

NEPAL RECORDER

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Ministry of Labor

Nepal Rajapatra, Vol. 49, No. 23 (E), Bhadra 31, 2056
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Foreign Employment Rules, 1999

His Majesty's Government has framed the following rules in exercise of the power conferred by Section 27 of the 1985 Foreign Employment Act.

Chapter 1 **Preliminary**

1. Short Title and Commencement

- (1) These rules shall be known as the **Foreign Employment Rules, 1999**.
- (2) These rules shall come into force at once.

2. Definitions

Unless otherwise meant with reference to the subject or context, in these rules,

- (a) **Act** means the 1985 Foreign Employment Act.
- (b) **Work Permit** means a permit issued by the empowered authority of the country providing foreign employment to an employee authorizing him to work in the country.
- (c) **License** means a license issued under Sub-Section (2) of Section 6 of the act.
- (d) **Employee Demand Form** means a demand form sent by the person providing foreign employment to a licensee mentioning the number, type and qualifications of employees, their remunerations, facilities and other conditions of service.

Chapter 2

Provisions Concerning Issuance and Renewal of License

3. Application to be Filed for Operating Foreign Employment Business

- (1) Any institution which possesses the following qualifications and is desirous of undertaking the foreign employment business must submit an application to HMG for a license in the form indicated in Schedule 1.
 - (a) It must have a working capital of at least Rs 2.5 million.
 - (b) It must not have been declared bankrupt.
 - (c) Its promoters must have gained at least one year's experience of work as manager in any financial, professional, commercial or industrial concern.
 - (d) The conduct of its promoters must not be bad.
- (2) HMG shall conduct investigations into the application filed under Sub-Rule (1), and may issue a license in the form indicated in Schedule 2 by collecting Rs 500,000 as deposit and Rs 10,000 as license fee.

4. Renewal of License

- (1) The licensee must renew the license obtained by him under Sub-Rule (2) of Rule 3 within 90 days from the date of expiry of each fiscal year.
- (2) A fee of Rs 5000 must be paid while having the license renewed under Sub-Rule (1).
- (3) In case the license is not renewed within the time limit mentioned in Sub-Rule (1), the licensee may have it renewed within 30 days from the date of expiry of that time limit on payment of a fee double that amount.

5. Cancellation of License

- (1) HMG may cancel a license in the following circumstances:
 - (a) In case it is proved that the license had been obtained by presenting false particulars.
 - (b) In case the conditions prescribed in the license are not complied with.
 - (c) In case the additional deposit demanded under Sub-Section (2) of Section 8 of the act is not furnished.
 - (d) In case it is proved that the licensee had given false particulars or statements to the Inspection Officer deputed under Rule 23.
 - (e) In case (the licensee) fails to send at least 50 employees for foreign employment within one fiscal year.

- (f) In case (the licensee) acts in violation of the act and the rules.
- (2) Before cancelling a license under Sub-Rule (1), HMG must provide the licensee with an opportunity to submit his explanations.
- (3) In case (the licensee) does not submit his explanations under Sub-Rule (2) or in case the explanations submitted by him are not found to be satisfactory, HMG may cancel his license.
- (4) The concerned institution must be informed about the cancellation of its license under Sub-Rule (1).

6. Money to be Returned

In case the license is cancelled under Rule 5, the licensee must return to the concerned persons within a month from the date of cancellation of the license the service charge or any other amount obtained by him before such cancellation for sending them for foreign employment.

7. Deposits to be Returned

- (1) In case the license is cancelled under Rule 5, the licensee may apply for the return of the deposit furnished by him under Sub-Rule (2) of Rule 3. The application must also explicitly mention whether or not the money to be returned by the licensee under Rule 6 has been returned.
- (2) In case an application is received under Sub-Rule (1), HMG must publish a notice in at least two national level daily newspapers, and if necessary, in other means of communication also, explicitly mentioning that the license obtained by the licensee has been cancelled and the licensee has demanded the return of the deposit furnished by him under Sub-Rule (2) of Rule 3, and providing a time limit of 60 days to anybody from whom the licensee has obtained the service charge or any other amount in consideration of foreign employment but whom the licensee has not yet sent for foreign employment, to make a claim for the return of such service charge or amount along with evidence thereof.
- (3) In case anybody files a claim within the time limit mentioned in the notice published under Sub-Rule (2), and in case investigations into the claim prove that the licensee had obtained the service charge for providing foreign employment but not sent the concerned person for foreign employment, HMG shall order the licensee to return the amount to the concerned person within 15 days.
- (4) In case the licensee does not return the money as per the order issued under Sub-Rule (3), HMG shall deduct the amount from his deposit and hand it over to the person who has made the claim under Sub-Rule (2).

- (5) In case no claim is filed within the time limit mentioned in Sub-Rule (2), or in case a claim is filed and the licensee returns the money within the time-limit mentioned in Sub-Rule (3), HMG shall return the deposit (to the licensee).
- (6) In case the deposit furnished by the licensee is not enough to return the money under Sub-Rule (4), the deficit shall be realized from the personal property of the licensee according to current law.

