

INDIAN IMMIGRANT LABOUR

AN ORDINANCE TO AMEND THE LAW RELATING TO INDIAN IMMIGRANT LABOURERS.

Ordinances
Nos. 1 of 1923,
26 of 1937,
44 of 1942.

Act.
No. 9 of 1966.

[11th 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, 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.
- Appointment of Emigration Commissioner. 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.
- Inspection. 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 -
- (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.

Agent of Government of India.

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 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.

Formation of Fund.

12. The Fund shall be credited with -

(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.

Charges on Fund.

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 -

- (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;

[§ 2,44 of 1942.]

- (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 connection 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 connection 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.

[§ 2, 44 of 1942.]

(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.

Fees payable
by employers.

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 of Finance.

(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.

Penalty for non-payment of fees.

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.

RECRUITING

Licences to recruit.

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 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 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

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

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.

Advances by recruiters to immigrant labourers not recoverable.

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.

Repatriation of Indian immigrant labourers.

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.

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

Minister may make regulations.

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.

Interpretation.

24. (1) In this Ordinance, unless the 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 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.

INDIAN IMMIGRANT LABOUR

THE INDIAN IMMIGRANT LABOUR ORDINANCE

SECTIONS 14, 13, AND 23

REGULATIONS UNDER SECTION 14 OF THE ORDINANCE

CHAPTER 1

Fees payable by Employers of Estates paying Acreage Fees

[Gazette No.733913-7 1923.]
[Gazette No.735826-10-1923.]
[Gazette No.9773/24-9-1947.]

1A. The employer of any Indian immigrant labourers on any estate of the description named in Schedule A attached to these rules shall, except as hereinafter provided, pay by quarterly instalments to the Commissioner, for the purposes of the Immigration Fund, acreage fees on such a scale as may from time to time be fixed by the Minister and notified in the Gazette:

[Gazette No.7930/16-6-1932.]

Provided that the Minister may by notification in the Gazette exempt employers of Indian immigrant labourers from the operation of this regulation, for a period to be specified in such notification without affecting however in any manner whatsoever any liabilities incurred prior to the date of such notification in respect of estates or portions of estates planted exclusively in any one of the products named in Schedule A to these regulations.

[Gazette No.7863/26-06-1931.]

1B. The liability to pay acreage fees imposed by regulation 1A shall be subject to the following modifications:-

(i) Where the Commissioner is satisfied that the number of Indian immigrant labourers employed on any such estate during the immediately preceding quarter has averaged not more than 5 labourers, no payment of acreage fees shall be levied.

[Gazette No.7930/16-06-1932.]

(ii) (a) Where the average number of Indian immigrant labourers employed on any estate during the quarter immediately preceding has been more than five, and where such average number works out at less than one labourer to each unit of cultivation as hereinafter defined, the Commissioner shall assess the amount payable in respect of such estate on the basis that each labourer of the aforesaid average number represents a unit of cultivation for the purposes of the calculation of fees.

(b) The unit of cultivation shall in this context be deemed to be-

(1) for estates planted in tea alone: two acres: and

(2) for estates planted in any one of the other products or in any combination of the products enumerated in Schedule A; an acreage bearing the same ratio to one acre as twice the rate payable in respect of tea bears to the rate payable in respect of any one of the other products or of any combination of products.

(c) No estate or portion of an estate in respect of which an employer has already been exempted from the operation of the foregoing regulation 1 A by the proviso thereto, shall be brought into account for the purpose of ascertaining whether such employer is entitled to pay reduced fees under this paragraph of this regulation.

Illustrations- (i) If the fee per acre payable in respect of tea is Re. 1.50 and the fee per acre payable in respect of rubber is 30 cents for the purposes

of this paragraph of this regulation the unit of cultivation for rubber is $150/30 \times 2 = 10$.

