

The Foreign Employment Rules, 2064 (2008)

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In exercise of the powers conferred by Section 85 of the Foreign Employment Act, 2064 (2007), the Government of Nepal has framed the following Rules:

Chapter- 1

Preliminary

1. **Short title and commencement:** These Rules may be called as the “Foreign Employment Rules, 2064(2008).”

(2) These Rules shall come into force immediately.

2. **Definitions:** Unless the subject or the context otherwise requires in these Rules,

(a) “Act” means the Foreign Employment Act, 2064(2007);

(b) “Contract” means a contract made between an employer institution or its agent and a worker and licensee and a worker in relation to the terms and conditions of service and remuneration of the worker and the terms to be observed by both parties;

(c) “Fund” means the Foreign Employment Welfare Fund established pursuant to Section 32 of the Act;

(d) “Tribunal” means the Foreign Employment Tribunal constituted pursuant to Section 64 of the Act;

(e) “Demand letter” means a demand letter sent by an employer institution to a licensee, indicating the number, type,

qualification of workers, remuneration, facilities to which workers are entitled and other terms of service of workers;

- (f) “Director” means a director of an institution or licensee, and this term also includes an alternate directors.

Chapter- 2

Provisions Relating to Selection of Institution or Worker

3. **Criteria for selection of institution:** In case a request is made to the Government of Nepal to select and send workers pursuant to Section 5 of the Act, the Government of Nepal may select an institution based on the grounds set forth in Schedule 1 and send workers through such institution.
4. **Procedures for selection of institution:** (1) The Government of Nepal shall, for the purpose of selecting an institution through open competition based on the grounds set forth in Rules 3, publish a notice setting out the following details in a daily newspaper of national circulation, by giving a time-limit of at least fifteen days:
- (a) Name of the foreign country and employer institution where workers are to be sent,
 - (b) Number of workers demanded for,
 - (c) Grounds for the selection of an institution,
 - (d) Details to be submitted along with application,
 - (e) Place for the submission of application.
- (2) Out of the applications received as per the notice published pursuant to Sub-rule (1), the weightage shall be fixed according to each ground set forth in Rule 3; and the institution which secures the highest mark shall be selected.

5. **Criteria and procedures for sending workers by making treaty or agreement:** In selecting required persons for the purpose of sending workers by the Government of Nepal by making a treaty or agreement with the government of a country having diplomatic relations with Nepal pursuant to Section 6 of the Act, selection shall be made in accordance with the matters if any set forth in such treaty or agreement and selection shall be made from amongst the persons who have fulfilled the following criteria and procedures in the case of the matters not set forth in such treaty or agreement:
- (a) Being able to read and write plainly,
 - (b) Having general information about the law, language, culture of and life style in the country to go for work,
 - (c) Having general information about occupational safety and health,
 - (d) Having obtained the certificate of orientation training,
 - (e) Having obtained the fitness certificate from a recognized health institution,
 - (f) Having fulfilled such other procedures and criteria as may be prescribed by the Steering Committee referred to in sub-section (2) of Section 6 of the Act.

Chapter-3

Provision Relating to License

6. **Provision relating to license:** (1) An institution intending to carry on the foreign employment business shall make an application in the form referred to in Schedule 2, accompanied by the following documents and details, to the Department for the license:
- (a) A copy of the institution registration certificate,

- (b) A certified copy of the memorandum of association and articles of association of the institution,
- (c) A certified copy of the permanent accounts number certificate,
- (d) A detailed business action plan of the institution,
- (e) A certified copy of the citizenship certificate of the director,
- (f) A certificate copy of the certificate showing that the director has gained at least two years of experience as a director, proprietor or manager in an institution relating to foreign employment or a financial, business, trade or industrial body which has been in operation continuously since five years ago,
- (g) A proof showing the settlement of tax to be paid to the Government pursuant to the prevailing laws,
- (h) The promoter or director has not been punished for a criminal offense involving moral turpitude,
- (i) Not being a director of an institution of which license has been canceled.

(2) If, upon making necessary inquiry into an application made pursuant to Sub-rule (1), it appears appropriate to grant the license to such institution to carry on the foreign employment business, the Department shall grant the license in the form referred to in Schedule 3, upon collecting the license fee of twenty thousand rupees and a proof indicating the submission of the deposit or bank guarantee referred to in Sub-section (2) of Section 11 of the Act.

7. Term of bank guarantee: (1) The term of bank guarantee as referred to Sub-section (2) of Section 11 of the Act shall be a minimum of five years.

(2) The term of such bank guarantee shall be got renewed for another term and the renewed bank guarantee shall be submitted to the Department prior to one year of the expiration of the term of bank guarantee.

8. Renewal of license: (1) A license shall get its license renewed by submitting the following details no later than the last day of the month of Ashad (about Mid July) of each financial year:

(a) A receipt indicating the submission of the income return for the previous financial year or evidence showing the payment of income tax,

(b) Number of workers sent for foreign employment in the previous financial year and their condition.

