

**FOREIGN EMPLOYMENT  
(SECOND AMENDMENT) ACT, 2054(1998)**

DATE OF ROYAL SEAL AND PUBLICATION

2054/10/15 B.S.

(JAN.28, 1998 A.D.)

ACT NO.23 OF The YEAR 2054 (1998)

(EULOGY OF HIS MAJESTY THE KING)

**AN ACT MADE TO AMEND**

**THE FOREIGN EMPLOYMENT ACT, 2042 (1985)**

**Preamble:** Whereas, it is expedient to amend the Foreign Employment Act, 2042 (1985),

Now, therefore, be it enacted by Parliament in the twenty-sixth year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

**1. Short Title and Commencement:**

(1) This act may be called 'The Foreign Employment (Second Amendment) Act, 2054 (1998)'.  
(2) This Act shall come into forces at once.

**2. Amendment to Section 2 of the Foreign Employment Act 2048 (1992):**

Clause (el) of Section 2 of the Foreign Employment Act, 2042 (1985) (hereinafter referred to as the "Principal Act") has been substituted by the following clause (el):"(el) "Association" means the association established under the prevailing law with an objective of operating foreign employment business:".

**3. Amendment to Section 4 of the Principal Act:**

Section 4 of the Principal Act has been substituted by the following Section 4:-

"4. His Majesty's Government to Specify the Countries:

(1) His Majesty's Government shall, by publishing a notification in the Nepal Gazette, specify the countries permitted to operate the foreign employment business.

(2) The licence-holder may operate foreign employment business only in the countries specified under sub-section (1) with permission to operate the foreign employment business".

**4. Amendment to Section 5 of the Principal Act:**

The words "established under the prevailing law" appearing in Section 5 of the Principal Act have been deleted.

**5. Amendment to Section 5A. of the Principal Act:**

The words "without the approval of His Majesty's Government, the Association conducting the foreign employment such" appearing in Section 5A of the Principal Act have been substituted by the words "without the approval of His Majesty's Government, the licence-holder its".

**6. Amendment to Section 8 of the Principal Act:**

In Section 8 of the Principal Act, -

(1) Sub-section (2) has been substituted by the following sub-section (2):-

"(2) After having obtained the licence by keeping deposit pursuant to sub-section (1), His Majesty's Government shall issue an order to furnish an additional deposit amount if such deposit is found insufficient in proportion to the transactions of the licence-holder".

(2) The following sub-section (3) has been inserted after sub-section (2):-

"(3) His Majesty's Government may accept immovable assets as well for additional deposit to be furnished pursuant to sub-section (2)".

**7. Amendment to Section 9 of the Principal Act:**

Clause (b) of sub-section (1) of Section 9 of the Principal Act has been substituted by the following clause (b):-

"(b) Type of the foreign employment and the duplicate copy of the requisition notice of the institution providing the employment relating thereto, and the licence granted in such respect by the Government of the concerned country or by the official or agency authorised by such Government.

**8. Amendment to Section 10 of the Principal Act:**

Section 10 of the Principal Act has been substituted by the following Section 10:-

"10. Advertisement Required: (1) The licence-holder shall, after having obtained the permission of His Majesty's Government pursuant to Section 9, have to publish an advertisement in any journal of national level by calling applications to select the workers for foreign employment.

(2) In addition to the other particulars as prescribed, the terms of service and facilities of such worker and the fees to be paid to the licence-holder shall also have to be specified in the advertisement to be published pursuant to sub-section (1).

(3) After the publication of advertisement pursuant to sub-section (1), the person being desirous of going for foreign employment shall have to submit an application before the licence-holder with specifying the particulars as prescribed, within the time-limit referred to in such advertisement"

#### **9. Insertion of Sections 10A. and 10B. in the Principal Act:**

The following Sections 10A. and 10B. have been inserted after Section 10 of the Principal Act, -

##### **"10A. Merit List To Be Prepared**

(1) The licence-holder shall have to keep prepared the merit list of the persons, who have submitted the applications before the licence-holder for foreign employment in consonance of the advertisement published under Section 10 for the selection of workers, on the basis of their professional qualifications and experience.

