

THE FOREIGNERS ACT, 1946

SUMMARY

The Foreigners Act, 1946 is an act of the Indian Parliament that regulates the entry, stay, and exit of foreigners in India. The Act lays down the procedures for the registration of foreigners, their movements within India, and their deportation. The Act also empowers the Central Government to make rules and orders for carrying out the provisions of the Act. Under this Act, the Central Government may prohibit, restrict, or regulate the entry, stay, and exit of foreigners in India, if it considers it necessary in the interest of the sovereignty and integrity of India, the security of the state, or public order. The Act applies to all foreigners in India, including refugees and stateless persons.

TABLE OF CONTENTS

Section 1: Short Title And Extent

Section 2: Definitions

Section 3: Power To Make Orders

Section 3A: Power To Exempt Citizens Of Commonwealth Countries And Other Persons From Application Of Act In Certain Cases

Section 4: Persons On Parole

Section 5: Change Of Name

Section 6: Obligations Of Masters Of Vessels, Etc

Section 7: Obligation Of Hotel Keepers And Others To Furnish Particulars

Section 7A: Power To Control Places Frequented By Foreigners

Section 8: Determination Of Nationality

Section 9: Burden Of Proof

Section 10: Repealed

Section 11: Power To Give Effect To Orders, Directions, Etc

Section 12: Power To Delegate Authority

Section 13: Attempts, Etc, To Contravene The Provisions Of This Act, Etc

Section 14: Penalty For Contravention Of Provisions Of The Act, Etc

Section 14A: Penalty For Entry In Restricted Areas, Etc

Section 14B: Penalty For Using Forged Passport

Section 14C: Penalty For Abetment

Section 15: Protection To Persons Acting Under This Act

Section 16: Application Of Other Laws Not Barred

Section 17: Repealed

Section 1: Short Title And Extent

(1) This Act may be called the Foreigners Act, 1946.

(2) It extends to the whole of India.

Simplified

(1) The name of this law is the Foreigners Act, 1946.

(2) It applies to all of India.

Section 2: Definitions

In this Act -

(a) "foreigner" means a person who is not a citizen of India;

(b) "prescribed" means prescribed by orders made under this Act;

(c) "specified" means specified by direction of a prescribed authority.

Simplified

This law explains that -

(a) "foreigner" is someone who isn't an Indian citizen;

(b) "prescribed" refers to what is set out by rules created under this law;

(c) "specified" is what is detailed by a recognized official or body as per the rules.

Explanation using Example

Imagine an individual named John, who is a citizen of Canada, arrives in India on a tourist visa. According to the Foreigners Act, 1946, John is considered a "foreigner" as he is not an Indian citizen. During his stay, the Indian government issues an order under the Act that requires all foreigners to report to the nearest police station within 14 days of arrival. This order is "prescribed" by the Act, meaning it's officially established by the government's authority. If the order also states that foreigners from certain countries must report within 7 days instead of 14, and Canada is listed in that directive, then Canada is a "specified" country as per the direction of the prescribed authority.

Section 3: Power To Make Orders

(1) The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or their departure therefrom or their presence or continued presence therein.

(2) In particular and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner -

(a) shall not enter India or shall enter India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;

(b) shall not depart from India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed;

(c) shall not remain in India or in any prescribed areas therein;

(cc) shall, if he has been required by order under this section not to remain in India, meet from any resources at his disposal the cost of his removal from India and of his maintenance therein pending such removal;

(d) shall remove himself to, and remain in, such area in India as may be prescribed;

(e) shall comply with such conditions as may be prescribed or specified

(i) requiring him to reside in a particular place;

(ii) imposing any restrictions on his movements;

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;

(iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;

(vi) prohibiting him from association with persons of a prescribed or specified description;

(vii) prohibiting him from engaging in activities of a prescribed or specified description;

(viii) prohibiting him from using or possessing prescribed or specified articles;

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified;

(f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions;

(g) shall be arrested and detained or confined;

and may make provision for any matter which is to be or may be prescribed and for such incidental and supplementary matters as may, in the opinion of the Central Government, be expedient or necessary for giving effect to this Act.

(3) Any authority prescribed in this behalf may with respect to any particular foreigner make orders under clause (e) or clause (f) of sub-section (2).

Simplified

Simplified Explanation:

(1) The Central Government has the power to issue orders that can restrict, control, or forbid foreigners from entering, leaving, or staying in India. This can apply to all foreigners, specific individuals, or certain groups.