- (ii) If the fee per acre payable in respect of tea is Re. 1.50 and the fee per acre payable in respect of tea interplanted with rubber is 90 cents, for the purposes of this paragraph of the regulation the unit of cultivation for tea interplanted with rubber is $150/90 \times 2 = 10/3$.
- (iii) In the case of any area planted in rubber, in which no tapping has taken place throughout the quarter, but for which exemption cannot be claimed under proviso (3) in Schedule A of the regulations, such rubber area may be assessed at one-fifth of its acreage, with effect from the third quarter of 1930. Provided that no assessment shall be made in respect of such untapped area if the total labour employed on it during the quarter has been less than the equivalent of two labourers' work for a day per acre. Should the estate containing such rubber area be entitled to pay reduced acreage fees under rule 1 B (ii), it may be assessed either under rule 1 B (ii) or 1 B (iii), whichever be less.
- (iv) The number of Indian immigrant labourers employed on the first day of the month of each quarter shall be taken for the calculation of the average labour referred to under rules 1 B (i) and 1 B (ii), unless it shall be definitely brought to the notice of the Commissioner, that the correct average for the month has been less or more than the one based on the number of Indian immigrant labourers employed on the first day of such month.

[Gazette No.9773/24-9-1947.]

2. The first instalment of such fees shall be due and payable on a date to be fixed by the Minister and notified in the *Gazette*. Thereafter the instalments shall be due and payable on or before the first day of each quarter, viz., January 1, April 1, July 1, and October 1.

3. (a) For the purpose of assessing the first and second instalments, the employer of any Indian immigrant labourers on any estate of the description named in Schedule A shall forward to the Commissioner on or before a date to be fixed by the Governor and notified in the *Gazette*, a return covering the second quarter of 1923, as nearly as may be material in the form set out in Schedule B attached to these rules. Such forms can be furnished by the Commissioner free of cost to each employer on application, or may be obtained at the nearest Kachcheri or Post Offices in planting districts.

(b) Thereafter the return shall be furnished quarterly to the Commissioner. The return for each quarter of the year shall be sent in on or before the last day of the following month; e.g., the return for the third quarter on or before October 31, & c.

4. The return shall be certified by the employer under his hand to be correct. Any employer who fails to furnish a correct return, certified as aforesaid, within the prescribed time shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding Rs. 50.

5. Any employer knowingly certifying an incorrect return shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding Rs. 50.

6. (a) Upon the receipt of the return set out in Schedule B, the Commissioner if he is satisfied that no Indian immigrant labourers have been employed in the estate during the period covered by the return, shall notify the employer that no acreage fees for the ensuing quarter are payable on account of the estate.

(b) If Indian immigrant labourers have been employed during such period or any portion thereof, the Commissioner shall assess the amount due by the estate as acreage fees and shall, in the

case of the first instalment notify the employer at least seven days before the instalment is payable, of the amount so due, which amount shall thereupon become payable by the employer on the prescribed date. Thereafter the assessment shall be notified at least seven days before each instalment is due. Provided that the Commissioner may notify any employer that the assessment of the whole or any portion of his estate is held in abeyance until the Commissioner can cause the same to be inspected. When any such assessment is postponed, but exemption is not eventually granted, the acreage fee as assessed shall be payable seven days after demand by the Commissioner.

7. If the Commissioner is not satisfied as to the correctness of the return under Schedule B, or if the employer fails to make any such return, the Commissioner may assess the amount payable by any such estate. Such amount shall be notified to the employer and be payable him on the prescribed date.

[Gazette No.9773/24-9-1947.]

8. Within fourteen days after the receipt by him of any notice regarding the assessment of the rate to be levied on account of any estate, the employer may appeal against such assessment to the Minister whose decision thereon shall be final.

9. If default be made in payment of any instalment, it shall be lawful for the Commissioner or any person authorized by writing under his hand, either generally or in a special instance to seize the estate in respect of which such instalment is due, and any crop, or produce thereof, and any movables thereon; and if the amount of such instalment together with any interest due under section 15 of the Ordinance or any costs payable under rule 11 shall not be sooner paid, to sell the property so seized by public auction at any time not less than twenty-one days from the date of such seizure.

10. It shall be lawful for the person making the seizure to place and keep a person in possession of the property so seized as aforesaid pending such sale, if authorized thereto by general or special instructions issued by the Commissioner.

11. The costs and charges of seizure and sale shall also be payable from the proceeds of the property seized and they shall be as follows:-

(1) The costs of proceeding to the estate of the party in default, a charge not exceeding eight per centum on the amount due;

(2) The removal of the goods seized in case such removal takes place, a charge not exceeding eight per centum on the amount due;

(3) For keeping the same in safe custody in case of such removal, a charge not exceeding one rupee per day;

(4) For keeping a person in possession if the goods seized are not removed, a charge not exceeding one rupee per day;

(5) For the expenses of sale when any sale takes place, a charge not exceeding two and half per centum on the nett proceeds of the sale.