(2) A licensee who gets the license renewed for three years at the same time pursuant to sub-section (3) of Section 12 of the Act shall get the license renewed no later than the last day of the month of Ashad (about Mid July) of the year when the renewal period expires.

(3) In getting the license renewed, the renewal fee shall be paid at the rate of ten thousand rupees for one financial year.

(4) A licensee who intends to get renewed the license which has not been renewed within the time-limit referred to in Sub-rule (1) may get the license renewed no later than the last day of the month of Aswin (about Mid October) of the same financial year by paying the additional renewal fee at the rate of ten thousand rupees for each month, in addition to the renewal fee referred to in Sub-rule (3). A licensee who

fails to get such license renewed shall not be entitled to carry on the foreign employment business.

(5) Notwithstanding anything contained elsewhere in these Rules, if a licensee who has not been able to get the license renewed owing to the occurrence of an event beyond control from 16 *Bhadra* 2061 (Sept. 1, 2004) to the date of commencement of this Regulation pays back the advance, if any, taken from the deposit furnished by it, makes an application setting out that matter to the Department for the renewal of license no later than Ninety days after the date of commencement of this Regulation and the contents of application appears reasonable, the license may be renewed for one time, by collecting the renewal fee at the rate of Fifty Thousand Rupees for each year.

9. **Information on cancellation of license to be given:** In the event of the cancellation of license pursuant to Section 13 of the Act, information thereof shall be given to the licensee.
10. **Refund to be made:** If the license obtained by a licensee is canceled pursuant to Section 13 of the Act and it is proved that the licensee has collected the service fee or any amount from any person to send a worker for foreign employment prior to such cancellation, the amount so collected shall be refunded to the concerned person no later than one month of the date of cancellation of license.
11. **Deposit to be refunded and bank guarantee released:** (1) If any license is canceled pursuant to Section 13 of the Act, the licensee shall make an application to the Department to have the deposit furnished while obtaining the license refunded or the bank guarantee released.

(2) An application made pursuant to sub-rule (1) shall also indicate whether any amount is due and payable to any person or not.

(3) If an application is received pursuant to Sub-rule (1), the Department shall publish or broadcast a notice in at least two daily newspapers of national circulation and other means of communication as required, indicating that such licensee applied for the refund of the deposit or the release of bank guarantee furnished by it by the reason of the cancellation of the license obtained by it, inviting any one to make claim, accompanied by proof and evidence, for the refund of the service charge or any amount where such licensee has not sent for foreign employment by collecting such charge or amount, within thirty five days.

(4) Where any person makes a claim within the time-limit of the notice published or broadcast pursuant to Sub-rule (3) and upon examination of the claim, it is proved that the licensee has sent any one for foreign employment by collecting an amount for foreign employment, the Department shall order the licensee to refund such amount to the concerned person within fifteen days.

(5) Where the licensee does not refund the amount in pursuance of the order referred to in Sub-rule (4), the Department shall deduct the amount from the deposit or bank guarantee amount furnished by the licensee and provide it to the person making claim pursuant to Sub-rule (4).

(6) Where no one makes a claim within the time-limit of the notice published or broadcast pursuant to Sub-rule (3) or where a claim is made and the licensee refunds such amount within the time-limit set forth in sub-rule (4), the Department shall refund the remaining deposit or release the bank guarantee.

(7) Where the deposit or bank guarantee amount of the licensee is not sufficient to refund the amount, the shortfall amount shall be recovered from the director in accordance with the prevailing laws.

(8) The expenses incurred in publishing or broadcasting the notice pursuant to Sub-rule (2) shall be deducted from the deposit or bank guarantee amount of the concerned licensee.

Chapter- 4

Provision Relating to Prior Approval and Selection of Workers

12. **Application for prior approval:** A licensee shall make an application, setting out the following details, in addition to the details set forth in Sub-section (1) of Section 15 of the Act, to the Department, in the form referred to in Schedule 4, for prior approval to send workers for foreign employment:

- (a) Deed of authorization given by the director to his or her agent to appear before the Department and do acts pertaining to it,
- (b) A copy of the identity card of the agent of the institution, as issued by the Department,
- (c) A sample of advertisement to be published after prior approval has been given,
- (d) A copy of the license,
- (e) The service charge and promotional expenses which the licensee is entitled to collect.

13. **Conditions where prior approval is refused:** The Department shall not give prior approval to select workers on any of the following conditions, in addition to the conditions set forth in Sub-section (3) of Section 15 of the Act:

- (a) The details set forth in the documents submitted by the licensee for prior approval are found to have been corrected, are mutually inconsistent, altered or added or deleted,
- (b) The abroad-based Nepalese diplomatic mission or Labor Attache gives information in writing to the Department that it is not appropriate to send workers to the country or employer institution providing foreign employment.

