

NON-CITIZENS (EMPLOYMENT RESTRICTION) ACT

Act 15 of 1970 – 17 May 1973

Amended 38/01; 20/02; 29/04 (P 41/04); 21/06 (cio 1.10.06); 17/07

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1 Short title

This Act may be cited as the Non-Citizens (Employment Restriction) Act.

2 Interpretation

In this Act –

“authorised person” means any person specified in section 5;

“Immigration Officer” has the same meaning as in the Immigration Act;

“Minister” means the Minister to whom responsibility for the subject of employment is assigned;

“non-citizen” means any person other than a citizen of Mauritius;

“permit” means –

(a) in relation to a person who is or is about to be employed by another, a permit in writing issued by the Minister to and in the name of that person and specifying the name of the employer;

(b) in relation to any other person, a permit in writing issued by the Minister authorising that person to engage in an occupation;

“resident” has the same meaning as in the Immigration Act.

3 Restriction on employment of non-citizens

(1) Subject to this Act, a non-citizen shall not –

(a) engage in any occupation in Mauritius for reward or profit; or

(b) be employed in Mauritius,

unless there is in force, in relation to him, a valid permit and he engages in the occupation, or is employed, in accordance with any condition which may be specified in the permit.

(2) –

(3) Subject to this Act, no person shall have a non-citizen in his employment in Mauritius without there being in force a valid permit in relation to that employment.

(4) Subject to this Act –

(a) any non-citizen who engages in any occupation in Mauritius or is employed in Mauritius in contravention of subsection (1); and

(b) any person who has in his employment in Mauritius a non-citizen in contravention of subsection (3),

shall commit an offence and shall, on conviction, be liable to a fine of not less than 25,000 rupees but not more than 50,000 rupees and to imprisonment for a term not exceeding 2 years.

[Amended 38/01] GN 136 of 2001

(5) A non-citizen who –

(a) is a resident; and
(b) was engaged in any occupation or was employed in Mauritius on 17 May 1973, may, notwithstanding subsection (1), engage in any occupation for reward or profit or be employed without a permit as long as he is resident in Mauritius.

(6) Notwithstanding subsections (1) and (2), a holder of an occupation permit issued under the Immigration Act, or a non-citizen who has been granted a permanent residence permit under section 5AA of the Immigration Act, may engage in any occupation for reward or profit, or be employed, without a permit issued under this Act during the period covered by the occupation permit or permanent residence permit, as the case may be.

[Added 20/02; repealed 21/06; added 17/07] GN 76 of 2007

4 Work permits

(1) An application for a permit shall be made in accordance with guidelines issued by the Ministry and shall be addressed to the Minister who may, in his absolute discretion, grant or refuse it.

[Amended 29/04 (P 41/04)] GN 93 of 2004

(1A) The guidelines referred to in subsection (1) shall be available for consultation at the Ministry and shall be posted on the website of the Ministry.

[Added 29/04 (P 41/04)] GN 93 of 2004

(2) (a) Where the Minister grants an application for a permit, he shall issue the permit within 2 weeks of the effective date of the application for the permit and subject to such conditions as may be specified in the permit.

(b) For the purposes of paragraph (a), “effective date of the application” means the date by which all the documents and information specified in the form of application are submitted.

[Repealed and replaced 29/04 (P 41/04)] GN 93 of 2004

(3) (a) This section shall not apply to an investor, a self-employed non-citizen or the employer of a professional who has applied for an occupation permit under section 9A of the Immigration Act.

(b) For the purposes of paragraph (a), “investor”, “self-employed non-citizen” and “professional” have the same meaning as in the Immigration Act.

[Added 20/02; repealed and replaced 21/06] GN 77 of 2006

(4) A permit shall be in such form as may be approved by the Minister and different forms may be approved in respect of different classes of persons or as the circumstances require.

(5) The Minister may, in writing, vary or cancel a permit.

5 Authorised persons

(1) The Immigration Officer, any police officer or any public officer authorised in writing by the Minister may take such steps as may be required to secure compliance with this Act.

(2) Where an authorised officer, other than a police officer in uniform, exercises any of his powers under this Act he shall, if so required, produce a certificate of his authority so to act.

6 Production of permits

(1) Every permit shall be kept by the person to whom it is issued, and shall be produced to any authorised person on demand, or, within 3 days after the demand, at such police station as may be specified by the authorised officer at the time of the demand.

(2) Any person who fails without reasonable excuse or refuses to produce a permit as required under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months.

7 Power to grant exemptions

The Minister may prescribe that any person or class of persons shall be exempt, either unconditionally or subject to such conditions as may be prescribed, from all or any of the provisions of this Act.

8 Offences and penalties

Any person who –

- (a) makes any statement which he knows to be false for the purpose of procuring for himself or for any other person the grant of a permit;
- (b) unlawfully uses a permit or causes or permits it to be so used;
- (c) obstructs, hinders or opposes an authorised person in the execution of his duty under this Act;
- (d) contravenes any condition imposed on him under section 7; or
- (e) contravenes any regulations made under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

[Amended 5/99]

9 Evidence

(1) It shall be presumed upon the trial of any person for a contravention of section 3(1) that the accused is a non-citizen unless the contrary is proved.

(2) It shall be presumed upon the trial of any person for a contravention of section 3(3) that the person alleged to have been in employment in contravention of that subsection is a non-citizen unless the contrary is proved.

(3) In any proceedings against a non-citizen under this Act, the proof that he satisfies the requirements of section 3(5)(a) and (b) shall lie upon him.

10 Regulations

The Minister may make regulations generally for the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations–

- (a) for the establishment and maintenance of a register of persons to whom or in respect of whom permits have been issued;
 - (b) for the issue to any person who is exempt from this Act of a certificate stating the nature of the exemption;
 - (c) for the issue, amendment, surrender, replacement or cancellation of a permit and for the payment of fees by a person applying for a permit; and
 - (d) for the making, with regard to any person to whom or in respect of whom a permit has been issued, of returns containing particulars of any change of circumstances affecting the accuracy of particulars furnished by that person.
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