(2) Specifically, the government can order that a foreigner:

(a) may not come to India, or can only come at certain times, through specific routes, to designated places, and must follow certain rules when arriving;

(b) may not leave India, or can only leave at certain times, through specific routes, from designated places, and must follow certain rules when leaving;

(c) is not allowed to stay in India or in certain areas within India;

(cc) must pay for their own removal from India and any costs of staying in India until they are removed, if ordered to leave;

(d) must go to and stay within a specific area in India if told to do so;

(e) must follow certain rules which may include:

(i) living in a specified place;

(ii) having limits on where they can go;

(iii) providing proof of identity, reporting to authorities at certain times and places;

(iv) allowing photographs and fingerprints to be taken, providing handwriting and signature samples;

(v) undergoing medical exams by an authority at specified times and places;

(vi) avoiding contact with certain people;

(vii) not participating in certain activities;

(viii) not using or having certain items;

(ix) following other specified rules for behavior;

(f) may have to sign a bond, with or without a guarantee from others, to follow all these rules and conditions;

(g) can be arrested, detained, or confined;

and the government can make rules for any related issues that need to be addressed to enforce this law.

(3) A designated authority can make decisions regarding the rules a foreigner must follow or the bond they must sign as described in parts (e) and (f) of section (2).

Explanation using Example

Imagine a scenario where the Central Government of India receives intelligence that a group of individuals from a certain foreign country are planning to enter India to engage in espionage activities. To prevent this, the government invokes Section 3 of The Foreigners Act, 1946.

Under this section, the government issues an order stating that individuals from this specific country must obtain a special permit before entering India. The order specifies that they can only enter through designated airports and must report to the local police station within 24 hours of arrival. Their movements are restricted to certain areas, and they must provide biometric data and regular updates on their whereabouts.

One of the individuals from the group attempts to enter India without the special permit and is detained at the airport. He is informed about the restrictions placed by the government under Section 3 of the Act and is subsequently deported to his home country.

Section 3A: Power To Exempt Citizens Of Commonwealth Countries And Other Persons From Application Of Act In Certain Cases

3A Power to exempt citizens of Commonwealth Countries and other persons from application of Act in certain cases -

The Central Government may, by order, declare that all or any of the provisions of this Act or of any order made thereunder shall not apply, or shall apply only in such circumstances or with such exceptions or modifications or subject to such conditions as may be specified in the order, to or in relation to -

the citizens of any such Commonwealth Country as may be so specified; or

any other individual foreigner or class or description of foreigner.

A copy of every order made under this section shall be placed on the table of both Houses of Parliament as soon as may be after it is made.

Simplified

Simplified Explanation of Section 3A of The Foreigners Act, 1946

This section gives the Central Government the power to make special exceptions for people from Commonwealth countries and other foreigners regarding the rules of this Act. Here's what it means:

The Central Government can issue an order to say that certain parts of this Act, or any rules made under it, don't apply to some people, or they apply differently, or only under certain conditions. This can be for:

Citizens from specific Commonwealth countries;

Any other foreign individual or groups of foreigners.

Every time the government makes such an order, they have to show it to both Houses of Parliament as soon as possible after creating it.

Explanation using Example

Imagine a situation where the government of India decides to host an international cricket tournament with teams from various Commonwealth countries. To facilitate the easy entry and stay of the players, coaches, and support staff from these countries, the Central Government issues an order under Section 3A of The Foreigners Act, 1946.

In this order, the government may declare that visas will not be required for the participants from the Commonwealth countries, or they may be granted visas on arrival without the usual documentation. This exemption would only apply for the duration of the tournament and only to those individuals involved in the event.

The order would specify that the usual provisions of the Foreigners Act, which typically require a visa and other entry formalities, will not apply to these individuals under the specified conditions. After issuing the order, it would be presented in both houses of the Indian Parliament to ensure transparency and legislative oversight.

Section 4: Persons On Parole

(1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(2) Any foreigner (hereinafter referred to as a person on parole) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set apart for the residence under supervision

of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(3) No person shall:

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

(b) give an escaped internee or person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) The Central Government may, by order, provide for regulating access to, and the conduct of persons in, places in India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be prescribed.

Simplified

Simplified Explanation of the Foreigners Act, 1946 - Section 4

Part 1: If the government has ordered a foreigner to be detained (called an "internee"), they must stay in a specific place under certain conditions. These conditions include how they are maintained, disciplined, and how any rule-breaking is punished. The government can change these rules whenever it wants.

Part 2: If a foreigner (called a "person on parole") is ordered to live in a supervised area, they must follow certain rules. These rules, set by the government, cover their upkeep, behavior, and consequences for any rule-breaking. The government can change these rules too.

Part 3: It's illegal to:

Help an internee or a person on parole escape or hide them after they've escaped.