14. Details to be set out while publishing advertisement: In publishing an advertisement pursuant to Section 16 of the Act, the following details shall be set out:

- (a) Date of prior approval obtained from the Department and reference number thereof,
- (b) Name and address of the licensee and license number,
- (c) Name and address of the employer country and employer institution,
- (d) Post of worker,
- (e) Number of workers demanded,
- (f) Description of work to be done by the worker,
- (g) Required minimum qualification of the worker,
- (h) Provisions relating to quarter and food facilities to be provided to the worker,
- (i) Monthly remuneration to be received by the worker,
- (j) Period of daily and weekly work to be done by the worker,
- (k) Place and deadline for submission of application,

- (l) Provisions relating to insurance and medical facilities of the worker,
- (m) Provision relating to air ticket expenses to be incurred by the worker to go for and come from employment,
- (n) Total expenses including the service charge and promotional expenses to be paid by the worker,
- (o) Method, place and date for the selection of workers,
- (p) The number of reservations made in the number as prescribed by the Government of Nepal to the women, *Dalit*, indigenous nationalities, oppressed class, backward area and class and people of remote areas pursuant to Section 9 of the Act,
- (q) Such other matters as specified by the Department.

15. Application to be made: After an advertisement is published pursuant to Rule 14, a person who intends to go for foreign employment shall make an application, accompanied by the details of his or her qualification, training and experience, in the form referred to in Schedule 5, to the licensee.

16. Grounds for selection of workers: (1) The licensee shall select workers on the following grounds, from amongst the application made pursuant to Rule 15:

- (a) Qualification, training and experience set forth in the demand letter,
- (b) Age and physical fitness of the applicant,
- (c) Skill-oriented training in case of skilled and semi-skilled worker,

- (d) Reservation provided in the number as prescribed by the Government of Nepal to the women, *Dalit*, indigenous nationalities, oppressed class, backward area and class and people of remote areas pursuant to Section 9 of the Act.

(2) The Department may give necessary direction in writing to the licensee in relation to the criteria and procedures for the selection of workers in addition to the grounds set forth in Sub-rule (1).

(3) It shall be the duty of the concerned licensee to observe the direction given pursuant to Sub-rule (2).

Chapter- 5

Provisions Relating to Approval for Sending Workers

17. **Provisions relating to labour sticker:** While writing to the Department for the labor sticker pursuant to Sub-section (1) of Section 19 of the Act, the licensee shall also set out the following particulars:
- (a) A list of selected workers,
 - (b) Receipts of payment of amount to the Fund on behalf of workers,
 - (c) Copies of passports and visas of workers,
 - (d) In the event of the need to use a foreign airport, details of exit point and flight schedule,
 - (e) Status of implementation of the direction given by the Department on complaints made in relation to the selection of workers,
 - (f) Such other matters as may be specified by the Department.

18. To make registration at departure point while going outside Nepal:

(1) While going outside Nepal with the permission of the Department to use a foreign airport pursuant to Sub-section (2) of Section 22 of the Act, the worker shall make registration setting out the following details with the immigration Office at the departure point:

- (a) Name, surname and address of the worker,
- (b) Country to which the worker is going for foreign employment,

(2) In making registration pursuant to Sub-rule (1), the following documents shall also be submitted with the immigration Officer at the departure point:

- (a) Copies of passport and visa,
- (b) A copy of the labor sticker.

19. Other provisions relating to insurance: (1) A licensee shall, while sending workers for foreign employment procure insurance from an insurer recognized under the prevailing laws.

(2) The provisions relating to the premium payable for procuring insurance pursuant to Sub-rule (1) and payment thereof shall be as provided in the agreement made between the insured and the insurer.

(3) If there is a difference in the insurance premium and liability by the reason that any licensee, who has made a contract with any worker to work in one company, has engaged the worker in another company or work that is different than that set forth in the contract, the licensee shall bear such different liability.

Chapter- 6

Provisions relating to Training

20. Orientation training to be taken: (1) A worker who goes for foreign employment shall, prior to going for foreign employment, take orientation training on the following matters:

- (a) Foreign employment law of Nepal,
- (b) Geographical situation, culture, life style, economic, social and political situation of the country where the worker goes for foreign employment,
- (c) Language of the country where the worker goes for foreign employment,
- (d) Labor, immigration laws and traffic rules of the country where the worker goes for foreign employment,
- (e) H.I.V/AIDS, communicable diseases, sexual and reproductive health,
- (f) Occupational safety and health,
- (g) Easy and safe travel,
- (h) Conduct, treatment and security of workers,
- (i) Repatriation of earning made abroad to Nepal in a simple, easy and safe manner.

(2) Notwithstanding anything contained in Sub-rule (1), a worker who has taken orientation training once and gone for foreign employment shall not be required to take the orientation training again to go to the same country for foreign employment.

21. Submission of details to Department by institution providing

orientation training: (1) An institution providing the orientation training to the workers who go for foreign employment shall, prior to providing the training, submit the following details to the Department:

- (a) A list of names of persons taking training,
- (b) Names of trainers.

