

Labour Act, 2048 (As amended)

Date of Royal Seal of Assent: 2049/2/2/6 (16th MAY 1992)

First Amendment: Date of publication in the Nepal Gazette and enforcement 2054/10/15 (28th January, 1998) **(1991)**

Preamble:

Whereas it is expedient to make timely provisions relating to labour by making provisions for the rights, interests, facilities and safety of workers and employees working in enterprises of various sectors.

Now, therefore, the Parliament has made this Act on the twenty first year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

CHAPTER - 1

Preliminary

1. Short Title and Commencement:

(1) This Act may be called the "Labour Act, 2048 (1991)"

(2) It shall come into force at once.

2. Definitions

Unless the subject or context otherwise requires, in this Act;

(a) "Production Process means the following process -

- i. Works relating to manufacturing, transforming, repairing, engraving, finishing, packing, oiling, washing, cleaning, breaking-up, dismantling or other kinds of act article or substance with a view to bringing it to use, sale, distribution, transportation or disposal; or
- ii. Works relating to pumping oil, water or sewage; or
- iii. Works relating to generating, transforming or transmitting energy; or
- iv. Works relating to printing lithography, photography, book-binding or similar other works.

* (b) "Enterprise" means any factory, company, organization, association, firm or a group thereof established under the prevalent law for the purpose of operating any industry, profession or service whereon ten or more workers or employees are engaged and this word shall also denote: -

- i. Tea estates established under the law for commercial purpose;

ii. Enterprise operating within the industrial estate established by His Majesty's Government whereon less than ten workers or employees are engaged.

(c) "Employee" means a person engaged in administrative functions of the enterprise.

* (d) "Worker" means a person employed on the basis of obtaining remuneration to work in connection with production process or providing service or to work in any building, premises, machinery or any part thereof used for the purpose of same works or any act relating to such works or any work incidental to such works and this works shall also include any workers working at piece-rate, contract or agreement.

(e) "Manager" means a person appointed for performing the business of the enterprise.

* (f) "Establishment" means the person having final authority on the activities of the enterprise and this word shall also include any person designated as the chief of any branch or unit of the enterprise with powers to exercise final responsibility or authority in respect thereof.

(g) "Factory Inspector" means the Factory Inspector appointed by His Majesty's Government under this Act and this word shall also include the Senior Factory Inspector.

(h) "Child" means a person who has not attained the age of fourteen years.

(i) "Minor" means a person who has attained the age of fourteen years but has not completed the age of eighteen years.

(j) "Adult" means a person who has completed the age of eighteen years.

(k) "Energy means electrical or mechanical energy.

Provided that this word shall not denote any energy generated from human or animal sources.

(l) "Seasonal Enterprise" means an enterprise which cannot be operated or which is not feasible to operate in any other seasons except the specific season and this word shall also denote a seasonal enterprise which cannot be operated more than one hundred and eighty days in a year.

(m) "Day" means a period of twenty four hours beginning from any midnight and ending at another midnight.

(n) "Week" means a period of seven days starting from midnight of Saturday or from midnight of such other day as prescribed by the Department of Labour.

(o) "Welfare Officer" means the welfare officer appointed under this Act.

(p) "Labour Officer" means the Labour Officer appointed under this Act and the word shall also denote the Senior Labour Officer also.

(q) "Labour Court" means the Labour Court established under this Act.

(r) "Remuneration" means the remuneration or wage to be received in cash or kind from the enterprise by the worker or employee for the works done in the enterprise and this word shall also denote any amount to be received in cash or kind for the works done under piece-rate or contract.

Provided that, this word shall not include any kind of allowances or facilities.

(s) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules made under this Act.

CHAPTER -2

Employment and Security of Service

3. Classification of Job:

(1) The Establishment shall have to classify the job of the workers and employees of the enterprise according to the nature of production process, service or business of the enterprise and shall furnish the information thereof to the concerned Labour Office.

(2) In case the classification made pursuant to sub-section (1) requires any amendment, the Labour Office may, stating the reasons thereof, issue a directive to the Establishment and it shall be the duty of the Establishment to abide by such directive.

4. Appointment of Workers and Employees:

* (1) While appointing any worker or employee on the post as classified under Section 3, the Establishment shall publish an advertisement for the purpose of selecting worker or employee and such worker or employee so selected shall be caused to be engaged after providing letter of appointment.

* (2) The worker and employee appointed under sub-section (1) shall remain on probation period until he completes the continuous service of one year and he shall be appointed permanently on the basis of his efficiency, sincerity, discipline, diligence towards works and regularity at the same period, while so appointing, the letter of appointment shall be given to him stating thereon the name of the post of the worker or employee and his remuneration and conditions of service and the information thereof shall also be furnished to the Labour Office.

** Explanation:- For the purpose of this sub-section "Continuous service of one year" shall mean the period of two hundred and forty days worked by any worker or employee

within a period of twelve months in any enterprise or in case of a seasonal enterprise it shall mean the period of continuous work done by any worker or employee during the entire period of operation of such seasonal enterprise. While counting the period of two hundred and forty days, public holidays and week-leaves shall also be included in the working (lays).

(3) The worker or employee engaged on piece-rate or contract in the works of permanent nature of an Enterprise, shall also be made permanent under sub-section (2).

(4) The workers or employee engaged under sub-section (3) shall be entitled to facilities provided by this Act according to the scale of his post.

4A. Non-Nepalese Citizen not to be engaged :-

(1) It shall not be allowed to engage any non-Nepalese citizen at any post classified under Section 3.

(2) Notwithstanding anything contained in sub-section (1), in case any Nepalese citizen could not be available even after publishing the advertisement in public newspaper of national level for the post of skilled technician, the Establishment may submit an application together with the evidence thereof to the Department of Labour for the purpose of obtaining permission to appoint any non-Nepalese citizen.

(3) In case the Department of Labour, after investigation on the application submitted pursuant to sub-section (2), finds it satisfactory that any Nepalese citizen could not be available for the post of skilled technician, it may give its permission on the recommendation of the Labour Office to appoint and engage any non-Nepalese Citizen for a term of not exceeding two years at a time and for up to five years at maximum and for a term of maximum seven years in case of the post of skilled technician of specific types.

(4) The Establishment engaging any non-Nepalese citizen pursuant to sub-section (3) must make arrangement for causing the Nepalese citizens skilled and capable to substitute the non-Nepalese citizens gradually.

5. To engage in work:

(1) No child shall be engaged in work in any enterprise.

(2) Subject to the prescribed conditions minors and females may be engaged in the work normally from 6 o'clock in the morning till 6 o'clock in the evening.

(3) By making an appropriate arrangement with mutual consent between the Establishment and the worker or employee, the females may also be engaged in the works similar to the males.

6. Computation of Period of service:

For the purpose of computing the period of service of any worker or employee in the Enterprise the following period shall also be counted

(a) the period remained in reserve under Section 11; and

* (b) the period stayed on leave with remuneration.

*** 7. Employment on Contract - service**

In case any enterprise needs to increase its production or service immediately, it may employ any person on contract for any fixed work of the enterprise except for the work of permanent nature by prescribing the period of service, remuneration to be entitled and other service conditions in the contract.