Assist an escaped internee or person on parole in any way that would make it harder for them to be caught again.

Part 4: The government can make rules about who can visit and how people should behave in the places where internees or persons on parole are held. They can also control what items can be sent to these people from outside.

Explanation using Example

Imagine a foreign national, let's call him John, who has been found guilty of espionage activities in Country X. The government of Country X, under their powers as detailed in the Foreigners Act, issues an order to detain John at a specific facility. According to Section 4(1) of the Foreigners Act, 1946, John's detention will be governed by rules set by the Central Government, including his maintenance, discipline, and the punishment of any offences or breaches of discipline he might commit while detained.

Meanwhile, another foreigner, named Sarah, has been ordered to reside in a designated area under strict supervision, but not detained in a facility. This is in accordance with an order under Section 4(2). Sarah must adhere to certain conditions regarding her upkeep and behavior, as mandated by the Central Government.

If a local resident, Alex, knowing about John's or Sarah's situation, decides to help either of them escape or hides them after their escape, Alex would be violating Section 4(3) and could face legal consequences for assisting an internee or a person on parole to evade the authorities.

Furthermore, the Central Government might restrict or regulate access to the area where John is detained and where Sarah is residing under supervision, as well as control the delivery of certain items to them, as per Section 4(4) to ensure the integrity of their confinement and supervision.

Section 5: Change of Name

(1) No foreigner who was in India on the date on which this Act came into force shall, while in India after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.

(2) Where, after the date on which this Act came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style, other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1), be deemed to be

using a name other than that by which he was ordinarily known immediately before the said date.

(3) In relation to any foreigner who, not having been in India on the date on which this Act came into force, thereafter enters India, subsections (1) and (2) shall have effect as if for any reference in those subsections to the date on which this Act came into force there were substituted a reference to the date on which he first enters India thereafter.

(4) For the purposes of this section

the expression "name" includes a surname, and

a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use-

of any name in pursuance of a licence or permission granted by the Central Government; or

by any married woman, of her husband's name.

Simplified

Explanation:

(1) If you were a foreigner in India when this law started, you must not use a different name than the one you were known by just before the law began, as long as you're in India.

(2) If you're a foreigner and started using a new name for your business or trade after the law began, it's considered as if you have changed your personal name too.

(3) If you're a foreigner who entered India after the law started, the rules about not changing your name apply to you too, starting from the day you entered India.

(4) Just so you know:

"Name" means first name and last name.

If you change how your name is spelled, it counts as changing your name.

(5) These rules don't apply if:

The government gave you permission to use a different name.

You're a married woman and you took your husband's name.

Explanation using Example

Imagine a foreign national named John Smith who was conducting a business in India under the name "Smith Electronics" before the enactment of the Foreigners Act, 1946. After the Act came into force, he decides to rebrand his business as "Modern Electronics." According to Section 5 of the Act, John Smith would be in violation of the law for using a different business name than the one he was using before the Act's enforcement. To comply with the Act, he would need to continue operating under the name "Smith Electronics" unless he obtains specific permission from the Central Government to use the new name.

Section 6: Obligations Of Masters Of Vessels, Etc

(1) The master of any vessel landing or embarking at a port in India passengers coming to or going from that port by sea and the pilot of any aircraft landing or embarking at any place in India passengers coming to or going from that place by air, shall furnish to such person and in such manner as may be prescribed a return giving the prescribed particulars with respect to any passenger or members of the crew, who are foreigners.

(2) Any District Magistrate and any Commissioner of Police or, where there is no Commissioner of Police, any Superintendent of Police may, for any purpose connected with the enforcement of this Act or any order made thereunder, require the master of any such vessel or the pilot of any such aircraft to furnish such information as may be prescribed in respect of passengers or members of the crew on such vessel or aircraft, as the case may be.

(3) Any passenger on such vessel or such aircraft and any member of the crew of such vessel or aircraft shall furnish to the master of the vessel or the pilot of the aircraft, as the case may be, any information required by him for the purpose of furnishing the return referred to in sub-section (1) or for furnishing the information required under sub-section (2).

(4) If any foreigner enters India in contravention of any provision of this Act or any order made thereunder, the prescribed authority may, within two months from the date of such entry, direct the master of the vessel or the pilot of the aircraft on which such entry was effected or the owner or the agent of the owner of such vessel or aircraft, to provide, to the satisfaction of the said

authority and otherwise than at the expense of Government, accommodation on a vessel or aircraft for the purpose of removing the said foreigner from India.

