

# **Nepal Gazette**

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## **PART II**

**Government of Nepal  
Ministry of Law, Justice and Parliamentary Affairs**

### **To Amend and Consolidate the law Relating to FOREIGN EMPLOYMENT ACT,**

Date of Royal Seal and  
Publication

2042/7/14/4

Act No. 26 of the year 2042

#### **Foreign Employment Act (2007)**

**An Act made to amend and consolidate laws relating foreign employment:**

#### **Preamble:**

Whereas it has become necessary to amend and consolidate law relating to foreign employment in order to promote and make such profession secured, organized and respectful as well as to protect the right and interest of employee going for foreign employment and foreign employment entrepreneur.

Now, therefore, the legislator- parliament has enacted this Act.

# Chapter 1

## Preliminary

### **1. Short Title and Commencement:**

1. This Act may be called the "Foreign Employment Act, 2064 (2007)".
2. This Act shall come into force within the country and shall also be applicable to those persons who violate the provision of this Act residing outside the territory of Nepal.
3. It shall come into force once.

### **2. Definitions:**

Unless the subject or context otherwise requires, in this Act-

- (a) **"Foreign Employment"** means the employment to be obtained by worker abroad.
- (b) **"Worker"** means a Nepali Citizen who has obtained foreign employment.
- (c) **"Foreign Employment Enterprises"** means the business activities providing employment to Nepali citizens in foreign country.
- (d) **"Department"** means the Department of Foreign Employment.
- (e) **"Entity"** means the entity established under the prevailing company law with an objective of operating foreign employment enterprise:".

- (f) "**License**" means a license granted pursuant to Section 11 for operating foreign employment business.
- (g) "**License-holder**" means the entity obtaining the license pursuant to Section 11.
- (h) "**Service Charge**" means money received by foreign employment enterprenuer from worker for sending them abroad for employment.
- (i) "**Executive Director**" means Executive Director appointed under Section 41.
- (j) "**Employment Providing Entity**" means the foreign country based entity providing foreign employment to workers.
- (k) "**Board**" means Foreign Employment Promotion Board constituted under Section 38.
- (l) "**Labour Attaché**" means Labour **Attaché** appointed under Section 68 and the word also includes an officer, deputed in foreign Diplomatic Mission, assigned with the responsibility of promoting the welfare of Nepali workers.
- (m) "**Prescribed**" or "**As prescribed**" means prescribed or as prescribed in Regulation framed under this Act.

## **Chapter 2**

### **Provision Relating to Foreign Employment**

#### **3. To specify the Countries for operating Foreign Employment business:**

- (1) Government of Nepal shall, by publishing a notification in the Nepal Gazette, specify name the countries permitted to operate the foreign employment business.

- (2) Among the country as specified in Subsection (1), government may, in some of these countries, withheld, for some specific period, right to operate foreign employment business.

**4. Conclude Bilateral Agreement:**

The Government of Nepal may conclude bilateral labor agreement with country where Nepali worker has already gone for employment or has a prospect of going there for employment.

**5. Selection of Institution:**

- (1) If Government of Nepal is requested to select and send worker for foreign employment by the foreign country or employment providing institution, Government of Nepal shall send such employee through license holding institution selected on the basis of free competition.
- (2) The Department may demand additional cash deposit or bank guaranty from the institution selected pursuant to sub section (1).
- (3) The basis and procedure for selecting Institution as per Sub-section (1) shall be as prescribed.

**6. To send worker by entering into treaty or agreement:**

- (1) Notwithstanding anything mentioned in this Act, Government of Nepal may, by signing an agreement or treaty with the country that has diplomatic relation, send worker through any government office, government body or an institution fully owned by Nepal government to such country.

**(2)** Pursuant to sub Section (1), in order to make the process of selecting worker for foreign employment by Government of Nepal more organized, competitive and transparent, there shall be a Directive Committee comprising of following members which shall frame policy and provide other necessary guidelines

- |            |  |          |
|------------|--|----------|
| <b>(a)</b> | Labor and Transportation Management<br>Minister or State Minister                        | Chairman |
| <b>(b)</b> | Secretary, Ministry of Labor and Transportation Management                               | Member   |
| <b>(c)</b> | Representative of Jt Secretary Level from<br>Ministry of Finance                         | Member   |
| <b>(d)</b> | Representative( of Jt Secretary Level) from<br>Ministry of Industry, Commerce and Supply | Member   |
| <b>(e)</b> | Representative( Jt Secretary Level) from<br>Ministry of Home                             | Member   |
| <b>(f)</b> | Representative (Jt Secretary Level) from<br>Ministry of Foreign Affairs                  | Member   |
| <b>(g)</b> | Executive Director   | Member   |
| <b>(h)</b> | Women Representative from National<br>Women's Commission                                 | Member   |
| <b>(i)</b> | One representative from each registered<br>Trade Union Federation                        | Member   |
| <b>(j)</b> | One Representative from Foreign  |          |

Employment Entrepreneur Association

Member

(k) Director General, Department

Member

- (3) The Directive Committee as constituted pursuant to Sub Section (2) may, as per requirement, invite national or foreign expert on foreign employment as observer in its meeting.
- (4) The Directive Committee pursuant to sub Section (2) shall frame its own working procedure.
- (5) While selecting worker for foreign employment under this Section, it shall be done on impartial and transparent manner from among people meeting criteria as prescribed.
- (6) It shall be the responsibility of Government of Nepal to resolve any problem being faced by worker who are on the process of going for foreign employment under this Section.

7. **Minor not be sent for foreign employment:**

Children not attending the age of 18 shall not be send for foreign employment

8. **No Gender Discrimination:**

While sending worker for foreign Employment, the worker shall not be discriminated on the basis of gender.

Provided that if the employment providing institution calls for only one gender either males or females, then it shall not be a hindrance for sending such gender for foreign employment.

9. **Special privileges and Reservation may be provided:**

- (1) The Government of Nepal may provide special privileges for women, underprivileged person, Indigenous Ethnic Groups, suppressed Groups, natural Disaster victims, and the people from remote areas, going for foreign employment.
- (2) While sending workers for foreign employment, the organizations shall send women, underprivileged, Indigenous Ethnic Groups suppressed Groups, the people from remote and backward regions as per the number fixed by the Government of Nepal.

