance with a view to detecting the presence of unauthorised emigrants in the conveyance or for obtaining such evidence as may be necessary for protecting the interests of emigrants and he may, with such assistance, as he may think fit,—

(i) enter such conveyance at any time;
(ii) require the production of registration certificate of the conveyance, log book and list of passengers; and
(iii) take such other evidence and examine any person as he may deem necessary.

(2) Person having the general management or control of the conveyance shall provide such means as may be required by the Protector of Emigrants for inspection under sub-rule (1).

7. Application for registration as recruiting agent.—(1) Any person intending to engage in India in the business of recruitment for an employer may make an application for registration under section 11 of the Act to the registering authority in Form I.

(2) The application referred to in sub-rule (1) shall be accompanied with a fee of twenty-five thousand rupees payable by a bank draft issued in favour of the Pay and Accounts Officer, Ministry of Overseas Indian Affairs, New Delhi and shall contain the following particulars and documents, namely—

(i) a copy of the applicant’s bachelor’s degree or two years diploma or equivalent from a recognised university or institute;

---

1. Subs. by G.S.R. 511(E), dated 9th July, 2009, for rule 5 (w.e.f. 9-7-2009). Earlier it was amended by G.S.R. 111(E), dated 24th February, 1987 (w.e.f. 24-2-1987). Rule 5, before substitution, stood as under:

"5. Recruiting agent representing the employer.—The representation of an employer by a recruiting agent shall be determined with reference to the power of attorney given by the employer to the recruiting agent. The representation shall be limited for purpose mentioned in the power of attorney. Such power of attorney unless limited in time by an express provision shall be valid for the period of validity of the certificate of registration of the recruiting agent unless the same is withdrawn earlier."

2. Subs. by G.S.R. 511(E), dated 9th July 2009, for rule 7 (w.e.f. 9-7-2009). Earlier it was amended by G.S.R. 143(E), dated 26th February, 2004 (w.e.f. 15-3-2004). Rule 7, before substitution, stood as under:

"7. Registration of recruiting agent.—An application for registration of a recruiting agent shall be made in Form I and shall be accompanied by—

(i) a bank draft of five thousand rupees payable in favour of the Protector General of Emigrants towards the application fee; and
(ii) an affidavit in Form II annexed sworn before a Metropolitan Magistrate or a Judicial Magistrate or a Judicial Magistrate giving the applicant’s current financial standing."
(ii) a copy of the balance sheet of the previous financial year or a statement of accounts showing the assets and liabilities of the applicant, duly verified by a chartered accountant having a certificate of practice under the Chartered Accountants Act, 1949 (38 of 1949), showing the financial soundness of the applicant;

(iii) a copy of the income-tax returns for the last three consecutive years;

(iv) an affidavit in Form-II, executed by the applicant before a Magistrate or Notary Public.

8. Amount of security.—The applicant, on being informed by the registering authority under sub-section (2) of section 11 of the Act, shall provide a bank guarantee of thirteen years' validity for an amount of twenty lakh rupees as security under sub-section (3) of that section.

9. Validity of certificate.—A certificate shall be valid [initially for a period of ten years and shall be renewed for a further period of ten years]:

Provided that a certificate may be issued for a shorter period—

(a) if the person to whom it is issued so desires; or

(b) if the registering authority, for reasons to be communicated in writing to the applicant for the certificate, considers in any case that the certificate, should be issued for a shorter period.

9A. Renewal of certificate.—An application for renewal of certificate under section 13 may be made to the registering authority in Form I/IIA and shall be accompanied with a fee of twenty-five thousand rupees payable by a bank draft issued in favour of the Pay and Accounts Officer, Ministry of Overseas Indian Affairs, New Delhi.

1. Subs by G.S.R. 511(E), dated 9th July, 2009, for rule 8 (w.e.f. 9-7-2009). Earlier it was amended by G.S.R. 111(E), dated 8th February, 1996 (w.e.f. 8-2-1996). Rule 8, before substitution, stood as under:

"8. Amount of security.—(1) Determination of the amount of security deposit under sub-section (3) of section 11 shall be done with reference to the estimated number of persons to be recruited by an applicant during the period for which the registration is applied for in accordance with the following scale,—

(i) up to 300 workers Rs. 3 lakh
(ii) 301 to 1000 workers Rs. 5 lakhs
(iii) 1001 and above Rs. 10 lakhs

(2) In the event of the recruitment of the specified number getting completed before the date of expiry of the certificate, the holder of the certificate may be permitted by the Registering Authority to continue recruitment upto the date of expiry of the certificate on furnishing additional security in accordance with the scale prescribed after reckoning the total number of persons to be recruited, including the number already recruited."

