

INTRODUCED ON 26.09.2022.
[AS INTRODUCED IN SENATE]

A
Bill

further to amend the Emigration Ordinance, 1979

WHEREAS it is expedient further to amend the Emigration Ordinance, 1979 (XVIII of 1979) for purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Emigration (Amendment), Act 2022.

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance No. XVIII of 1979. - In the Emigration Ordinance, 1979 (XVIII of 1979), hereinafter referred to as the said Ordinance, in section 2, in sub-section (1), after clause "(i)" the following new clause shall be inserted, namely:-

"(ia) **"Labor Attaches"** means an officer, deputed in foreign Diplomatic Mission, assigned with the responsibility of promoting the welfare of workers abroad appointed under section 7;

3. Amendment of section 4B, Ordinance No. XVIII of 1979.- In the said Ordinance, in section 4B, in sub-section (2), after the words, "Federal Government", the expression, " as well as to both Houses of Parliament" shall be inserted.

4. Amendment of section 7, Ordinance No. XVIII of 1979.- In the said Ordinance, in section 7, for the words, "a person" in the third line, the expression, "from qualified and competent ranks in the civil service through a set selection procedure" shall be substituted.

5. Insertion of new section 7A, Ordinance No. XVIII of 1979.- In the said Ordinance, after section 7, amended as aforesaid, the following new section 7A, shall be inserted, namely:-

"7A. Duties of Labor Attaches.- In general, the functions and responsibilities of Labour Attachés are to:

- (a) Ensure the protection of the rights and promote the welfare and interests of migrant workers and assist them on all problems arising out of employer-employee relationship;
- (b) Promote and implement the Ministry's overseas employment programme, consistent with the overall policy thrust of the government;
- (c) Verify employment contracts and other employment-related documents;
- (d) Monitor and report to the mother agency (the Ministry that supervises the Labour Attachés; i.e. Ministry of Overseas Pakistanis and Human Resource Development) situations and policy developments in the host country that may affect migrant workers and labor policies in general;
- (e) Supervise and coordinate the operations of the Migrant Workers Resource Centers (MWRC) or related structure such as shelter or half-way house in the host countries, if available;
- (f) Provide their mother agency with regular labor market information or profiles, employment situation updates, regular market intelligence reports (which could be quarterly or bi-annually), and other related information;
- (g) The Labour Attachés shall primarily handle all matters arising out of employer-employee relationship including, but not limited to the following:
 - (i) Violation of work contracts, conditions of employment such as non-payment or underpayment of wages and other benefits, illegal dismissal and other similar cases;
 - (ii) Violation of rules and regulations on overseas employment or labour migration;
 - (iii) Provision of temporary shelter;
 - (iv) Medical and hospital assistance;
 - (v) Repatriation of workers;
 - (vi) Visitations to jails, shelters, hospitals, etc.;
 - (vii) Human trafficking for labour exploitation, trafficking in persons, illegal recruitment, and allied cases; and

(viii) Other requests for assistance such as para-legal assistance, and non-performance of family obligations;

(h) Pursue need-based community development and relations programmes and engage in socio-cultural activities by the government in the host country, communities, or other entities; and

(i) Perform other functions as may be directed by the relevant Ministry.

6. Amendment of section 17, Ordinance No. XVIII of 1979.- In the said Ordinance, in section 17, in sub-section (2), in clause (c), in sub-clause (ii),

(i) for the word, "subsequent" the expression "offenders, repeaters and organized gangs of the same" shall be substituted; and

(ii) for words, "seven years" the words, "fourteen years" shall be substituted.

7. Amendment of section 23, Ordinance No. XVIII of 1979.- In the said Ordinance, in section 23, for the words, "one year" the words "five years" shall be substituted.

8. Amendment of section 24, Ordinance No. XVIII of 1979.- In the said Ordinance, in section 24, in sub-section (2), for the expression "Sessions Judge, or an Additional Sessions Judge" the words "Special Judge" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Following are the main objectives of the amendments proposed through this bill in particular:

- i. The objective of amendment in section 2 of the Emigration Ordinance, 1979 is to include the definition of "Labor Attaches" in the definitions' section;
- ii. The objective of amendment in section 4B of the Emigration Ordinance, 1979 is to make it mandatory upon the Director General to present the report about protection of the interests of overseas Pakistanis in both Houses of Parliament also so that public representatives may also perform their oversight and monitoring role in this regard;
- iii. The objective of amendment in section 7 of the Emigration Ordinance, 1979 is to make the role of a Labor Attaches more effective, inclusive, and commensurate with international best models. The Overseas Labour Office,

- under which a Labour or Community Welfare Attaché belongs to, is important and critical for the protection of migrants because it has to find a balance between laws of both countries of origin and destination.
- iv. Protecting the interests of migrant workers is the primary responsibility of the countries of destination while others, including employers, also have a duty in this regard. The countries of origin of the migrant workers have a fair share of responsibility as well. In the host country, origin country diplomats and more particularly Labour Attachés, perform the tasks of providing protection and assistance to the nationals of their own countries.
 - v. These responsibilities are laid down in the 1961 Vienna Convention on Diplomatic Relations, as well as in the 1963 Vienna Convention on Consular Relations. The responsibilities that the government provides to their nationals at home must be equally fulfilled when these nationals are abroad, to the extent that is consistent with the law of the host country. The principle of extra-territorial obligations obliges all countries of origin to extend their responsibility to migrant workers, in accordance with the Universal Declaration of Human Rights and related conventions. Keeping in view of the significance of the role of labor attaches in protecting the rights of overseas workers, very selective, competent and experienced officers must be selected as labor attaches. As per international guidelines of Selection and appointment process of labor attaches- The general practice is that Labour Attachés are appointed from qualified and competent ranks in the civil service. Some countries have either or both written and oral examinations in the selection process while in other countries, the experience and expertise are considered as priority criteria. The most common qualifications are having degrees or experience in law and economics, and comprehensive knowledge on government structure and operations. Either the President /Chief Executive or the Minister appoints the Labor Attachés;
 - vi. Apart from their selection process, their general duties must also be delineated as per international best practices. Therefore, new section 7A has been proposed through this bill;
 - vii. The objective of amendments in section 17 and 23 of the Emigration Ordinance, 1979 is to provide effective measures to prevent offences related

to the human trafficking and migrants' smuggling and to provide severe punishments against the offenders, repeaters and organized gangs which may extend to a maximum punishment of 14 years.

- viii. The objective of amendments in section 24 of the Emigration Ordinance 1979 is to avoid the complications and complexities in emigration crimes related to human trafficking special judges must be appointed to conduct judicial inquiries in these cases.

The Bill has been designed to achieve the objectives.

**SENATOR DR. ZARQA SUHARWARDY TAIMUR
MEMBER-IN-CHARGE**