8. Change of Ownership not to Affect Adversely:

Any change in the ownership of the enterprise shall not be deemed to have been affected on the terms and conditions of service of the workers or employees of the enterprise adversely.

9. Separate Registers of Workers and Employees to be maintained

(1) In each enterprise, the Establishment shall maintain separate registers of the workers and employees mentioning the following particulars -

(a) name of the worker or employee,

(b) nature of job,

(c) remuneration and method of its payment, and

(d) other prescribed particulars.

(2) The register maintained under sub-section (1) shall have to be shown as per demand of the Labour Officer, Factory Inspector or any other person designated by the Labour Office.

10. Security of Service:

The service of any permanent worker or employee of the enterprise should not be terminated without complying with the procedures prescribed by this Act or the rules or bye-laws made under this Act.

11. Keeping on Reserve:

(1) In case it is necessary to make curtailment of production or service in any enterprise for some period or if it is not possible to run the enterprise due to some special circumstances, the establishment subject to the provision of sub-section (2), may curtail its production or service or may close the enterprise or a part thereof.

(2) While curtailing the production or service or closing the enterprise or any part thereof pursuant to sub-section (1) permission shall have to be obtained from the Labour Office in case of a period for up to fifteen days and that from the Department of Labour in case of a period for more than the said period. The Labour Office shall, inform the Department of Labour about such permission in case it has given so.

* (3) While making curtailment in the production or service pursuant to sub-section (1), all permanent workers or employees except the workers or employees working on wage-basis or in substitution shall be kept in reserve on the condition of receiving half of their present remuneration.

Provided that such workers or employees shall continue to receive the facilities which they were enjoying.

* (4) If any worker or employee kept in reserve pursuant to sub-section (3) refuse to work on another assignment in the same enterprise or in the another enterprise of its control on the work of similar nature or equal remuneration as proposed by the Establishment or if he does not attend the Enterprise once a day during office hours or on other prescribed situations the Establishment may withhold the salary and facility of such worker and employee.

12. Retrenchment and Reinstatement:

(1) In case the production or service of the Enterprise is to be curtailed or if the enterprise is to be closed partly or wholly for more than three months due to any special circumstances, the Establishment may after obtaining approval of His Majesty's Government through the Department of Labour, retrench the total or partial number of the workers and employees of the Enterprise.

(1a) In case the Establishment seeks approval of His Majesty's Government regarding retrenchment of workers or employees under sub-section (1), His Majesty's Government shall have to give its decision within two months as to whether the retrenchment should be permitted or not.

* (2) While retrenching the workers or employees under sub-section (1), the worker or employee among the permanent workers or employees engaged in similar type of works shall be retrenched first who was appointed later.

Provided that if it is required to retrench some of the workers or employees appointed earlier, without following the prescribed order of retrenchment such retrenchment may be made by stating the reasons thereof.

(3) While doing retrenchment under sub-section (1), it shall be done in the following manner:-

(a) by providing one month's pre-notice with reasons of retrenchment or paying the salary of one month in case of permanent worker or employee, and,

(b) by providing a compensation in lump sum equal to the amount of product of present remuneration of thirty days multiplied by the total number of years of service of worker or employee in the enterprise.

Explanation: For the purpose of this clause, the work done for at least six months in any year shall be counted as one year or service.

(4) The provisions of sub-section (3) shall not apply to any worker or employee appointed under contract service.

(5) In case the vacancy is to be fulfilled in place of a retrenched worker or employee, priority shall be given to the retrenched workers or employees.

Explanation: For the purpose of Section 11 and 12 the "Special Circumstances" shall mean damage, break down or failure of machines of the enterprise and thereby causing stoppage in the production or failure in the supply of fuel, electricity, coal or similar energy or due to natural calamity or insufficient supply of raw materials or stock piling of the produced goods due to decline in sale or other similar situations.

13. Seasonal Enterprise:

(1) The workers or employees of a seasonal enterprise shall not be deemed to be on reserve during off-season period.

(2) The starting and closure of operation of seasonal enterprise shall be informed to the Labour Office.

* (3) The permanent worker or employee shall have to be paid with at least twenty five percent of his remuneration as retaining allowance for the period of closure of a seasonal enterprise during off-season.

(4) The decision of the Department of Labour shall be final in relation to any dispute as to whether any enterprise is a seasonal one or not.

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15. Compulsory Retirement:

The Establishment may relieve any worker or employee. on compulsory retirement who has crossed the age of fifty five years.

Provided that the Establishment may grant extension of period of service of any worker or employee for further five years, in case the worker or employee is indispensable for the operation of the functions of the enterprise.

CHAPTER-3

Working Hours

16. Working Hours:

No worker or employee shall be deployed in work for more than eight hours per day or forty eight hours per week and they shall be provided one day as weekly holiday for every week.

17. Computation of Commencement of Working Hour:

The time for starting of work by workers or employees shall be as prescribed by the Establishment.

18. Intermission for Refreshment and Rest:

In an enterprise where work may be stopped, no worker or employee shall be deployed in work continuously for more than five hours without providing an interval of half an hour for tiffin. In other enterprises where works have to be carried out continuously without interruption, such intervals shall be provided on rotation basis. Such interval of half an hour shall be deemed to have been included within the daily working hours.

19. Extra Wages to be Provided for overtime works:

(1) Where any worker or employee is caused to be engaged to work for more than eight hours in a day or forty eight hours in a week he shall be paid overtime wages at the rate of one and one-half time of his ordinary rate of wages.

Provided that no worker or employee shall be compelled to work overtime.

(2) While deploying any worker or employee to work overtime, generally the duration of overtime shall not exceed four hours per day and twenty hours per week.

20. Attendance Register to be maintained:

Each Enterprise shall maintain attendance register of its workers and employees.

CHAPTER-4

***21. Remuneration Minimum Remuneration Fixation Committee:**

(1) His Majesty's Government shall fix the minimum remuneration, dearness allowance and facilities of workers or employees of enterprises on the recommendation of Minimum Remuneration Fixation Committee and the notice regarding such fixation shall be published in the Nepal Gazette.

(2) For the purpose of fixation of remuneration, dearness allowance and facilities, His Majesty's Government shall constitute a Minimum

Remuneration Fixation Committee consisting of equal number of the representatives of workers or employees, Establishments and His Majesty's Government.

(3) The Minimum Remuneration Fixation Committee may, while recommending the dearness allowance and facilities for workers or employees recommended on the basis of geographical region.

(4) The minimum remuneration, dearness allowance and facilities prescribed under sub-section (1) shall be applicable from the date of publication of notification in the Nepal Gazette only.

(5) In case the Minimum Remuneration Fixation Committee could not be constituted or, if it could not submit its recommendation after being constituted, nothing mentioned in the foregoing sub-sections shall be deemed to have made impediment to His Majesty's Government from fixing the minimum remuneration dearness allowance and facilities of the workers or employees of enterprises by.

(6) No agreement shall be entered into between Establishment and workers or employees in a way fixing the remuneration, dearness allowance and facilities at a figure below the minimum rate as prescribed under sub-section (1).