2. Subs by G.S.R. 511(E), dated 9th July, 2009, for "[initially for a period of five years and shall be renewed for a further period of five years]" (w.e.f. 9-7-2009).

3. Subs. by G.S.R. 511(E), dated 9th July, 2009 for rule 9A (w.e.f. 9-7-2009). Rule 9A, before substitution, stood as under:

"9A. Renewal of Certificate.—An application for renewal of certificate under section 13 shall be in Form X and shall be accompanied by a bank draft of five thousand rupees payable in favour of the Pay and Accounts Officer, Ministry of Labour (Main Secretariat), New Delhi, towards the application fee."
10. Terms and conditions of the certificate.—(1) The registration certificate shall be subject to the following terms and conditions—

(i) This certificate shall be valid for a period specified in the certificate:
(ii) the certificate shall not be transferable;
(iii) the holder of the certificate shall conduct the business under his own hand and seal;
(iv) a photocopy of registration certificate shall be displayed prominently at a conspicuously place of business;
(v) the certificate shall be made available for inspection to the emigration authorities, law enforcement authorities and employers;
(vi) the certificate shall be produced on demand for satisfaction of the bona fides of the recruiting agent, when such demand is made by an emigrant;
(vii) the holder of the certificate shall conduct the business from the place indicated in certificate. For opening a recruitment centre at a place other than the place indicated in the certificate, the holder of the certificate shall obtain the prior permission of the registering authority [or an officer specially authorised by the registering authority];
(viii) the holder of the certificate shall not employ sub-agents for the purpose of conducting or carrying on his business, and
(ix) the holder of the certificate shall maintain the following records at his place of business and shall make them available for inspection on demand by Protector General of Emigrants or the Protector of Emigrants,—

(a) a register of receipt of charges from emigrants recruited, in the form of an original acquittance roll containing the signature of each emigrant from whom the charge has been received. Each such register shall be with reference to a demand for recruitment. The register shall be maintained as permanent records;
(b) a register and records of the amount and Pre-paid Ticket Advices along with their photo copies received from the employers, identified demand wise;
(c) a register containing details of expenses incurred on the recruitment of emigrants demand wise supported by the documents;
(d) individual folders for each employer whose demands of labour, the holder of the certificate has processed, proposes to process or is processing;
(e) bio-data of each emigrant recruited by the holder of the certificate;
(f) copies of employment contracts of each emigrant as authenticated by the Protector of Emigrants;
(g) original demand letter, power of attorney and correspondence with the employers;

1. Ins. by G.S.R. 375(E), dated 23rd March, 1989 (w.e.f. 23-3-1989).
(h) all documents relating to the recruitment of emigrants, including office copies of all advertisements issued, letters of interview and correspondence with the applicants, original award sheets leading to the selection, names and addresses of persons involved in the selection process, copies of letters of appointments, trade-testing particulars;

(i) a register of visas received from the employers, giving separate account of block and individual visas;

(j) a register of claims for all compensation, (including for injury or death) made by the emigrants or their dependents, recruited by the holder of the certificate giving the name, address of the emigrant, emigration number, country of employment, nature of compensation (including the details in regard to the circumstances leading to the claim), address of the recipients and the name and address of the employer, and the receipt in original in token of having made the payment of compensation; and

(k) such other records as may be required to be maintained by the registering authority.

(x) the holder of certificate shall file a return every month in Form IV to the Protector General of Emigrants or the Protector of Emigrants specified by the Protector General in this behalf, by the 10th of the succeeding month;

(xi) Copy of each advertisement for recruitment of the emigrants shall be endorsed to the Protector of Emigrants;

(xii) the holder of the certificate shall ensure that the employer observes the terms and conditions of the contracts; and

(xiii) the holder of the certificate shall not charge any amount from the emigrant towards the repatriation expenses.

