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PART 3

Government of Nepal

Notice of Ministry of Labour and Employment

The Foreign Employment (Third Amendment) Rules, 2074 (2017)

Whereas, it is expedient to amend and consolidate foreign employment rules, 2064 (2008),

In exercise of the powers conferred by Section 85 of the Foreign Employment Act, 2064 (2008), the Government of Nepal has framed the following Rules:

1. Short title and commencement: (1) These Rules may be called as the “Foreign Employment (third amendment) Rules, 2074 (2017).”
(2) These Rules shall come into force immediately.

2. Amendment in Rule 2 of Foreign Employment Rules, 2064 (2008):
Rule 2 of Foreign Employment Rules, 2064 (2008), (hereinafter referred to as “Main Rules”),-
 - (1) In Sub rule d (1), the term “Ministry of Labour and Transportation Management” has been replaced by “Ministry Responsible for the Matters Relating to Labor and Employment”
 - (2) Sub rule (e) (1) has been added as mentioned, after sub rule (e):

(e) (1): “Expert committee” means expert committee as per rule 46 of this regulation.

3. Amendment in Rule 24 of the Previous rule: the term “amount specified by the government of Nepal” in Rule 24 of the Previous act has been replaced by “Rs.1500 for 3 years period of contract and Rs.2500 for more than 3 years contract term”.

4. Rule 24 (a) added in Previous rule: Rule (24) (a) has been added as mentioned, after rule (24):

“24 (a): listing and renewal amount to be paid to the fund: The listing and renewal amount required to be paid by the health institutions as per rule 45(a) shall be deposited in the fund.

5. Amendment in Rule 26 of Previous rule: Rule 26 of the previous act has been replaced by aforementioned rule 26:

“26 Use of Fund: (1) The Fund shall be used for the following activities, in addition to the activities set forth in Section 33 of the Act:

- a. For assistance in educational development of the families of the workers who have gone for foreign employment and those returned from foreign employment,
- b. For the assistance in medical treatment of the families of the workers who have gone for foreign employment,
- c. For the establishment and operation of child care centers for proper protection of the children of the women workers who have gone for foreign employment,
- d. For the operation of safe homes to rescue the workers who are helpless due to the loss of employment,
- e. For the operation of rehabilitation and reintegration program to the returnee migrant workers who are unable to complete their period of contract by the reason of accidents or illness or being helpless by any other reasons,

- f. For the reimbursement of the fees paid by the women who have been selected for foreign employment to obtain the orientation training,
- g. To provide legal assistance to the workers gone for foreign employment who is arrested or charged for any offence in the destination country,
- h. To repatriate the dead bodies of an undocumented worker who dies in the destination country and his or her dead body is not attended by any one,
- i. To repatriate worker who is helpless and could not return back due to lack of money by legal convictions, accident or illness or any other reasons or who is required to return back for any reason and to repatriate the workers in foreign employment who has not exceeded 2 years stay after the completion of the period of contract,
- j. To provide financial assistance to the family of the worker who has gone for foreign employment and died during the process of treatment in abroad or Nepal within time period of the contract,
- k. To pay the required amount for remuneration and facilities for the employee appointed on contractual basis as per rule 43(a),
- l. To operate the day to day functions of the Board,
- m. To work for the preparation relating to Labor Agreement,
- n. To study about the situation of migrant workers abroad,
- o. To conduct orientation training program on foreign employment,
- p. To work for the improvement of laws and policies on foreign employment,

q. To carry out or cause to carry out following functions relating to the promotion of foreign employment:

- (1) Study and research regarding foreign employment
- (2) Explore and investigate international labor market
- (3) Publication of materials regarding foreign employment
- (4) To operate public awareness program regarding foreign employment
- (5) To establish and operate communication center relating to foreign employment

(2) Notwithstanding anything mentioned in clause (1) of sub regulation (1), the operation cost of the Board shall be not be more than 25% of interest amount earned by the Board annually.

(3) The utilization of fund as per clause (q) for the promotion of foreign employment shall be done within the limitation approved by the Board in its annual program.