(7) Other powers, functions and duties of the Minimum Remuneration Fixation Committee shall be as prescribed.

#21A. Annual Increment:

(1) Any worker or employee employed permanently under sub-section (2) of Section 4 shall be entitled to one increment each year.

(2) The amount of increment to be entitled to under sub-section (1) shall be equal to the half of the daily remuneration of the concerned worker or employee.

(3) Notwithstanding anything contained in sub-section (1), none shall get the annual increment during the period of stoppage of increment under sub-section (2) of Section 52.

***22. Payment of Remuneration Allowances and Facilities**

It shall be the responsibility of the Establishment to provide the remuneration allowances and facilities to be entitled by the workers or employees of the enterprise.

23. Period of Remuneration

The Establishment may fix the period of payment of remuneration to the workers or employees of the enterprise on weekly, fortnightly or monthly basis in such a way which may not exceed the period of one month.

Provided that this provision shall not apply in respect of the persons who are working on daily wages, piece-rate or contract basis.

24. Prohibition on Deduction of Salary:

(1) The remuneration of workers or employees shall not be deducted except under the following circumstances -

- (a) in case it is required to realize any fine;
- (b) in case it is required to deduct against absence;
- (c) in case it is required to deduct against loss or damage of cash or kind of the enterprise caused knowingly or negligently;
- (d) in case it is required to deduct in respect of providing prescribed facilities;
- (e) in case it is required to deduct in respect of advance or over payment of remuneration;
- (f) in case it is required to deduct in respect of the period of suspension;
- (g) in case it is required to deduct in pursuance of the order of government office or Court of law;
- (h) in case it is required to deduct as per the notification of His Majesty's Government published in the Nepal Gazette; or
- (i) in case it is required to deduct in respect of income tax or any other tax levied under prevalent law.

(2) The limit of amount to be deducted under sub-section (1), the method of deduction, the period of deduction and other related matters shall be as prescribed.

***25. Petition may be filed Against Improper Deduction of or Delay in Payment of Remuneration:**

(1) In case improper deduction of or delay in payment of remuneration is made except being unable to make payment of remuneration on the ground of mistake or on the condition of nonfixation of remuneration or due to occurrence of an unexpected incident or due to special circumstances or due to non-coming for receiving or refusal to take the remuneration by the concerned worker or employee or in case payment of remuneration is not made or is delayed for the period of suspension or expulsion where such suspension or expulsion has been set aside by the decision of Court of Law or the payment of the amount of allowances, gratuity, provident fund or compensation is not made or delayed, the concerned worker or employee either by himself or through his attorney may file a petition at the Labour Office.

(2) The petition as per sub-section (1) shall have to be filed within six months from the date of such deduction or delay in payment of remuneration or non-payment or causing delay in payment of allowances, gratuity, provident fund or compensation.

(3) While making investigation on the petition filed under sub-section (1), if it gets proved that the remuneration has been improperly deducted or payment of the same is delayed, or the payment of the amount of allowances, gratuity, provident fund or compensation is not made or is delayed, the Labour Office may issue an order directing the Establishment to pay the amount of remuneration, allowances, gratuity, provident fund or compensation to the concerned worker or employee and additional amount upto three times of the amount in default as indemnity.

(4) If the petition filed under sub-section (1) is proved to have been filed with malafied intention or with intention to give unnecessary trouble to the Establishment, the Labour Office may order the petitioner to pay the Establishment an amount of indemnity up to one thousand rupees.

(5) The Labour Office shall realize the amount payable by its order issued pursuant to sub-section (3) or (4) through any or all of the following process and hand it over to the concerned party :-

(a) by with-holding the movable or immovable property of the concerned enterprise, worker or employee,

(b) by with-holding the money deposited at any government office or any corporate body of government undertaking by the concerned enterprise, worker or employee, or by with holding any such money which is payable by such office or corporate body to the concerned enterprise, worker or employee,

(c) by with-holding the export or import of the concerned enterprise, worker or employee,

(d) by with-holding the exemption, facilities or concession to be entitled by the concerned enterprise, worker or employee under prevalent laws.

26. Appeal:

The party dissatisfied with the order issued pursuant to sub-sections (3) and (4) of Section 25 may file an appeal to the Labour Court within thirty five days from the date of service of notice in respect of the said order and the decision of the Labour Court shall be final.

CHAPTER-5

Health and Safety Provisions Relating to Health and Safety:

The Establishment shall make the arrangements in the enterprise as mentioned below -

- (a) to keep each enterprise clean and tidy by cleaning daily with germicidal medicines also if so required necessary and arrangements of proper drainage and painting or white-washing from time to time and preventing from bad odour;
- (b) to make arrangement for adequate supply of fresh air and light as well as proper temperature in the working rooms;
- (c) to make arrangement for removal and disposal of solid waste and sewage outcoming from production process;
- (d) to make arrangement for prevention of accumulation of dust, fume, vapour and other impure materials in working rooms which might affect the health adversely;
- (e) to make arrangement for necessary preventive personal devices for protection of health from adverse effects of noise emanating during work process or from any other source, and make provisions which would produce less noise in accordance with the nature of the work process;
- (f) to make arrangement for avoiding any congestion in the work-room or work place leading to injurious to the health of workers or employees and to make available the working space to each worker or employee, considering the nature of work generally fifteen cubic meters per person and, however the height above four meters from the floor surface shall not be considered for such purposes.
- (g) to make arrangement for sufficient supply of pure potable water during the working hours and to make arrangement for sufficient water in the enterprise where chemical substances are used or produced which may cause hazards to the health for the purpose of extinguishing fire or washing and cleansing during emergency situations;
- (h) to make arrangement for separate modern type toilets for male and female workers or employees at convenient place;
- (i) to declare as non-smoking zone in all or some parts of the enterprise according to the nature of its works; and

(j) to cause to conduct compulsory health check-ups of the workers or employees at least once a year in the enterprises where the nature of works is likely to affect the health adversely.

28. Protection of Eyes:

(1) Necessary protective means shall have to be arranged for the protection of eyes of the workers and employees from possible injuries likely to be caused by dust or pieces to be exhausted from production process while working in the enterprise where glass, lead, mercury, magnet, plates, iron, concrete, cement, lime, stone and explosive substances are used.

(2) Necessary protective devices shall have to be in arranged in order to protect the eyes from harmful rays coming from during the process of welding or gas-cutting or other similar works.

29. Protection from Chemical substance:

The Establishment shall have to make arrangement for necessary personal protective devices for the protection of workers or employees handling chemical substances.

Arrangement for Safety against Fire:

(1) The Establishment shall have to make arrangement for necessary modern equipment for safety against fire in each enterprise.

(2) Arrangement shall have to be made for easy exit from the enterprise during emergency time.

(3) Other arrangement to be made by the enterprise in relation to safety from fire including fire fighting devices shall be as prescribed.

31. Hazardous Machines to be fenced:

(1) Strong fences or bar shall have to be placed around every parts of hazardous machines, instruments and equipment to be operated by energy.

(2) In case it is required to do inspecting, lubricating or adjusting any part of hazardous machines during its operation, only experienced and well trained adult worker or employee shall have to be engaged to perform such works.