12. In the event of a sale of property seized, the Commissioner shall, after deducting the amount of the instalment due as aforesaid, the interest payable under section 15 of the Ordinance and the costs payable under the last preceding rule, restore the overplus, if any, arising from such sale, to the owner of the property sold.

13. If the estate or any part thereof seized as mentioned in rule 9 is sold, a certificate substantially in the form given in Schedule D hereto, signed by the Commissioner, shall be sufficient to vest the land sold in the purchaser. Such certificate shall be liable to the stamp duty fixed on conveyances of immovable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

CHAPTER 11

Fees payable by Private Employers not paying Acreage Fees

1. The following fees for the recruitment of Indian immigrant labourers shall be computed and become payable in the following manner by any employer not paying acreage fees, and not being a Government Department, to the Commissioner for the purposes of the Immigration Fund.

2. Before any licence to recruit on behalf of such employer is granted in conformity with section 16 of the Ordinance, such employer shall forward to the Commissioner an application in duplicate as nearly as material in the form shown in Schedule C. Application forms may be obtained free of cost from the Commissioner.

3. On receipt of the application the Commissioner shall examine the same, and, if he approve thereof, shall-

- (a) Compute the amount which may reasonably be expected to cover the cost of recruiting and forwarding to the employer the number of recruits specified in the application;
- (b) Thereupon notify such amount to the applicant, and call upon him either to deposit the said sum with the Commissioner, or to furnish the Commissioner with a Bank guarantee for the amount;
- (c) When the deposit has been lodged or the Bank guarantee furnished, forward to the Emigration Commissioner a copy of the application, and notify to him the particulars of the deposit or Bank guarantee made by the employer. The Emigration Commissioner shall thereupon deal with the application as laid down in section 16 of the Ordinance.

4. Provided that if the employer is a certified subscriber to the Coast Agency of the Ceylon Planters' Association, the Commissioner may waive the demand for a special deposit or Bank guarantee. In such case the Sri Lanka Labour Commissioner shall be responsible to the Commissioner for all charges payable to the Immigrant Fund by the employer for the Indian immigrant labourers introduced or recruited on behalf of such employer. The Sri Lanka Labour Commissioner may from time to time furnish the Commissioner with a list of employers certified, for the purposes of this rule, as subscribers to the Coast Agency.

5. When the Indian immigrant labourers duly accepted for assisted passages under any licence issued under rule 3 (c) and any Emigration Agent accompanying them have been introduced into the Island, the Commissioner shall, within a reasonable period, ascertain-

- (a) The cost incurred for the transport and subsistence of such Indian immigrant labourers and Emigration Agent from the time of their acceptance as recruits by the Emigration Commissioner until they have been handed over to their employer;
- (b) any charges incurred in the transport, subsistence, and return to their homes of any such Indian immigrant labourers rejected at any stage of the journey;
- (c) any special charges incurred by the Emigration Commissioner or Commissioner for the medical treatment, examination, detention, burial, or cremation of any such Indian immigrant labourers or Emigration Agent accompanying them;
- (d) any immigration fee duly imposed by the Indian Emigration authority on each such Indian immigrant labourer or Emigration Agent accompanying them;

- (e) Any fee paid to the licensed recruiter for the Indian immigrant labourers duly recruited by him and thereafter accepted by the Emigration Commissioner for despatch from the port of embarkation to Sri Lanka. Such fee shall be at the rates specified by the employer in his application, in the form Schedule C, under rule 2, but shall not in any case exceed the rates sanctioned by the Government of Madras under the provisions of the Indian Emigration Act;
- (f) a capitation fee (to cover the charges incurred by the Department of Labour for registration and supervision) for each such Indian immigrant labourer or licensed recruiter introduced into the Island. The amount of such fee shall be fixed from time to time by the Minister and notified in the Gazette;
- (g) a capitation fee (similarly calculated, fixed, and notified) to be paid into the Fund as a set-off against any expenses which may be incurred in repatriating Indian immigrant labourers under section 22 of the Ordinance.

[Gazette No.9773/24-9-1947.]

