

# Foreign Employment Act, 2042 (1985)

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Act No. 26 of the year 2042

(Eulogy of His Majesty the King)

An Act made to Provide for the Matters Relating to Foreign Employment

## Preamble

Whereas it is expedient to control and manage foreign employment to maintain financial interests and facilities of the general public;

Now, therefore, His Majesty the King Birendra Bir Bikram Shah Dev has made this Act on the advice and with the consent of the National Panchayat.

1. **Short Title and Commencement:** (1) This Act may be called the "Foreign Employment Act, 2042 (1985).

(2) This Act shall come into force on such date as His Majesty's Government may prescribe, by notification published in the Nepal Gazette.



2. **Definitions:** Unless the subject or context otherwise requires, in this Act,-

- (a) "Worker" means a Nepali citizen employed in accordance with this Act in a foreign country specified in the notification published by His Majesty's Government.
- (b) "Foreign Employment" means the employment to be obtained by a worker.
- (c) "Foreign Employment Business" means the act of providing foreign employment to Nepali citizens and this term shall also include the act of selection of worker as a representative of employment providing institution.
- (d) "Licence-holder" means the institution obtaining the licence pursuant to Section 6.
- (e) "Employment Providing Institution" means an institution providing foreign employment to workers.
- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. **Prohibition to Operate Foreign Employment Business without Licence:** No one shall be entitled to operate Foreign Employment Business without obtaining licence under this Act.

4. **Countries Relating to Business to be Prescribed:** Operation of Foreign Employment Business under this Act shall be permitted only in the foreign countries specified in the notification published in the Nepal Gazette by His Majesty's Government.



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5. **Licence not to be Issued Except for Institution:** No licence shall be issued for the operation of Foreign Employment Business other than the institution established under the existing laws.

6. **Licence:** (1) Any institution intending to operate Foreign Employment Business shall have to make an application to His Majesty's Government setting out the details as prescribed.

(2) If, it appears that the institution so making application for operation of Foreign Employment Business pursuant to Sub-section (1) is competent and appropriate, His Majesty's Government may issue licence with conditions after receiving prescribed fee and the deposit pursuant to Section 8 from such institution.

(3) The licence issued pursuant to Sub-section (2) shall have to be renewed by the licence –holder in each financial year by paying fee as prescribed.

7. **Licence may be Cancelled:** His Majesty's Government may give an order to cancel the licence if the licence-holder fails to abide by the conditions or fails to abide by this Act or the Rules, Orders or Directives issued under this Act.

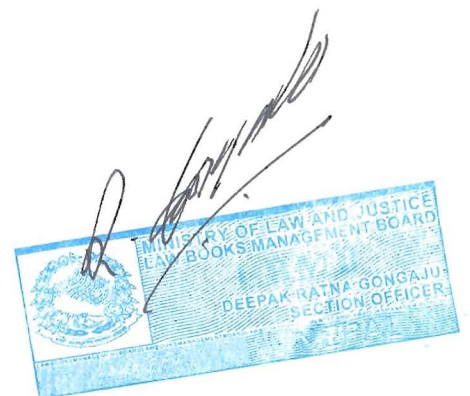
8. **Deposit to be Given:** (1) An institution intending to obtain licence pursuant to Section 6, shall have to deposit prescribed amount to His Majesty's Government before obtaining such licence.

(2) If after obtaining licence by depositing the deposit pursuant to Sub-section (1), the amount so deposited is found to be proportionately insufficient to the transaction of the licence-holder, His Majesty's Government may give an order to deposit additional deposit as per



necessity. If the additional amount is not deposited within the prescribed time frame The licence shall be cancelled.

9. **Prior permission to be Obtained:** (1) While selecting workers for foreign employment by the licence-holder, he or she shall have to obtain prior approval of His Majesty's Government and an application setting out the following particulars shall have to be submitted for such approval:
- (a) Name and address of the employment providing institution,
  - (b) Type of foreign employment,
  - (c) Copy of the agreement entered into between the employment providing institution and the licence-holder regarding sending of workers abroad,
  - (d) Copy of the contract to be entered into between the employment providing institution and the worker
  - (e) Others particular as prescribed.
- (2) While scrutinizing the details submitted pursuant to Sub-section (1), His Majesty's Government shall not give approval to select workers under any of the following circumstances:
- (a) If the person having qualification demanded by the employment providing institution is required for the economic development of Nepal,
  - (b) If the proposed foreign employment is not regularized by the laws of the concerned country,



- (c) If the services, terms and facilities are found unsatisfactory in proportion to the qualification demanded by the employment providing institution.
- (d) If the proposed foreign employment is against the value, dignity or health of the worker, or
- (e) If other condition as prescribed are found.