(5) The master of any vessel or the pilot of any aircraft which is about to carry passengers from a port or place in India to any destination outside India, or the owner or the agent of the owner of any such vessel or aircraft shall, if so directed by the Central Government and on tender of payment therefore at the current rates, provide on the vessel or aircraft accommodation to such port or place outside India, being a port or place at which the vessel or aircraft is due to call, as the Central Government may specify, for any foreigner ordered under section 3 not to remain in India and for his dependents, if any, travelling with him.

(6) For the purposes of this section

(a) "master of a vessel" and "pilot of any aircraft", shall include any person authorised by such master or pilot, as the case may be, to discharge on his behalf any of the duties imposed on him by this section;

(b) "passenger" means any person not being a bona fide member of the crew, travelling or seeking to travel on a vessel or aircraft.

Simplified

(1) The person in charge of a ship or airplane that arrives at or departs from an Indian port or airport must provide a list of certain details about any passengers or crew members who are not from India. This list must be given to the designated official in the specified way.

(2) A local government official or police chief has the authority to ask the person in charge of the ship or airplane for specific information about passengers or crew members. This is to help enforce immigration laws and regulations.

(3) Passengers and crew members on the ship or airplane must give the required information to the person in charge so that they can complete the necessary paperwork for immigration purposes.

(4) If a foreigner comes into India without following the proper legal process, an authorized official can order the person in charge of the ship or airplane that brought the foreigner to arrange for their return trip. This must be done at no cost to the Indian government and within two months of the foreigner's arrival.

(5) The person in charge of a ship or airplane leaving India must provide seats for foreigners who are not allowed to stay in India, and their family members, if the Indian government asks for it. The government will pay for these seats at the usual rate.

(6) For the purpose of understanding this section:

(a) "person in charge of a ship" and "person in charge of an airplane" also include anyone they authorize to perform their duties under this section;

(b) "passenger" refers to anyone who is not an official crew member and is traveling or intends to travel on a ship or airplane.

Explanation using Example

Imagine a scenario where a commercial airline pilot, flying from a foreign country to India, is approached by Indian immigration authorities upon landing. The authorities request a list of all foreign nationals who were passengers on the flight. The pilot, in accordance with Section 6(1) of The Foreigners Act, 1946, provides the required information, which includes details such as the passengers' names, nationalities, and passport numbers.

In another instance, a cruise ship docks at a port in Mumbai, and the local District Magistrate wants to verify the compliance of foreign crew members with Indian immigration laws. The master of the vessel, as per Section 6(2), submits the requested details about the crew's travel documents and purpose of visit.

Furthermore, a foreign tourist on the cruise ship is asked by the ship's master to provide personal information to comply with the local laws. The tourist complies, as per Section 6(3), enabling the master to fulfill the legal requirements of the return.

If it is discovered that a foreigner has entered India on that cruise ship without proper documentation, the authorities, as per Section 6(4), direct the master of the ship to arrange for the foreigner's departure from India at the ship owner's expense within two months of their arrival.

Lastly, if the Central Government orders a foreigner to leave India, as per Section 6(5), the master or agent of the vessel or aircraft must ensure travel arrangements for the foreigner and any dependents back to their country or another specified destination.

Section 7: Obligation Of Hotel Keepers And Others To Furnish Particulars

(1) It shall be the duty of the keeper of any premises whether furnished or unfurnished where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed. Explanation - The information referred to in this sub-section may relate to all or any of the foreigners accommodated at such premises and may be required to be submitted periodically or at any specific time or occasion.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purpose of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed, and shall at all times be open to inspection by any police officer or by a person authorised in this behalf by the District Magistrate.

(4) If in any area prescribed in this behalf the prescribed authority by notice published in such manner as may in the opinion of the authority be best adapted for informing the persons concerned so directs, it shall be the duty of every person occupying or having under his control any residential premises to submit to such person and in such manner such information in respect of foreigners accommodated in such premises as may be specified; and the provisions of sub-section (2) shall apply to every person accommodated in any such premises.

Simplified

Simplified Explanation of The Foreigners Act, 1946 - Section 7

1. Responsibility of Lodging Keepers: If you run a hotel, hostel, or any place where people pay to sleep, you must give information about any foreign guests to the authorities in the way they ask for it. This could mean giving details about all or just some of the foreign guests, and you might need to do this regularly or just at certain times.

2. Duty of the Guests: If you're a foreigner staying at one of these places, you have to provide your details to the person in charge if they ask for them. This is so they can pass this information on to the authorities as required.

3. Record Keeping: The person in charge of the lodging must keep a record of all the information they collect from foreign guests and the details they send to the authorities. They must keep these records in a certain way and for a certain amount of time. The records must always be available for the police or any other authorized person to check.