6. Amendment in Rule 28 of Previous rule: In Rule 28 of the Previous rule

- (1) In Sub rule (1), the term “during contract period” has been replaced by “during contract period and within 1 year after completion of contract period” and the term “certified” has been replaced by “certified and received the dead bodies”.
- (2) In Sub rule (2) the term “three hundred thousand” has been replaced by “seven hundred thousand”
- (3) In Sub rule (3),
 - a. the term “during contract period” has been replaced by “during contract period and within 1 year after completion of contract period”
 - b. The term “or suffering from severe illness” has been added after the term “mutilate”

(4) As mentioned, Sub rule 3 (a) has been added after Sub rule 3:

“(3) (a) If an application is received for financial assistance as per sub rule (3), the Board shall after making necessary examination and refer it to the Expert Committee for recommendation.”

(5) Sub rule (4) of the previous act has been replaced by new sub rule (4), as mentioned

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

Explanation: For the purpose of this Rule, “Severe Illness” means condition diagnosed with illness by certified doctor such that s/he cannot perform the work as per contract for the reason of undergoing operation or requirement of long intake of medicine.

(6) Addition of Sub rule (5) and (6) after Sub rule (4), as mentioned:

“(5) If, upon receiving the recommendation for the financial assistance from the expert committee, the Board shall provide the financial assistance within 7 days to the concerned applicant from the Fund

(6) If any worker who has gone for foreign employment dies of any reasons or gets mutilated or ill during the foreign employment and if the heir of the deceased worker or if the mutilated or ill worker himself/herself files an application for the financial assistance before the Board, the Board shall provide a total sum of Rs.10, 000 assistance from the fund to such heir of the deceased or worker, if such financial assistance cannot be provided as per this rule.”

7. Addition of Rule 28 (a) of the Previous rule: Rule 28 (a) has been added after Rule 28 of the previous act:

- “28 (a) To aid in the conveyance of dead body: The board shall assist in the conveyance of dead body from International airport to the residential address of migrant working who has gone for foreign employment by taking the labor permit.
8. Amendment in Rule 29 of the Previous rule: the term “female” has been removed from clause (d) of Rule 29 of the Previous rule.
9. Addition of rule 43 (a) in the Previous rule: Rule 43 (a) has been added after Rule 43 of the previous act:

“43(a) Appointment of local official on contractual basis: if it is difficult for the Nepali diplomatic mission to deliver labor related services due to insufficient human resources and if asked for addition human resources in abroad-based Nepalese diplomatic mission, on recommendation of the Ministry of Foreign Affairs, the board shall appoint a local official for a term of one year under a service contract as per the existing law.

10. Addition of Rule 45 (a) in Previous rule: (1) Rule 45 (a) has been added after Rule 45 of the previous act, as mentioned:

“45 (a) Provision regarding the listing of health institutions: (1) For the provision of Section 72 (1) of the act, for the purpose of listing the health institution, the Ministry shall publish a public notice in the daily newspaper of national circulation, by giving time limitation of thirty days.

(2) After the publication of notice pursuant to Sub Rule (1), the interested health institutions, within the time period notified for listing, must submit the application and documents setting out the following details to the Ministry:

- a. A certified copy of the institution registration certificate.
- b. A certified copy of the health institution operation approval letter provided by the Ministry of Health.
- c. Copy of the tax payment certificate and permanent account number certificate.
- d. Details specified by the Ministry

- (3) After receiving the application along with the documents pursuant to sub rule (2), the Ministry upon examination of application, shall send it to the Expert committee for recommendation.
- (4) If upon making necessary inquiry into the documents received pursuant to Sub rule (3), the contents seem to be reasonable, the Expert Committee shall recommend for the listing of that health institution to the Ministry.
- (5) If the Ministry deems the recommendation received pursuant to Sub rule (4) appropriate, it shall enlist and publish the name of such health institution(s) in public.
- (6) The health institution as listed in Sub rule (5), must deposit amount of three hundred thousand rupees in the Department of Foreign Employment and transfer rupees twenty five thousand as listing fee to the Department's account.
- (7) Before the commencement of this rule, the health institutions listed in the Ministry shall deposit rupees three hundred thousand in the Department of Foreign Employment within three months after the commencement of this rule.
- (8) The listed health institutions shall pay five thousand rupees as license renewal fee before the month of Poush and renew the listing.
- (9) No provisions in this rule shall prohibit the government of Nepal from conducting the health checkup of workers through the health institution owned by the government of Nepal