8. Application to be Filed to Prior Approval

- (1) The licensee must submit the following particulars, in addition to those mentioned in Sub-Section (1) of Section 9 of the act, while applying for prior approval for the selection of employees:
 - (a) Name of the manager of the institution providing employment.
 - (b) In case employees are to be sent to a country where work permits are necessary, the guarantee that work permits will be available, and the basis thereof.
- (2) On receipt of an application under Sub-Rule (1), HMG may, if it finds it appropriate to do so after necessary investigations, grant its approval.
- (3) Notwithstanding anything contained in Sub-Rule (2), HMG shall not grant approval to select employees in the following circumstances:
 - (a) In case the monthly remuneration of the employee going for foreign employment is less than 125 US dollars.
 - (b) In case the service conditions and facilities of employment do not meet the minimum limit determined by the law of the concerned country.
 - (c) In case the Royal Nepali Ambassador submits a report to HMG to the effect that it will not be appropriate to send employees to the country providing foreign employment.
 - (d) In case HMG deems it inappropriate to send employees to any country due to public policies.

9. Public Advertisements to be Published

While publishing advertisements for the purpose of Section 10 of the act, the licensee must do so in a national level daily newspaper by providing a time limit of not more than seven days and explicitly mentioning the following points:

- (a) Name, address and license number of the institution publishing the advertisement.
- (b) Name of the country providing employment.
- (c) Posts of the employees.
- (d) Number of employees demanded.
- (e) Details of the work to be done by the employees.
- (f) Minimum qualifications needed of the employees.
- (g) Number of hours per day for which the employees have to work.
- (h) Daily or monthly remunerations to be paid to the employees.
- (i) Arrangements concerning food and lodging facilities to be provided to the employees.
- (j) Procedure of selecting employees.
- (k) Tentative date by which the selected employees have to depart.
- (l) Amount to be paid by the employees to the licensee as service charge.
- (m) Place where the application is to be filed and the last date for doing so.
- (n) Arrangements concerning employees insurance and medical facilities.
- (o) Arrangements concerning air tickets needed by the employees to go to and return from the country providing employment.
- (p) Particulars of the expenses to be borne by the employees while going to the country providing employment.
- (q) Arrangements concerning leave.
- (r) Other necessary particulars.

10. Application to be Filed

Any Nepali national possessing the qualifications mentioned in advertisements published under Rule 9 may apply in the form indicated in Schedule 3.

11. Criteria of Selecting Employees

- (1) For the purpose of selecting employees under Section 11 of the act from among those who have applied under Rule 10, the following criteria shall be adopted:

- (a) Necessary qualifications for the concerned job and the period of experience thereof.
 - (b) Age of the employee.
 - (c) Physical fitness of the employee.
- (2) The licensee must affix at the notice board of his office a copy of the list containing the names of employees selected on the basis of the criteria mentioned in Sub-Rule (1) and send another copy to the Department.

12. Medical Examination

Every employee selected for foreign employment under Rule 11, or every employee going abroad for foreign employment on a personal basis under Section 23 of the act, must submit a certificate of medical examination conducted by a doctor recognized by HMG before going abroad for foreign employment.

13. Matters to be Mentioned in the Contract Relating to Foreign Employment

The following matters, in addition to other matters, must be mentioned in the contract relating to foreign employment to be signed between the employee and the institution providing employment:

- (a) Post of the employee and details of the work to be done by him.
- (b) Remuneration and facilities of the employee, working hours, additional remuneration for additional hours of work, and other facilities.
- (c) Details regarding the probation period.
- (d) Circumstances in which the contract is to be deemed to have been violated.
- (e) Details of compensation to be paid to the employee or his heir in case he suffers a physical injury or disability, or dies.
- (f) Arrangements regarding medical treatment in case the employee falls ill.
- (g) Arrangements for bringing back to the country the dead body and the belongings of the employee in the event of his death.
- (h) Procedure of settling disputes between the employee and the institution providing employment.
- (i) Actions which the employee may not perform.
- (j) Arrangements concerning leave.
- (k) Arrangements concerning insurance.

14. Approval for Sending Employees for Foreign Employment

- (1) For the purpose of securing approval for sending for foreign employment an employee who has been selected under Rule 11, the licensee must submit an application to HMG along with a recent passport-size photograph of the concerned employee and the following particulars:
- (a) Name and address of the employee.
 - (b) Passport number and date of issue.
 - (c) Details of the qualifications of the employee.
 - (d) Name and address of the closest relative in Nepal who is to be forwarded information about the employee.
 - (e) Details of the prior approval secured by the licensee for sending employees (for foreign employment) under Rule 8.
 - (f) Criteria adopted for selecting the employee under Rule 11.
 - (g) A copy of the health certificate of the employee.
 - (h) The original copy of the contract signed between the institution providing foreign employment and the employee.
 - (i) Arrangements regarding air tickets needed by the employee to reach the concerned country and to return to Nepal after the expiry of the contract period.
 - (j) Certificate of insurance, and
 - (k) Details of the date of flight.
- (2) In case HMG finds in the course of conducting necessary investigations into the application filed under Sub-Rule (1) that the necessary formalities have been fulfilled, it shall grant approval for sending the employee for foreign employment.
- (3) The approval to be granted under Sub-Rule (2) shall ordinarily be granted within seven days from the date of application.

