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Unofficial translation of Nepal Gazette dated 28th of April, 2024.

The ordinance is titled as, “**Amendment of some Nepali Acts relating to Investment Facilitation**”

2. Amendments to Land act 2021;

(1) **Section 12A:-**

(a) After sub-section 1 sub-section (1a) will be added:-

“1(a) An industry establishment company or organization that has not submitted an application in accordance with sub-section (1) may submit an application to government of Nepal through the ministry for approval within one year from the date of commencement of this sub-section providing a valid justification if they need more land than the provided limit.”

(b) In sub-section (2), after the words “sub-section (1)” the words “sub-section (1)” the words “or (1A) shall be added”

(c) After sub-section (3) the following sub-section (4) shall be inserted:-

“(4) Under section 12 or this section if any industry, establishment, company or organization are occupying more land than the provided limit the office or the department must keep record of such data.”

(2) **Section 12C.** After clause (2) of the restrictive clause, the following clause (3) is inserted:-

“(3) Industries, establishments, companies, projects, educational institutions or any other institutions which has consistently provided employment or whose production capability has not decreased are permitted to purchase land in excess of the limit can continue to operate and may sell the land for the purpose of settlement and payment of their obligations within the limit of section 7 subject to the conditions prescribed and approved by the ministry.

But before carrying out the land transaction the land that is provided outside the provided limit is not considered to be maintained as per section 7.”

(3) **Section 12e.** Later the following section 12f. Added :-

“12(f) To sell the foreclosed land: When auctioning the land mortgaged by a bank or financial institution or a cooperative association for the purpose of securing loan, if the relevant bank or financial institution or the cooperative association owns the land without conducting an auction and if the mortgaged land exceeded the land limit then sale of such land must be completed within three years from the date. If the sale is not done within that period, the approval of the Nepalese government must be obtained to sell such land.”



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3. Amendments to the National Parks and Wildlife Protection Act, 2029:

(1) **After section 5**, the following section 5A has been added:-

“5A. Designating highly sensitive areas: If the Government of Nepal deems it necessary, it may designate an area within a national park, reserve or conservation area as a highly sensitive area by publishing a notice in Nepal Gazette.”

(2) **After sub-section (1)** of section 6 the following sub-section (1A) has been added:-

“(1A) Besides for the areas specified in Section 5A, the Government of Nepal shall give approval to carry out projects of national priority, projects approved by the investment board or projects of national pride in any area or intermediate area within the national park, reserve or conversation area, in order to maintain the coexistence of nature and human beings.”

4. Amendment to the Land Acquisition Act, 2034;

After sub-section (2) of section 16 of the Land Acquisition Act, 2034, the following sub-section (3) has been added:-

“(3) Notwithstanding anything contained elsewhere in this section, in determining the compensation under this section, the amount of compensation shall not be more than three times the minimum assessment fixed for the purpose of registration.”

5. Amendment to Special Economic Zones Act, 2073:

(1) For section 7, the following section 7 shall be substituted:-

“7. The industry can be transferred and operated in the special economic zone. At the time of commencement of this section, the investor of the industry operating outside the special economic zone had been registered according to the prevailing law or has obtained a permit. Machines, Tools or Equipment can be transferred to the special economic zone and the industry can be operated.”

(2) **Section 13:-**

(a) for sub-section (1) the following sub-section (1) shall be substituted:-

“(1) the licensee established in the special economic zone must export at least fifteen percent of the production upto four years from the commencement of production and at least thirty percent of the production in subsequent years of goods and service”

(b) in sub-section (2), for the words “within one year”, the words “up to three years” shall be substituted.

(3) **In sub-section (2) of section 27**, the words “sub-section of section 7(2) instead of the words “according to section 7” have been placed.