6. When the Commissioner has ascertained the total amount payable under regulation 5 of this Chapter by any employer, he shall certify the same and present it to the employer for payment within twenty-one days; or if the employer be a certified subscriber to the Coast Agency under rule 4, the bill shall be presented to, and payable by, the Sri Lanka Labour Commissioner. When such amount is covered by any deposit made under rule 3 of this Chapter by the employer, the Commissioner shall deduct the amount due from the deposit, and return the balance, if any, of the deposit to the employer. Provided that the amount due shall not be wholly covered by the deposit made by the employer, the Commissioner shall call on the employer to pay the balance.

7. All moneys recovered by the Commissioner under the preceding rule shall be paid by him into the immigration Fund.

8. If any sum due by an employer is not paid as required by regulation 6 of this Chapter, the same may, together with any interest due under section 15 of the Ordinance, and the costs of the seizure and sale, be recovered by seizure and sale of the property, movable or immovable, of the employer in the manner and subject to the conditions laid down in regulations 9 to 13 (both inclusive) of Chapter I.

9. Employers introducing Indian immigrant labourers under the provisions of this Chapter shall not receive any recruitment allowance for labourers so introduced.

REGULATIONS UNDER SECTIONS 13 AND 23 OF THE ORDINANCE

A.-RECRUITMENT ALLOWANCES

[Gazette No.7929/10-6-1932.]

1. In respect of every Indian immigrant labourer, who is recruited or to whom an assisted passage to Sri Lanka is granted from the Immigration Fund, directly for or on behalf of any employer who has been assessed for and has paid acreage fees under the Ordinance, a recruitment allowance may be paid to such employer out of the Immigration Fund at such rates as the Commissioner of Labour may with the previous sanction of the Minister fix from time to time by notification in the Gazette.

[Gazette No.9773/24-9-1947.]

2. Any recruitment allowance so fixed under the foregoing regulation 1, shall be payable on June 30 and December 31, in every year.

3. Recruitment allowances shall in no case be paid in respect of children under ten years of

age or any other dependants. The Emigration Commissioner shall decide whether any person is a labourer or a dependant, and his decision for the purposes of this rule shall be final.

[Gazette No.7947/7-10-1932.]

B: - SUBSISTENCE AND TRANSPORT ON JOURNEY

Rules 4, 5 and 6 rescinded.

C:-DEPENDANTS

7. The Emigration Commissioner shall accept freely as dependants the wife and children of any duly accepted Indian immigrant labourer when such wife or children are not themselves accepted as labourers. Other dependants accompanying duly accepted immigrant labourers and unfit for registration as labourers may be accepted by the Emigration Commissioner at his discretion.

8. Dependants shall be provided at the cost of the Fund with the same transport, subsistence, or batta in lieu thereof as recruited labourers, but no employer shall be entitled to any recruitment allowance on their behalf.

D:-HOLDERS OF RECRUITING LICENCES

9. Holders of recruiting licences on their return journey to Sri Lanka shall be provided, as if they were recruited labourers, at the cost of the Fund, with transport, subsistence, or batta in lieu thereof from the Agency at which they recruit to the railway station in Sri Lanka most convenient to their place of employment. Their employer shall not however be entitled to any recruitment allowance on their behalf.

10. Holders of recruiting licences who travel in charge of their recruits from the office of registration to the port of embarkation, and who, on the departure of their recruits to Sri Lanka, return to their districts for further recruiting, shall, while accompanying their recruits, be provided at the cost of the Fund with their transport, subsistence, or batta in lieu thereof, as if they were duly recruited labourers. On the departure of their recruits for Sri Lanka they shall be provided at the cost of the Fund with their railway ticket to the station most convenient for the Agency at which they recruit.

**E:-ASSISTED IMMIGRANTS NOT DIRECTLY RECRUITED BY
HOLDERS OF RECRUITING LICENCES**

11. Indian immigrant labourers who apply directly to the Emigration Commissioner for an assisted passage to Sri Lanka may be given such under the usual conditions provided that the Emigration Commissioner is satisfied-

- (a) That they are former employees returning to an employer who is willing to employ them; or
- (b) That in the case of new recruits, he can allot them to an employer who is willing to employ them.

