

THE IMMIGRATION ACT, 2049 (1992)

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The Amending Act

1. The Immigration (First Amendment) Act, 2050 (1993)

Act No. 30 of the year 2049 (1992)

An Act Made to Provide for Immigration

Preamble: Whereas, it is expedient to regulate as well as control the entry of the foreigners into the Kingdom of Nepal, their presence therein and their departure there from, and to manage the arrival and departure of the citizens of Nepal;

Now, therefore be it enacted by Parliament in the 21st year of the reign of His Majesty the King Birendra Bir Bikram Shah Dev.

1.Short Title and Commencement:

1. This Act may be cited as the Immigration Act, 2049 (1992).
2. This Act shall come into force at once.

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

- a. "Immigration" means the process of entering of the foreigners into the Kingdom of Nepal, their presenting therein and their departing there from.
- b. "Foreigner" means any person who is not a citizen of Nepal for the time being.
- c. "Passport" means a passport, travel document or permit to make a visit, issued by the government of any country for visiting a foreign country, and this term also includes the laissez passé issued by the United Nations Organization.
- d. "Visa" means a permit issued by His Majesty's Government to a foreigner for entering into and staying in the Kingdom of Nepal.
- e. "Department" means the Immigration Department established by His Majesty's Government to regulate the entry of foreigners into the Kingdom of Nepal, their presence therein and their departure there from, and to manage the arrival and departure of the citizens of Nepal.
- f. "Office" means the Immigration Office under the Department.
- g. "Director General" means the Head of the Department.

- h. "Immigration Officer" means the Officer in service in the Department and the Office, and also includes the In charge of the Office.
- i. "Trekking" means a journey to be made by a foreigner on foot with night halt age and also include a journey on foot up to the base camp made by a foreigner going to expedition.
- j. "Prescribed" or "as prescribed" means prescribed or as prescribed in this Act or in the Rules framed hereunder.

3. Provisions on entry, presence and departure:

- a. No foreigner shall be entitled to enter into and stay in the Kingdom of Nepal without holding a passport* and a visa.
- b. The category and fees of visas and other provisions relating to visas shall be as prescribed.
- c. A foreigner intending to trek in the prescribed area of the Kingdom of Nepal has to obtain, in addition to a visa, the permit as prescribed.
- d. Fees for trekking and other provisions relating thereto shall be as prescribed.
- e. The provisions relating to the entry of any foreigner into the Kingdom of Nepal and the departure and arrival of the citizens of Nepal who depart to a foreign country from or arrive in the Kingdom of Nepal shall be as prescribed.

4. Terms to be observed by foreigners:

- a. The terms to be observed by the foreigners staying in the Kingdom of Nepal shall be as prescribed.
- b. The terms to be observed by an agency providing service to a foreigner for a visa and trekking shall be as prescribed.

5. Prohibition on the use of a fake passport or visa:

- a. No one shall lie his name, age, nationality or any other thing, make a false statement or use, or cause to be used, a fake passport or visa.
- b. No one shall enter into, stay in and depart from the Kingdom of Nepal by submitting fake passport or visa.
- c. +No one shall cause any foreigner who does not hold a passport and a visa issued by the government of a foreign country or by the official authorized by such government to enter into, make presence in and depart from the Kingdom of Nepal.

Note: * *Inserted by the first Amendment.*

+ *Inserted by the First Amendment.*

6. Power to examine and take into custody of document:

The Immigration Officer or any employee designated by the Director General may, at any time and in any place, examine the documents related with the entry, presence and departure of a foreigner and may take the documents pertaining thereto into his own custody.

7. Functions, duties and powers of the Director General: The Functions, duties and powers of the Director General shall be as follows:

- a. To, or cause to, regulate, manage and control the entry of the foreigners into, their presence in and departure from the Kingdom of Nepal.
- b. To give permit to the foreigners to trek.
- c. To issue the prescribed visas and extend the validity thereof.
*(c 1) To cancel the trekking permit issued under clause (b) or the visa granted or of which validity extended under clause (c) in such circumstances as may be prescribed.
- d. To manage the arrival and departure of the citizens of Nepal.
- e. To carry out or cause to be carried out, other functions in accordance with the directions given by His Majesty's Government from time to time.