10. **Publication of Advertisement:** After obtaining approval from His Majesty's Government pursuant to Section 9, the licence-holder shall have to make advertisement publicly setting out the details as prescribed for the selection of workers.

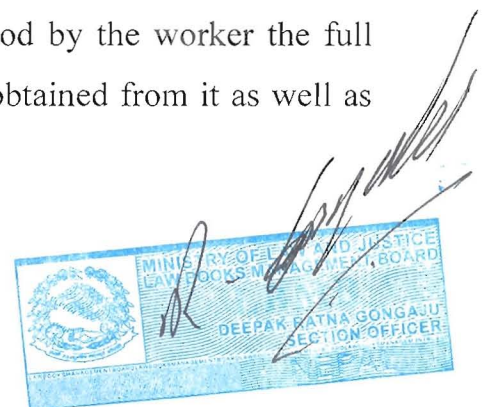
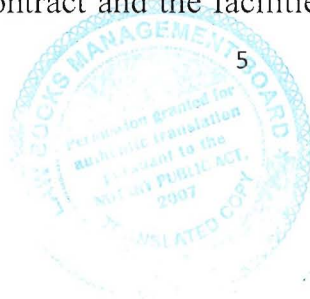
11. **Selection of Worker:** (1) Selection of worker shall have to be done impartially.

(2) While selecting workers, the licence-holder shall have to include the representative of His Majesty's Government and the representative of foreign employment providing institution, if such institution intends to be included in such selection.

12. **Control in providing Foreign Employment:** Notwithstanding anything mentioned elsewhere in this Act, the licence-holder shall not provide foreign employment to children and to women without the consent of her guardian.

13. **Service Charge:** The licence-holder shall be allowed to take service charge as prescribed for providing foreign employment.

14. **Contract Relating to Foreign Employment:** (1) The licence-holder shall have to explain in the language understood by the worker the full content of the contract and the facilities to be obtained from it as well as



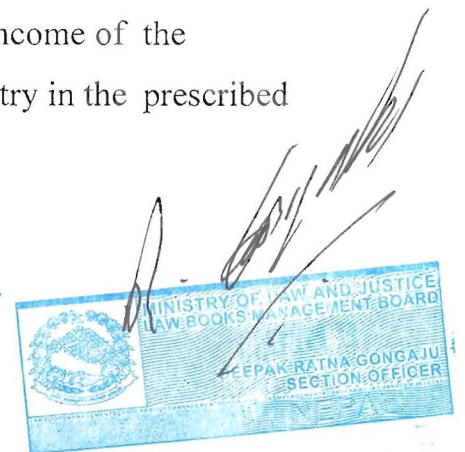
the consequence thereto, before the conclusion of contract between the worker and employment providing institution.

(2) Only if the worker agrees to the contract explained fully to him pursuant to Sub-section (1), each copy of such contract shall have to be provided to the worker and His Majesty' Government after the contract has been signed by both the parties.

(3) The contract to be entered into between the worker and the employment providing institution shall not differ from the contract submitted by the licence-holder pursuant to clause (d) of Sub-Section (1) of Section 9.

(4) His Majesty's Government may give permission to the licence-holder to send worker abroad for foreign employment after receiving the contract pursuant to Sub-section (2).

15. **Information on the Subject of the Country to be visited for Foreign Employment to be Given:** After obtaining licence pursuant to Sub-section (4) of Section 14, the licence-holder shall inform the worker to be sent for foreign employment about the geographical location, culture, labour law as well as economic, political and social conditions of the concerned country. No worker shall be sent for foreign employment without giving such information.
16. **Record to be Maintained:** The licence-holder shall maintain up to date record as prescribed of the worker sent for foreign employment.
17. **Provision Relating to worker's income:** The licence-holder shall make arrangement to deposit prescribed amount from the income of the workers at prescribed place or send to his home country in the prescribed



way, for the welfare or maintenance of the workers and their dependents.

18. **Investigation to be done:** (1) His Majesty's Government may investigate or cause to be investigated if the worker files a complaint regarding the employment providing institution, which has not fulfilled its contract responsibility or the licence-holder who has not taken necessary and appropriate action to make the contract conditions fulfilled.