4. Additional Areas: In some areas, if the authorities decide, anyone who owns or controls a place where people live must also give information about any foreign guests. This is similar to what hotels and hostels must do, and the same rules apply to the guests in these places too.

Explanation using Example

Imagine a hotel owner in India, Mr. Sharma, who provides accommodation to tourists. Under Section 7(1) of The Foreigners Act, 1946, Mr. Sharma is required to report details of his foreign guests to the local police or a designated authority. This might include information such as the guests' passport numbers, visa details, and duration of stay.

Mr. Sharma must ask his foreign guests, as per Section 7(2), to provide the necessary information for him to fulfill his reporting duty. This could involve having the guests fill out a registration form upon check-in.

Furthermore, Mr. Sharma needs to maintain these records as per Section 7(3) in an organized manner for a specified period, and ensure that they are available for inspection by police or other authorized officials.

If Mr. Sharma's hotel is in an area where additional reporting is mandated by a local authority notice as per Section 7(4), he would need to comply with those specific reporting requirements as well, which could be more detailed or frequent than the general obligations.

Section 7A: Power To Control Places Frequented By Foreigners

(1) The prescribed authority may, subject to such conditions as may be prescribed, direct the owner or person having control of any premises used as a restaurant or a place of public resort or entertainment or as a club and frequented by foreigners:

to close such premises either entirely or during specified periods, or

to use or permit the use of such premises only under such conditions as may be specified, or

to refuse admission to such premises either to all foreigners or to any specified foreigner or class of foreigner.

(2) A person to whom any direction has been given under sub-section (1) shall not, while such direction remains in force, use or permit to be used any other premises for any of the aforesaid purposes, except with the previous permission in writing of the prescribed authority and in accordance with any conditions which that authority may think fit to impose.

(3) Any person to whom any direction has been given under sub-section (1) and who is aggrieved thereby may, within thirty days from the date of such direction, appeal to the Central Government; and the decision of the Central Government in the matter shall be final.

Simplified

Simplified Explanation of Section 7A - Control Over Places Frequented by Foreigners

(1) An authorized official can tell the owner or manager of a place like a restaurant, club, or entertainment venue that is popular with foreigners to:

shut down the place completely or at certain times, or

only open or allow the place to be used with specific rules, or

not allow foreigners, or certain foreigners, to come in.

(2) If the owner or manager has been told to do any of these things, they can't use another place for the same purpose without getting written permission from the authorized official and following any rules the official sets.

(3) If the owner or manager doesn't agree with the instructions given to them, they can complain to the Central Government within 30 days. The Central Government's decision on the matter is final.

Explanation using Example

Imagine a situation where the local law enforcement agencies have credible intelligence that certain foreign espionage agents are using a popular nightclub

in the city as a meeting point to exchange sensitive information. To prevent this threat to national security, the prescribed authority under Section 7A of The Foreigners Act, 1946, directs the owner of the nightclub:

To close the nightclub during the hours when these meetings are known to take place, or

To implement strict entry protocols during these hours, such as thorough checks of identification and purpose of visit, or

To refuse entry to all foreigners or to specific individuals suspected of espionage activities during these hours.

The owner must comply with these directions and cannot use another location for the nightclub without prior written permission from the authority. If the owner feels the directions are unjust, they have the right to appeal to the Central Government within thirty days.

Section 8: Determination Of Nationality

(1) When a foreigner is recognised as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality, if any, is to be ascribed to a foreigner, that foreigner may be treated as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or, if he is of uncertain nationality, of the country with which he was last so connected: Provided that where a foreigner acquired a nationality by birth, he shall, except where the Central Government so directs either generally or in a particular case, be deemed to retain that nationality unless he proves to the satisfaction of the said authority that he has subsequently acquired by naturalization or otherwise some other nationality and still recognized as entitled to protection by the Government of the country whose nationality he has so acquired.

(2) A decision as to nationality given under sub-section (1) shall be final and shall not be called in question in any Court: Provided that the Central Government, either of its own motion or on an application by the foreigner concerned, may revise any such decision.

Simplified

(1) If a person from another country (a foreigner) is considered a citizen by more than one country, or if it's unclear which country they belong to, they can

be treated as a citizen of the country they seem most connected to right now, based on their interests or feelings. But, if someone was born in a country and got their citizenship that way, they are usually thought to keep that citizenship. The only exception is if they can show they have become a citizen of another country later on and that new country is looking after their rights.

(2) Once a decision is made about which country a person is a citizen of, it's final and can't be questioned in court. However, the Central Government can change this decision on its own or if the person from another country asks for it to be reviewed.