32. Regarding lifting of Heavy-weight:

(1) No worker or employee shall be engaged in the works of lifting, loading or transporting any load likely to cause physical injury or harm to the health.

(2) The maximum weight of load to be lifted, loaded or transported by an adult, minor, male or female worker or employees shall be as prescribed.

33. Pressure Plants:

(1) In case a machine is to be operated at a pressure more than the atmospheric pressure in course of the production process of any enterprise, necessary effective measures shall have to be adopted in such a way that such machine might not be operated at a pressure heavier than safe working pressure.

(2) Provisions in relation to method of testing, certifying and licensing for operation of such machines as mentioned in sub-section (1) shall be as prescribed.

34. To give Order to provide for Safety:

(1) In case any arrangement for safety has not been made as required to be done under this Act in any Enterprise, the Labour Officer may give a written directive against the enterprise fixing a reasonable time limit in order to manage and make necessary arrangements thereon within such period.

(2) In case the directive given pursuant to sub-section (1) has not been complied with the Labour Office may give order for the closure of such unsafe portion, plant or machinery of the enterprise and it shall be the duty of the enterprise to abide by such order.

35. Information to be given

(1) The enterprise shall have to give information to the Labour Office within three days in case any worker or employee in course of his duty dies or is injured making him disabled to work for more than forty eight hours due to an accident occurred in the enterprise or any other reason, and within seven days from the date of knowledge of the fact, in case such worker or employee has been caught by any disease resulting from the profession.

(2) The powers, functions, duties of the authority empowered to investigate the accident or disease mentioned in the information given pursuant to sub-section (1) and the procedures relating thereto shall be as prescribed.

36. Powers to Determine the Standards:

(1) His Majesty's Government may prescribe the standards of safety required under this chapter as per necessity by a notification published in the Nepal Gazette.

(2) Except those as mentioned in sub-section (1), other provisions relating to health and safety to be adopted while using machinery, instruments or equipment in the enterprise shall be as prescribed.

CHAPTER-6

Provisions Relating to Welfare

37. Welfare Fund:

The Enterprise shall have to establish a welfare fund for the welfare and benefit of its workers or employees as prescribed.

38. Compensation:

In case any worker or employee of the enterprise sustains physical injury or seriously hurt or gets impairment due to loss of any part of body or dies in course of his work, the compensation shall be paid to him or to his family, as prescribed.

39. Gratuity Provident Fund and Medical Expenses:

The gratuity, provident fund and facilities relating to medical expenses to be provided to the workers and employees shall be as prescribed.

***40. Leave:**

The public holidays, sick leave, annual leave, maternity leave, special leave, leave with or without remuneration etc. to be enjoyed by the workers and employees of each enterprise shall be as prescribed.

41. Arrangement of Quarters:

(1) The Establishment shall allocate not less than five percent of the gross profit of the enterprise each year in order to provide hygienic quarters for the workers and employees and shall gradually build such quarters.

(2) A separate fund shall have to be maintained to deposit the money allocated pursuant to sub-section (1).

(3) The operation of the fund as mentioned in sub-section (2) shall be as prescribed.

42. Provisions Relating to Children:

(1) The Establish of the enterprise where fifty or more female workers and employees are engaged shall have to make arrangement for a healthy room for the use of children of such female workers and employees.

(2) Arrangement of a trained nurse including some necessary toys shall also have be arranged for the children as mentioned in sub-section (1).

(3) Time shall be provided for the female workers and employees as per requirement to feed their suckling babies.

43. Rest Room:

In an enterprise where fifty or more workers or employees are engaged at - work, the Establishment shall have to make arrangement for rest room with minimum amenities.

44: Canteen:

Where fifty or more workers and employees are engaged in work at one time, the Establishment of the enterprise shall have to make arrangement for a canteen.

CHAPTER-7

Special Provisions to be Applicable to Special Type of Enterprises

45. Tea - Estate:

(1) The special provisions mentioned as below shall be applicable in respect of the tea estates -

(a) Formation of a Committee: His Majesty's Government may constitute, as prescribed, a Committee to render necessary advice on promotion, policy formulation and other related matters in respect of the tea estates.

(b) Arrangement of quarter: The Establishment shall have to make arrangement for appropriate quarters within the tea-estate for the workers who do not have their residence nearby.

(c) Arrangement for Primary Health Care: The Establishment shall have to establish a Primary Health Care Center under the responsibility of a trained employee in order to provide free primary treatment of minor injuries sustained by the workers or employees engaged within the tea-estate and the members of their family.

(d) Safety Devices: The Establishment shall have to make available of safety devices and equipment required for personal protection of the workers of the tea-estate.

(e) Arrangement of Primary School: In case there is any school within. a distance of one kilometer from the tea-estate) the Establishment of a tea-estate shall have to run a primary school in case there are fifty or more children receiving primary education of the age between five and fourteen years of the workers residing in the quarters provided by the tea-estate and

(f) Daily Consumer Goods: In case there is no market near by the tea-estate, the Establishment shall have to arrange to make available of the daily consumer goods in easy way to the workers and employees.

(g) Arrangement for Entertainment: The Establishment shall have to make necessary arrangements for appropriate sports facilities within the tea-estate for the purpose of physical and mental development of the workers and employees of the tea-estate.

(h) To assign the works on contract: This Section shall not be deemed to prevent from entering into agreement between the Establishment and the workers of the tea-estate in respect of doing certain specified works of the tea-estate under contract.

(2) For the purpose of this Section -

(a) "Tea-estate" means tea-estate duly registered under prevalent laws with commercial objectives and this word shall also include the factory if so established therein.

(b) "Worker of tea-estate" means any person engaged in the tea-estate for the works of digging, ploughing, leveling, picking, spraying, sowing, cutting, reaping, plucking, derooting and doing other similar works and this word shall also include any person engaged for cleaning any house, land or machinery or its parts inside the tea-estate or any person doing any other works related to the tea-estate.

46. Construction Business:

The following special provisions shall be applicable in respect of the construction business -

(a) Availability of Construction Tools: The Establishment shall have to make available from its own side all necessary tools and materials in sufficient quantity for the workers engaged in the construction works at construction site.

Explanation: For the purpose of this Section, "construction works" means the construction works of building, road, bridge, canal, tunnel, internal or interstate waterways or railways, or installing of telecommunication equipment or machine including those of electricity, telephone or telegraph or other works relating to construction.

(b) Special Arrangements to be made at Temporary Construction Sites: In case fifty or more workers are engaged at the temporary construction work sites, the Establishment shall have to make arrangements for quarters, food stuffs, drinking water, etc. for the workers who do not have residence nearby.

(c) Accident Insurance: The Establishment shall arrange to insure all workers engaged in the construction site against accident in such a way as prescribed.

(d) Safety Arrangements:

(1) The Establishment shall have to make necessary and adequate arrangements of safety at the sites of construction works.

(2) The Establishment shall have to make arrangement of personal protective equipment to be required for the workers engaged in construction works.

47. Transport Business:

(1) The following special provisions shall be applicable in respect of the transportation business -

(a) Working Hours:

* (1) The worker and employee assigned in the transport vehicle may be deployed in work till arrival at the destination.

