

# **Nepal Gazette**

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## **PART III**

**Government of Nepal  
Notice by Labor and Transportation Management Ministry**

### **Foreign Employment Regulation 2064**

The Government of Nepal has frame following Regulation under the authority of Section 85 of Foreign Employment Act 2064 .

#### **Chapter – 1**

#### **Preliminary**

1. Short Title and Commencement:
  1. These rules may be called as The Foreign Employment Regulations, 2064.
  2. This Regulation shall come into force at once.
2. Definition: Unless the subject or context otherwise requires, in these Regulation:
  - (a) "Act" means the Foreign Employment Act 2064.
  - (b) "Contract" means the contract between Employmnet providing Entity or his agent and Worker as well as contract between license holder and workers concerning terms and conditions

and wages of the the works including terms and condition to be followed by both parties.

- (c) "Fund" means Foreign Employment Welfare Fund established under Section 32 of the Act.
- (d) "Tribunals" means Foreign Employment Tribunal constituted pursuant to Section 64 of the Act.
- (e) " Letter of Offer" means a offer letter sent to liscence holders by Employment Providing Entity speicifying the numbers, type and qualifications of the wokers, waages and facilities to be provided to workers as well as others terms and conditions of such employment.
- (f) "Director" means Director of Entity or License Holder and it also means alternative Director.

## **Chapter-Two**

### **Provision relating to Selection of Entity or Workers**

#### 3. Basis of Selecting Entity:

When the Government of Nepal is request to select and send worker for foreign employment pursuant to Section 5 of the Act, the Government of Nepal, by selecting an Entity on the basis as presecribed in Schedule -1, shall send worker throug such selected entity.

#### 4. The procedure for selecting entity: :

(1) For the purpose of selecting entity by free competition pursuant to Regulation 3, the Government of Nepal shall publish a notice describing following particular in two national level news papers by giving fifteen days time limit:

- a. The name of foreign country where the workers are being sent and the name of the Employment Providing Entity.
- b. The number of workers demanded for
- c. The basis of selecting Entity
- d. The particulars to be submitted along with the application
- e. The place for submitting application

(2) Among the application received on the basis of notice published pursuant to Sub Rule (1), the entity which gain highest mark on the basis of selection criteria provided in Rule (3) shall be selected.

5. The criteria and procedure for selecting and sending worker by entering into to treaty or Agreement:

When Government of Nepal entered into an agreement or treaty with a country having diplomatic relation in order to select necessary person for the purpose of sending worker abroad.,

While selecting necessary person for the purpose of sending workers abroad by signing treaty or agreement with a country having Diplomatic relation pursuant to Section 6 of the Act, such person shall be selected as per process provided in such treaty or agreement, if no such process is provided, they shall be selected upon meeting following criteria and process:

- (a) who is simply a literate person.
- (b) has general knowledge about law, language, culture, way of life of the country of foreign employment.
- (c) has general knowledge about work related security and health
- (d) who has got orientation training certificate.
- (e) who has obtained health certificate from recognized health institution.
- (f) who has met the process and criteria as prescribed by Directive Committee under Section 6 of the Act.

### **Chapter 3**

#### **Provision relating to License**

6. Provision relating to License:

An entity willing to conduct foreign employment business shall have to file an application for license by providing following documents and particulars according to the format provided in Schedule 2:

- (a) Copy of Entity registration Certificate
- (b) Certified copy of Memorandum and Article of Association of such Entity.
- (c) Certified copies of PAN. Certificate
- (d) Detail professional work plan of the Entity.
- (e) Certified copy of the citizenship certificate of the the director.
- (f) Certified copy of the certificate of experience of working at least of two years as a proprietor, manager, or director in

foreign employment entity or financial, professional, business or industrial entity that is in operation for last five years.

- (f) who has already paid tax under prevailing laws and obtained the receipt thereof. .
- (g) who has not been convicted by a court in an offence involving moral turpitude.
- (h) Not a Director of entity whose license have been revoked.