(2) After providing the orientation training, the institution providing the orientation training shall submit to the Department the details of attendance of the persons who have taken the training.

22. Deposit and license fee: Any institution providing the orientation

training to the workers who go for foreign employment shall, in obtaining the license, furnish a cash deposit on one hundred thousand rupees and the license fee of ten thousand rupees.

23. Term of license and renewal fee: (1) The license obtained by an

institution providing the orientation training shall remain valid for one financial year. Notwithstanding that the license has been provided at any date whatsoever, the term of such license shall expire at the end of that financial year.

(2) An institution providing the orientation training may get the license renewed by submitting the following details no later than the last day of the month of Ashad (Mid-July) of each financial year:

- (a) Progress of the previous financial year,
- (b) Physical, financial and human resources of the institution,
- (c) Evidence showing the payment of tax for the previous financial year in accordance with the prevailing laws,

(d) Such other necessary details as may be specified by the Department.

(3) While getting the license renewed pursuant to sub-rule (2), a fee of five thousand rupees shall be paid.

(4) Any institution which has obtained the license and been operating the training at the time of commencement of the Act may make an application to the Department for the renewal of the license obtained by it within one year after the date of commencement of this regulation; and if the Department, upon examination of such application, considers that the infrastructures, human resources as well as other means and resources are adequate, it shall renew the license of such institution by collecting the deposit and the license fee referred to in Rule 22. The licensee who fails to have renewal within such time-limit shall not be allowed to carry on the training business.

(5) If the license is not got renewed pursuant to Sub-rules (2) and (4), such license shall be canceled.

(6) Notwithstanding anything contained elsewhere in this Rule, if an institution providing the orientation training is found to have committed any act contrary to the Act and this Regulation, the Department may suspend the license of such institution for a certain period of cancel it.

(7) Prior to canceling the license pursuant to Sub-rule (6), the Department shall give a reasonable opportunity to the concerned institution for defense.

Chapter- 7

Provisions Relating to Fund

24. **Worker to pay amount to Fund:** Any worker who goes for foreign employment shall, prior to going for foreign employment, pay to the Fund such amount as may be specified by the Government of Nepal.
25. **Mobilization of deposit:** (1) The Department shall deposit seventy five percent amount of the cash deposit received pursuant to Sub-section (2) of Section 11 of the Act in a fixed account to be opened with a commercial bank.
- (2) Interest accrued from the amount deposited in the fixed account pursuant to Sub-rule (1) shall be paid to the Fund.
26. **Use of Fund:** (1) The Fund shall be used for the following activities, in addition to the activities set forth in Section 33 of the Act:
- (a) For Educational development of the families of the workers who have gone for foreign employment and those who have come back from foreign employment,
 - (b) For assistance in medical treatment of the families of the workers who have gone for foreign employment,
 - (c) For the reimbursement of the fees paid by the women who have been selected for foreign employment to obtain the orientation training,
 - (d) For the establishment and operation of child care centers for proper protection of the children of the women workers who have gone for foreign employment,

- (e) For launching various programs for the interest of the workers and their families,
- (f) For launching public awareness programs about foreign employment,
- (g) For running day-to-day activities of the Board.

(2) Notwithstanding anything contained in clause (f) of Sub-rule (1), the operational expenses of the Board shall not be more than twenty five percent of the interest earned pursuant to Sub-rule (2) of Rule 25.

27. Operation of Fund: (1) The amounts to be paid to the Fund shall be deposited in any commercial bank specified by the Board.

(2) The account of the Fund shall be operated by counter-signature of the Executive Director and the accounts chief of the Board.

28. Financial assistance to be provided: (1) If any worker who has gone for foreign employment in accordance with the Act or these Rules dies due to any cause during the contract period, the nearest heir to the deceased worker may make an application to the Board for financial assistance, no later than six months after the certification of the death of the deceased worker.

(2) If, upon making necessary examination of the application received pursuant to sub-rule (1), the contents are found reasonable, the Board shall provide a financial assistance of one hundred thousand rupees from the Fund to the heir to the deceased worker.

(3) If any worker who has gone for foreign employment in accordance with the Act or these Rules gets mutilated due to any cause during the contract period, such worker may make an application, accompanied by the following details, to the Board for financial

assistance, no later than sixty days after such worker has returned to Nepal:

- (a) A copy of the contract,
- (b) The prescription of hospital proving mutilation.

(4) If, upon making necessary examination of the application received pursuant to Sub-rule (3), the contents are found reasonable, the Board shall provide a financial assistance not exceeding One Hundred Thousand Rupees from the Fund, based on the prescription of hospital, nature and gravity of mutilation.