Provided that in a passenger carrying vehicle operating in a long route at least two drivers shall be engaged to drive it turn by turn.

Explanation: For the purpose of this Section, "Long Route" means a long route as defined by clause (Ra) of Section 2 of the Motor and Transportation Management Act, 2049 B.S.

(2) The driver of a vehicle transporting animals or goods operating in the long route shall be allowed to take rest at several places before arrival at the destination.

* (b) Trip Allowance: In case any worker or employee of the transportation service is caused to be engaged for more than eight hours, he shall be paid for overtime allowance at the rate of 1.5 times of his present amount of remuneration.

Provided that if the worker or employee engaged in a running vehicle is paid, with any trip allowance, fooding allowance or any such other allowance, he shall be entitled to receive the overtime allowance or 1.5 times of his remuneration whichever is greater under this Section.

* (c) Fifty percent Allowance to be received during breakage or stand-by Period: In case any worker or employee engaged in operating vehicle has been stayed idle due to breakage of the vehicle before reaching destination or while the vehicle had been in stand-by position due to any reason, such person shall receive fifty percent of the allowance payable during the operating time of the vehicle.

* (d) Accident Insurance: The Establishment shall arrange to insure workers and employees to be engaged in a running vehicle against accident in the manner as prescribed by the Motor and Transport Management Act, 2049.

(e) First Aid Materials: The operator of transport business shall keep sufficient medicines and materials of first-aid treatment in each vehicle.

(f) Prohibition on Consumption of Alcoholic Drinks:

(1) No worker or employee in any vehicle used for transportation of passengers, animals or goods shall consume alcoholic drinks before driving of the vehicle till reaching to the destination.

(2) In case a vehicle is operated by any worker or employee after consuming alcoholic drink such act shall be deemed as misconduct and the Establishment may dismiss him from the service.

Provided that the concerned worker or employee shall be provided with an opportunity to submit his clarification before dismissing him from service.

(3) Any person aggrieved by the order issued pursuant to sub-clause (2) may file all appeal to the Labour Court within thirty five days from the service of notice regarding dismissal from service.

(g) Commission Agent: The facilities under this Act shall not be provided to commission agent engaged in booking or carriage of goods who is not registered in the attendance register of the transportation enterprise.

(h) Change in Ownership: ~ case it is necessary to terminate the service of permanent workers or employees who have completed one year's continuous service, due to sale of transport vehicle or change in ownership or due to any other reason the transport entrepreneur may terminate the service on payment of compensation and facilities payable under this Act, including such additional compensation as provided by mutual agreement entered into or understanding reached and between the Establishment and the workers or employees.

(2) For the purpose of this Section, "transport business" means a transport service engaged in carriage of passengers, animals or goods from one place to another taking fare in a vehicle to be operated by means of mechanical device.

#(3) The provisions made in this Section and the provisions of Sections 4, 10, 72 and 73 and of Chapters 4 and 8 also shall be applicable in the enterprise relating to the transport business although the number of workers or employees be less than ten.

48. Business of Hotel, Travel, Trekking, Adventure, Rafting, Jungle Safari etc:

The following special provisions shall be applicable in respect of the business of hotel, travel, trekking, adventure, rafting, jungle safari, etc. -

(a) Females may be engaged in work: Females may be deployed in works in a hotel or travel agency at any time by making special arrangement of safety according to the nature of works.

(b) Safety of workers or employees engaged in trekking or rafting:

(1) The Establishment shall have to make arrangement for personal protective equipment and necessary clothing, shoes and other articles suitable for season for the time being for protection of health of the workers or employees engaged in trekking, rafting or other adventure sports as required.

(2) it shall be the responsibility of the concerned Establishment to rescue or cause to rescue operation as required.

(c) Accident Insurance: The Establishment shall compulsorily arrange to insure all workers or employees engaged in trekking, rafting, jungle safari or other adventure sport against accident in the manner as prescribed.

(d) Payment of field Allowance etc: The Establishment shall have to provide field allowance, fooding allowance or other similar allowance while sending workers or employees on works of trekking, rafting or other similar adventure sports to the working place and in case such allowance have been provided no additional overtime allowance shall be paid as provided by this Act.

(e) Provision for first-aid: The Establishment shall have to avail adequate supply of medicines and material of first-aid while sending the workers or employees on works of trekking, rafting or other adventure sports to the working place.

49. Applicability of other Provisions:

The provisions of this Act and the Rules made hereunder shall also be applicable in respect of the enterprises mentioned in Section 45, 46, 47 and 48, in addition to the provisions mentioned in this chapter.

CHAPTER-8

Conduct and Punishments

50. Types Of Punishment:

The Establishment may punish any worker or employee doing misconduct with any of the following punishments:-

(a) to reprimand,

(b) to withhold annual increments,

(c) to suspend, or

(d) to dismiss from service.

51. Misconduct:

For the purpose of Section 50, the following acts done by the worker or employee shall be deemed as misconduct:

(a) in case of causing any bodily injury or keeping in fetters, detaining to the Establishment, Manager or employee with or without use of arms or causing any turbulence or destruction or assault within the enterprise in connection with the labour dispute or on any other matter;

(b) in case of creating or causing to create any stir within the enterprise affecting the production process or service works of the enterprise, or obstructing the supply of food and water, or disconnecting the line of telephone and electricity, or obstructing movement within the enterprise;

* (c) in case of stealing any property of the Enterprises

(c1) in case the business transaction of the enterprise is misappropriated;

(c2) in case for more than thirty consecutive days is being absented

(d) in case bribe is offered or accepted;

(e) in case of being imprisoned on being convicted on a criminal offense involving moral turpitude;

(f) in case of participating or compelling others to participate in any strike declared as illegal or irregular;

(g) in case of participating in strikes without fulfilling the legal requirements or knowingly going slow in works against interests of the enterprise;

(h) in case of destroying any property of the enterprise, or causing damage thereto or taking and using it outside the enterprise or giving for use to unauthorized person without permission of the competent authority;

(i) in case of frequently violating knowingly the orders or directives issued under this Act or the rules made hereunder, or the bye-laws made by the enterprise, or misbehaves with the customers of the enterprise;

(j) in case of frequently remaining absent from the work without obtaining permission or coming late after the regular time;

* (k) in case it is provided by the doctor of the fact of coming to the duty *****

(l) in case of doing any activity to breach secrecy relating to special technology or production formula of the enterprise with a motive of causing damage to the enterprise whereon himself/herself is working

(m) in case of abusing any thing which has been kept for the interest, health and safety of the workers or employees or causes damage to them knowingly.

52. Punishments:

(1) Any worker or employee, who does any act of misconduct as mentioned in clauses (i), (j) or (m) of Section 51 may be punished by reprimanding.

(2) One who does any act of misconduct as mentioned in clauses (c1), (f), (g) or (h) of Section 51, may be punished by withholding the annual increment.

(3) One who does any act of misconduct as mentioned in clause (b), (d) or (k) of Section 51, may be suspended for up to three months.

(4) One who does any act of misconduct as mentioned in clauses (a), (c), (c2), (e) or (l) of Section 51 may be dismissed from service.