15. Information About the Condition of Employees to be Supplied on a Periodic Basis

The concerned licensee must supply to HMG every six months information about the condition in which the employees sent abroad for employment are living there.

16. Records to be Maintained

The licensee must keep records of every employee sent for foreign employment in the form indicated in Schedule 4.

17. Service Charge

In consideration of providing foreign employment to an employee, the licensee may collect from the concerned employee a service charge at the rate of 25 percent of the monthly remuneration to which the employee is entitled in the first month.

18. Obligations of Licensed Institutions

The obligations of the licensee, in addition to those mentioned in the act and these rules, shall be as follows:

- (a) To acquire information about the country and the institution providing foreign employment on a regular basis and supply such information to the employee.
- (b) To acquire information on a regular basis about whether or not the institution providing employment has paid remuneration and allowances and provided other facilities to which the employee is entitled under the contract relating to foreign employment.
- (c) To protect the rights and interests of the employees sent (for foreign employment) by it.
- (d) To maintain contacts with the employees sent by it (for foreign employment) and be informed about them on a regular basis.
- (e) In case the employee sent by it for foreign employment does not get the job mentioned in the contract, or in case the contract is terminated during the probation period, or in case the employee is stranded (abroad) for any other reason, or dies for any reason, to bring him or his dead body back to the country.
- (f) To pay compensation according to the contract in case the job mentioned in the contract is not available.

19. Establishment of Offices

Every institution desirous of operating the foreign employment business must, within three months from the date of obtaining the license, establish an appropriate office equipped with at least one set of telephone, telex, fax, e-mail and other basic physical facilities and at least five employees.

Chapter 4
Miscellaneous

20. Formation of an Advisory Board

- (1) An Advisory Board has been formed as follows for the purpose of Section 22 of the act:
- (a) Minister or Minister of State for Labor - Chairman
 - (b) Secretary, Ministry of Labor - Member
 - (c) Secretary, Ministry of Law and Justice - "
 - (d) Secretary, Ministry of Home - "
 - (e) Secretary, Ministry of Foreign Affairs - "
 - (f) Director-General, Immigration Department - "
 - (g) Representative, Police Headquarters - "
 - (h) President, Federation of Nepalese Chambers of Commerce and Industry - "
 - (i) Two experts on foreign employment nominated by HMG - "
 - (j) Two representatives of the Foreign Employment Businessmen's Association - "
 - (k) A representative of the foreign employment institution paying the highest amount of income tax from among institutions operating foreign employment business - "
 - (l) Director-General, Department of Labor - Member-Secretary
- (2) Members under Clause (1) of Sub-Rule (1) shall have a term of two years.
- (3) Meetings of the Advisory Board may be held according to need.
- (4) The Advisory Board may invite according to need any local or foreign expert to attend its meeting in the capacity of an observer.

21. Insurance

Every employee going abroad for foreign employment must insure himself for at least Rs 100,000 for the period covering the term of the contract relating to foreign employment before leaving for the concerned foreign country.

22 Employees to Send Money Home

Every employee must send to Nepal at least 10 percent of the money earned by him for his dependent family through a bank or institution.

23 Working Procedure Relating to Inspection

- (1) For the purpose of conducting inspection under Section 19 of the act, HMG may depute any officer. Before conducting inspection, the officer so deputed must show to the licensee the authority received by him to do so.
- (2) The officer conducting inspection under Sub-Rule (1) must submit a report of his findings in the course of inspection to HMG.
- (3) It shall be the duty of the licensee to supply all such information as are demanded by the Inspection Officer deputed under this rule.

24 Power to Appoint Labor Attache

HMG may appoint and depute an officer of at least a Gazetted rank as Labor Attache in countries where 5,000 or more Nepali employees are working.

25 Provisions for Rewards

- (1) HMG may evaluate the functions and activities of licensed institutions and grant rewards to the institution found to be the best.
- (2) The criteria of evaluating the institutions and the amount of reward under Sub-Rule (1) shall be as prescribed by HMG.

(Schedules 1 to 4 follow)

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| Schedule 1: | Format of Application for License to Operate Foreign Employment Business. |
| Schedule 2: | Format of License. |
| Schedule 3: | Format of Application to be Filed by Employees. |
| Schedule 4: | Records of Employees Sent for Foreign Employment. |