6. Amendment to Public-Private Partnership and Investment Act, 2075;

(1) of subsection (1) of section 9 :-

(a) After clause (b) the following clause (b1) has been added:-



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- “(b1) Secretary, Ministry of Finance –Member”
- (b) In place of the words “clause (l)” clause (j), the words “clause (j) has been placed”
 - (1) Under Section 10:-
 - (a) In sub-section (2), after the words “posting of employees” the words “on the recommendation of the board” shall be added.
 - (b) Sub-section (3) is omitted.
 - (2) After section 58 the following section 58a. Added:-

58a. Permanent employees:

- (1) In the office, there will be permanent employees of the gazette second category or equivalent, or appointment at lower positions will be placed as per sub-section (2) of section 10 in accordance to the organizational structure.
- (2) The appointment of employees as per sub-section (1) shall be made by the chief executive officer on the recommendation of the Public Service Commission.
- (3) The appointment procedure, designation, position responsibilities, conditions of service, remuneration and facilities of the employees appointed in accordance with sub-section (1) shall be prescribed and thus it will be as determined by the board unless otherwise specified.
- (4) Under section 59:-
 - (a) in the heading of the section, after the word “relating to”, the word “other” is inserted.
 - (b) in sub-section (1), instead of the words “employees required by the Board”, the words “other employees required by the Board except as provided in section 58a” have been substituted.
- (5) After the words “to the body or official” in section 61, the words “and the chief executive officer to this subordinate employees” have been added.
- (6) For section 68, the following section 68 shall be substituted:-

“68. Contract with the government of Nepal: (1) The Board shall communicate with the government of Nepal through the office of the Prime Minister and the Council of Ministers.

(2) notwithstanding anything written in subsection (1), the Board shall in relation to the implication of the project, consult the relevant ministries, agencies or any other bodies of the government of Nepal or contact government or non- government organizations directly.”

(7) After section 68 the following section 68A has been added:-

“68A. Prior approval must be obtained. The board shall obtain prior approval from the government of Nepal and The ministry of finance regarding the creation of financial obligations during the implementation of this Act.”

7. Amendment to Foreign Investment and Technology Transfer Act, 2075:

(1) Section 2,

- (a) For clause (c) the following clause (c) shall be substituted:-

“(c) “Non-resident Nepali” shall mean a person who has obtained non-resident Nepali citizenship or non-resident Nepali identity card according to the prevailing law.”
- (b) For clause (f) the following clause (f) shall be substituted :-

“(f) “Technology transfer” means an agreement between industry and a foreign investor or an industry or a company established and operating in Nepal, and an industry located abroad, firm on the following matters is to be understood, which shall include:-



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- (1) Patent, Designs, Trademarks, Goodwill, Technical Specifications, Franchises, Formulas, Processes,
- (2) License to use (user license) or provide technical information (know-how sharing),
- (3) Management and Technical Services,
- (4) Reverse Engineering.”

(2) After section 7, the following section 7A. Added:-

“7a. Transfer of technology abroad: (1) Regardless of what is written in the current law, an industry or company established and operating in Nepal can transfer technology to an industry, firm or company located abroad.

(2) Foreign currency received due to transfer of technology as per sub-section (1) shall be brought into Nepal with the permission of Nepal Rastra Bank.

(3) Any industry, firm or company may open its branch office or unit in the relevant country with the permission of the department to transfer technology as per sub-section (1).”

(3) In section 12, the words “recommendation of the ministry and” shall be omitted.

(4) In place of section 17, the following section 17 is placed:-

“17. Approval of foreign investment: The department shall approve foreign investment in accordance with this Act.”

(5) For sub-section (1) of section 45, the following sub-section (1) shall be substituted:-

“(1) An industry with foreign investment can produce goods or services under mutual agreement (contract) or sub-contract or sub-contract with other industries with the same purpose.”

(6) After serial number 9 of the Schedule the following serial number 10 is added:-

“10. Ride sharing with more than seventy percent foreign investment.”

8. Amendment to Forest Act, 2076:

(1) In clause (d) of section 2, for sub-section (3), the following sub-section (3) shall be substituted:-

“(3) Rock, stone and soil.”

(2) For sub-section (2) of section 43, the following sub-section (2) shall be substituted:-

“(2) From the investigation under sub-section (1) if mining is required to find out the presence of minerals within the national forest, after conducting an environmental study in accordance with the prevailing law, if such mining does not have a significant adverse effect on the environment, the Government of Nepal may give permission to use the forest area for the mining of such minerals.

