



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**SRI LANKA BUREAU OF FOREIGN
EMPLOYMENT (AMENDMENT)
ACT, No. 56 OF 2009**

[Certified on 01st October, 2009]

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*Sri Lanka Bureau of Foreign Employment
(Amendment) Act, No. 56 of 2009*

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L.D.—O. 11/2008.

AN ACT TO AMEND THE SRI LANKA BUREAU OF FOREIGN
EMPLOYMENT ACT, NO. 21 OF 1985

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:—

1. This Act may be cited as the Sri Lanka Bureau of Foreign Employment (Amendment) Act, No. 56 of 2009. Short title.
2. Section 16 of the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (2) of that section as follows:— Amendment of section 16 of Act, No. 21 of 1985.
 - (a) by the substitution in paragraph (i) thereof, for the word “choice.” of the word “choice;”; and
 - (b) by the addition immediately after paragraph (i) thereof, of the following new paragraphs:—
 - “(j) to authorize officers of the Bureau to examine any document in the possession of a person going abroad for employment, at any port of embarkation, for the purpose of verifying whether registration has been obtained in compliance with the Act, where officers have reason to believe that such person is going abroad without having obtained the required registration under the Act; and
 - (k) to receive social security levies from employers abroad for the welfare of Sri Lankan employees.”.
3. Section 27 of the principal enactment is hereby amended as follows:— Amendment of section 27 of the principal enactment.
 - (a) by the renumbering of that section as subsection (1) of that section; and

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- (b) by the addition immediately after renumbered subsection (1) of the following new subsection:—

“(2) No licence shall be issued in terms of the provisions of this Act, if the applicant is at the time of making the application for a licence, already holding a licence issued under the Act.”.

Insertion of new section 37A in the principal enactment.

4. The following new section is hereby inserted immediately after section 37 of the principal enactment and shall have effect as section 37A of that enactment:—

“Restriction on publication of advertisement &c, without approval.

37A. (1) No person shall print or publish or cause to be printed or published in any media, any advertisement or notice submitted to it by a licensee or any other person, calling for applications from persons for employment outside Sri Lanka, without satisfying himself that such advertisement or notice has been approved by the Bureau for such publication under section 37.

(2) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence under this Act.”.

Amendment of section 51 of the principal enactment.

5. Section 51 of the principal enactment is hereby amended as follows:—

- (a) in subsection (1) of that section by the substitution for the words “is recruited”, of the word “leaves” ;
and
- (b) in subsection (2) of that section by the substitution for the words “is recruited”, of the word “leaves”.

6. The following new section is hereby inserted immediately after section 51 of the principal enactment and shall have effect as section 51A of that enactment:—

Insertion of new section 51A in the principal enactment.

“Charging of commission and other payments.

51A. (1) If any licensee does not receive any commission or any other payment to secure employment opportunities outside Sri Lanka, he may charge the actual expenses to be incurred, in addition to the registration fee from any recruit, after having obtained prior approval for the same from the Bureau. Where the Bureau believes that the expenses requested are unreasonable, the Bureau may refuse to grant approval under section 37.

(2) Where a licensee having received payment for expenses from the employer abroad, conceals the receipt of such payment and requests payment for those expenses, such licensee shall be guilty of an offence under this Act.

(3) Where a licensee in terms of subsection (1) receives a payment approved by the Bureau, the licensee shall issue a receipt for the amount, so received.

(4) A licensee who does not issue a receipt in terms of subsection (3) shall be guilty of an offence under this Act.”.

7. Section 52 of the principal enactment is hereby amended by the addition immediately after subsection (4) of the following new subsection:—

Amendment of section 52 of the principal enactment.

“(5) Where in the opinion of the Bureau, the amount which is disclosed in the returns furnished under subsection (2) by a licensee as having been received as commission is not reasonable and

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below such amount as ought to have been received as commission, the amount of commission for the purpose of assessment under subsection (4), shall be deemed to be as prescribed by the Minister having considered the nature of the employment and the quantum of the benefits to be received by the Agents.

(6) Where a licensee defaults in payment of the cess under subsection (3) or where an assessment is made in relation to a licensee by the Bureau under subsection (4) in relation to the cess, where the amount of the commission is below that which ought to have been received as commission, the licensee shall be guilty of an offence and liable on conviction after summary trial by a Magistrate to a fine not less than five thousand rupees. The Magistrate shall, in addition, order the licensee to pay the amount of cess which is in default.”.

Amendment of section 54 of the principal enactment.

8. Section 54 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words “every licensee shall” of the words “a licensee may”.

Amendment of section 60 of the principal enactment.

9. Section 60 of the principal enactment is hereby amended in subsection (1) (b) of that section by the substitution for the words “copies of any records” of the words “any documents relating to foreign employment or any records”.

Insertion of new sections 60B, 60C and 60D in the principal enactment.