11. Amendment in Rule 46 of the Previous rule : Clause (c1) has been added after Sub rule (1) clause (c) of Rule 46 of the previous rule, as mentioned:

“(c) (1) Director of Foreign Employment Promotion Board – Member

12. Amendment in Rule 46 (a) of the Previous rule: Clause (b1) has been added after clause (b) of Rule 46 (a) of the previous act, as mentioned:

“(b1) to perform an investigation as required and make recommendation to the application received for financial assistance pursuant to rule 28 of this regulation.”

13. Amendment in Rule 46 (b) of the Previous rule: In, Rule 46 (b) of the Previous rule, -

(1) Sub rule (1) has been replaced by new Sub rule (1), as mentioned:

“(1) Any worker who has gone for foreign employment after passing medical examination from health institution as per section 72 of the Act, if considered incompetent due to his/her health and is compelled to return to Nepal because of the false health checkup report, s/he can submit an application to the ministry within thirty five days of return to reimburse the expenses incurred while going and returning from the destination country along with the documents provided in sub rule (2).”

However, in relation to the matters included in bilateral agreement or understanding with the destination country, it shall be done accordingly.

(2) Sub rule 2 (a) and 2 (b) has been added after Sub rule (2) of the Previous act:

“(2a) Pursuant to Sub clause 2a, the health checkup report shall have been prepared within 90 days of conducting the health check up by the health institution listed as per rule 45(A).

(2b) Upon receiving the application pursuant to sub rule (1), after examining the documents along with application, the Ministry shall forward it to the Expert committee for recommendation.

(3) Sub clauses 6, 7, 8, 9, 10, 11, 12 have been added to the Previous Rule after sub rule (5) of Rule 46(B), as mentioned:

“(6) If, upon reviewing the application pursuant to Sub Rule (1) or (5), it is proved that the health institution has provided with a false health checkup report, the Expert committee shall send recommendation of the details to the Ministry.

(7) Upon receiving the recommendation, pursuant to sub clause 6, the Ministry shall send a written notice to the health institution to bear the expenses incurred in going for foreign employment and returning to Nepal to the respective worker within fifteen days.

Explanation: For the purpose of this rule, the “in going for foreign employment and returning to Nepal” includes, health checkup fee, visa fee, airfare to and from the foreign country, Government of Nepal’s fee for countries with free visa and ticket and for countries with no free visa or

ticket, the amount paid by the worker as specified by the Nepal government.

(8) Upon receiving the written notice pursuant to sub rule (7), the health institution shall provide such expense to the worker within 15 days.

(9) If the health institution fails to provide such expenses pursuant to sub rule (8) timeline, the concerned worker shall submit the application to the Ministry

(10) Upon receiving and examining the application pursuant to Sub rule (9), if deemed appropriate, the ministry shall write to the department to reimburse the expenses to the worker from the deposit furnished by the health institution. Upon receiving the written order from the Ministry, the department shall provide the amount to the worker from the deposit furnished by the health institution and reimburse the amount from the concerned health institution.

(11) Upon receiving the written order from the Ministry pursuant to Sub rule (10), in deducting the amount from deposit, reimbursing or refunding the amount from deposit of health institutions, the department shall follow the same procedure of deduction of deposit, reimbursement and return of deposit of licensed institutions as provided in the Act and regulation.

(12) If any health institution fails to reimburse the deposit amount as per Sub rule (10), the Ministry shall remove such institution from the list as per rule 45 (a) and take necessary action as per the prevailing law to reimburse the amount deficient from the deposit, from such institution.

14. Conversion: The term “Labor and Transportation Management Ministry” as mentioned in Rule 31, 46, 52 has been replaced by the term “Ministry” only.