However, except for the use of raw materials used in national priority projects, or projects approved by the investment board or projects of national pride or national priority industries that have met the standards set by the government of Nepal, no excavation of rocks, stones and soil within the forest area shall be allowed.

9. Amendment to the Industrial Business Act, 2076:

(1) After clause (p) of section 2 the following clause (p1) has been added;

“(P1) “Startup enterprise or business” means a startup enterprise or business as defined in section 4A.”



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(3) Under section 4:-

(a) In sub-section (1), after clause (e) the following clause (f) shall be inserted:-

“(f) Large industries.”

(b) In sub-section (6), for the words “ninety days”, the words “twenty-one days” shall be substituted.

(4) After section 4, the following section 4A has been added:-

“4A. Registration and operation of startup enterprises or businesses: (1) The following enterprises are commercially operated by any firm or company using innovative research and creative thinking in the development, production, operation and distribution of any product or service and process or the business may be registered as a start-up enterprise or business when registered as an industry by the industry registration body in accordance with this act:-

- a) Registered as a new company, private firm or partnership firm,
- b) Using innovative thinking and technology in the production of goods or services,
- c) Having the potential for rapid upgrading,
- d) A period not exceeding ten years from the date of registration,
- e) The annual turnover of any fiscal year after registration does not exceed fifteen crores.

(2) In order to promote the start-up enterprise or business as per sub-section (1), the government of Nepal, the provincial government or the local level may establish and operate an enterprise promotion center.

(3) StartUp enterprise or business shall be regulated by the registration body of such enterprise or business.

(4) According to sub-section (1), the body registering the startup enterprise or business shall prepare and keep the related details in a separate record.

(5) Other provisions related to the registration and operation of a startup enterprise or business shall be prescribed.”

(5) Under Section 9-

(a) in sub-section (2), the words “at least thirty days before the expiry of the period specified in the certificate of industry registration” shall be omitted;

(b) in sub-section (4) deleting the words “or (3)” and after the word “authority” in the same sub-section, the words “by charging the prescribed late fee” are added.

(c) sub-section (3), (5), (6) and (7) are deleted.

(5) The following clauses (m), (n) and (o) has been added after clause (l) of section 29:-

“(m) according to the approved raw material consumption capacity of the industry established in accordance with the prevailing laws, the industry registration body can set the standard of raw material wasted when using raw material,

(n) to be able to provide incentives and facilities as prescribed by the government of Nepal to industries related to information technology to be established with a capital investment of more than one billion



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(o) government of Nepal, provincial government or local level may provide incentives, discounts, concessions or financial and non-financial facilities to start-up enterprises or businesses.

(6) For sub-section (6) of section 32, the following sub-section (6) shall be substituted:-

“(6) Industries which have been setup with coverage of more than fifty percent of the allocated land as provided on the basis of the detailed land project (D.P.R.) can mortgage fifty percent to any banking or financial institutions in order to increase the capacity of the industry that is allowed to keep land in excess to the limit.

However, this sub-section shall not be deemed to be hindrance in taking project loans (project financing) subject to the prescribed conditions.

Explanation: For the purpose of this sub-section, “Capacity enhancement” means the investment made for expansion of infrastructure or purchase and installation of machinery to increase the production and productivity of the industry in accordance with the objectives mentioned in the management document of the industry.”

(7) For sub-section (1) of section 50, the following sub-section (1) shall be substituted:-

“(1) Industries, firms, companies or establishments registered in accordance with prevailing laws for the same purpose may enter into a contract or sub-contract with each other to produce goods or services.”

(8) Section 60 is omitted.

(9) In sub-section (1) of section 68, after clause (e) the following clauses (e1) and (e2) are added:-

(e1) Relating to the registration and regulation of start-up enterprises or businesses,

(e2) Business Incubation Center establishment and regulation.

(10) After serial number 16 of Schedule 9 the following serial no. 17 is added:-

17. National and International Air Services, Cable Cars.