## **Chapter-3**

### **Provisions regarding the License**

**10. Restriction to operate Foreign Employment Enterprises without License:**

No one shall be entitled to operate Foreign Employment Enterprise without obtaining license under this Act.

**11. Provisions regarding the License:**

- (1) Institution intending to operating Foreign Employment Enterprise shall have to submit an application with prescribed particulars to Department,
- (2) After reviewing the application submitted under subsection (1), if the department considers it to be suitable to give license to institution to operate foreign employment enterprise, the department shall issue such license upon receiving the prescribed license fee and a security deposit of three Million Nepalese Rupees in cash or Seven Hundred Thousand Nepalese Rupees in cash and the remaining Two Million and Three Hundred Thousand Nepalese Rupees as a Bank Guarantee.

**Explanation:** For the provision of this Act, the term "Bank Guarantee" shall mean any Bank Guarantee payable in cash at demand and issued by the Bank as prescribed by the Department..

- (3) An Institution holding the license prior to the commencement of this Act shall deposit the security deposit pursuant to subsection (2) within one year from the commencement of this Act.
- (4) Upon issuance of license after depositing security amount pursuant to sub Section (2), if the Department sees the security amount to be insufficient in ratio to the business transaction of the license holder then the Department may order for additional security deposit.
- (5) The department may accept a Bank Guarantee for the additional Security to be deposited pursuant to subsection (4)
- (6) Upon reviewing application submitted pursuant to sub section (2), if the Department decides not to issue the license to applicant, it shall give a notice of denial along with the reasons thereof within seven days of such decision.
- (7) If the Applicant is not satisfied with the decision made by the Department pursuant to subsection (6), he/she may file an appeal to the Government of Nepal within thirty-five days from receiving such decision and the decision made by the Government of Nepal on such appeal shall be final.

## **12. License Period and renewal:**

- (1) The license, unless it is cancelled pursuant to Section 13, shall be valid for a period of one Fiscal Year. **The term of the license shall expire at the end of such Fiscal year notwithstanding on which date it was issued.**



- (2) A license- holder who wish to renew its license shall have to renew the license within prescribed time in each financial year by paying renewal fee and by providing detail as prescribed.
- (3) Notwithstanding anything mentioned in subsections (1) and (2), any license holder may pay three year's renewal fees at once and get renewal of license for three years.

**13. Cancellation of License:**

- (1) If the License holder fails to renew the license within the period as prescribed in Section 12, such license can be cancelled.
- (2) If the License holder do any of the followings, the Department may cancel the License:
  - a. If the license is acquired by submitting false documents or details;
  - b. If fails to deposit the Security Deposit within the time prescribed under Subsection (3) of Section 11,
  - c. If fails to deposit the additional security deposit as per the order issued pursuant to Subsection (4) of Section 11;
  - d. If fails to reimburse the deposit amount pursuant to subsection (3) of Section 35.
  - e. If commit any act which against the provision of this Act or the Regulations made there under. .
- (3) Before canceling the license pursuant to subsection (2), the Department shall provide reasonable opportunity to be heard.
- (4) If the License holder is not satisfied with the decision made by the Department to cancel the License pursuant to this Section, the license

holder may file an appeal to the Government of Nepal within thirty-five days from receiving of such notice; and the decision made by the Government of Nepal on such Appeal shall be final.

**14. Ownership and Liability shall not be Transferred or Changed:**

Notwithstanding anything contained in the prevailing laws, a license-holder cannot transfer or alter its ownership or liability over the Institution without obtaining approval from the Department.

## **Chapter-4**

### **Prior Approval and Selection of Employees**

**15. Prior Permission shall be obtained:**

1) In order to selected workers for foreign employment pursuant to agreement and understanding made with Employment Providing Institution, the license-holder shall have to obtain prior permission from Department and for such permission an application with the following particulars shall have to be submitted:-

- (a) Name and address of the employment providing institution.
- (b) Type of the foreign employment
- (c) Types of workers and their Number;
- (d) The Wages, Privileges and Leaves benefit available to the workers;
- (e) Working days and hours of the workers
- (f) The copies of the requisition letter and original authority letter being certified by the authorized entity of the Country where the workers are being sent or the foreign mission or the labor **Attaché** or **Chamber of commerce** or the Notary Public of such country;

- (g) The copy of the Contract to be entered into between the Employment Providing Institution and the Workers;
  - (i) The copy of the contract to be entered into between the license holder and the workers;
  - (j) Other particulars as prescribed.
- (2) Upon reviewing the applications submitted pursuant to subsection (1), if the demand made by the license holder is found to be appropriate then the department may give prior approval within four days from the date of the application to commence the work of sending the Nepalese workers for Foreign Employment.
- (3) Notwithstanding anything mentioned in subsection (2) above, the department shall not give the prior permission to select the workers under the following conditions:
- a. If the services, terms and facilities are found unsatisfactory in proportion to the qualification demanded by the employment providing institution.
  - b. If the proposed foreign employment is against the value, dignity or health of the worker
  - c. If found non-suitable from the security point of view;
  - d. Any other condition as prescribed.
- (4) If it is decided not to grant the prior permission pursuant to Subsection (3), the license holder shall be given a notice of such decision along with the reasons thereof.

**16. Advertisement to be Published:**

- (1) After obtaining the permission pursuant to section 15, the license holder, for the purpose of selection of the workers, shall, publish an advertisement in a Daily Newspaper of national level in Nepali Language by giving a time limit of at least seven days and such advertisement shall disclose all the details as prescribed.
- (2) The notice of the advertisement published pursuant to subsection (1) shall be put on the notice-board of the office of the concerned License Holder and on same day submit one copy of such notice to the Department.
- (3) After the publication of the advertisement pursuant to subsection (1), the person willing to go for foreign employment shall submit an application attaching with particular as prescribed to the license holder.

**17. Workers to be selected and a list prepared:**

- (1) After receiving the application pursuant to subsection (3) of Section 15, according to the nature of the work and on the basis of the qualification and the experience of the applicant and other matters, the license holder shall select the workers and prepare a list of the selected workers and such list shall be put on the notice-board of the office of the license holder and submit one copy of such list to the Department.
- (2) If the Department receives any complain regarding irregularities while preparing the list of the workers pursuant to subsection (1), or if the Department receives such information through any other means, then the Department may conduct necessary investigation immediately and while performing such investigation upon such complain, if the department finds any irregularities, it may issue order to stop all the activities regarding the selection of workers immediately.