(2) The names of alternative persons for not more than five percent of the total number of posts that have been requisitioned shall be included in the merit list to be prepared pursuant to subsection (1).

(3) While selecting the workers pursuant to Section 11, the licence-holder shall have to select the persons, whose names have been included in the merit list, for foreign employment in accordance with the number of order of such merit list.

(4) The merit list as referred to in sub-section (1) shall be required to be submitted before the Department.

##### **10B. Advertisement Not Required:**

(1) Unless the persons whose names have been included in the merit list as referred to in Section 10A could be sent for foreign employment, no advertisement shall be required to be done pursuant to Section 10 in order to select the workers for the foreign employment to be obtained on the basis of professional qualifications and experience of such persons.

(2) In case the persons, whose names have been included in the merit list as referred to in Section 10A; have been selected for foreign employment without the advertisement pursuant to sub-section (1), the licence-holder shall have to give the information of such matter to the Department".

#### **10. Amendment to Section 11 of the Principal Act:**

In Section 11 of the Principal Act, -

(1) Sub-section (1) has been substituted by the following sub-section (1):-

"(1) While selecting the workers for foreign employment by the licenceholder, it shall have to be done on the prescribed basis".

(2) The words "prescribed authority" appearing in sub-section (3) have been substituted by the word "Department".

#### **11. Amendment to Section 12 of the Principal Act:**

Section 12 of the Principal Act has been substituted by the following Section 12:-

"12. Foreign Employment Should not Be Provided: Notwithstanding anything contained elsewhere in this Act, the licenceholder shall not have the authority to provide the foreign employment to the minors and women.

Provided that the foreign employment may be provided to women by obtaining the permission of His Majesty's Government and guardians.

Clarification

(1) For the purpose of this Section, "minor" means the person who has not attained the age of eighteen years.

(2) For the purpose of this Section, "guardian" means the following relative of the woman who is desirous of going in foreign employment:-

(a) Father or mother in respect of an unmarried woman and husband in respect of a married woman,

(b) In cases where the relative as referred to in clause (a) above is not available, the elder brother or younger brother of the same home and joint family, who has attained the age of twenty-one years, in respect of an unmarried woman and the father-in-law or mother-in-law living in the same joint family in respect of a married woman,

(c) In respect of a woman who does not have even the relatives mentioned in clause (b) above, the person recommended by the concerned Village Development Committee or Municipality stating him or her as her nearest relative".

#### **12. Amendment to Section 14 of the Principal Act:**

In Section 14 of the Principal Act, -

(1) Sub-section (4) has been substituted by the following sub-section (4):-

"(4) After entering into a counteract pursuant to subsection (2), the licenceholder shall, at least seven days prior to sending the worker abroad for foreign employment, have to submit an application along with all the documents relating thereto before His Majesty's Government for permission".

(2) The following sub-section (5) has been inserted after sub-section (4): -

"(5) If the documents submitted pursuant to subsection (4) are not found different from the particulars submitted under Section 9, His Majesty's Government shall grant approval to send such worker to foreign employment. Provided that it may bar such sending if there has been found any difference".

**13. Amendment to Section 15 of the Principal Act:**

The words "after obtaining permission" appearing in Section 15 of the Principal Act have been substituted by the words "after the submission of documents to His Majesty's Government" and the words "social condition of appearing in the same Section have been substituted by the words "social condition and regarding the nature of works to be performed by him".

**14. Insertion of Section 16A. in the Principal Act:**

The following Section 16A. has been inserted after Section 16 of the Principal Act:-

"16A. Annual Description:

The licence-holder shall, within thirty-five days after the end of each fiscal year, have to submit before His Majesty's Government the annual description of all the acts and proceedings done and taken by it in respect of foreign employment business in the previous fiscal year".

**15. Insertion of Section 19A. in the Principal Act:**

The following Section 19A. has been inserted after Section 19 of the Principal Act:-

"19A. Inquiry and Investigation of the Offences Relation to Foreign Employment

(1) If His Majesty's Government is informed directly or indirectly, by way of a complaint filed by any person or by any other manner, of the fact that any offence is happened or committed or is about to be happened or committed in contravention of this Act or The Rules framed under this Act, His Majesty's Government May cause to take proceedings on inquiry and investigation of the offence relating thereto by designating at least a Gazetted third class officer as the investigation officer.

