

What are the enhanced powers of Foreigners Tribunals? | Explainer

What do the Rules of the Immigration and Foreigners Act, 2025 specify? How many tribunals are operational in Assam? How have their roles changed? What is the order on Sri Lankan Tamils in India?”

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The rules insert the legal provision for recording of biometric information of all foreigners, earlier restricted to a few visa categories and enforceable through executive orders of the MHA | Photo Credit: AFP

The story so far:

The Union Ministry of Home Affairs (MHA) recently notified Rules, Order and Exemption Order, which made the Immigration and Foreigners Act, 2025 operational. Parliament passed the legislation to regulate all matters relating to foreigners and immigration in April. It repealed and replaced several Acts, the Passport (Entry into India) Act, 1920, the

Registration of Foreigners Act, 1939, the Foreigners Act, 1946 and the Immigration (Carriers' Liability) Act, 2000.

What was the rationale?

The Government said a new legislation was required to avoid multiplicity and overlapping of laws on passports or other travel documents in respect of persons entering and exiting from India, and to regulate matters related to foreigners' visa, registration and immigration issues. Though most provisions in the newly notified Immigration and Foreigners Rules, Immigration and Foreigners Order, Immigration and Foreigners (Exemption) Order were there in notifications issued in the past, certain new clauses and conditions have been added, considering the vast changes that have occurred after the original pre-Independence Acts came into existence.

What does the Immigration and Foreigners Rules say?

For the first time, the Rules legally designate the Bureau of Immigration (BOI) to "examine cases of immigration fraud" and co-ordinate with the States to identify, deport or restrict the movement of foreigners and collate and maintain an immigration database among others. Though the BOI earlier also performed similar functions, its role was regulatory and not mentioned in the law. In another first, the Rules insert the legal provision for recording of biometric information of all foreigners, earlier restricted to a few visa categories and enforceable through executive orders of the MHA.

Educational institutes will have to inform the Foreigners Regional Registration Office (FRRO), which works under the BOI, about all foreign students and even provide semester-wise "academic performance" summary such as attendance details and "general conduct" report.

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While earlier, the "civil authority" could direct to shut down any premise such as a resort, club or an entertainment place if the place was frequented by foreigners who are "undesirable", involved in crime or members of an unlawful association, the new Rules add "illegal migrant" to the list too.

The Rules define the role of an "immigration officer", who will be officers provided by the Intelligence Bureau.

What does the Immigration and Foreigners Order, 2025 entail?

Foreigners Tribunals (FT), so far unique to Assam, have been given the powers of a first class judicial magistrate. It paves the way to send a person to a detention or a holding centre if he or she fails to produce any proof that they are “not a foreigner,” earlier enforced through executive orders.

The 2025 Order that replaces the Foreigners (Tribunal) Order, 1964 empowers FTs to issue arrest warrants if a person whose nationality has been contested fails to appear in person.

According to Assam’s Home Department, there were initially 11 Illegal Migrant Determination Tribunals (IMDT) in the State which were converted to tribunals after the Supreme Court scrapped the Illegal Migrants (Determination by Tribunals) Act, 1983 in 2005. A total of 100 FTs is currently operational in Assam. The number of FTs were enhanced after the National Register of Citizens (NRC) was published in 2019 in Assam on the orders of the Supreme Court. The NRC, again unique to Assam, excluded 19 lakh out of 3.29 crore applicants and FTs were to give adequate opportunity to those excluded from the NRC to present their case. The State government has challenged the NRC in its current form and the final register is yet to be printed. Those excluded are yet to be provided with rejection slips.

The 1964 Order did not specify the provision to detain a person if they failed to secure bail or furnish proof that they are Indians. Earlier, the FTs could have unspecified number of members, now the number of members has been capped at three, and the ex-parte orders can be set aside if the appellant files the review within 30 days. Though the Order is applicable across the country, FTs are functional only in Assam. In other States an illegal migrant is produced before a local court.

The order also legally allows border guarding forces or the coast guard to prevent illegal migrants attempting to enter into India by sending them back after capturing their biometric information and available demographic details on the designated portal of the Central Government. The Border Security Force (BSF) and the Assam Rifles (AR) posted along the Bangladesh and Myanmar borders had been practising this through executive orders of the MHA – now, it has been stipulated under law.

Though India reserves the right to refuse the entry of foreigners, certain classifications have been added to the provision which includes conviction or even involvement in crime. The list includes anti-national activities, espionage, rape and murder, crime against humanity, terrorist and subversive activity including arranging financial support

or money-laundering or hawala for such activities, trafficking in narcotics and psychotropic substances, human trafficking including child trafficking, racketeering in fake travel document and currency (including crypto currency), cybercrime and child abuse.

What is the Immigration and Foreigners (Exemption) Order, 2025?

The Order exempts Nepalese, Bhutanese citizens and Tibetans from the provisions of the Act. It has, however, added two other categories. Registered Sri Lankan Tamil nationals who have taken shelter in India up to January 9, 2015 have been exempted from the provisions of sub-sections (1), (2) and (3) of Section 3 (requirement of passport or other travel document or visa) of the 2025 Act. The notification also exempts undocumented members of six minority communities from Afghanistan, Bangladesh, and Pakistan from penal provisions and possible deportation if they entered India without passports or visas, or with expired travel documents, before December 31, 2024. Officials from the MHA clarified that while minorities from the three countries could apply for long-term visas (LTVs), a precursor to citizenship, this is not applicable for Sri Lankan Tamils.

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