**18. Permission to be obtained to take the Passports to Foreign Country:**

The license holder shall obtain the permission of the Department if it has to take the passports of the workers selected for foreign employment pursuant to section 17, outside Nepal for the purpose of acquiring the Visa.

**19. Provision relating to Sticker of Labor Permission:**

(1) The License Holder shall, after acquiring the Visa for the workers selected pursuant to section 17, and before sending such workers for foreign employment, send a written letter to attaching following particulars to the Department for the purpose of obtaining sticker for labor permission:

- a. A Certificate of Training if any work requires a skilled training and the Certificate of Orientation Training;
- b. Certificate of health
- c. Certificate of Insurance;
- d. Contract entered between the License Holder and the Worker;
- e. Contract entered between Employment Providing Institution and Worker.
- f. The Receipt or the Bank Voucher of the amount paid by the worker to the License Holder;
- g. Other matters as prescribed.

- (2) While examining the details submitted pursuant to subsection (1), if it is found to be concurrent with the details submitted pursuant to section 15, the department shall put the Sticker of the permission for labor in the passport of the worker within 3 days.
- (3) If the details submitted pursuant to subsection (1) is found to be different from the details submitted pursuant to section 15 then the Department may stop the license holder from sending workers for foreign employment and give a notice to license holder including the reason fro such action.

**20. Sending for Foreign Employment:**

- (1) After intimating the notice pursuant to section 19, the license holder shall, if there is a specified time period mentioned for entry of such worker in the concerned country within such time limit and if there is no time period for entry is mentioned then within three months, sends such worker for foreign employment.
- (2) If the License Holder is not able to send such worker for foreign employment within the time limit set by subsection (1), the concerned license holder shall return the amount taken from such worker along with an interest of 20% (percent) within 30 days.
- (3) If any worker refuses to go or becomes unable to go for foreign employment after acquiring the Visa, the license holder shall return the all the amount but may deduct visa fees only from such amount.

However, if the worker refuses to go for the fact that the terms were different from the one mentioned in the advertisement as per the prior permission, in such cases, the Visa fees shall not be deducted.

**21. May go for Foreign Employment on personal level:**

- (1) If any person who wishes to go any foreign country for the purpose of foreign employment on a personal level then such person shall submit an application to Department for the permission stating the following details:
  - a. Country of foreign employment;
  - b. Nature of work to be performed in the foreign country;
  - c. Letter of Approval issued by the Employment Providing Institution.
  - d. Agreement clearly containing the terms and conditions of the employment.
  - e. Certificate of Orientation Training;
  - f. Certificate of Health
  
- (2) After receiving the application pursuant to subsection (1), if the Department, upon making investigation on application, is satisfied with application, the Department may issue permission to go for foreign employment and while issuing such permission, the Department shall require submitting the Insurance Certificate.
  
- (3) Notwithstanding anything mentioned in this Section, no license holder shall be allowed to send workers on a personal level.

**22. National Airport shall be used:**

- (1) while sending workers for foreign employment, the License Holder shall use the National Airport to send them out.
  
- (2) If sending of worker through National Airport pursuant to Sub section (1) is not possible by reason of unavailability of Air-ticket, if it becomes necessary to use the foreign airports to send such workers, the permission of the Department shall be obtained.

(3) After obtaining permission from Department pursuant to Sub section (2), while departing Nepal to make use of foreign airport, it is necessary to register particulars as prescribed in the Immigration office of departing point.

**23. Minimum Wage may be fixed:**

The Government of Nepal may, after publishing a notice in Nepal Gazette, fix a minimum wage for the workers going for foreign employment.

**24. Service charges and Promotional expenditure:**

(1) The Government of Nepal may, for any special country or company, fix the maximum amount of service charge and promotional expenses to be levied to each worker by the institution.

(2) After the license holder notify the worker selected for foreign employment of issuance of visa from the country of foreign employment, the workers must deposit contracted amount either in the office or bank account of the incense holder.

(3) If the payment pursuant to sub section (2) is made in the Office of the License Holder, the receipt of such payment shall be given to the worker.

Explanation : For the purpose of this Section, the term "promotional Expense" shall mean the expenditure made by the license holder towards obtaining visa fees for sending worker for employment and other miscellaneous expenditure made within or outside the country for the purpose of acquiring the quota.

**25. To enter into contract for Foreign Employment:**

(1) Before departing for foreign employment, a contract between the Employment Providing Institution or its representative and the worker; and



between the License Holder and the worker need to be signed. and the worker should be clearly explained before signing the contract about the terms and conditions of employment, the terms to be complied by both parties, the amount of remuneration to be paid to worker.

(2) The License holder shall translate the Contract entered into pursuant to subsection (1) in Nepali Language and submit two copies to the Department and the Department shall certify such Contract and keep one copy with itself and give the other copy to the worker.

**26. Insurance to be done:**

(1) Before sending worker for foreign employment, the license holder must procure insurance coverage upto Five L:akh Rupees for such workers going for foreign employment under this Act and such insurance coverage must insure against the death or physical injury of worker occurring from whatsoever reasons, and must remain valid during term of foreign employment.

(2) Any person going for foreign employment on a personal level under section 21 shall also insure himself for the amount mentioned under subsection (1) before going for such foreign employment.

(3) Other provision regarding the insurance shall be as prescribed.

## **Chapter-5**

### **Provisions regarding Training and the Classification of Workers**

**27. Must obtain training :**

The workers, before going for foreign employment, must obtain orientation training as prescribed from the Institution which has obtained permission from the Department pursuant to Section 28.

**28. Provision regarding Institutes organizing the Orientation Training:**

- (1) Every Institution desirous of conducting orientation training program for worker going for foreign employment must apply to Department to obtain permission for such conducting such orientation training.
- (2) The application received by Department under subsection (1) must be submitted to the Board.
- (3) On receipt of an application under Sub-section (2), the Board, if it is satisfied after conducting necessary enquiries and investigations that the resources including infrastructure and manpower of Institution desirous of conducting orientation program is sufficient, it may write to Department for issue license to applicant for conducting orientation training for workers going for foreign employment.
- (4) If the Department receives written instruction for granting license pursuant to subsection (3), the Department may, after receiving the Deposits and license fees as prescribed from applicant, issue license to applicant to conduct orientation training.
- (5) If the Institution has been conducting the Orientation Trainings by obtaining permission prior to the commencement of this Act, the Department shall renew the license if the Institution has fulfilled the requirements and criteria as set under this Section.

