

## 6. Immigration and Foreigners Order, 2025 – Polity

The Ministry of Home Affairs (MHA) has notified the Immigration and Foreigners Order, 2025, giving Foreigners Tribunals (FTs) powers of a first-class judicial magistrate. The order replaces the Foreigners (Tribunal) Order, 1964. The order has been notified under the Immigration and Foreigners Act, 2025, which has come into effect, marking a sweeping overhaul of India's regulatory regime for the entry, stay, and exit of foreigners.

### Key Provisions of Immigration and Foreigners Order, 2025

**Tribunal Powers** – Foreigners Tribunals (FTs) are empowered to issue arrest warrants if an individual, whose nationality is under dispute, fails to appear before the tribunal despite being served notice. If a person is unable to prove their Indian nationality with sufficient evidence, they may be declared a foreigner and sent to a detention or holding centre, pending deportation. The membership of a Foreigners Tribunal is capped at three members, ensuring a limited but focused adjudication panel. Ex parte orders (orders passed in the absence of the person concerned) may be set aside, provided a request for review is made within 30 days of the order.

**Applicability** – The provisions of the Immigration and Foreigners Order, 2025 are applicable across the entire territory of India. However, as of now, Foreigners Tribunals are functional only in Assam, where they play a critical role in citizenship verification under the Foreigners Act.

**Employment Restrictions** – Foreign nationals are prohibited from working in highly sensitive sectors such as defence production, nuclear energy, space technology, petroleum, human rights-related activities, power generation and distribution, and water supply management. Foreigners can only work in these restricted areas with prior approval from the Central Government, to safeguard national security and critical infrastructure.

**Border Security Role** – Border Guarding Forces and the Indian Coast Guard have been given explicit responsibility to prevent the illegal entry of foreigners into Indian territory. These agencies are empowered to capture biometric and demographic details of migrants at the point of interception. Captured illegal migrants may be directly handed over to immigration authorities for processing and eventual return to their country of origin.

**State Government Role** – Each State Government is required to designate a Nodal Officer to supervise and coordinate the detection, detention, and deportation of illegal migrants within its jurisdiction. This provision ensures better centre–state coordination in handling foreigner-related cases.

### Grounds for Denial of Entry or Stay

Foreigners may be denied entry into India or permission to stay if they have been convicted or found involved in –

1. Anti-national activities, terrorism, or espionage.
2. Serious crimes such as rape, murder, human trafficking (especially child trafficking), and narcotics-related offences.
3. Financial crimes including hawala transactions, fake Indian currency circulation (including cryptocurrency-related frauds).
4. Cybercrimes or crimes against humanity.

These grounds reflect India's emphasis on both national security and human security concerns in regulating immigration.

### About Foreigners Tribunals (FTs)

**Establishment and Legal Basis** – Foreigners Tribunals were first established under the Foreigners (Tribunals) Order, 1964, issued using powers under Section 3 of the Foreigners Act, 1946. They are quasi-judicial bodies, meaning they function in a judicial capacity but are not full-fledged courts.

**Purpose and Jurisdiction** – Their primary function is to allow state authorities to refer cases of suspected foreigners for adjudication. Currently, FTs operate exclusively in Assam, where citizenship and illegal migration concerns are most acute. In other states, such cases are handled directly under the provisions

of the Foreigners Act, 1946.

**Composition and Numbers** – Each FT is headed by members drawn from a pool of retired judges, advocates, or civil servants with judicial experience. According to the Ministry of Home Affairs (2021), Assam had around 300 Foreigners Tribunals. However, the Assam Home and Political Department reported that only 100 were actually functional, showing a gap between sanctioned and operational capacity.

### Functioning and Powers

FTs enjoy powers similar to a civil court, including the authority to summon individuals, examine them under oath, and demand relevant documents.

**Notice Process** – A suspected person must be served notice within 10 days of the reference, in either English or the state's official language, to ensure fair opportunity.

**Response Timeline** – The individual has 10 days to reply and another 10 days to produce supporting evidence of Indian nationality.

**Timeframe for Disposal** – The tribunal must dispose of each case within 60 days of receiving the reference, ensuring time-bound adjudication.

**Outcome** – If an individual fails to prove Indian citizenship, the tribunal may declare them a foreigner, following which they are sent to a detention centre (renamed as transit camp) until deportation is processed.

### Key Provisions of Immigration and Foreigners Act, 2025

**Fake and Fraudulent Travel Documents** – The use, possession, or supply of fake passports, visas, or other fraudulently obtained travel documents is treated as a serious criminal offence. Offenders face a mandatory minimum imprisonment of 2 years, which can be extended up to 7 years, along with a fine ranging from ₹1 lakh to ₹10 lakh.

**Restricted Areas** – Foreigners entering restricted or protected areas without valid documents face imprisonment of up to 5 years, a fine of up to ₹5 lakh, or both. This provision covers border areas, military zones, and sensitive installations critical to national security.

**Immigration Posts** – The Central Government is empowered to designate specific entry and exit posts, which will be manned by trained immigration officers. This ensures a regulated and secure system of monitoring the inflow and outflow of foreigners.

**Bureau of Immigration** – A Bureau of Immigration (BoI) is established under the Act to handle comprehensive immigration functions. Its functions include visa issuance, regulation of entry, monitoring of stay, supervision of transit and movement, and overseeing the final exit of foreigners.

**Mandatory Reporting Requirements** – Hotels, educational institutions, hospitals, and nursing homes are required to report the presence of foreigners to civil or immigration authorities, ensuring proper monitoring. Airlines and shipping companies must submit advance passenger and crew details at Indian ports of entry, which aids in pre-arrival screening.

**Government Powers over Premises** – The Central Government has powers to regulate or even shut down premises frequently visited by foreigners if such premises pose risks to public order or security. It may also impose conditions on the operation of such premises, including restricting entry for specific categories of foreign nationals.

**Power of Arrest** – Police officers of a rank not below Head Constable are empowered to arrest, without warrant, any person entering India without a valid passport. This provision ensures swift enforcement against illegal entry, without procedural delays.

Source – <https://www.thehindu.com/news/national/foreigners-tribunals-can-issue-arrest-warrants-send-people-to-detention-centres/article70005218.ece>