Chapter- 8

Provisions Relating to Board and Executive Director

29. Other functions, duties and powers of Board: The functions, duties and powers of the Board, in addition to the functions, duties and powers set forth in Section 39 of the Act, shall be as follows:

- (a) To do, or cause to be done, study and research works on the opportunities and risks of foreign employment,
- (b) To broadcast and publish, or cause to be broadcast and publish, awareness programmes on foreign employment through radio, television and newspapers in a regular manner,
- (c) To prepare, or to be prepared, strategies and action plans on social security of workers,
- (d) To establish safe homes for the women workers who have gone for foreign employment and operate, or cause to be operated, such homes.

30. Qualification of Executive Director: One shall have the following qualification to be appointed to the post of Executive Director:

- (a) Being a citizen of Nepal,
- (b) Having gained at least master's degree in any subject out of economics, law, management and public administration from a recognized educational institution,
- (c) Having completed the age of thirty five years,
- (d) Having acted in the post of at least officer level in a governmental or non-governmental organization,
- (e) Not having been punished for a criminal offense involving moral turpitude,
- (f) Not being a member of any political party or organization for the time being,
- (g) Not being of unsound mind.

31. Fulfillment of post of Executive Director: (1) For the fulfillment of the post of the Executive Director, there shall be a post fulfillment committee under the chairmanship of the secretary at the Ministry of Labour and Transport, consisting of the representatives of at least Gazetted First Class of the Public Service Commission and the Ministry of General Administration.

(2) The post fulfillment committee referred to in sub-rule (1) shall, while making recommendation for the fulfillment of post, follow the procedures specified by the Public Service Commission.

32. Circumstances where post falls vacant: The post of the Executive Director shall be deemed vacant in any of the following circumstances:

- (a) If he/ she tenders resignation to the Government of Nepal,
- (b) If his/ term expires,
- (c) If he/ she dies,

(d) If he/ she ceases to possess the qualification referred to in Rule 30.

33. Power to remove Executive Director: The Government of Nepal may, at any time, remove the Executive Director from the post of Executive Director on the ground that he or she has committed any act contrary to the interest of the Board or committed bad conduct or has failed to perform duties honestly or suffered from incompetence.

Provided that, prior to so removing from the post, he or she shall not be deprived of an opportunity for defense.

34. Remuneration, terms and conditions of service and facilities of Executive Director: The monthly remuneration of the Executive Director shall be equivalent to that receivable by the Gazetted First Class officer of the Government of Nepal, and the other facilities receivable by him/ her shall be as prescribe by the Government of Nepal.

35. Other functions, duties and powers of Executive Director: The other functions, duties and powers of the Executive Director, in addition to the functions, duties and powers set forth in Sub-section (5) of Section 41 of the Act, shall be as follows:

- (a) To run the day-to-day activities of the Board,
- (b) To prepare short-term and long-term plans, annual programs and budget of the Board and submit the same to the Board,
- (c) To call the Board meetings at such place, time and date as specified by the chairperson of the Board,
- (d) Other functions as may be specified by the Board.

Chapter- 9

Provisions Relating to Tribunal

36. Exercise of jurisdiction of Tribunal: (1) The three members shall jointly exercise the jurisdiction of the Tribunal. Provided that the bench attended by one member may hear a case and the bench attended by two members may hear and settle a case.

(2) In the event that the bench is attended by all the three members, the unanimous opinion of the three members or the majority opinion of two members shall be deemed to be the decision of the Tribunal.

(3) In the event that the bench is attended by two members only and the two members have the same opinion, that opinion shall be the decision of the Tribunal. Where they lack unanimity in opinion, the opinion of the chairman, where the chairperson as well is present, and where the other the chairperson except the chairperson are present, the opinion of the senior member shall prevail in the matters of proceedings; and in the case of judgment or final order, it shall be submitted to the member who was absent first and the opinion supported by him or her shall be deemed to be the decision of the Tribunal.

(4) Where each of the three members has a different opinion and majority cannot be established even after making submission to the member who was absent first pursuant to sub-rule (3), a reference shall be made to the Supreme Court for decision.

37. Terms and conditions of service and facilities of chairperson and member of Tribunal: Allowance as prescribed by the Government of

Nepal shall be provided to the chairperson and members of the Tribunal for the day on which the bench is held.

38. Designation of registrar: The Government of Nepal shall designate the officer of at least Gazetted Second Class of the Nepal judicial Service as the register to carry out administrative functions of the Tribunal, subject to general direction and control of the tribunal.