(6) The renewal of the license for conducting orientation training issued to Institution under this section and the provisions regarding renewal fees shall be as prescribed.

**29. Curriculum for the Orientation Training and Determination of its Standard:**

The Board shall determine the Curriculum for the Orientation Training and the Standard of such Orientation Trainings to be conducted by the Institutes having obtained the Permission pursuant to Section 28.

**30. Skill Oriented Training Must be acquired:**

Any worker going for foreign employment which requires skillful training must acquire such training from the Institute recognized by the Government of Nepal.

**Explanation:** For the purpose of this Section, the term "recognized by the Government of Nepal" shall mean any Institution affiliated to Technical Education and Vocational Training Council or any other similar organization established pursuant to the prevailing laws for the purpose of providing similar training.

**31. Classification of Workers:**

The provision relating to the classification of the Workers going for the foreign employment and the skill required pursuant to such classification shall be prescribed by Government of Nepal by publishing notice in the Nepal Gazette.

## **Chapter-6**

## **Provision Relating to Foreign Employment Welfare Fund**

### **32. Establishment of the Foreign Employment Welfare Fund:**

(1) For the purpose of providing social security and welfare to the workers and their family who have gone to or returned from the foreign employment, a Foreign Employment Welfare fund shall be established under the Board.

(2) The Fund established pursuant to subsection (1) shall have the following amounts:

- a. The prescribed amount deposited by the worker prior to going for the foreign employment;
- b. The Interest earned by mobilizing in prescribed way the security deposit amount maintained pursuant to subsection (2) of Section 11.
- c. Amount collected from license fees and renewal fees;
- d. The fees obtained for issuing license for conducting training pursuant to Section and renewal fees of such license..
- e. The amount received by the Fund from Institution related to Foreign Employment Enterprises from time to time.
- f. Grants and Support received from donor or person either National or Foreign.

(3) Before receiving the grant from foreign person donor agency pursuant to (f) of Subsection (2), a prior permission from the Government of Nepal is required.

**Explanation** : For the purpose of this section , the term " Family" shall mean the husband or wife , son , daughter or mother , father and in case of women worker , her father-in law and mother-in law to be maintained

and looked after by the worker gone for or has returned from foreign employment. .

**33. Use and operation of Foreign Employment Welfare Fund:**

1. The Foreign Employment Welfare Fund shall be used for the following purposes:
  - a. To provide skill oriented training to workers going for foreign employment.
  - b. To call back the workers who has become injured or has to be called back to country pursuant subsection (1) of Section 75; to give compensation; and to provide financial support to workers whom has come back accordingly or to his/ her family .
  - c. To conduct employment oriented program to workers who has returned from foreign employment.
  - d. To bring back unattended dead body of worker in Nepal who had died during foreign employment and to provide financial support to his/her family.
  - e. To carry on activities to promote foreign employment.
  - f. To perform activities as prescribed.
2. Other provision regarding the operation of Foreign Employment Welfare Fund shall be as prescribed.

**Chapter-7**

## **Provision regarding Inspection & supervision**

### **34. To perform inspection :**

- (1) The Department shall , from time to time , Inspect and supervise the office of the license holder to see if the office of license holder has been observing the provision of this Act, Regulation formed thereunder and the directives issued pursuant to this Act and for this purpose, it may inspect the records & any other related documents kept/ maintained by the license holder.
- (2) It shall be the responsibility of the license holder to provide the records and the details called upon during the Inspection and supervision done pursuant to sub-section (1).

### **35. To perform supervision :**

- (1) If the Department receives the complain from the workers regarding the Employment Providing Institution not fulfilling the liabilities under the contract or the license holder not taking the required and necessary activities so as to make others perform the terms and conditions under the contract, the department shall perform or shall make other perform necessary Investigation.
- (2) If it seems necessary to call the concerned worker back to country after making investigation pursuant to sub-section (1), the Department shall order the license holder to make available necessary amount to help bring such worker back to the country.
- (3) If the license holder fails to make available the amount pursuant to the order issued by the Department under sub-section (2), the worker shall be brought back to the country using the security amount as deposited under Section 11.

The concerned license holder shall be send a notice as soon as possible to reimburse such amounts spend from the security deposit and the license holder shall reimburse such amount within fifteen days of receiving such notice.

- (4) If the security deposit kept pursuant to section 11 is not enough to bring back such worker to the country, then such insufficient amount shall be deposited by the license holder within the time period specified by the Department and if such deficit not paid within such time limit, it shall be considered as government debt and shall be recovered accordingly.

**36. Filing complain for compensation :**

- (1) The worker or his/her representative may file a complaint along with evidence at the Department for compensation if the Employment Providing Institution fails to provide employment as per the term of the contract.
- (2) Upon completion of investigation pursuant to sub- section (1), if the complaint is found to be reasonable, the Department may order license holder to pay the entire amount incurred for going to foreign employment as compensation.

**37. May Issue Directives :**

- (1) The Government of Nepal may issue directives to the license holder from time to time in regard to foreign employment.
- (2) It shall be the duty of the concerned license holder to comply with the directives issued pursuant to sub- section (1).