(xiv) the holder of the certificate shall—

(a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;

(b) endeavour to ensure proper reception of the emigrant by the employer in the country of employment;

(c) endeavour to ensure that subsequent to the employment, the employer shall not alter the terms of the employment contract;

(d) endeavour to ensure that the employer takes timely action for renewal of documents authorising the stay of the emigrant in the country of employment;

(e) facilitate amicable settlement of disputes between the employer and the emigrant;

(f) issue receipt for the payments received from the emigrant;

---

2. Ins. by G.S.R. 511(E), dated 9th July, 2009 (w.e.f. 9-7-2009).
(g) issue only such advertisements that are genuine and factually correct and shall refrain from any inducement or misrepresentation in this regard;

(h) file copies of all advertisements to the Protector General of Emigrants immediately after their publication or release.

(xv) The holder of the certificate shall maintain—

(a) office premises of not less than fifty square meters of built up area, having a waiting hall with the capacity of sitting for at least thirty persons, a room for the purpose of conducting interview and an office space equipped with furniture, photocopier, telephone with Subscriber Trunk Dialing and International Subscriber Dialing facility, fax, computer and other office amenities as may be specified by the registering authority by order in writing;

(b) work stations for the office personnel;

(c) internet facility, e-mail accounts and a web portal containing detailed information about the recruiting agent, the validity status of the registration certificate, the services offered, the cost of services, the mode of payment of service charges, the remedies available to emigrants for redressal of grievances, vacancies available along with the details of the jobs, the employers and the contract conditions and the recruitments made in the past with such particulars as the registering authority may require by order in writing;

(d) adequate and duly trained staff;

(e) a signboard, to be displayed in front of the business premises or so fixed that it is conspicuously visible to the public from outside the office premises indicating the name and the registration number of the recruiting agent, the year of registration and date of its expiry;

(f) arrangements for skill testing for the trades for which he recruits the intending emigrants.]

(2) The Certificate shall be in Form V.

11. Permits for recruitment by employers.—(1) Application for permits. The application for issue of the permits for recruitment by foreign employers shall be in Form VI.

(2) The application for issue of permits for recruitment by Indian employers for foreign jobs shall be in Form VII.

[(3) The applications under rules (1) and (2) above shall be accompanied by bank draft of rupees two thousand payable in favour of the Pay and Accounts Officer, Ministry of Labour (Main Secretariat), New Delhi, towards the application fee.]

12. Conditions of permit.—The permit shall be subject to the following conditions, namely:—

1. Ins. by G.S.R. 713(E), dated 18th October, 2002 (w.e.f. 1-11-2002).
(i) The permit is not transferable.

(ii) The permit is valid for a period of 1[one year] from the date of issue or the date of completion of the recruitment whichever is earlier.

(iii) Workers recruited on the strength of this permit shall not be repatriated on the ground that they do not possess the required skill.

(iv) The holder of the permit shall not obtain the assistance of recruiting agent in any manner.

(v) The employment agreement with the worker shall be signed by the holder of the permit.

(vi) The holder of the permit shall be under obligation to treat the contract entered into with the worker as enforceable under the Labour Laws of the country of employment. It shall be his responsibility to file the copies of the contracts with the concerned authorities in the country of employment.

(vii) The holder of the permit shall not supply manpower recruited on the strength of this permit to any other agency or concern.

(viii) The holder of the permit shall be responsible for the general welfare and redressal of specific grievances of the workers recruited on the strength of the permit during the period of contract.

(ix) The holder of the permit shall not extend the services of a worker after the expiry of a contract without entering into a fresh contract or without extending the existing contract.

(x) The holder of the permit shall notify to the Indian Mission in the country of employment each case of death or disability of a worker within 48 hours of the occurrence of the event. Similarly information should be communicated to the next of kin in India in case of disability/death within 48 hours.

(xi) The holder of the permit is prohibited from supplying manpower for a work in another country to a country other than the country from which the permit has been issued.

2[(xii) The holder of the Permit shall—

(a) provide details of employment, including contract conditions, to the intending emigrants before recruitment;

(b) ensure proper reception of the emigrant in the country of employment;

(c) ensure that subsequent to the employment, the employer shall not alter the contract of employment;

(d) ensures timely action for renewal of documents authorising stay of emigrant in the country of employment;

(e) not deprive the emigrant of the custody of his travel and employment documents;]

2. Ins. by G.S.R. 511(E), dated 9th July, 2009 (w.e.f. 9-7-2009).