Explanation using Example

Imagine a woman named Maria who was born in Russia but has lived in France for many years. She holds both Russian and French passports. Maria comes to India on a business trip. During her stay, the Indian authorities need to determine her nationality for visa and immigration purposes. According to Section 8(1) of The Foreigners Act, 1946, since Maria has connections to both Russia and France, the Indian authorities can consider her nationality based on the country with which she has the most significant ties. They notice that Maria speaks fluent French, has a French address, and works for a French company, so they decide to treat her as a French national for the duration of her stay in India.

If Maria disagrees with this decision, she cannot challenge it in court, as per Section 8(2). However, if she believes that her strongest ties are now with Russia and she has evidence to prove this, she can apply to the Central Government of India to revise the decision regarding her nationality while in India.

Section 9: Burden Of Proof

If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person.

Simplified

If there's a situation where it's unclear whether someone is a foreigner or what kind of foreigner they are under this law or related orders or instructions, that person must prove they are not a foreigner or not the type of foreigner in question. This requirement applies even if the Indian Evidence Act of 1872 says something different.

Explanation using Example

Imagine a scenario where a man named John, who claims to be an Indian citizen, is stopped by the police for a routine check while he is traveling within India. The police suspect that he might be a foreign national and ask him to prove his citizenship. Under Section 9 of The Foreigners Act, 1946, the responsibility is on John to provide evidence that he is indeed an Indian citizen and not a foreigner. If John is unable to produce valid proof such as a passport, voter ID, or other government-issued identification to establish his citizenship, he may face legal action or deportation proceedings as per the Act.

Section 10: Repealed

Power to exempt from application of Act Rep by the Foreigners Laws (Amendment) Act, 1957 11 of 1957, s. 7 wef. 19-1-1957.

Simplified

This section states that the government has the authority to declare that certain foreign individuals or groups are not subject to the rules of the Foreigners Act, 1946. This change was made by an amendment to the law in 1957.

Section 11: Power To Give Effect To Orders, Directions, Etc

(1) Any authority empowered by or under or in pursuance of the provisions of this Act to give any direction or to exercise any other power, may, in addition to any other action expressly provided for in this Act, take, or cause to be taken such steps and use, or cause to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power, as the case may be.

(2) Any police officer may take such steps and use such force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Act or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

Simplified

(1) If an authority has the power under this law to issue instructions or to use other powers, they can also take additional actions not specifically mentioned in the law. This includes using reasonable force if they believe it's necessary to make sure their instructions are followed, to fix any violations of those instructions, or to effectively use their given powers.

(2) A police officer is also allowed to take actions and use reasonable force if they think it's necessary to ensure that orders or instructions given under this law are obeyed, or to correct any violations of these orders or instructions.

(3) The authority given by this section of the law is understood to include the right for any person using it to enter any land or property when needed.

Explanation using Example

Imagine a foreign national residing in India has overstayed their visa despite receiving multiple warnings and directions from the immigration authorities to leave the country. Under Section 11 of The Foreigners Act, 1946, the empowered authority, such as the immigration officer, can use reasonable force to ensure compliance with the direction to leave India. This might involve the officer arranging for the foreigner to be escorted to the airport and placed on a flight back to their home country.

In another scenario, if the foreign national refuses to cooperate or attempts to evade the authorities, the police may intervene. They can use the force necessary to prevent the individual from absconding and to ensure their departure in accordance with the Act's provisions, as per Section 11(2).

Furthermore, if the foreign national is staying on private property and refuses to come out, the authorities, as per Section 11(3), have the right to enter the property to enforce the Act.

Section 12: Power To Delegate Authority

Any authority upon which any power to make or give any direction, consent or permission or to do any other act is conferred by this Act or by any order made thereunder may, unless express provision is made to the contrary, in writing

authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Act.

Simplified

If a law or order from this Act lets an authority make decisions, give approvals, or take actions, that authority can allow a lower-level authority to do these things instead. This is okay unless the Act specifically says it's not allowed. The lower-level authority must follow any conditions given in the permission. Once authorized, this lower-level authority is considered to have the same powers as the original authority under this Act.

Explanation using Example

Imagine that the government of a country has the power under the Foreigners Act, 1946 to issue directions to a foreign national regarding their stay in the country. The government can delegate this power to a local immigration officer. So, if a foreigner is staying in a particular city, the central authority can authorise the city's immigration officer to decide on the extension of the foreign national's visa. This means the immigration officer will act on behalf of the government and the foreigner must comply with the officer's decision as if it came directly from the central authority.

Section 13: Attempts, Etc, To Contravene The Provisions Of This Act, Etc

(1) Any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of, the provisions of this Act or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

(2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention shall be deemed to have abetted that contravention.

(3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves India in contravention of any

order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened this Act.