## Chapter-8

## **Establishment of the Board and its Function, duties and Power**

### **38. Establishment of the Board :**

(1) For the purpose of promotion of the Foreign Employment Enterprise, and to make such profession secure, well managed and prestigious, and for the purpose of protecting and preserving the interest of both worker and foreign employment enterprenuer, a Foreign Employment Promotion Board comprising of the following shall be formed:

(a)	Minister/State Minister Labor and Transportation Management	Chairman
(b)	State Minister/ Assistant Minister Labor and Transportation Management	Vice-Chairman
(c)	Member, National Planning Commission (Responsible for concerned area)	Member
(d)	Secretary Labor and Transportation Management Ministry	Member
(e)	Secretary or Gazetted First Class Officer nominated by the Secretary Ministry of Home Affairs	Member
(f)	Secretary or Gazetted First Class Officer nominated by the Secretary Ministry of Foreign Affairs	Member



(g)	Secretary or Gazetted First Class Officer nominated by the Secretary Ministry of Finance	Member
(h)	Secretary or Gazetted First Class Officer nominated by the Secretary Ministry Law Justice and Parliamentary Affairs	Member
(i)	Secretary or Gazetted First Class Officer nominated by the Secretary Ministry of Women Child and Social Welfare	Member
(j)	Director General, Department	Member
(k)	Representative(Equivalent to First Class Officer), Nepal Rasta Bank	Member
(l)	Two representatives including one woman nominated by the Government of Nepal from among the Experts in the field of Foreign Employment	Member
(m)	The President of Foreign Employment Business Association and one female representative nominated by the Association making a total of two	Member
(n)	Two representatives including one woman nominated by the Government of Nepal from among the organizer of skill oriented and Orientation program Training relating to	Member

	Foreign Employment	
(o)	One representatives nominated by the Government of Nepal from the Heath Institutions having permission pursuant to section 72 and having a minimum qualification of M.B.B.S.	Member
(p)	The President from four authorized Trade Unions as prescribed by the Government of Nepal or their representatives as nominated by them., making a total of four person	Member
(q)	Representatives from Federation of Nepal Chamber of Commerce and Industry	Member
(r)	Representatives, Technical Education and Vocational Training Council	Member
(s)	Executive Director	Member- Secretary

(2) The term of service of the member nominated by the Government of Nepal pursuant to sub-section (1) shall be of two years.

**39. Function, Duties and Power of the Board:**

Apart from the function, duties and power of the board mentioned elsewhere in this Act, the function duties and power of the Board shall be as follows:

- a. To study or make other study the International Labor Market and to find and make other find new International Labor Market.
- b. To collect information, analyses and publish them for the purpose of promoting foreign employment.
- c. To mobilize and to cause other to mobilize the Foreign Employment Welfare Fund.
- d. To perform or cause to perform necessary action to secure the interest of the workers who have gone for foreign employment.
- e. To plan, implement, monitor and evaluate programs for national interest by utilizing the skills, capital and the technological knowledge gained by those workers who have returned from abroad.
- f. To perform necessary work relating to labor treaties to be entered into with various countries.
- g. To specify the qualifications for registering Institution that conducts Foreign Employment Orientation Training program.
- h. To design and approve the curriculum for Foreign Employment Orientation Training program.
- i. In order to make the business of foreign employment secured, managed and prestigious; and to prepare and submit to Nepal Government the long term and short term policy needed to be followed for the purpose of preserving the right and interest of both worker going for foreign employment and Foreign Employment Entrepreneur,

- j. To make revision of Foreign Employment Act if it is so necessary and provide suggestion to Government of Nepal for necessary reform on it.
- k. To advice Government of Nepal after making overhaul study regarding implementation of Foreign Employment Act,
- l. To provide advice to the Government of Nepal regarding fixing of service charges and Promotion Expenses.
- m. To give advice to the Government of Nepal about making necessary arrangement for easy and simple way of remitting in Nepal of earning of Nepali worker in foreign countries.
- n. To make complain in writing to the concerned department /office for taking necessary action if someone is found of breaching the provision of Foreign Employment Act.
- o. To monitor the activities of license holding Institution which carry out the foreign employment business.
- p. To monitor or cause to monitor the institution having license or permission to provide Orientation and Skill Oriented Training program.
- q. Upon monitoring or being monitored by other pursuant to ( o ) and ( p ), if some one is found of violating the provision of the Act or rules made there under, to recommend in writing to the concerned department/office for necessary action..

- r. To submit annual report of the activities performed by itself to the Government of Nepal.
- s. To perform or cause other to perform other functions as prescribed.

**40. Meeting of the Board and its Decisions :**

- (1) The board shall convene its meeting whenever it deems necessary.
- (2) The meeting of the Board shall convene at such date, time and venue as prescribed by the Chairman of the Board.
- (3) The quorum of the meeting of the Board shall be considered to have been met if more than 50% of the members of the Board are present at the meeting.
- (4) The meeting of the Board shall be chaired by the Chairman, in his absence by vice-chairman and even if the vice-chairman is also absent, the members present at the meeting shall choose among themselves one person to chair such meeting.
- (5) The decision of a majority in the meeting shall prevail and in the case of a tie of votes, the chairman shall exercise his casting vote.
- (6) The member-secretary of the Board shall certify the decision of the meeting of the Board.
- (7) The Board may invite specialists/experts in related field or officials to take part in the Board meetings as an observer.
- (8) Other procedure related to the Board Meeting shall be prescribed by the Board itself.

(9) The Chairman and other members shall be entitled to such remuneration as fixed by the Government of Nepal for attending the meetings.

**41. Appointment of Executive Director and the functions, Duties and Power:**

(1) To carry on the daily activities of the Board as the Administrative Chief, Government of Nepal, shall appoint, through open competition as prescribed, a person having the prescribed qualification and who has not involved in foreign employment enterprises before to work as the Executive Director.

(2) Notwithstanding anything mentioned in sub-section (1), until the post of Executive Director is fulfilled, the Government of Nepal shall nominate first Class Gazetted Officer to work as an Acting Executive Director for a maximum period of three months.

(3) Term of service of an Executive Director shall be of four years.

(4) The remuneration, term of service and privileges of the Executive Director shall be as prescribed.

(5) The function, duties and power of the Executive Director shall be as follows:

a. To implement or cause to implement the decision of the Board,

b. To perform other function as prescribed.

**42. The secretariat of the Board:**

(1) The Board shall have a separate secretariat.

(2) The Executive Director shall be the head of the secretariat.

(3) The Government of Nepal shall provide the required number of employees to the secretariat of the Board.

## Chapter-9

### **Crime and Punishments**

**43. Punishment for operating Foreign Employment business without License:**

If anyone operates a foreign employment business without obtaining a license which is against the provision of Section 10 or take money by giving false assurances or putting temptation on such person by explaining that he shall be sent for foreign employment or has sent any person abroad for employment, the amount so taken and fifty percent of such amount shall be realized as compensation from person doing so. He must also reimburse the cost of round trip ticket incurred by the person that has gone for foreign employment and such person shall also be liable to a fine ranging from three lakh to five lakh rupees and an imprisonment for a term ranging from three years to seven years. Such person shall be liable to the half of such punishment if he has not yet send any worker abroad for employment.