39. Functions, duties and powers of registrar: The functions, duties and powers of the registrar shall be as follows:

- (a) To examine and check documents including charge sheets, complaints, petitions and (*Vakalatnama*) to be registered with the Tribunal and register them if they are found in order or to refuse to register them indicating the reason for the same if they cannot be registered,
- (b) To verify the documents submitted in relation to cases with their originals and certify the same if they are found in consonance, and if some inconsistencies are found in the originals, to mark the same and get the concerned parties to sign them,
- (c) To issues the summons and get the same served,
- (d) To appoint dates for the appearance showing reasonable cause in relation to cases,
- (e) To maintain dairy of each case and maintain updated records of proceedings also indication the date appointed for making presence for proceedings of each case,
- (f) To record attorney and have cases taken over in accordance with the prevailing laws,

- (g) To implement, cause to be implemented, the acts and actions in pursuance of orders made by the bench,
 - (h) To receive bail or guarantee in pursuance of orders made by the bench,
 - (i) To safely retain case-files and documents of cases, look after the same and dispose documents required to be disposed in accordance with the prevailing laws,
 - (j) To allocate functions among the employees on the basis of workload,
 - (k) To perform such other administrative functions as required.
- 40. Venue:** The venue of this Tribunal shall be situated within the Kathmandu Valley. Its venue may also be held outside the Kathmandu Valley in the event of necessity in view of the nature and subject of cases.
- 41. Enforcement of decision:** The decision made by the Tribunal shall be enforced, or cause to be enforced, by the District Court in accordance with the prevailing laws.
- 42. Prevailing laws to govern:** In relation to the trial and settlement of cases by the Tribunal, the matters contained in this Chapter shall be governed by this Chapter, and the other matters shall be governed by the prevailing laws.

Chapter-10

Miscellaneous

- 43. Power to appoint woman Labor Attaché:** In appointing the Labor Attaché pursuant to sub-section (1) of Section 68, a woman Labor Attaché may be appointed from amongst the women officers who have

possessed the qualification for a country where one thousand or more women workers have been sent for foreign employment.

44. Provision of facility for repatriation of earning to Nepal: If any Nepalese worker repatriates the earning earned by him or her abroad to Nepal through a bank or an institution licensed to provide banking service pursuant to Sub-section (3) of Section 69 of the Act, the Government shall provide the worker with such facility as prescribed by publishing a notification in the Nepal Gazette.

45. Criteria for making reward to licensee: (1) On recommendation of the Board, the Government of Nepal shall, pursuant to Section 71 of the Act, make reward to the excellent licensee, on the basis of the criteria set forth in Rule 3.

(2) A licensee that has been rewarded once pursuant to Sub-rule (1) shall not generally be rewarded until other three years.

46. Expert committee: (1) There shall be an expert committee as follows to make decision as to whether a false health check up report has been given or not pursuant to Sub-section (3) of Section 72 of the Act:

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|-----|---|---------------|
| (a) | Doctor of eleventh or twelfth level designated by the Ministry of Health and Population | - Chairperson |
| (b) | Doctor designated by Nepal Medical Board | -Member |
| (c) | Law officer at the Ministry of labor and Transport Management | -Member |
| (d) | Chairperson or representative of Nepal Health Practitioners' Federation | -Member |
| (e) | A person designated by the Ministry of Labor and | -Member |

Transport Management from amongst the person who have returned from foreign employment.

(2) If the expert committee formed pursuant to Sub-rule (1) so considers necessary, it may invite an expert in the concerned filed to participate its meeting as an observer, and seek his or her opinion or advice.

(3) The chairperson and members of the expert committee formed pursuant to Sub-rule (1) shall receive such meeting allowance as specified by the Board.

(4) The expert committee formed pursuant to Sub-rule (1) may form a Sub-committee consisting of experts in the concerned filed to perform such functions as required to be performed by it pursuant to the Act or this Regulation.

(5) The other provisions relating to the meeting of the expert committee formed pursuant to sub-rule (1) shall be as determined by the committee itself.

(6) The Law Section at the Ministry of Labor and Transport Management shall act as the secretariat of the expert committee formed pursuant to Sub-rule (1).

47. Provisions relating to branch office:(1) It a licensee intends to open a branch office in a country to which it has sent workers, the licensee shall make an application, setting out the Following details, to the Department for approval to that effect:

- (a) The country and place where the branch office is to be opened,

- (b) Detailed action plan, physical infrastructures and human resources for the operation of the branch office,
- (c) Description that at least five hundred Nepalese workers have been set to the country where the branch office is intended to be opened and such workers are involved in foreign employment there,
- (d) Certified copies of the certificate showing that the main person operating the branch office has obtained at least bachelor's degree and his or her citizenship certificate.

(2) If a licensee intends to open a branch office within Nepal, the licensee shall make an application, setting out the following details, to the Department for approval to that effect:

- (a) The place where the branch office is to be opened,
- (b) Detailed action plan, physical infrastructures and human resources for the operation of the branch office,
- (c) Certified copies of the certificate showing that the main person operating the branch office has obtained at least bachelor's degree and his or her citizenship certificate.

(3) If, upon making necessary examination of any application received pursuant to sub-rules (1) and (2), the Department considers it reasonable to give approval to open a branch office as demanded by the applicant, it may give approval to open the branch office.

48. Provisions relating to appointment of agent: (1) If any licensee intends to appoint its agent within Nepal, it shall make an application, setting out the bio-data of the person proposed to be appointed as agent, to the Department.

(2) The qualification of the person proposed to be appointed as an agent pursuant to Sub-rule (1) shall be as follows:

- (a) Able to read and write the Nepali language fluently,
- (b) Able to make others understand matters relating to foreign employment,
- (c) Not being punished for a criminal offense involving moral turpitude.