- (2) Upon examination of an application submitted pursuant to Sub Rule (1), if it is found to be appropriate to grant license to conduct foreign employment business to such entity, the Department shall, by obtaining the proof of payment of Rs 20,000.00 as fee and upon receiving the proof of deposit or Bank guarantee pursuant to Section 11(2) of the Act, grant license according to the format as provided in Schedule -3.

#### **7. The Validity of Bank Guarantee:**

- (1) The validity of Bank guarantee submitted pursuant to Section 11(2) of the Act shall be of at least five years.
- (2) For extension of license for next term, the bank guarantee should be renewed one year before such bank guarantee expires and thereupon should be submitted to the department.

#### **8. Renewal of the license**

- (1) The licence holders should renew the licence by submitting following particulars before the end of Ashad of each fiscal year.
  - (a) The receipt of submission of tax return or proof of payment of tax of previous years..
  - (b) The number and position of workers sending for foreign employment in last fiscal years
- (2) The licenseholder who wish to renew the licence once for three years pursuant to Section 12(3), it should get its licence renewed by the end of Ashad of a Fiscal year of expiring of its licence.
- (3) A fee at the rate of Rs 10000 is required to pay for the renewal of license each fiscal year.
- (4) To get the license renewed that was not renewed within the time as mentioned in Sub Rule (1), a license holder should pay an additional renewal fee of Rs 10000 per month in addition to renewal fees prescribed in Sub Rule (3) within the end of Ashad of same fiscal year. If such license is not renewed, it shall be prohibited from conducting foreign Employment Business.
- (5) Notwithstanding anything written in this Regulation, during the period between 16 Bhadra 2061 to the commencement of this Regulation, due to the circumstances beyond control if any License holder is not able to renew the License, by stating such reasons, within the period of Ninety days from the date of commencement of this Regulation, repaying any loan if taken out of the Security Deposit, if submits an application to the Department for the purpose of renewal of the License and if such reasons are found to be satisfactory, such license may be

renewed by accepting a license fees of Fifty Thousand Nepalese Rupees per year, for one time.

**11 Notice of Cancellation of the License shall be provided:**

If the License is revoked pursuant to Section 13 of the Act, the Department shall notify of the same to the License Holder.

**10. Amount shall be refunded:**

If the License held by the License Holder is cancelled pursuant to Section 13 of the Act, prior to cancelling of such license, the license holder shall be required to refund any fee received in the form of Service Charge or any other amount taken from any worker for the purpose of sending them for foreign employment within one month from the date of such cancellation.

**11 Security Deposit shall be refunded and the Bank Guarantee shall be released:**

- (1) If the License held by the License Holder is cancelled pursuant to Section 13 of the Act, the license holder should drop an application to the Department requesting to refund the Security amount or release the bank guarantee placed at the time of issuing license.
- (2) While making application pursuant to Sub Rule (1), it should be mentioned in the application that whether any amount to any one is remained unpaid or not.

- (3) Upon receiving application pursuant to Sub-rule (1), the Department shall publish notice in at least two National Level Daily newspaper or make public through other media, if necessary, by giving 35 days time and containing the detail about the application for release of security deposit made by license holder following the cancellation of license, asking any one who has paid money or service charge to such license holder for the purpose of gaining foreign employment and has failed to send them for foreign employment, to make claim for refund of such payment with necessary proof.
- (4) If a claim is lodged in accordance with notice published or transmitted pursuant to Sub Rule (3), after making proper investigation when it is proved that the license holder after receiving amount has failed to send for foreign employment, the Department shall order such license holder to refund to concerned person the amount or payment so received within fifteen days of issuance of such order.
- (5) If the licence holder fails to refund the amount as per order issued pursuant to Sub-rule (4), the department shall pay the claimant pursuant to Sub Rule (3) the claimed amount by deducting such amount from the security deposit or bank guarantee placed by it.
- (6) If no claim is lodged as per the notice or broadcasting made pursuant to sub Rule (3), or if license holder had refund the amount as per the claim made within time limit prescribed in Sub Rule (4), the Department should refund remaining deposited amount or release the bank guarantee.