(5) In case any worker or employee having been punished twice for any act of misconduct under sub-sections (1), (2) or (3) again does the same act of misconduct he may be dismissed from service.

Provided that, the punishment awarded under sub-section (1) shall not be counted after expiring of three years from the date of awarding the punishment.

(6) It shall not be deemed to have impediment made by the provision of this Section to the Establishment to award lighter punishment than the prescribed punishment.

53. Procedures:

* (1) Before awarding any punishment under Section 52, any permanent worker or employee shall be served a notice mentioning the facts of the misconduct committed by him and the type of punishment that may be awarded to him if proven, together with an opportunity to submit his explanation within seven days.

Provided that, any action shall not be taken regarding such misconduct after expiry of two months from the date of commitment of such misconduct.

* (2) In case the worker or employee does not submit his explanation within the period as specified under sub-section (1) or if the explanation submitted by him is not found satisfactory, he may be punished according to Section 52 for the offense of misconduct.

Provided that, while making decision regarding such punishment, it should be done within two months from the date of service of notice demanding explanation.

(3) In case the concerned worker or employee refuses to take the notice served pursuant to sub-section (1) or remains absent, the notice shall be sent by registered post at his address and a copy of such notice shall be displayed in the public notice board of the enterprise, and a recognizance regarding service of notice by displaying in the notice board shall be executed in witnesses of at least three persons and a copy of such notice shall also be sent to the concerned Labour Office and thereafter, it shall be deemed that such notice was duly served to the concerned worker or employee.

***54. Department of Labour may dismiss from service:**

(1) The Department of Labour may award an)' of the punishments as mentioned in Section 52 to any worker or employee who causes turbulence or besiege illegally in any enterprise other than his own enterprise or in any government office, or directly or indirectly instigating others to do so.

(2) In case action is to be taken against any worker or employee pursuant to sub-section (1), the procedures as laid down in Section 53 shall have to be complied with.

55. Misconduct of Establishment or Manager:

(1) In case the Establishment or manager does any of the following acts, it shall be deemed as misconduct -

(a) in case he contravenes or disobeys this Act or the rules made hereunder or any order or directive issued thereunder;

(b) in case he closes the Enterprise or retrenches the workers or employees in contravention of this Act;

c) in case he gives continuity to a lock-out declared illegal;

d) in case he assaults or manhandles any worker or employee; or

e) in case he instigates or provokes the workers or employees intending to create dissension or enmity among the workers or employees.

* (2) The concerned Labour Office may punish by imposing a fine of up to rupees ten thousand to the Establishment or manager committing misconduct as specified in sub-section (1) and it may also give directive to cause the worker or employee to be indemnified in case they have to sustain any loss or damage alongwith the order to reinstate the worker or employee retrenched under clause (b) of sub-section (1).

@ (3)

***56. Punishment for making Obstruction to Government Employee:**

In case any person obstructs to any government employee assigned for any function under this Act, or does not submit any register book or any document required to be submitted to him, or does not produce or present for the examination of any worker or employee ordered to be produced before him or makes bar for being examined by him, the Labour Office may punish such person with a fine of up to five thousand rupees.

***57. Other Penalties:**

Subject to the other Sections of this Act wherein provision for punishments has been made, any person violating any other matter mentioned in this Act or the rules made hereunder or the written order or directives issued thereunder, the Department of Labour may punish, for each offense and according to the gravity of such offense with a fine of up to ten thousand rupees, and in case committing of such offense is continued even after establishing of such offense, he may be punished with an additional fine of one hundred rupees per day for continuing to commit such offense.

58. Acts to be Nullified:

Except otherwise provided in this Act or the rules made hereunder, if any act is done to contrary of this Act or the rules made hereunder, such acts shall be nullified by the order of the Department of Labour.

59. Instituting of Case and Limitation:

* (1) Any case relating to the offense punishable under this Act may be instituted only on the complaint lodged by the Labour Office or a person authorized by such office or aggrieved or concerned person or concerned trade union.

* (2) Any case relating to the offenses punishable under this Act shall have to be instituted within three months from the date of committing of such offense.

* (3) In case any particular authority has been specified under various Sections of this Act to award punishment for any offense committed under this Act the case relating to such offense shall be lodged before such authority and except this all other cases relating to other offense should be lodged before Labour Court.

60. Appeal:

Any party not satisfied with any punishment or decision given under this Chapter may file an appeal within thirty five days from the date of service of notice regarding such punishment or order in the following manner -

(a) at the Appellate Court against the orders of His Majesty's Government or Department of Labour.

(b) at the Appellate Court against the case tried and decided under original jurisdiction by the Labour Court.

c) at the concerned Labour Court against punishment or order given by the Establishment or other office or authority.

61. Realization of Penalties:

Fines, and punishments awarded under this Act shall be realized as governmental dues under prevalent laws.

CHAPTER-9

Committee, Authority and Other Provisions

62. Central Labour Advisory Board:

(1) His Majesty's Government may constitute a Central Labour Advisory Board consisting of representatives from workers or employees, Establishments and His Majesty's Government in order to obtain necessary opinion and advice in relation to formulating policies and drafting of laws regarding labour.

(2) The procedure of composition of Board pursuant to sub-section (1) and its powers, functions and duties shall be as prescribed.

(3) The Board may regulate the procedures of its meeting by itself

63. Labour Relation Committee:

(1) The Establishment of every enterprises shall have to form a Labour Relation Committee in order to create amicable atmosphere between the workers or employees and the management and to develop healthy labour or industrial relations on the basis of mutual participation and co-ordination.

(2) The procedure, method of composition of the Committee pursuant of sub-section (1) and its powers, functions and duties shall be as prescribed.

(3) The Committee formed under sub-section (1) may regulate its procedures by itself.

64. Appointment of Labour Officer:

His Majesty's Government by a notification published in the Nepal Gazette may appoint one or more Labour Officers, for any region 'or designate any other officer to perform the functions of a Labour Officer as per requirement.

65. Powers of Labour Officer:

(1) The Labour Officer shall have the following powers -

(a) to enter into the premises of the enterprise as per necessity;

(b) to examine the documents and registers relating to workers and employees of the enterprise.

(c) to function or advise as per necessity for the purpose of improving labour relations;

(d) to attempt for resolution of disputes arising between workers or employees and the enterprise;

(e) to cause to implement welfare provisions whereon such provision is not applied and to supervise whether or not it is conducted smoothly whereon it has already been applied;

(f) to supervise the implementation of minimum remuneration as prescribed by His Majesty's Government;

(g) to record statement of any one to fulfill the objectives of this Act as per necessity;

(h) to perform functions of the Factory Inspector in his absence, except technical ones; and

(i) to perform other functions as per the directives of His Majesty's Government and Department of Labour.

(2) Other powers, functions and duties of the Labour Officer shall be as prescribed.

66. Appointment of Factory Inspector:

His Majesty's Government may, by a notification published in the Nepal Gazette, appoint one or more Factory Inspector for any region or may appoint one Chief Factory Inspector for whole of the Kingdom of Nepal.