**44. If the License Holder send the workers without obtaining the permission:**

If any license-holder send worker abroad without obtaining the license from Department or take money from any person by giving false assurance or temptation to send such person for foreign employment but fails to sends for foreign employment abroad, the amount so taken and

fifty percent of such amount shall be realized as compensation from the person doing so and the license-holder shall also be liable to a fine ranging from three lakh to five lakh rupees and an imprisonment for a term ranging from three years to seven years and the license of such License-holder shall also be cancelled.

**45. Punishment for sending a minor for Foreign Employment:**

If any License Holder sends any minor for foreign employment against the provision of Section 7, such License Holder shall be liable to a fine of Three Hundred Thousand to Five Hundred Thousand Nepalese Rupees and an imprisonment for a term ranging from three to seven years.

**46. Punishment for sending workers to countries not opened by the Government:**

If any License Holder sends workers to such countries where Government of Nepal has not permitted to operate foreign employment business or sent worker to such non permissible country by obtaining visa from permissible country, such License Holder shall be liable for a fine ranging from Three Hundred Thousand to Seven Hundred Thousand Nepalese Rupees and for imprisonment for a term ranging from three to five years. Such person shall be liable to the half of such punishment if he has not yet send any worker abroad for employment.

**47. Punishment for hiding or altering the documents and reports:**

- (1) Any license-holder knowingly conceal, changes or falsifies any documents or reports to be kept pursuant to this Act or Rules made therein, such person shall be liable to a fine ranging from rupees One hundred thousands to three hundred thousand and imprisonment for a term ranging from six months to one years.



- (2) If the License Holder punished pursuant to subsection (1) is again to going to be held for the same punishment, the punishment shall be doubled and the license of such holder shall be revoked.

**48. Punishment for opening Branch Office without permission:**

If any License Holder opens Branch Office without obtaining permission from the Department, the Department shall fine the License Holder a sum of Two Hundred Thousand Nepalese Rupees for each Branch Office opened and may also issue an order to shut down such Branch Office.

**49. Punishment for not publishing the Advertisement:**

- (1) If a License Holder does not publish the Advertisement pursuant to Section 16 or publishes the advertisement without obtaining the permission from the Department, the Department shall fine such License Holder a sum of Fifty Thousand Nepalese Rupees and order to cancel such Advertisement.
- (2) While publishing the Advertisement, if no details, which are required to be disclosed by approval letter obtained under Section 15 are not disclosed, the Department shall order to re-advertisement by correcting such details..

**50. Punishment for not publishing the Selection List:**

If a License Holder does not publish the Selection List of the workers pursuant to Section 17 or does not notifies the Department after publication of such list, the Department may fine such license Holder a sum of Fifty Thousand Nepalese Rupees and may order to re-publish such selection list.

**51. Punishment for denial to return the Amount or pay Compensation:**

- (1) Any License Holder who does not return the money within a time limit as mentioned under subsection (2) of Section 20 or refuses to pay the compensation prescribed under Subsection (2) of Section 36, the Department shall pay the concerned worker such amount or provide compensation from the security amount deposit by the License Holder pursuant to Section 11 and may fine such License Holder a sum of One Hundred Thousand Nepalese Rupees and revoked the such License.
- (2) In case the amount deposited under Section 11 is insufficient to recover the amount or compensation paid to the worker pursuant to Subsection (1) above, the license-holder shall be notified by the Department to reimburse such insufficient amount by giving 60 days notice, if such amount is not reimbursed within such notice period, it shall be realized from the assets of the license-holder.

**52. Punishment for sending workers on a personal level by the License Holder:**

Any License Holder who sends workers on a personal level against the provision of subsection (3) of Section 21, such License Holder shall be fined a sum ranging from One Hundred Thousand to Three Hundred Thousand Nepalese Rupees or the License shall be revoked or both.

**53. Punishment for taking excess money regarding Visa Fees, Service Charges and the Promotion Charges:**

Any License Holder who obtains the Visa free of charge but levy charges for obtaining such visa or takes excessive charges or expenses than

prescribed, the Department shall order to refund the visa fees that is not chargeable or such excessive fees or charges so taken to concerned worker and shall fine the License Holder a sum of One Hundred Thousand Nepalese Rupees.

**54. Punishment for not complying the Orders or Directives:**

Except as provided in this Chapter, any license-holder who does not comply with the provision of this Act or the Rules framed under this Act, orders or directives issued therein, the Department shall issue a warning letter for the first occasion, fine Five Thousand Nepalese Rupees for the second occasion, and if repeats the same on the third time, it may fine a sum of One Hundred Thousand Nepalese Rupees and revoked the License.

**55. Punishment for working against the Contract:**

Any License Holder who enters into contract with a worker telling him to employ in particular company but requires him to work with less remuneration and privileges in different company or requires him to work in the company with entirely different nature of work or he has been employed in entirely a different type of work other than those specified at the time of sending him for foreign employment or are being employed with less remuneration and privileges than they were initially contracted for, the Department shall fine such License Holder a sum of One Hundred Thousand Nepalese Rupees and the Department shall help such workers to recover from the license-holder the lessor amount that was not paid.

**56. Punishment to Accomplice:**

A accomplices to any offense punishable under this Act or any person who abetting to commit an offence under this Act shall be liable to half of the

punishment to be imposed on the person actually committing such offences.

**57. Punishment to the person acting as the Head:**

Where any firm, company or Institution or license- holder commits any act deemed to be offence under this chapter, an Officer or the employee is punish if they are figure out as committing such office, in case, where no officer or employee is figured out, the person acting as the Head of such Firm, Company, Organization at the time of commission of such offence shall be punished.

**58. License shall not be Re-issued:**

Once the license of a License Holder is revoked pursuant to provision of this Chapter, no License shall be re-issued in the name of same organization and same directors.

**59. Opportunity to be heard to be provided:**

Before revoking the License pursuant to this Chapter, the concerned license holder shall be given an opportunity to be heard.

