

# Redefining India's immigration landscape:

The new Immigration and Foreigners Act 2025

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## Background

The Indian government hauled a major legislative reform in its immigration legal framework after three years of deep deliberation by passing the Immigration and Foreigners Bill 2025 on 2 April 2025 (New Law), with the aim of strengthening borders and ensuring immigration seamlessly for authorized visitors to India. In order to further avoid multiplicity and overlapping of laws, the New Law repeals the existing laws governing immigration, i.e., the *Passport (Entry into India) Act 1920*, the *Registration of Foreigners Act 1939*, the *Foreigners Act 1946*, and the *Immigration (Carriers' Liability) Act 2000*. By way of repealing these laws, the New Law confers certain powers upon the Central Government for provisioning of passports or other travel documents for persons entering into and exiting from India and regulating matters relating to foreigners including the requirement of visa and registration.

## Salient aspects of the New Law

*While the New Law primarily governs 'foreigners', defined as persons who are not citizens of India, certain provisions extend to individuals other than foreigners, including Indian citizens. A closer examination of the statutory framework reveals a nuanced and distinct applicability of various provisions to foreigners and non-foreigners.*

### a. Immigration

Immigration as defined, is in relation to functions such as "...visa issuance and regulation of entry into, transit through, stay in or movement within and exit from, India...". Any person entering India or departing from India is required to possess a valid passport and any other travel document and in the case of a foreigner, a valid visa as well (unless exempted). The provisions do not allow for any foreigner to enter or stay in India "on account of threat to national security, sovereignty and integrity of India, relations with a foreign state, or public health", etc. Further, the provisions do not allow for any person to depart from India if his presence is required in India by any authorised agency.

The New Law further provides for examination and seizure of passport or other travel document and visa (as required) by the immigration officer in certain cases, designated immigration posts for entry into or exit from India, Bureau of Immigration to perform immigration functions and such other functions as may be prescribed.

### b. General provisions applicable to foreigners

Under the New Law, several general obligations are imposed on foreigners and entities interacting with them.

- i. Foreigners arriving in India are required to register with the designated registration officer upon entry, as per the prescribed timelines and procedures. In addition, the New Law casts reporting obligations on various institutions and service providers:
- ii. Keepers of accommodation must submit relevant information concerning foreigners staying on their premises to the Registration Officer.

- iii. Universities, educational institutions, and other entities admitting foreign students are similarly required to report details of such admissions.
- iv. Hospitals, nursing homes, and other medical institutions providing in-patient medical treatment or lodging/sleeping facilities to foreigners (or their attendants) must also furnish such information to the Registration Officer.

The New Law further imposes restrictions on the movement and activities of foreigners within India. Notably:

- i. Foreigners are prohibited from entering, residing, or remaining in protected, restricted, or prohibited areas without obtaining a specific permit from the competent authority.
- ii. Any change of name from the one under which the foreigner entered India (or the name ordinarily used prior to the commencement of the New Law) is not permitted unless express authorisation for such change has been obtained from the appropriate authority.
- iii. The legislation also provides for regulation of movement of foreigners, control over premises frequented by foreigners, and determination of nationality in cases where a person is recognised as a national by the laws of more than one country.

#### **c. Liability of carriers**

The New Law defines carriers, as *"a person or entity...engaged in the business of transporting passengers or cargo by air, water or land by aircraft or ship or any other mode of transport"*, and accordingly requires a carrier *"landing or embarking at a port or place in India"* to furnish information of passengers, crew manifest, including the records of the passengers prepared by the operator. Further, the carrier is also responsible to ensure the removal of a foreigner from India whose entry has been refused and its further includes provisioning of accommodation to the foreigners concerned for the purposes of its removal.

The carrier is required to ensure that no aircraft, vessel, or any other mode of transport departs until a clearance has been obtained from the immigration officer on submission of general declaration in such form, manner and particulars as prescribed.

#### **d. Offences and penalties**

The penal consequences under the New Law are structured to reflect the nature and gravity of the breach, with graded liability across different classes of offenders, including carriers, foreigners, and facilitators.

##### **1. Penalties for carriers**

- A general penalty of up to INR 50,000 may be imposed on carriers (including airlines, shipping lines, and other transport operators) for non-compliance of their obligations under the New Law, such as providing passenger information or ensuring that persons on board possess valid travel documentation.
- For specific contraventions, such as transporting individuals without valid visas or facilitating unauthorised entry, the penalty is significantly higher, with a minimum fine of INR 2,00,000, which may extend to INR 5,00,000 for every violation.

##### **2. Penalties for foreigners**

- Any foreigner entering India without a valid passport, visa, or other prescribed travel documentation, in violation of the provisions of the New Law, shall be liable to imprisonment for a term extending up to five years, or with a fine up to INR 5,00,000, or both.
- In addition to unauthorised entry, foreigners may face penalties for breaches of visa conditions, unauthorised stay, and other specified non-compliances.

##### **3. Abetment and other contraventions**

- The New Law also criminalises abetment of offences, with corresponding penalties for individuals or entities that aid, facilitate, or conspire in contraventions of the New Law.

- A comprehensive schedule of offences outlines penalties for a range of violations, including failure to register, non-disclosure of required information, or breach of conditions imposed by the authorities.

#### 4. Compounding of offences

- The New Law provides a mechanism for compounding of certain contraventions, enabling resolution without prosecution, subject to payment of a prescribed sum.
- Compounding may be permitted by such officers or authorities and for such categories of offences as may be notified by the Central Government, thereby offering administrative flexibility and reducing litigation.

## Conclusion

In today's globalised and highly connected world, the cross-border movement of individuals—whether for employment, education, healthcare, investment, or leisure—has necessitated a rethinking of immigration legal frameworks across jurisdictions. In this context, the *Immigration and Foreigners Act, 2025* should not be viewed merely as a consolidation of legacy legislations, but rather as a significant step towards establishing a structured and modernised immigration regime in India.

The New Law lays the groundwork for a modern regulatory system by envisaging the issuance of detailed rules to govern the responsibilities of immigration officers, the conditions for issuing travel documents and visas, and the reporting obligations of accommodation providers, educational institutions, and medical facilities. This structured approach signals a move towards greater consistency, transparency, and administrative efficiency in the immigration process.

As the new legal framework is progressively implemented through subordinate legislation and administrative practice, it is expected to bring long-term advantages in terms of regulatory clarity, national security, and ease of compliance for individuals and institutions alike. Accordingly, individuals intending to enter or remain in India would benefit from seeking specific legal advice to ensure full alignment with the evolving requirements under the new immigration regime.

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