F:- LABOURERS REJECTED AND TURNED BACK

12. The Fund shall bear the cost of charges incurred for the subsistence, transport, and detention of any person receiving an assisted passage who at any stage of the journey is rejected by the Emigration Commissioner, or by the Indian Emigration authorities, or by the authorities of the Ceylon Board of Immigration and Quarantine, or who for any other reason fails to complete the journey. The Fund shall also bear the cost of returning any such person to his home when the Emigration Commissioner or the Commissioner are called upon so to return him by any lawful authority acting under the provisions of the Indian Emigration Act, or consider that such return is expedient.

G:-MEDICAL EXPENSES

13. The Fund shall defray-

- (a) Such charges as may be reasonably incurred by the Emigration Commissioner, or the Commissioner for the medical treatment, supervision, or examination of Indian immigrant labourers while in their charge;
- (b) Any such charges which the Emigration Commissioner or the Commissioner may be lawfully called upon to pay by the Indian Emigration authorities or by the Ceylon Board of Immigration and Quarantine.

14. The Fund may defray any reasonable expenses incurred in the burial or cremation of any person who shall die while being assisted to emigrate.

H:-REPATRIATION

15. The Fund shall bear the cost of-

- (a) The repatriation of any Indian immigrant labourer ordered to be repatriated under section 22 of the Ordinance;
- (b) Any other provision for the repatriation of sick or indigent Indian immigrant labourers as may from time to time be authorized by the Minister.

[Gazette No.9773/24-9
1947.]

**I:- SALARY OF THE EMIGRATION COMMISSIONER AND
ADMINISTRATIVE EXPENSES OF HIS DEPARTMENT**

16. The salary and allowances of the Emigration Commissioner shall be paid by the Fund on such scale as the Minister with the concurrence of the Minister of Finance shall from time to time determine.

[Gazette No.9773/24-9
1947.]

17. The Emigration Commissioner shall make all payments necessary in India under the provisions of the Ordinance, and shall in general do all things required under the provisions of the said Ordinance, or of the Indian Emigration Law, in connection with the supervision of recruiting, the registration of recruits, the accommodation, subsistence, and transport of Indian immigrant labourers from the offices of registration up to the places of accommodation that may be provided at the ports of departure for Sri Lanka, and in connection with the return of repatriated labourers to their homes when required. He shall be responsible through the Commissioner to the Minister for the due performance of his duties.

[Gazette No.9773/24-9
1947.]

[Gazette No.9773/24-9
1947.]

18. For any purpose under the preceding rule the Emigration Commissioner may, with the approval of the Minister, utilize the services of the Coast Agency of the Ceylon Planters' Association, otherwise known as the Ceylon Labour Commission, or any other Agency similarly authorized by the Minister and may appoint any person or persons employed in such Agency as Assistant Emigration Commissioners or Inspectors of Emigration under the provisions of the Indian Emigration Act, 1922. Provided that the salaries of the employees of any such Agency and the services rendered by it are in conformity with the provisions of the Indian Emigration Act or any rule or regulations framed thereunder. Provided also that such Agency shall, if employed, comply with the directions of the Emigration Commissioner duly made to secure such conformity.

[Gazette No.9773/24-9
1947.]

19. The remuneration by the Fund to such Agency for services rendered shall be on such scale and under such conditions as may from time to time be agreed upon between the said Agency and the Emigration Commissioner and approved by the Minister with the concurrence of the Minister of Finance.

J:-ADMINISTRATION CHARGES

20. The Fund shall defray-

[Gazette No.9773/24-9
1947.]

- (a) The cost of collection of the Fund, apart from the salaries and allowance of the Commissioner's staff;
- (b) The cost to the Department of Labour, apart from the salaries and allowances of the Commissioner's staff, of issuing and examining licences to recruit Indian immigrant labourers;
- (c) The necessary cost of office rent and equipment, postage, and telegrams in India, stationery, and printed forms;
- (d) The travelling expenses of the Commissioner, his staff, and members of the Board of Indian Immigrant Labour at such rates as may be approved by the Minister with the concurrence of the Minister of Finance;
- (e) Legal expenses incurred in connection with the work of the Commissioner or Emigration Commissioner, whether in Sri Lanka or India;
- (f) Any necessary incidental expenses;
- (g) Any special expenditure not included in the above as may be certified by the Commissioner to be necessary for the carrying out of the provisions of this Ordinance or of the Indian Emigration Act, and the conditions, rules, or regulations notified by the Government in India thereunder. Provided that the estimates for such expenditure shall have been laid before the Board of Indian Immigrant Labour for its consideration, and shall have been sanctioned by the Minister with the concurrence of the Minister of Finance.