(3) If, upon making examination of any application received pursuant to Sub-rule (2), the Department considers the demand of the licensee to be reasonable, it may give permission to appoint an agent within Nepal, by collecting a cash deposit of two hundred thousand rupees from the licensee.

(4) If any licensee intends to appoint any agent in a country where it has sent workers, it shall make an application, setting out the bio-data of the person proposed to be appointed as the agent, to the Department.

(5) The qualification of the person proposed to be appointed as an agent abroad pursuant to Sub-rule (4) shall be as follows:

- (a) Being a citizen of Nepal,
- (b) Having obtained at least bachelor's degree,
- (c) Not being punished for a criminal offense involving moral turpitude.

(6) If, upon making examination of any application received pursuant to sub-rule (4), the Department considers the demand of the licensee to be reasonable, it may give permission to appoint an agent in the country where the licensee has sent workers, by collecting a cash deposit of two hundred thousand rupees from the licensee.

(7) If, upon making examination of any application received pursuant to Sub-rule (1) or (4), the Department does not consider it reasonable to give permission for the appointment of agent as per the demand of the applicant, it shall give information thereof, setting out the reason for the same, to the licensee.

(8) The licensee shall give the identity card as prescribed to the agent appointed pursuant to this Rule.

(9) The identity card given pursuant to Sub-rule (8) shall be got renewed each year.

(10) Notwithstanding anything contained elsewhere in this Rule, no person shall be an agent of more than one licensee.

(11) If any licensee intends to remove any of its agents, the licensee may remove such agent, by giving information that such agent has settled its obligations.

(12) If any licensee makes an application, along with the information of the removal of an agent pursuant to Sub-rule (11), for the refund of deposit furnished by it, the Department shall refund such deposit.

(13) The licensee shall publish a notice each year in a newspaper of national circulation setting out the names, surnames and addresses of agents appointed pursuant to this Rule.

49. **Facilities to be provided to licensee:** The facilities prescribed by the Government of Nepal upon a notification in the Nepal Gazette shall be provided to the licensee while doing transaction of foreign currency in the course of carrying on the foreign employment business pursuant to Section 77 of the Act.
50. **To maintain records:** The licensee shall maintain records of each worker sent by it for foreign employment, in the form referred to in Schedule 6.
51. **Details to be set out in annual report:** A licensee shall set out, *inter alia*, the number and condition of workers sent by the licensee for foreign employment throughout the year, details relating to prior approval and labor permit, details of branch offices and agents, amounts collected from workers as the service fees or promotional expenses and details of improvements to be made in the future in relation to foreign employment in the annual report to be submitted pursuant to Sub-section (2) of Section 80 of the Act.
52. **Alteration or change in Schedule:** The Ministry of Labour and Transport Management shall, by a notification in the Nepal Gazette, make necessary alteration or change in the Schedule.
53. **Repeal and saving:** (1) The Foreign Employment Rules, 2056(1999) is, hereby, repealed.
- (2) All acts done and actions taken pursuant to the Foreign Employment Rules, 2056 (1999) shall be deemed to have been done and taken under these Rules.

Schedule 1

(Relating to Rule 3)

- (a) Having carried on the foreign employment business since at least three years ago: 10
- (b) No factual complaint has been filed in relation to foreign employment business or where a complaint has been filed, it has been settled:
- (c) No having been punished for an offense relating to foreign employment or a period of five years has elapsed since the date of the service of punishment, if any, imposed on the institution or promoter or director of the institution: 5
- (d) Having sent workers for foreign employment business by providing reservation in the number specified by the Government of Nepal to women, *Dalit*, indigenous nationalities, oppressed class, backward region and class, victims of natural calamities and people of remote areas pursuant to Section 9 of the Act: 5
- (e) Having sent more workers for foreign employment on quantitative and qualitative basis: 25 (20 marks for quantity and 5 marks for quality)
- (f) Having opened branch offices in five development regions of Nepal: 10
- (g) Having sent workers by collecting lesser service fees and promotional expenses: 5
- (h) Having paid more revenue to the Government of Nepal: 20
- (i) Having good condition of financial, physical and human resources: 5
- (j) Having received reward pursuant to rule 45: 10

Schedule 2

(Relating to Sub-rule (1) of Rule 6)

Form of application to be made for license to carry on foreign employment business

To,
The Director General,
Department of Foreign Employment.
Sir,

Being desirous of carrying on the foreign employment business, subject to the Foreign Employment Act, 2064(2007) and the Foreign Employment Rules, 2064(2008), I have submitted this application, accompanied by the following details, for the license.