10. The following new sections are hereby inserted immediately after section 60A of the principal enactment and shall have effect as sections 60B, 60C and 60D of that enactment:—

“Officers and servants of the Bureau to be deemed to be public officers for the purposes of the Code of Criminal Procedure Act.

60B. Every officer or servant of the Bureau shall be deemed—

- (a) to be a public officer; and
- (b) a peace officer,

within the meaning and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.

Officers and servants of the Bureau deemed to be public officers for the purposes of the Penal Code.

60C. Every officer and servant of the Bureau, shall be deemed to be a public officer, within the meaning and for the purposes of the Penal Code (Chapter 19).

Immunity from suit.

60D. (1) No suit or prosecution shall lie—

- (a) against the Bureau for any lawful act, which in good faith is done or purported to be done by the Bureau under this Act; or
- (b) against any member, officer, servant or agent of the Bureau for any lawful act, which in good faith is done or purported to be done by him under this Act or on the directions of the Bureau.

(2) Any expenses incurred by the Bureau in any suit or prosecution by or against the Bureau before any court shall be paid out of the funds of the Bureau and any costs paid to, or recovered by, the Bureau in any such suit or prosecution shall be credited to the funds of the Bureau.”.

11. Section 62 of the principal enactment is hereby amended as follows:—

Amendment of section 62 of the principal enactment.

- (a) in subsection (1) of that section, by the substitution for all the words from “one thousand rupees” to the end of that subsection, of the words “one hundred thousand rupees and to imprisonment of either description for a term not exceeding four years.”; and

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- (b) in subsection (2) of that section, by the substitution for all the words from “twenty thousand rupees” to the end of that subsection, of the words “one hundred thousand rupees and to imprisonment of either description for a term not exceeding four years.”.

Amendment of
section 63 of the
principal
enactment.

12. Section 63 of the principal enactment is hereby amended by the substitution for all the words from “one thousand rupees” to the end of that section, of the words “twenty five thousand rupees and to imprisonment of either description for a term not exceeding two years. ”.

Amendment of
section 64 of the
principal
enactment.

13. Section 64 of the principal enactment is hereby amended by the substitution for all the words from “one thousand rupees” to “two years.” of the words “fifty thousand rupees and not exceeding one hundred thousand rupees and to imprisonment of either description for a term not exceeding two years. ”.

Amendment of
section 65 of the
principal
enactment.

14. Section 65 of the principal enactment is hereby amended by the substitution for the words “one thousand rupees and not exceeding one thousand five hundred rupees” of the words “five thousand rupees”.

Amendment of
section 66 of the
principal
enactment.

15. Section 66 of the principal enactment is hereby amended by the substitution for the words “one thousand rupees and not exceeding one thousand five hundred rupees” of the words “five thousand rupees”.

Amendment of
section 67 of the
principal
enactment.

16. Section 67 of the principal enactment is hereby amended by the substitution for all the words from “one thousand rupees” to the end of that section, of the words “twenty five thousand rupees and not exceeding fifty thousand rupees and imprisonment of either description for a term not exceeding two years.”.

Amendment of
section 67A of
the principal
enactment.

17. Section 67A of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “one thousand rupees” of the words “twenty five thousand rupees”.

18. The following new section is hereby inserted immediately after section 67A of the principal enactment and shall have effect as section 67B of that enactment:—

Insertion of new section 67B in the principal enactment.

“Aiding and abetting an offence. 67B. Any person who aids or abets a licensee or his employee in the commission of any offence under this Act, shall be guilty of an offence and be liable on conviction after summary trial by a Magistrate, to a fine not exceeding twenty five thousand rupees or to imprisonment of either description for a term not exceeding two years.”.

19. The following new sections are hereby inserted immediately after section 69 of the principal enactment and shall have effect as sections 69A and 69B of that enactment:—

Insertion of new sections 69A and 69B in the principal enactment.

“Powers of arrest. 69A. Where any person who commits an offence under sections 37A, 62, 63 or 64 or against whom reasonable suspicion exists that he is guilty of the commission of any such offence, such person may be arrested without any warrant within any place either upon land or water by a police officer, or by an employee of the Bureau authorized by the Bureau in that behalf, and every person so arrested shall forthwith:—

- (i) be produced before a Magistrate to be dealt with according to law; or
- (ii) where it is impracticable so to do, be handed over to the officer-in-charge of the nearest police station to be dealt with according to law.

Certain portion of fines to be remitted to the Workers' Welfare Fund of the Bureau. 69B. (1) Where any person is convicted and a penalty is imposed for an offence under any provision of this Act, seventy five *per centum* of any fine so imposed and recovered shall be remitted to the Workers' Welfare Fund of the Bureau established under section 45 of the Act.

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(2) The Magistrate hearing the summary trial in respect of any offence under any provision of this Act, shall, in addition to the sentence, make Order that seventy five *per centum* of the fine so imposed and recovered be remitted to the Workers' Welfare Fund of the Bureau.”.

Sinhala text to prevail in case of inconsistency.

20. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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