[Gazette No.9773/24-9
1947.]

K:-CONTRACTS

21. The Commissioner and the Emigration Commissioner may from the date on which the Fund comes into operation authorize payments at the rates of the contracts at that time existing with, or at the rates at that time prescribed by, the Sri Lanka Labour Commissioner for the cost of feeding and transporting Indian immigrant labourers, and shall thereafter as these contracts expire, or these rates require re-adjustment, make such arrangements as may from time to time be necessary for those purposes.

L:-GENERAL

22. The Emigration Commissioner may at his discretion refuse to register as a recruit any labourer presented by a licensed recruiter, and after registration may reject him at any stage of his journey from the office of registration to the point of his embarkation.

23. The Commissioner shall arrange for the escort of Indian immigrant labourers from the place of accommodation at the port of embarkation in India to the railway station in Sri Lanka appointed by the employer as most convenient to his place of employment. The Commissioner shall also cause the employer to be notified of the intended despatch to him of Indian immigrant labourers, and of the probable date of their arrival at the railway station in Sri Lanka. It shall be the duty of the employer to meet at such station all Indian immigrant labourers despatched to him and there to take charge of them. Provided that nothing in this regulation shall be deemed to affect the powers conferred on the Commissioner and his officers under section 18 of the Ordinance.

24. The accounts of the Commissioner and the Emigration Commissioner shall be audited as the Minister with the concurrence of the Minister of Finance may from time to time direct. The cost of such audit shall be borne by the Fund.

[Gazette No.7946/16-5-1941.]

25. The moneys of the Fund shall be banked and deposited as the Minister or an officer authorized in that behalf by the Minister may from time to time direct.

[Gazette No.9773/24-9-1947.]

26. The Immigration Fund shall come into operation on a date* to be determined by the Governor and notified in the *Gazette* †. On and from the date so notified, the various charges to be borne by the Fund shall be defrayed from the Fund. Charges for the transport, escort, and subsistence of Indian immigrant labourers, the recruitment allowances to employers, and the emigration fee imposed by the Government in India shall be payable from the Fund only in respect of such Indian immigrant labourers as shall be accepted on and after the said date by the Emigration Commissioner for immigration to Sri Lanka.

(CHAPTER) III

Government Departments

[Gazette No.7359/2-11-1923.]

Any sums voted under section 12 (c) of the Ordinance shall be taken as the contribution of Government to the Fund, and shall entitle Government Departments to be treated as if they were employers paying acreage fees, for all purposes in connection with the regulations issued under sections 14 and 23 of the Ordinance. Provided that when Indian immigrant labourers are introduced into Sri Lanka on behalf of any Government Department for seasonal work which will not extend beyond a limited period, under one year in duration, if such labourers are entitled to and claim repatriation, under section 22 of the Ordinance, at the end of such period the cost of repatriating such labourers shall either be borne by the Department, or if borne in the first instance through the Immigration Fund, shall be repaid to the Fund by the Department.

* October 1, 1923.

† Vide *Gazette* No. 7,341 of July 27, 1923, at page 390.

SCHEDULE A

**THE INDIAN IMMIGRANT LABOUR ORDINANCE,
SECTIONS 14 AND 23**

(Regulation No. 1 of Chapter 1 made thereunder.)

The following estates shall pay acreage fees into the Immigration Fund:-

[Gazette No.9773/24-9-1947.]

- (a) Estates with ten or more acres planted in tea; for each such acre at a rate to be fixed by the Minister with the concurrence of the Minister of Finance ;
- (b) Estates with thirty or more acres planted in rubber, cacao, or cardamom; for each such acre at a rate not exceeding one-third of the rate paid by tea; to be fixed by the Minister with the concurrence of the Minister of Finance.

Provided that-

[Gazette No.7930/16-6-1932.]

- (1) Any estate planted partly in tea and partly in rubber, cacao, or cardamoms shall pay the acreage rate due on each product, provided that the total area of the estate shall equal or exceed ten units, reckoning an acre of tea as one unit, and an acre of rubber, cacao, or cardamoms as one-third of a unit.

[Gazette No.7947/7-10-1932.]