67. Powers of the Factory Inspector:

(1) The Factory Inspector shall have the following powers -

(a) to enter into the premises of the factory as per necessity;

(b) to examine building, land, plant, machine, health and safety features of the factory, to collect and test the samples of finished or semi-finished materials used in the factory or to cause them to be tested, to inspect the registers and documents relating to the factory and to record statements of any person, as per necessity;

(c) to examine the boilers and pressure vessels and to permit the operations thereof;

(d) to provide necessary advice and assistance to the Establishment on making arrangements of training for workers or employees;

(e) to exercise the powers, functions and duties of the Labour Officer during his absence; and

(f) to perform other functions as per the directives of His Majesty's Government and Department of Labour.

(2) Other powers, functions and duties of the Factory Inspector shall be as prescribed.

68. Welfare Officer:

(1) One Welfare Officer shall have to be appointed in enterprise where two hundred fifty or more workers or employees are engaged and one additional Assistant Welfare Officer shall have to be appointed where there are more than one thousand workers or employees.

(2) The Establishment of an enterprise, where there are less than two hundred fifty workers or employees, may appoint or designate any officer of the enterprise to work as Welfare Officer.

(3) Where the Welfare Officer and Assistant Welfare Officer are appointed as per sub-section (1) the Department of Labour shall be informed of such appointment.

(4) The powers, functions and duties of the Welfare Officer and Assistant Welfare Officer appointed or designated as per sub-section (1) or (2) shall be as prescribed.

69. Notice regarding establishment of Enterprise to be given:

(1) In case any enterprise is to be established or constructed or expanded in any building or land, the Establishment shall have to submit the prescribed particulars to the Labour Office.

(2) While examining the particulars received under sub-section (1), the concerned Labour Office may, if deemed necessary to make certain changes on the particulars from the point of view of health, safety and environment, give directive and it shall be the duty of the concerned Establishment to abide by such directive.

70. Information to be furnished by the Establishment:

(1) In case any new house or land is to be possessed or utilized for the enterprise, the Establishment shall inform in writing to the concerned Labour Office with the prescribed particulars in advance of fifteen days.

(2) The Establishment or manager shall inform the Labour Office within seven days from the date of assuming his office for the first time about such assuming.

71. Notices and Posters:

The Labour Officer or Factory Inspector may give directives to the Establishment or manager of the enterprise to display the notices and posters relating to health, safety and welfare provisions for the workers as provided by this Act or the rules made hereunder in a conspicuous manner so as it may be easily readable and understandable.

CHAPTER-3

Settlement of Labour Disputes

72. Establishment of Labour Court:

(1) For the purpose of this Act His Majesty's Government shall establish Labour Court by a notification published in the Nepal Gazette. The jurisdiction and the location of such Court shall be as prescribed by such notice.

(2) The procedure of the Labour Court constituted under: sub-section (1) shall be as prescribed.

(3) Notwithstanding anything contained in sub-sections (1) and (2) until the constitution of the Labour Court all functions to be performed by it shall be performed by the Appellate Court.

***72A. Power to proceed against contempt:**

The Labour Court may proceed against its contempt and if contempt is established, it may punish the accused with a fine of upto to five thousand rupees or an imprisonment of up to two months or both.

Provided that, in case the accused begs pardon to the satisfaction of the Court, the Court may grant pardon or in case of decision has already been made it may grant pardon, reduce the punishment or pass an order to suspend the punishment on the condition as prescribed by the Court and direct for non-execution of the punishment if such condition is complied with.

73. Procedures Relating to Personal Claims or Complaints

(1) If any one or more workers or employees have any personal claim or complaint against Establishment relating to the service, the concerned worker or employee may submit it in writing to the Establishment.

#(2) Upon receipt of the claim or complaint under sub-section (1), the Establishment shall have to discuss about it with the concerned worker or employee within fifteen days and resolve the problem.

(3) If the problem could not be resolved through discussion held sub-section (2), the worker or employee may file a petition concerned Labour Office specifying clearly their claims.

(4) The Labour Office shall have to resolve the problem within days from the date of receiving the claim under sub-section (3) by arranging bipartite discussion between the Establishment and the worker or employee.

(5) The Chief of the concerned Labour Office shall have to decide on the dispute within seven days in case the problem could not be resolved pursuant to sub-section (4).

(6) Any of the parties not being satisfied with the decision made as per sub-section (5) may appeal before the Labour Court within thirty five days from the date of service of notice of the decision.

74. Procedures Relating to Submission of Claims of Collective Dispute:

(1) The claim relating to collective right, interest and facilities of workers or employees shall, clearly mentioning the claim therein in writing and signed by at least fifty-one percent workers or employee from among the concerned workers or employees of the enterprise specifying the names of their representatives, have to submit to the concerned Establishment through such representatives.

(2) After receiving the claim relating to the dispute under sub-section (1), the Establishment holding bipartite discussion with the representatives as mentioned in the same sub-section and resolving the dispute within twenty one days shall enter into an agreement.

(3) In case the problem could not be solved under sub-section (2), the dispute shall be resolved within fifteen days by holding bipartite discussion in the presence of Labour Office.

(4) In case the problem is not solved through bipartite discussion held under sub-section (3), the dispute may be referred to an arbitrator appointed with mutual consent of the Establishment and workers or employees or if no such arbitrator could be appointed then to a tripartite committee constituted by His Majesty's Government with mutual consent of both parties comprising therein of equal representation from the workers or employees, the Establishment and the government.

(5) The arbitrator or the committee under sub-section (4) shall have to give decision within fifteen days.

(6) Any of the parties, if not satisfied with the decision made pursuant to sub-section (5), may appeal to His Majesty's Government within thirty-five days from the date of service of notice of such decision.

(7) In case the arbitrator or the committee does not give its decision within the time-limit specified by sub-section (5) or in case His Majesty's Government does not decide the appeal filed before it under sub-section (6) within sixty days from the date of filing the appeal, the workers or employees may go on strike after adopting the procedure laid by Section 76.

75. Restriction on Submission of Claim:

Notwithstanding anything mentioned herein before the following demand or claim shall not be allowed to submit -

(a) which is contrary to the Constitution of the Kingdom of Nepal;

(b) which would affect other's interest due to being based on untestified or baseless allegation;

(c) matter which is prejudicial to the personal conduct of any worker or employee;

(d) where a period of two years has not completed since the date of last collective agreement.

*** 76. Notice of Strike should be given:**

In case the demands are not solved through the procedure as mentioned in sub-section (3) of Section 74 and the workers and employees desire to go on strike in the enterprise, a notice in writing stating the claims and their rationale, together with a resolution passed by at least sixty percent workers and employees from among all workers and employees through secret ballot, shall have to be submitted to the concerned Establishment thirty days in advance and an information thereof shall also be given to the Department of Labour, concerned Labour Office and the local administration and afterwards they may go on strike.

77. Lock Out:

(1) In case the workers and employees go on strike or continue to strike without giving prior notice under Section 76 or if the collective dispute is not solved through the process as mentioned in sub-section (3) of Section 74, the Establishment may declare a lock-out of the enterprise after submitting the justifications with its rationale and obtaining prior approval of His Majesty's Government.

* (2) Before declaring a lock-out as per sub-section (1), the Establishment shall issue a notice for the information of all workers and employees at least seven days in advance

specifying the date of effecting the lock-out and announcing that the enterprise shall be locked-out if the strike is not called off.