8. Investigation of crime relating to immigration:

1. +(I) In cases where the Department or Office comes to be directly or indirectly informed that any crime has been committed or is likely to be committed contrary to this Act or the Rules framed hereunder, the Immigration Officer appointed by the Director General shall make investigation of and initiate the proceeding of, the crime pertaining thereto.
2. While investigating the crime referred to in sub section (1) or collecting evidence or proofs, the Immigration Officer shall have all such powers as are conferred on the police under the prevailing laws, including the powers to arrest the persons involved in the crime, to search any place in regard to the crime, to take into own custody of the documents or other articles or goods concerned with the crime, and to execute a deed of public inquiry (Sarjamin) as well. While so investigating, the Immigration Officer +may take statement of the accused, and keep him under presence, release him on bail or security on account of reasonable grounds or detain him for a term not exceeding twenty five days, by obtaining the permission of the Court.* Provided, however, that the Immigration Officer shall inform the Director General thereof as soon as he begins the investigation of the crime.
(2a) In cases where the accused required to furnish bail or security under sub section (2) above fails to furnish bail or security, he may be kept in detention.
3. While making investigation pursuant to sub section (2), the Immigration Officer may, in case of necessity, consult with the Government Attorney.

Note:+ Amended by the First Amendment.

* The Act Amending Some Nepal Acts, 2053 (1996)

9. Power to expel:

1. The Director General, after receipt of a report furnished by the Immigration Officer after having completed the investigation of the crime, pursuant to this Act in the case of a foreigner may on the basis of the report, and upon regulating such matters as are required to be regulated as prescribed, and with the approval of His Majesty's Government, expel such a foreigner from the Kingdom of Nepal, by disqualifying the foreigner from re entering into the Kingdom of Nepal, with or without prescribing the period of time.
+(1a) The Director General may, upon obtaining the approval of His Majesty's Government, issue order requiring the expulsion of a foreigner who has undergone punishment for the commission of the acts contrary to this Act or the Rules framed hereunder or the prevailing laws, from the Kingdom of Nepal, with or without prescribing the period of time.
2. The foreigner expelled under sub sections (1) and (1a)* shall not be entitled to re enter into the Kingdom of Nepal during the period of expulsion.
3. Other provisions relating to expulsion shall be as prescribed.

10. Punishment:

1. Any person who commits, or causes to be committed, the crime referred to in Section 5 shall be punished with a fine not exceeding fifty thousand rupees or imprisonment for a term not exceeding five years or with both.
2. Any person who violates, or causes to be violated, subsection (2) of Section 9 shall, for the first time, be punished with a fine not exceeding twenty five thousand rupees or imprisonment not exceeding two years, or in cases where such person repeats the violations thereof, he shall be punished with a fine of up to fifty thousand rupees or with imprisonment for a term not exceeding five years or with both, for each violation.
3. Any accomplice of the crime carrying punishment referred to in sub section (1) or (2) shall be punished with half the punishment to be imposed on the offender.
4. Except for the matters laid down in the sub sections above. Any person who commits any act in contravention of this Act or the Rules framed hereunder may be awarded by the Director General a fine of up to fifty thousand rupees, and +the amount in question held to be payable by such person shall also be realized from such person.

Note: + Inserted by the First Amendment.

** Amended by the First Amendment.*

11. Appeal:

A party unsatisfied with the punishment imposed pursuant to sub section (4) of Section 10 may file an appeal in the Appellate Court within 35 days.

12. HMG to be plaintiff:

In the cases under this Act, His Majesty's Government shall be plaintiff.

+13. Exemption from visa fees:

Any foreigner who has been detained in the course of investigation under this Act or the prevailing laws shall be exempted from the visa fees for the period of his detention and any foreigner against whom a case has been filed shall be exempted from the visa fees for the period, commencing from the day of filing the case against him up to that of the delivery of judgment of and in case of the imposition of punishment of imprisonment on him, up to the day of completion of imprisonment, and in case of imposition of a fine only, up to the day of the payment of the fine.

14. Power of His Majesty's Government

1. His Majesty's Government may make provision for exempting the foreigner of any class, tribe or caste or nationality from the application of all or any of the provisions of this Act or the Rules framed hereunder, or for the application of only the prescribed terms to such foreigner.
2. His Majesty's Government may, if it is of the opinion that any foreigner's entry into, presence in or departure from the Kingdom of Nepal may be detrimental to the national interest, may prohibit the entry, presence or departure of such foreigner.

15. Power to delegate power:

The Director General may delegate any or all of the powers conferred on him under this Act to other officer or staff under him.

16. Institution of proceedings under other prevailing law not Prohibited:

No matter set forth herein shall be deemed to bar the institution to I a case against any person in the court under other Prevailing law.

Note: + Amended by the First Amendment.

17. Protection of person's action in good faith:

No claim of or institution of prosecution or any other legal proceedings shall be made against any staff for anything done or intended to be done in good faith under this Act.

18. Power to frame Rules:

His Majesty's Government may frame Rules for the accomplishment of the objective of this Act.

19. Repeal and saying:

1. The Foreigners Act, 2015 (1958) is hereby repealed.

The acts done or actions taken under the Foreigners Act, 2015 (1958) and the Rules framed there under shall be deemed to have been done or taken under this Act.