- (2) Any isolated division of an estate, of whatever acreage, in the actual possession of the owner or lessee of such estate and under the same management, shall for the purposes of the assessment of acreage fees be deemed to be part of such estate, subject however to the condition that the commissioner may order that acreage fees be not assessed or levied in respect of any such isolated division, if he is satisfied that no part of it is worked with Indian immigrant labourers.

[Gazette No.7947/7-10-1932.]

- (3) If any acreage planted in any product lie abandoned, the Commissioner shall, on being satisfied that no labour has been employed in the cultivation thereof during the previous quarter, exempt such acreage from assessment for any quarter. Mere cessation of tapping or plucking shall not be deemed a sufficient cause for any such exemption.

SCHEDULE B

**THE INDIAN IMMIGRANT LABOUR ORDINANCE,
SECTIONS 14 AND 23**

(Regulation No. 3 of Chapter 1 made thereunder.)

- 1. (a) Name of estate.
(b) Tamil name of estate.
- 2. (a) Postal and telegraphic address.
(b) Name of railway station serving estate; and distance from estate to station.
- 3. Revenue District in which estate is situated.

4. (a) Registered No., if any, in Tin Ticket Register.
 (b) Registered No., if any, in Rubber Controller's Register.

5. Name and address of -
 (a) Superintendent.
 (b) Proprietor or Lessee.

6. Name and address of Agent, if any.

7. Total acreage of estate.

8. Acreage, at date of return, planted in tea.

N.B.- Acreages planted with tea and any other product to rank as acreages planted in tea.

9. Acreage, at date of return, planted in rubber, cacao, or cardamoms.

N.B.- Acreages interplanted with rubber, cacao, or cardamoms and any other product, save tea, to rank as acreages planted in rubber, cacao, or cardamoms, as the case may be.

10. State the extent of any acreage in section 8 or 9 above, for which exemption is claimed on the ground that it is lying abandoned. Particulars should be given of the exact extent, the date since which the land has been abandoned, and the present condition of the plantation on such land. Mere cessation of tapping or plucking shall not be deemed sufficient for exemption.

11. Number of Indian immigrant labourers on estate on first day of each month in the quarter-

No. of Month	Name of Month	Men	Women	Children	Total
1 st Month ..					
2 nd Month ..					
3 rd Month ..					

I,....., Superintendent/Employer of the above estate, certify that, the particulars given in the above return have been verified by me, and are to the best of my knowledge correct.

(Signature),
 Superintendent/Employer

SCHEDULE C

APPLICATION TO RECRUIT UNSKILLED LABOUR FROM INDIA UNDER THE INDIAN IMMIGRANT LABOUR ORDINANCE SECTIONS 14 AND 23

(Regulation No.2 of Chapter 11 made thereunder.)

1. (a) Name of employer: _____
 (b) Postal and telegraphic address: _____

2. (a) Place of employment for proposed recruits:
(b) Revenue district in which it lies:
(c) Post town:
(d) Railway station serving it, and distance of such station from place of employment:

3. Nature of employment for which labourers are required:

4. Particulars of wages offered
 - (a) To men:
 - (b) To women:
 - (c) To children:

Any special conditions with regard to piecework, overtime, & c., should be stated. Also whether wages include free housing accommodation or not.

5. (a) Full name of each person whom employer desires to employ as a recruiting agent.
(b) Name of district and Taluq in India in which each recruiting agent proposes to operate.
(c) Number of Indian immigrant labourers which each recruiting agent desires to recruit.

N.B. - Under the Indian rules (vide rule 7 of the rules in Indian Government Notification No. 213 of March 10, 1923), the *kangany*, i.e., the recruiting agent, must be an Indian of the labouring class, and have been previously employed as a labourer under the employer for whom he is to recruit. His licence will be valid in the first instance for one year, and not more than twenty persons exclusive of dependants may be recruited upon such licence.

6. Fee payable to recruiting agent for each Indian immigrant labourer recruited by him:-
 - (a) For men:
 - (b) For women:
 - (c) For children over twelve:

I, _____, the undersigned, forward the above application to recruit Indian immigrant labour under regulation 2 of Chapter II of the regulations framed under sections 14 and 23 of the Indian Immigrant Labour Ordinance, and certify that the particulars contained therein are to the best of my knowledge correct.

(Signature) _____,
Employer.