Simplified

(1) If someone tries to break the rules of this law, helps someone else to do so, prepares to break the rules, or does not follow instructions given under this law, they will be treated as if they have broken the law.

(2) If a person knows or has good reason to believe that another person has broken the rules of this law and helps them to avoid getting caught, tried, or punished, they will be considered as having helped in breaking the law.

(3) If a foreigner enters or leaves India illegally using a ship or aircraft, the person in charge of the ship or aircraft will be treated as if they have broken the law, unless they can show that they did everything they could to prevent the illegal entry or exit.

Explanation using Example

Imagine a situation where an individual named John, who is not a citizen of India, overstays his visa despite receiving a government order to leave the country within a specified time. Attempting to avoid detection, John seeks the help of a local resident named Priya. Priya, knowing about John's visa overstay, offers him a place to hide. This action of Priya providing assistance to John with the intent to prevent his arrest for the visa violation is an application of Section 13(2) of The Foreigners Act, 1946, as she would be deemed to have abetted the contravention of the Act.

Section 14: Penalty For Contravention Of Provisions Of The Act, Etc

Whoever- (a) remains in any area in India for a period exceeding the period for which the visa was issued to him;

(b) does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part thereunder;

(c) contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of

section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Explanation - For the purposes of this section, the expression "visa" shall have the same meaning as assigned to it under the Passport (Entry into India) Rules, 1950 made under the Passport (entry into India) Act, 1920 (34 of 1920).

Simplified

Simple Explanation of Penalties for Breaking Visa Rules:

If a person:

- (a) stays in India longer than their visa allows,
- (b) breaks any of the rules that their visa says they have to follow, or
- (c) disobeys any part of the Foreigners Act or any orders or instructions made under it, where no other specific penalty is mentioned,

then they can be:

- Sent to jail for up to five years,
- Made to pay a fine,
- If they agreed to a bond (a legal promise to do or not do something) and they break this promise, they will lose the bond and have to pay the penalty or explain to the court why they shouldn't have to pay.

Note: Here, "visa" means the same thing as in the Passport (Entry into India) Rules from 1950.

Explanation using Example

A hypothetical scenario demonstrating the application of Section 14 of The Foreigners Act, 1946 could be:

John Doe, a foreign national, comes to India on a tourist visa that allows him to stay for a maximum of 30 days. However, John does not leave India after 30 days and instead stays for 60 days without any extension or valid reason. John has now overstayed his visa duration, which is a violation of Section 14(a) of The Foreigners Act, 1946.

As a result of this contravention, John could face legal action, which may include imprisonment for a term that could extend up to five years and a fine. Additionally, if John had entered into a bond that promised his compliance with the visa regulations, that bond would be forfeited, and any guarantor on the bond would be liable to pay the penalty or provide a satisfactory explanation to the court.

Section 14A: Penalty For Entry In Restricted Areas, Etc

Whoever-

enters into any area in India, which is restricted for his entry under any order made under this Act, or any direction given in pursuance thereof, without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or

enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act or any direction given in pursuance thereof,

shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting court why such penalty should not be paid by him.

Simplified

If a person:

goes into a part of India where they are not allowed because of rules from this Act, or follows directions related to those rules, without having a special permission from the government authority mentioned in the Official Gazette, or stays there longer than the time allowed by that permission; or

goes into or stays in a part of India without the correct papers that are needed for entering or staying there, according to the orders or directions from this Act,

then that person will be punished with jail time of at least two years, which could go up to eight years. They will also have to pay a fine of at least ten thousand rupees. If the person had promised to follow certain conditions by signing a bond under section 3(2)(f), they will lose the money they promised in the bond. Anyone else who was also part of that bond must pay the penalty or explain to the court why they should not have to pay.

Explanation using Example

Imagine a foreign national, John, who is visiting India on a tourist visa. He decides to visit a scenic region in the north-eastern part of India. However, this particular area requires a special permit for foreign visitors because it's a sensitive border area. John, unaware or ignoring the requirement, enters the area without obtaining the necessary permit.

John is now in violation of Section 14A(a) of The Foreigners Act, 1946, as he has entered a restricted area without authorization. If caught, he could face a minimum of two years in prison, a fine of at least ten thousand rupees, or both. Additionally, if John had signed a bond agreeing to follow the rules of entry and stay in India, that bond would be forfeited, and he or his guarantor would need to pay the penalty or explain to the court why it should not be paid.

Section 14B: Penalty For Using Forged Passport

Whoever knowingly uses a forged passport for entering into India or remains therein without the authority of law for the time being in force shall be punishable with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees.