- (7) If the the the amount to be refunded from the bank guarantee or from security deposit so deposited, is not sufficient to refund, the short failed amount shall be recovered as per the provision of the prevailing law.
- (8) The total amount so incurred for publication and transmission of the notice shall reimbursed from the license holder's security deposit amount or bank guarantees.

#### **CHAPTER FOUR**

Provision relating to pre- approval and selection of the worker :

**12. Submission of application for pre-approval:**

In addition to the details described in the Sub section (1) of the Section 15 of the Act , the license holder shall submit an application providing following details to the Department as per the farmat provided in Scheduled 4, to obtain pre-approval for the purpose of sending workers for foreign employment.

- (a) The authority letter issued by the the director to his representative for the purpose of pursuing these matters in the Department.
- (b) The photocopy of the identity card of the representative of the entity issued by the Department.
- (c) The format of advertisement to be published after receiving the pre approval.
- (d) The photo copy of the license.
- (e) The amount of service and promotional expenses to be levied by license holder.

**13. The onditions for not granting pre approval:**

In addition to conditions prescribed in Subsection (3) of Section 15 of the Act, the Department , in the following conditions, may not give pre-approval for selecting workers:

- (a) if it found that there has been made several changes, correction, addition/deletion in the documents submitted by license holder for the purpose of obtaining pre approval.
- (b) on the basis of informaton received from the dipmatic mission situated in the foreign country or from Labour Attache that it is not suitable to send the workers in the counrty providing foreign employer country or Employment Providing Entity of such Country.

**14 The Detais to Be Mentioned to to Publish the Advertisement.**

- ( a ) The date of pre approval received from Department and reference number of the letter so received.
- (b) The name, address and the liscence number of the Licence Holder
- (c) The name and Address of the Employer Country and the Employmeny Providing Entity.
- (d) The post of the worker.
- (e) The numbers of the woker demanded for
- (f) The particulars of the nature of the work to be performed by the worker.
- (g) The minimum required qualification of the worker,
- (h) The provision relating to facilities of residence and food available o for the workers,
- (i) The monthly remuneration of the workers,
- (j) The duration of daily or weekly working hour.

- (k) The place and deadline for submitting an application,
- (l) The provision relating to insurance and health facilities available for worker.
- (m) The provision the expense of two way plane ticket while going and coming for job,
- (n) The provision relating to expenses incurred for round trip airfare for the worker.
- (o) Total payment to be made by the worker including service charges and promotional expenses.
- (q) The procedure, place and date for selecting the workers,
- (r) As per the Section 9 of the Act, the number of reservation allocated as prescribed by Government of Nepal to women, tribes, oppressed and backward class, people from remote areas and the people suffered by the natural calamities.
- (s) Any other matters as prescribed by the Department.

**15 The application to be submitted:**

Upon publication of the advertisement pursuant to Rule 14, any person who is interested to go for foreign employment should submit an application to license holder explaining in details of his qualification, training and experience in the format as provided in Schedule 5.

**16 The Criteria for selecting the worker:**

The licence holder should select the workers by applying following criteria from the applications received pursuant to Rule 15 :

- (a) Qualifications, Training and Experience as mentioned in the letter of offer,
- (b) The age and the physical fitness of the application,

- (c) The skill oriented training in regard to skilled and semi skilled worker,
- (d) As per the Section 9 of the Act, the number of reservation allocated as prescribed by Government of Nepal to women, tribes, oppressed and backward class, people from remote areas and the people suffered by the natural calamities.

(2) In addition criteria as mentioned in Sub Rule (1), the Department may issue written direction to the licence holder concerning criteria and procedure for selecting the workers.

(3) It shall be the duty of the concerned licence holder to comply with the direction issued in accordance with the sub rule ( 2).