Date: _____ .

SCHEDULE D
THE INDIAN IMMIGRANT LABOUR ORDINANCE
SECTIONS 14 AND 23

(Regulation No. 13 of Chapter 1 made thereunder.)

Whereas under the provisions of section 14 of the Indian Immigrant Labourer Ordinance, a sum of..... rupees was due to the Commissioner of Labour in respect of fees payable by..... proprietor of the estate..... in respect of the employment of Indian immigrant labourers on the said estate, and a sum of rupees was due for costs of seizure and sale, and a further sum of rupees was likewise due for interest under the provisions of section 15 of the said Ordinance :

And whereas the said estate was seized in conformity with the regulation made under sections 14 and 23 of the said Ordinance and sold in conformity therewith on the..... day of.....;

And whereas the said estate was purchased by..... of for the sum of..... rupees which has been duly paid by the said.....:

Now know ye that, I,....., Commissioner of Labour by virtue and in exercise of the powers in me vested in this behalf by the said regulations, do hereby certify that the following property, to wit, (here describe the property with special accuracy by metes and bounds)....., has been sold to and purchased by the said..... for the sum of.....rupees, which he has duly paid and that the said premises are and shall henceforward be vested in the said....., his heirs, executors, administrators, and assigns.

Given under my hand this day of19.....

(Signature).....,
Commissioner of Labour

SECTIONS 23

REGULATIONS

[Gazette No.8583/1-3-1940.]

With effect from the date on which an immigration contributory provident fund for the purposes specified in section 13 (1) (h) of the Indian Immigrant Labour Ordinance is established, the following contributions shall be paid from the Immigration Fund to such provident fund:-

[Gazette No.9773/24-9-1947.]

- (1) on the establishment of such provident fund, a contribution equal to the aggregate amount required by the Commissioner of Labour for the purpose of crediting the account of each subscriber to such fund with a sum calculated in accordance with a formula approved by the Minister, taking into consideration the length of service of each subscriber in respect of which he was paid from the Immigration Fund or from the Tin Ticket Fund;
- (2) monthly, a contribution of an amount equal to one-tenth of the salaries of all the subscribers to the contributory fund;
- (3) where the income from any half-year from the investment of the provident fund is insufficient to pay to the subscribers of such fund the interest for that half-year as fixed by the Minister with the concurrence of the Minister of Finance under the rules of such provident fund, a contribution of an amount equal to the deficiency.

NOTIFICATION UNDER REGULATION 26 OF THE REGULATIONS UNDER SECTIONS 13 AND 23

It is hereby notified that the Governor, in terms of regulation 26, Part L, of the regulations made by him in Executive Council, under the powers conferred by section 13 and 23 of the Indian Immigrant Labour Ordinance, has been pleased to fix October 1, 1923, as the date on which Immigration Fund shall come into operation.

["Ceylon Government
Gazette" June 12,
1959.]

THE INDIAN IMMIGRANT LABOUR ORDINANCE

NOTIFICATION

It is hereby notified that, in pursuance of the powers vested in him by regulation 1 A of Chapter 1 of the regulations made under section 14 of the Indian Immigrant Labour Ordinance (Chapter III), and published in Gazette No. 7,339 of July 13, 1923, as amended by the regulation published in Gazette No. 7,358 of October 26, 1923, and as modified by the Proclamation published in Gazette Extraordinary No. 9, 773 of September 24, 1947, the Minister of Labour, Housing and Social Services has been pleased to direct that the quarterly instalments of acreage fees payable to the Commissioner of Labour by employers of Indian immigrant labourers on estates of the description named in Schedule A attached to the said regulations shall, in respect of the quarter ending June 30, 1959, and of all subsequent quarters in respect of which this Notification remains in force, be determined in accordance with the following scale:-

(1) Tea	}	3 cents per acre
(2) Tea interplanted with rubber		
(3) Tea interplanted with cacao		
(4) Tea interplanted with cardamoms		
(5) Rubber	}	1 cent per acre
(6) Cacao		
(7) Cardamoms		
(8) Rubber interplanted with cacao		
(9) Rubber interplanted with cardamoms		
(10) Cacao interplanted with cardamoms		

C. B. KUMARASINHA,
Permanent Secretary,
Ministry of Labour, Housing and
Social Services.

Colombo, 5 th June, 1959.