## **Chapter 10**

### **Investigation and Enquiry**

**60. Limitation to file Complain:**

Except offences committed that are punishable under Section 43, 44,45,46 and 47, a complaints relating to any other offence punishable under this Act can not be initiated unless

filed within one year from the date of commission of such offence.

Provided, however, that filing of complaint by worker within one year of returning to his country shall not be considered as prohibited by this Section.

**61. Investigation and Enquiry of offences related to Foreign Employment**

- (1) In case the Department comes to know, through any information, any source direct or indirect or a complaint lodged by any person, that the offence has already been committed or is going to be committed the offences under this Act or Rule framed thereunder, the Department shall designate third class gazette officer as investigation officer who shall initiate necessary investigations, inquiries and other actions in this regard.
- (2) While initiating investigation or inquiry or collecting evidence concerning offence as contained in sub-Section (1), the investigating officer shall have authority to take immediate actions including arrest of accused person, to raid any place relating to offence, seizure of documents or goods and items relating to offence, to record the statement, preparing report of public inquiries and including any such authority as the police is having under the prevailing laws.
- (3) While carrying investigation and inquiries pursuant to Subsection (2), upon recording the statement of accused person, if Investigation officer has reasonable ground to believe that the accused may have committed the offence, the Officer may require such accused to appear on prescribed date or release him on deposit or on guarantee or proceed with case by detaining him , with prior approval from case hearing authority , in case he is unable to furnish such deposit or guarantee as may be necessary or may continue to proceed with case by holding such accused in judicial custody upon obtaining

permission from case hearing authority. Such judicial custody may last 7 days at a time and may not exceed 30 days in total.

- (4) Upon completion of the investigation and inquiry pursuant to this Section, the Investigation Officer shall take the opinion of the Government attorney before filing the case in its own name.
- (5) It shall be the duty of all concerned parties including the Police to provide the necessary support to the Investigating Officer on performing investigation and inquiry pursuant to this Section.
- (6) When the Investigating Officer conducting investigation or enquiry pursuant to this Section of the offences related to the foreign Employment have sufficient and appropriate reason to suspend the license of license holder, the officer shall submit a report to the Department showing the appropriate and sufficient ground for suspension.
- (7) On the basis of report submitted under Subsection (6), the Department may suspend the license of the License Holder for a period not exceeding Six months.

**62. Power to Arrest:**

- (1) If someone has committed an offence under Section 43 of this Act and if there is a possibility that such suspect may escape if no immediate arrest is made, in such situation, police officer may arrest such person without any warrant.
- (2) A person arrested pursuant to Sub Section (1) shall be produced before a case hearing authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the place of arrest to such case hearing authority,

## Chapter 11

### Procedure of the Law-suit and decision

**63. The Government of Nepal to be the Plaintiff:**

The Government of Nepal shall be the plaintiff in a case filed under this Act.

**64. Provision relating to Foreign Employment Tribunal:**

- (1) Except for the cases to be persecuted by the Department as mentioned in this Act, for the purpose of taking preliminary action and disposing of such other cases, the Government of Nepal shall, by publishing a notice in the Nepal Gazette, establish three members Foreign Employment Tribunal under the chairmanship of the Judge of the Appellate Court and shall include one member from case hearing officer of Labor Court, and other member as First Class Gazatted officer from Judicial Council.
- (2) The term of service of the Chairman and the Members of the Foreign Employment Tribunal shall be of four years.
- (3) The Foreign Employment Tribunal shall exercise its jurisdiction as prescribed.
- (4) Until the Tribunal pursuant to this Section is established, all the functions and procedurals of the Foreign Employment Tribunal shall be done by the concerned District Court.
- (5) The Government of Nepal shall provide the required number of employees for the Foreign Employment Tribunal.

**65. Procedure of the Law-suit:**

The procedure for filing and disposition of case under this Act shall be done according to the Summary Procedure Act, 2028.

**66. Appeals:**

- (1) Any party not satisfied with the decision made by the Department pursuant to this Act may submit an Appeal to the Government of Nepal within thirty-five days of such decision.
- (2) Any party not satisfied with the decision made by the Foreign Employment Tribunal pursuant to this Act may submit an Appeal to the Supreme Court within thirty-five days of such decision.

## **Chapter 12**

### **Miscellaneous**

**67. Foreign Employment Department:**

There shall be one Foreign Employment Department under the Ministry of Labour and Transportation Management for the purpose of performing the functions relating to foreign employment.

**68. Appointment of Labour Attaché:**

- (1) The Government of Nepal shall appoint Labour **Attaché** at least of the level of a Gazetted Officer to such countries where five thousand or more labors have been sent for foreign employment.



- (2) The functions, duties and powers of the labour **Attaché** shall be as follows:
- a. To notify the Government of Nepal regarding the labour and employment situation of the country where Nepali workers are being employed, factual information regarding immigration, and the steps taken by such countries in respect of protecting the interest and well being of the labors, protection of Labour and International Human Rights and protection of the other rights of the workers;
  - b. To help assist in resolving the problems arising out of the disputes between among the workers and the employing enterprises or the License Holders;
  - c. To make or cause to make necessary arrangements to bring back those workers who have fallen in distress in due course of their employment in foreign country.
  - d. To notify the Government of Nepal if there is a possibility of having a job opportunities as per the skill of Nepalese workers in such concerned country;
  - e. To take initiation in making arrangements by obtaining help or assistance from concerned country or Employment Providing Institution in order to bring back the bodies of the workers killed due to natural disaster or worker who fell in distress due to other cause.
  - f. Put an effort at government level to conclude bilateral agreement for the purpose of supplying Nepalese workers;

- g. To provide necessary counseling to the workers and discourage such workers from getting engaged in any other work other than those specified in contract.
  - h. To supervise any activities that may adversely affect the workers;  
and
  - i. To perform any other acts as Government of Nepal may prescribed from time to time.
- (3) If there are both, the Foreign Mission and the Labour **Attaché** in a particular foreign country, it shall be the duty of the Labour **Attaché** to perform the functions and the duties mentioned under subsection (1).