Simplified

If someone intentionally uses a fake passport to enter or stay in India without legal permission, they can be sent to jail for at least two years and up to eight years. They can also be fined at least ten thousand rupees and up to fifty thousand rupees.

Explanation using Example

Imagine a scenario where an individual, John, who is not a citizen of India, enters the country using a forged passport. John's intention is to secure employment in India. However, upon a routine check, the authorities discover

that his passport details are fraudulent and do not match any official records. Under Section 14B of The Foreigners Act, 1946, John would be subject to legal action for entering and staying in India without proper authorization. Consequently, he could face a minimum imprisonment of two years, which could extend up to eight years, and also be fined a sum not less than ten thousand rupees and up to fifty thousand rupees for his actions.

Section 14C: Penalty For Abetment

Whoever abets any offence punishable under section 14 or section 14A or section 14B shall, if the act abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.

Explanation - For the purposes of this section,

an act or offence is said to be committed in consequence of the abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the offence;

the expression "abetment" shall have the same meaning as assigned to it under section 107 of the Indian Penal Code (45 of 1860).

Simplified

If you encourage or help someone to commit a crime covered by section 14, 14A, or 14B of this law, and they actually commit the crime because of your encouragement or help, you will be punished just as if you committed the crime yourself.

What this means:

A crime is considered to be the result of your encouragement or help if it happens because you urged someone to do it, because you were part of a plan to do it, or because you gave help that led to the crime.

The term "encouragement or help" is defined the same way it is in section 107 of the Indian Penal Code.

Explanation using Example

Imagine a scenario where an individual, John, is not legally permitted to remain in a country because his visa has expired. His friend, Mike, knowing about John's situation, provides him with shelter and financial assistance to help him evade immigration authorities. If John is caught and charged under

Section 14 of the Foreigners Act, 1946, for staying in the country without valid documentation, Mike could also face legal consequences for his role in assisting John.

In this context, Mike's actions would constitute abetment under Section 14C of the Foreigners Act, because he intentionally helped John to continue staying in the country illegally. If it is proven that John's continued illegal stay was a direct result of Mike's assistance, Mike could be punished with the same penalties that are applicable to John for the original offence.

Section 15: Protection To Persons Acting Under This Act

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Simplified

Explanation of Section 15 of The Foreigners Act, 1946:

If someone does something or plans to do something based on what this law (The Foreigners Act, 1946) says, and they do it honestly believing it's the right thing to do, then no one can take them to court or charge them with a crime for that action.

Explanation using Example

Imagine a situation where an immigration officer at an airport detains a foreign traveler because the officer suspects that the traveler's visa is forged. The officer acts in accordance with the procedures outlined in The Foreigners Act, 1946, to prevent illegal entry into the country. Later, it is discovered that the visa was genuine and the suspicion was a mistake. The traveler decides to sue the officer for wrongful detention. However, under Section 15 of The Foreigners Act, 1946, as long as the officer acted in good faith believing the visa was indeed forged, the officer would be protected from any legal suit, prosecution, or proceeding for the detention.

Section 16: Application of Other Laws Not Barred

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the following Acts:

The Registration of Foreigners Act, 1939 (16 of 1939),

The Indian Passport Act, 1920 (34 of 1920), and

Any other enactment for the time being in force.

Simplified

This law adds to the rules that already exist in other laws and does not replace or reduce the importance of those laws. Specifically, it works alongside the following:

The Registration of Foreigners Act, 1939 (which is the law number 16 of 1939),

The Indian Passport Act, 1920 (which is the law number 34 of 1920), and

Any other laws that are currently applicable.

Explanation using Example

Imagine a foreign national named John who is currently residing in India. John has been asked by the local authorities to register his presence in the country, as per the Registration of Foreigners Act, 1939. Despite having registered, he is found to be involved in activities that are not permitted under his visa conditions.

Under Section 16 of The Foreigners Act, 1946, the actions taken against John for violating his visa conditions will be in addition to the obligations he has under the Registration of Foreigners Act, 1939. This means that while John may face penalties or deportation under The Foreigners Act, 1946, he is also required to comply with the registration requirements as per the 1939 Act.

Furthermore, if John had traveled without a valid passport, he would also be subject to the provisions of The Indian Passport Act, 1920, alongside any action taken under The Foreigners Act, 1946. This example demonstrates that the enforcement of The Foreigners Act, 1946 does not exempt John from the requirements and penalties of other relevant legislations.

Section 17: Repealed

Repeals Rep by the Repealing and Amending Act, 1950 35 of 1950, s. 2 and Sch. I.

Simplified

This section of the law has been removed by another law called the Repealing and Amending Act of 1950. Specifically, this happened in section 2 and Schedule I