- (1) Director or manager of institution (mention the names of all shareholders of institution:
 - (a) Name:
 - (b) Address:
 - (c) Citizenship:
- (2) Name of institution:
- (3) Address of office of institution:
- (4) Description of business action plan:
- (5) Description of capital:
 - (a) Authorized capital:
 - (b) Issued capital:
 - (c) Paid up capital:
- (6) Details to be set out whether the foreign employment business is to be dealt with through any institution importing labor or by making direct contact with the employer institution:
- (7) Organizational chart of institution:

- (8) Provision of employees:
- (a) Number of whole-time employees:
 - (b) Number of part-time employees:
 - (c) Number according to standard:
- (9) Description of available or proposed physical resources:
- (10) If the director has relation with other business transaction, description of such transaction:
- (11) Estimated number of workers to be sent for foreign employment within coming two years:
- (12) Name of country where workers are to be sent:
- (13) Other relevant matters.

The above matters are true and correct, if they are proved false, I shall bear and pay according to law.

Seal of institution:

Applicant's:

Signature:

Name of director:

Name of institution:

Address:

Date:

Schedule 3

(Relating to sub-rule (2) of Rule 6)

Government of Nepal

Ministry of Labour and Transport Management

Department of Foreign Employment

Format of License

License number:

Date:

License

This license has been issued to-----to carry on the foreign employment business, subject to the Foreign Employment Act, 2064(2007) and the Foreign Employment Rules, 2064(2008).

Licensing authority's:

Signature:

Name:

Designation:

Date:

Renewal

| Date of renewal | Validity period of renewal | Renewal fees | Additional renewal fees | Renewing authority's signature, and date |
|-----------------|----------------------------|--------------|-------------------------|--|
| | | | | |
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Schedule 4

(Relating to Rule 12)

Format of application to be made for prior approval

To,
The Director General,
Department of Foreign Employment.

Re: Application for prior approval.

Sir,

I, hereby, make application, setting out the following details, for prior approval to send workers for foreign employment, based on the contract or understanding made with the employer institution in pursuance of the license obtained by this institution to carry on the foreign employment business.

(1) Licensee's:

License number:

Date of license:

Validity period of renewal:

(2) Country where workers are sent:

(3) Name and address of employer institution:

(4) Nature of work of employer institution:

(5) Documents attached with application:

(a) Demand letter:

(b) Authorization letter:

(c) Contract:

(6) Of the body certifying the documents set forth in paragraph (5):

Name:

Address:

(7) The documents set forth in paragraph (5) are authentic, it found otherwise, the institution shall be fully responsible.

Licensee's seal:

Licensee's:

Signature:

Name:

Date:

NEPAL LAW COMMISSION

Schedule 5

(Relating to Rule 15)

Format of application to be made by person intending to go for foreign employment

To,

The Director,

.....

Sir,

As I intend to go for foreign employment, I have submitted this application, accompanied by the following details, in accordance with the Foreign Employment Act, 2064(2007) and the Foreign Employment Regulation, 2064(2008).

- (1) Name of employer institution:
- (2) Country where the applicant intends to go:
- (3) Classification of post in which the applicant intends to work: Highly skilled/skilled/semi-skilled/ unskilled
- (4) Name of post in which the applicant intends to work:
- (5) Name of newspaper in which the public notice has been published, and date thereof:
- (6) Name of institution from which orientation training has been taken:
- (7) Minimum monthly remuneration to be received by worker as set forth in the public notice:
- (8) Personal details of worker:
 - (a) Name, surname of worker:
 - (b) Name, surname of father/mother:
 - (c) Address:
 - (a) Permanent

District:

VDC/Municipality:

Ward No.:

Telephone:

Email:

(b) Temporary:

District:

VDC/Municipality:

Ward No.:

Telephone:

Email:

(d) Date of birth:

(e) Religion:

(f) Citizenship/ passport number:

(g) Height: Feet Inch Weight: KG

(h) If married, name and age of husband or wife:

(i) Number of children:

(j) Language which the applicant can speak and write:

(1)

(2)

(3)

(k) Any other special knowledge or skill;

(9) Details of educational qualification:

Degree received

Name and address of educational institute

(a)

(b)

(c)

(d)

(10) Details relating to training:

| Subject of training training taken | Name and address of institution providing |
|---------------------------------------|---|
|---------------------------------------|---|

(a)

(b)

(c)

(d)

(11) Experience:

(12) Name, address and contact number of nearest person to contact in the event of accident:

(13) Nominee's:

(a) Name and surname:

(b) Address:

(c) Relationship:

The above matters are true and correct, if they are proved false, I shall bear and pay according to law.

Applicant's:

Signature:

Name

Date:

Schedule 6
(Relation to Rule 50)
Records of workers sent for foreign employment

| S. N. | Name of worker | Address in Nepal | Address abroad | Date of departure from Nepal | Date of arrival abroad | Name of employer institution | Details of work to be done abroad | Monthly salary and facilities | Date of expiry period of work as per contract | Name and address of person to contact in Nepal | Remarks |
|-------|----------------|------------------|----------------|------------------------------|------------------------|------------------------------|-----------------------------------|-------------------------------|---|--|---------|
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