**69. Remittance of the Income of the workers:**

- (1) The savings made by the Nepalese workers from Foreign Employment shall be remitted back to Nepal through Banks or License-holding Banking Service Providing Institution.
- (2) Notwithstanding anything mentioned under subsection (1), while returning to Nepal, a worker shall be permitted to carry with him the savings made in course of his foreign employment.
- (3) Any worker who remits the saving made from foreign employment within contract term through banks or Institutions licensed to provide bank service shall be entitled to receive facilities as prescribed.

**70. License not issued:**

Notwithstanding anything mentioned elsewhere in this Act, an entity shall not be issued a license if the Executive or Director sitting on the Board of

such company has been convicted by the court, and have not completed five years period of such conviction, on any offence under this Ac.

**71. Reward by The Government of Nepal :**

- (1) The Government of Nepal may reward by giving letter of appreciation to one excellent License Holder each year on the basis of prescribed criteria as recommended by the Board.
- (2) Any other provisions regarding the rewarding of the License Holder shall be as prescribed.

**72. Provision regarding Health Check-up:**

- (1) A worker, before going to foreign country for employment, shall perform the health check-up from the Health Institution as approved by the Government of Nepal.
- (2) When a person, who had gone for foreign employment after performing the health check up pursuant to sub-section (1), has to come back home by virtue of being given the false health report knowingly or with negligence or with ill-intention, the Institution performing such health check up shall bear all the cost pertaining to traveling in respect to such foreign employment.
- (3) In order to determine whether false health report was given pursuant to Sub section ( 2), there shall be an Expert Committee as prescribed.

**73. Provision regarding Labour-Desk:**

- (1) The Government of Nepal shall create Labour-Desk at the International Airport and at any other places as deemed necessary for the purpose of determine whether the workers who have been going for foreign employment are complying with the provision of this Act.
- (2) The Labour-Desk kept pursuant to subsection (1) shall check to see whether the workers, who are proceeding for foreign employment, possess the necessary documents such as Labour Permit, Certificate of Orientation Training, receipt of the money paid or the Vouchers.
- (3) The Labour-Desk created pursuant to subsection (1) shall submit to Ministry every week a report along with record of workers gone for foreign employment.

**74. Provision relating to opening of Branch Office and appointment of Agents:**

- (1) A License Holder, by obtaining prescribed permission from Department, may open its Branch Office or appoint its Agents in those countries where it had already sent the workers.
- (2) The License Holder may open Branch Office or appoint its agents in within Nepal after obtaining the permissions from Department as prescribed.
- (3) While appointing the Agent pursuant to subsection (1) or (2), the License holder shall provide security deposit in the amount as prescribed and the License Holder shall be liable for the works done by its Agents.

- (4) Other provisions regarding opening of Branch Offices and appointment of Agents shall be as prescribed.

**75. Provision regarding sending back the workers to the Country:**

- (1) If any worker is left neglected due to unavailability of the facilities as mentioned in the Contract, and has under a situation to return home, the license holder shall take necessary step to bring such workers back home.
- (2) Due to War, epidemic or Natural Disaster in the country from where Nepali workers have to be recalled immediately, the Government of Nepal, through its Diplomatic Mission or the Labour **Attaché**, shall take necessary step to bring such workers back home.

**76. Returning Nepal upon expiry of the Visa:**

- (1) Those workers who have gone for foreign employment under this Act shall have to return Nepal upon the expiry of the visa issued by concerned Country.
- (2) For those workers who failed to return pursuant to Subsection (1), it shall be responsibility of the License Holder to bring such workers back home through the help from the Department.
- (3) Those worker who been brought back home pursuant to subsection (3), the Government of Nepal may prohibit such worker for three years from traveling abroad.

**77. Privileges to the License Holder:**

While in the process of operating the business of Foreign Employment. the License Holder shall be given certain privileges in terms of transacting in foreign currency

**78. The details regarding the enterprises holding License to be made Public:**

(1) The Department shall, from time-to-time, publish in various newspapers and in its website, the details regarding the Name, Address, Telephone Number, Agents appointed or Branch Opened, if any, and the Term of License regarding the Institutions holding License under this Act.

(2) While making the details public pursuant to subsection (1), the fact that any License Holder is being investigated for offence pursuant to this Act or if the License of any License Holder has been cancelled shall also be regularly disclosed.

**79. Regarding the Activities of the Department:**

(1) The Department shall submit a Monthly Report of its activities performed pursuant to this Act to The Government of Nepal, Ministry of Labour and Transportation Management.

(2) The Ministry shall issue directives from time-to-time to the Department regarding the activities to be performed pursuant to this Act.

**80. Records and Reports:**

(1) The License Holder shall keep a record of all the workers who have been sent for foreign employment in a prescribed format. Such record may be investigated, called for and examined by the Department at any time.

- (2) Every License Holder shall submit an Annual Report to the Department including the required details within thirty days after the end of every Fiscal Year.

**81. Delegation of Power:**

- (1) The Government of Nepal may, by publication of a notification in the Nepal Gazette, delegate its all or any power conferred on it by this Act to any Governmental Body or Officer.
- (2) The Board may delegate some of its power conferred on it by this Act to the Executive Director.

**82. Power to Remove Obstructions**

In case any difficulty or obstruction arises in the enforcement of any objectives of this Act, Government of Nepal may, by publication of a notification in the Nepal Gazette, issue necessary orders to remove the same.

**83. Immunity for Actions Taken With Bonafide Motives**

- (1) The Government employee shall not be held individually liable for any action taken with bonafide motives under this Act.

**84. Applicability of Current Law**

Action in respect to matters provided for in this Act shall be taken accordingly, and action in respect to other matters shall be taken in accordance with prevailing law.

**85. Power to Frame Rules**

For the purpose of implementing the objectives of this Act, the Nepal Government may frame necessary rules.

**86. Repeal and Saving**

- (1) The Foreign Employment Act, 2042 has been repealed.
- (2) All acts and activities carried out in accordance with the Foreign Employment Act 2042 shall be deemed to have been carried out in accordance with this Act.

**87. Transfer of case:**

At the commencement of this Act, if a case is investigated, inquired and filed in the District Courts pursuant to the Foreign Employment Act 2042, such case shall be transferred to the Tribunal upon its formation pursuant to Section 64.

Date of Certification: 2064/5/19 (5 September, 2007)

By the Order,  
Dr. Kul Ratna Bhurtel  
Secretary of the Government of Nepal.