(2) While conducting inquiry and investigation on the offence pursuant to sub-section (1) or collecting the proofs and evidence thereof, the investigation officer shall have all the powers equal to those conferred to the Police under the prevailing law such as arresting the person involved in the offence, making searches in any places in respect of the offence, taking in his custody the documents and other articles and things related with the offence, causing to make depositions and preparing the deeds.

(3) While conducting inquiry and investigation pursuant to sub-section (2), the investigation officer shall cause the accused to make deposition and, if there is sufficient ground to show him as an offender from the evidence available beforehand, may release him on bail or on guarantee or, if he could not provide bail or guarantee, may take action by keeping him detained in custody with the approval of the authority hearing the case or may detain him in custody for a maximum period of upto thirty days not exceeding seven days at a time.

Provided that a recidivist (persistent offender, shall not be released on bail.

(4) The investigation officer may have consultations with the government lawyer, if it is so required, in conducting the acts of inquiry and investigation as set forth in this Section.

(5) It shall be the duty of all the concerned including the Policy to provide necessary assistance to the investigation officer in performing the acts of inquiry and investigation as set forth in this Section".

**16. Amendment to Section 23 of the Principal Act:**

Section 23 of the Principal Act has been substituted by the following Section 23:-

"23. Permission to go in Personal Capacity:

(1) If any person desires to go abroad in personal capacity for foreign employment, he shall be required to submit an application, for obtaining approval, before His Majesty's Government with specifying therein the following particulars:-

- (a) The country desired to go,
- (b) The nature of the works to be performed abroad,
- (c) The institution providing the employment, the acceptance granted by the institution and the terms and facilities of the employment,
- (d) His nearest relative in the native country and the consent to bear his liability.

(2) His Majesty's Government shall, upon receipt of the application as referred to in sub-section (1), conduct necessary inquiry and examination and grant approval to the applicant to go abroad in personal capacity for foreign employment".

**17. Amendment to Section 24 of The Principal Act:**

In Section 24 of the Principal Act,-

(1) Sub-section (1) has been substituted by the following sub-section (1):-

"(1) In case any licence-holder does any act in contravention of this Act or the Rules framed under this Act or does not comply with the order or directions of His Majesty's Government, His Majesty's Government may punish him with a fine of an amount ranging from twenty thousand rupees to one hundred thousand rupees and may revoke the licence of such licence-holder".

(2) The following sub-section (IA) has been inserted after sub-section (1)

"(IA) Notwithstanding anything contained in subsection (1) above, the person who does an act in contravention of Section 12 shall be liable to a fine of upto five hundred thousand rupees and imprisonment of upto ten years or both punishments".

(3) Sub-section (2) has been substituted by the following sub-section (2):-

"(2) In cases any person operates a foreign employment business without obtaining a licence under this Act or sends a person abroad by giving false

assurances or putting temptation on such person by explaining that he was being sent for foreign employment or takes any amount on such pretence, the amount so taken and the amount to be set by fifty percent of such amount shall be realised for compensation from him and the expenses incurred to such person in two way travel to and from such foreign country shall also be recovered from him and made available to such person, and he shall be liable to a fine ranging from fifty thousand rupees to five hundred thousand rupees or imprisonment for a term ranging from three years to seven years or both punishments. He shall be liable to the half of such punishment if the person is yet to be sent abroad".

(4) The words "one hundred thousand" appearing in sub-section (3) has been substituted by the words "two hundred fifty thousand".

(5) Sub-section (4) has been substituted by the following sub-section (4):-  
"(4) His Majesty's Government shall revoke the licence of such licence-holders who are held liable to punishment under sub-sections (2) and (3) and such licence-holders shall not be provided with another licence".

**18. Amendment to Section 25 of the Principal Act:**

The phrase "and the cases under this Act shall be deemed to have been included in Schedule - 1 of the State Cases Act, 2017 (1960)" appearing in Section 25 of the Principal Act has been deleted.

**19. Repeal:**

Section 7 of the Principal Act and "Serial No.29" of Schedule - 1 of the State Cases Act, 2017 (1960).