(2) If it has been found necessary to call the concerned worker back home from the investigation conducted pursuant to Sub-section (1), His Majesty's Government may give an order to the licence-holder to provide necessary amount for the return of such worker.

(3) In case the licence-holder does not abide by the order of His Majesty's Government pursuant to Sub-section (2), the return fare of the worker shall be met from the deposit of the licence-holder deposited pursuant to Section 8.

19. **Inspection:** His Majesty's Government may inspect documents and other concerned papers kept by the licence-holder regarding the compliance of this Act and the Rules framed or Orders of Directives issued under this Act.

20. **Power to Direct:** (1) His Majesty's Government may, from time to time issue necessary directions to the licence-holder concerning foreign employment.

(2) It shall be the duty of the licence-holder to abide by the direction given pursuant to Sub-section (1).



21. **Special Power of His Majesty's Government:** Notwithstanding anything mentioned elsewhere in this Act, in special situation, His Majesty's Government may, at any time cancel the licence provided under this Act.
22. **Advisory Committee:** An Advisory Committee shall be constituted as prescribed to advise His Majesty's Government concerning foreign employment.
23. **No Restriction to go in Personal Capacity:** Nothing mentioned in this Act shall be considered to have been restricted anyone going for work in any foreign country after obtaining work permit.
24. **Punishment:** (1) His Majesty's Government may fine up to a sum of rupees five thousand to the licence-holder who do not observe the provisions of this Act or rule, order or direction issued under this Act.
- (2) If someone conducts foreign employment business without obtaining a licence under this Act, such person be fined up to a sum of rupees ten thousand or imprisonment up to two years or both.
- (3) Any person knowingly or maliciously, if conceals, changes or falsifies facts of any documents, reports, audit or details to be kept, prepared or submitted under this Act or attempts to do such things such person shall be liable to a fine up to a sum of rupees five thousand or one year imprisonment or both .
- (4) The licence of the licence-holder who has been liable for punishment for offence proved, shall be cancelled and the offender punished in accordance with sub-section (2) and (3) shall not be issued another licence.

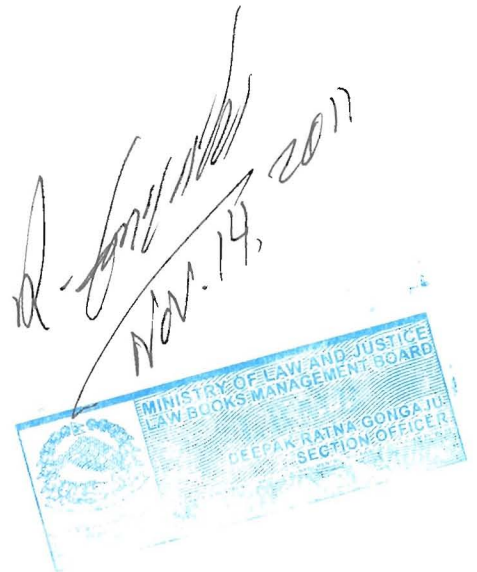




25. **His Majesty's Government to be the Plaintiff:** His Majesty's Government shall be the plaintiff in the cases under this Act and the cases under this Act shall be deemed to be included in Schedule 1 of State Cases Act, 2017 (1960 A.D.).
26. **Delegation of Power:** His Majesty's Government may delegate some or all of the power conferred upon it by this Act to any official by notification published in the Nepal Gazette.
27. **Power to Frame Rules:** (1) His Majesty's Government may frame rules to carry out the objectives of this Act.
- (2) Without prejudice to the power conferred by Sub-section (1) such rules may provide for the following:
- (a) Details to be given in the application to be submitted for licence.
  - (b) Qualification of institution needed to operate Foreign Employment Business.
  - (c) Format of the licence, fee and renewal fee.
  - (d) Conditions to be kept in the licence.
  - (e) Procedure for cancellation and conditions of cancellation of the licence.
  - (f) Details to be given in the application for approval to select workers.
  - (g) Details to be mentioned in the advertisement by licence-holder.
  - (h) Provision relating to service charge.



- (i) Conditions to be mentioned in the contract relating to foreign employment.
- (j) Provision relating to the functioning of office of the institution operating Foreign Employment Business.
- (k) Investigation procedure relating to the complaint of worker.
- (l) Procedure and provision for returning workers to their homes.
- (m) Procedure relating to inspection.



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