* (3) In case there is a situation with possibility of damage to the enterprise through turbulence, besieging, destruction etc. from the workers and employees during the strike, the Establishment may declare lock-out even without following the process of sub-sections (1) and (2). If a lock-out is so done in the enterprise, the Labour Office and the Department of Labour shall be informed about the lock-out with reasons within three days.

(4) His Majesty's Government may at any time declare the lock-out of an enterprise as illegal, in case it appears unjustified or is likely to cause a disturbance in law and order of the country or is contrary to the economic interests of the country.

78. Restriction on Strike:

(1) Notwithstanding anything mentioned hereinbefore in this Act, if any prevalent law has prohibited workers or employees of any enterprise to go on strike, the workers or employees of such enterprise shall not be entitled to go on strike.

(2) Any employee appointed or deputed on the duty of control, security and patrolling of any enterprise shall also not be entitled to go on strike.

(3) The employees prohibited to go on strike under sub-sections (1) and (2) may submit their genuine demands to the Establishment. If such demands are not fulfilled and a dispute has been arisen, His Majesty's Government shall constitute a Tribunal for solving it. The decision of the Tribunal shall be final and binding upon both of the parties.

(4) No strike or lock-out may be done during the proceeding period under Section 74.

79. Validity of Collective Agreement:

(1) Any agreement entered into between the workers or employees and the Establishment in order to settle the dispute arising between them shall be deemed to be enforceable as a law to the parties concerned thereto and such agreement shall have to be registered in the Labour Office.

(2) The agreement registered pursuant to sub-section (1) shall come into force from such date as mentioned in the agreement and if no such date is mentioned therein, it shall come into force from the date on which it is registered in the Labour Office. No demand in relation to the matters mentioned in such agreement shall be permitted to put again for two years from the date of its commencement.

#79A. Implementation of Collective Agreement:

(1) In case the collective agreement made under this Act is not implemented, the concerned party may lodge a complaint in the Labour Office.

(2) In case any complaint is lodged under sub-section (1), the Labour Office may, by adopting the procedure fixed by sub-section (5) of Section 25 if so required, cause to be implemented the collective agreement.

80. Order may be issued to call back to the Strike:

In case any strike declared to be commenced or already commenced under this Act or the rules made hereunder is seemed to have create an extraordinary situation likely to cause a disturbance in the law and order of the country or likely to be contrary to the economic interest of the country. His Majesty's Government may issue an order at any time to cause to call back such strike or any strike commenced in the essential services prescribed by the prevalent law.

81. Termination of Lock-out Period:

In any enterprise where lock-out has been done, it shall be deemed to have been ended from such date when the workers or employees attend to resume work or the Establishment declares the end of lock-out or from the date of declaring it illegal or issuance of order when His Majesty's Government declares such lock-out as illegal under Section 77 or His Majesty's Government orders causing to call back the strike under Section 80.

82. Remuneration for the Period of Lock-out:

The remuneration for the period of lock-out declared illegal, shall have to be paid to the workers or employees.

83. Special provisions for Settlement of dispute:

(1) In case His Majesty's Government deems that a dispute between workers or employees and the Establishment has arisen or is likely to arise, His Majesty's Government may constitute a committee comprising of one or more persons, or a tripartite committee consisting of representatives of the Establishment, the workers or employees and His Majesty's Government in order to resolve the dispute. Such committee may regulate its procedures by itself.

(2) The decision made by His Majesty's Government made on the basis of the report of the committee constituted under sub-section (1) shall be final and binding upon both parties.

(3) The committee constituted under sub-section (1) shall have the same powers as that of a court under prevalent law regarding examining the evidence and witnesses,

commissioning witnesses and requiring the production of documents in relation to the dispute.

CHAPTER-11

Miscellaneous

84. Special Power of His Majesty's Government:

* (1) Notwithstanding anything mentioned elsewhere in this Act, His Majesty's Government upon consultation with the Central Labour Advisory Board may, by a notification published in the Nepal Gazette, exempt any Enterprise from application of any provision of this Act.

(2) His Majesty's Government may, by a notification published in the Nepal Gazette, fix the minimum remuneration and certain facilities as provided by this Act in relation to the enterprises where less than ten workers or employees are working.

#84A. Special Provisions for workers and Employees of Ex-enterprises:-

(1) Any person or institution of ex-enterprises when engaging workers and employees shall provide the remuneration of the worked-day in accordance with the agreement made between them if there is any agreement and if there does not exist any agreement, within seven days.

(2) In case any person or institution does not pay or makes delay in making payment of remuneration to any worker or employee, the aggrieved worker or employee may lodge a complaint claiming the remuneration entitled by him to the Labour Office and in the districts where such Labour Office does not exist to the Chief District Officer.

(3) In case any complaint is lodged under sub-section (2), the concerned Labour Office or Chief District Officer shall, after summoning the person or institution to appear before him within fifteen days excluding the period of Journey, cause to defray the remuneration entitled by such worker or employee by adopting the procedure pursuant to sub-section (5) of Section 25.

85. Powers to Remove obstacles:

In case any obstacle arises in implementation of this Act, His Majesty's Government may issue an order by a notification published in the Nepal Gazette in order to remove such obstacles.

86. Powers to Make Rules:

(1) His Majesty's Government may make rules for the purpose of carrying out the objectives of this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), such rules, particularly may provide for any of the following matters -

- (a) matters relating to the safety of the workers;
- (b) regarding operation of employment service;
- (c) conditions relating to overtime works;
- (d) to conduct training in order to enhance the efficiency of workers or employees;
- (e) procedures relating to Labour Court;
- (f) compensation to be paid to workers and employees;
- (g) collection of data of workers and employees; and
- (h) collection of information of labour market.

87. Bye-laws to be submitted:

Each enterprise shall have to furnish a copy of bye-law made by it in respect of conditions of service of its workers or employees to the concerned Labour Office.

88. Provisions Relating to Enterprises owned by His Majesty's Government:

In the enterprises owned wholly or partially by His Majesty's Government the terms and conditions of service of employees shall be governed by service rules or bye-laws of the concerned enterprise and in case of the workers the provisions of this Act shall be applicable.

89. Power of His Majesty's Government to give Directive:

(1) His Majesty's Government may give necessary directives to the Establishment in order to carry out the objectives of this Act.

(2) His Majesty's Government may punish the Establishment with a fine of upto twenty thousand rupees every time for non-compliance of the directives given under sub-section (1).

90. Delegation of Power:

His Majesty's Government may delegate the powers conferred to it by this Act to any Officer by a notification published in the Nepal Gazette.

91. Prevalence of this Act:

In matters as provided by this Act, the provisions of this Act shall apply and in matters not herein provided, the provisions of prevalent law shall apply.

92. Repeal and Saving:

(1) The Nepal Factory and Factory Workers Act, 2016 (1959) is hereby repealed.

(2) All acts and proceeding performed or executed under the Nepal Factory and Factory Workers Act, 2016 shall be deemed to have been performed or executed under this Act.

* Amended by first amendment.

Inserted by first amendment.

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