

Human Trafficking and Transportation (Control) Rules, 2065 (2008)

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In exercise of the powers conferred by Section 29 of the Human Trafficking and Transportation (Control) Act, 2064 (2007 A.D) Government of Nepal has issued the following Rules.

1. **Short Title and Commencement:** (1) These Rules may be called as "Human Trafficking and Transportation (Control) Rules, 2065 (2008)."

(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires; in the Rule,-
 - (a) "Act" means Human Trafficking and Transportation (Control) Act, 2064(2007).
 - (b) "National Committee" means the Committee formed pursuant to Rule 3.
 - (c) "District Committee" means the Committee formed pursuant to Rule 5.
 - (d) "Ministry" means Ministry of Women, Children and Social Welfare.
3. **Formation of National Committee:** (1) The National Committee formed pursuant to Section 23 of the Act shall consist of the following Chairperson and Members:-

- (a) Secretary, Ministry of Women, Children and Social Welfare -Chairperson
- (b) Joint Secretary, Ministry of Labour and Transport -Member
- (c) Joint Secretary, Ministry of Home Affairs -Member
- (d) Joint Secretary, Ministry of Foreign Affairs -Member
- (e) Joint Attorney, Office of the Attorney General -Member
- (e) Deputy Inspector General of Police, Nepal Police -Member
- (g) Three women activist from among the institutions or persons working in the field of Human Trafficking and Transportation control nominated by Ministry as an inclusive basis -Member
- (h) Two female members from among the victims of Human Trafficking as nominated by Ministry -Member
- (i) Joint Secretary, Ministry of Women, Children and Social Welfare -Member

(2) The tenure of office of the members nominated pursuant to Clause (g) and (h) of Sub-rule (1) shall be Four years.

(3) The concerned authority shall nominate a female member while nominating members pursuant to Clause (b), (c), (d), (e), (f) and (i) of Sub-section (1) as far as possible.

4. Functions, Power and Duties of National Committee: (1) The functions, power and duties of the National Committee shall be as follows:-

- (a) To formulate and submit necessary policies, plans and programs against Human Trafficking and Transportation to the Ministry,
- (b) To implement or cause to be implemented the approved policies, plans and programs and to monitor the implementation thereto,
- (c) To assist those stranded in foreign countries and to return them to Nepal on their consent.
- (d) To monitor or cause to be monitored or to give necessary directives the works done by the Center on the direction of Government of Nepal.
- (e) To monitor and coordinate the activities of the District Committee
- (f) To update the list and records relating to Human Trafficking and Transportation
- (g) To monitor the implementation of obligation under international as well as regional treaties relating to Human Trafficking and Transportation of which Nepal is a party.

- (h) To make and implement the standards for distribution of seed money among the persons who have received skillful training
- (i) To make and implement central operative directives.

(2) National Committee shall coordinate with organizations while carrying out the relieve work pursuant to Clause (c) of Sub-rule (1).

(3) A record shall be kept while carrying out the relive work pursuant to the Act or the Rule the identity and details of the relived shall be kept confidential

(4) Notwithstanding anything written in Sub-rule (3) the record shall be provided to the authorized body if it so requests.

(5) The Secretariat of the National Committee shall be located in the Ministry.

5. Procedures relating to Meetings: (1) The meeting of the National Committee shall be held on such date, time and venue as may be prescribed by the Chairperson.

(2) The quorum for a meeting shall be deemed to be completed if more than Fifty percent of the total numbers of the Members of the National Committee are present.

(3) The chairperson shall preside over the meeting of the National Committee, majority opinion shall prevail in the meeting and in case the votes being evenly divided in equally, the Chairperson shall exercise the casting vote.

(4) Other procedures relating to the meeting of the National Committee shall be as determined by the National Committee on its own.

6. Formation of District Committee: (1) District Committee formed pursuant to Section 23 of the Act shall consist of the following Chairperson and members:-

- | | | |
|-----|---|--------------|
| (a) | Chief District Officer | -Chairperson |
| (b) | District Attorney, Office of District Attorney | -Member |
| (c) | Chief, District Police Office | -Member |
| (d) | Three women activist from among institutions and persons working in the field of Human Trafficking and Transportation nominated by Chief District Officer on an inclusive basis | -Member |
| (e) | Representative, Working Committee of Federation of Nepalese Journalist | -Member |
| (f) | Woman Development Officer | -Member |
| | | Secretary |

(2) The President of District Development Committee shall remain as an invited member in the District Committee.

7. Functions, Powers and Duties of District Committee : (1) The functions, powers and duties of District Committee shall be as follows:-

- (a) To recommend to make such documents for concerned bodies in case the relived person have not authentic identity pursuant to this Act or Rule.
- (b) To form and mobilize committees formed to control Human Trafficking and Transportation in the local level
- (c) To monitor the Rehabilitation center in the district in accordance with the direction given by the National Committee.
- (d) To raise awareness against Human Trafficking and Transportation
- (e) To implement of programs remaining under the policies and plans has been formulated by the National Committee
- (f) To relive the person who are in the danger of Human Trafficking and Transportation in the district
- (g) To coordinate with the district level organizations working against Human Trafficking and Transportation.
- (h) To update the records and list relating to Human Trafficking and Transportation and such report shall send to the National Committee in every three months.

(2) The Member Secretary of District Committee shall submit a report to committee before the meeting including the details of his/her works done pursuant to this Act or Rule.

8. **Procedures relating to the Meetings:** (1) The meeting of the District Committee shall be held on such date, time and venue as may be specified by the Chairperson

(2) The presence of more than Fifty percent of the total members of the District Committee shall be deemed to have constituted the quorum of the meeting.

(3) The meeting shall be presided over by the Chairperson, and in his absence, it shall be presided over by senior member from among the present members. Majority opinion shall prevail in the meeting and in case of a tie; the Chairperson shall exercise a casting vote.

(4) Other procedures relating to the meeting of the Board shall be as determined by District Committee on its own.

9. **Confidentiality of the Complainant:** (1) If a complainant, pursuant to Section 3 of the Act requests to keep confidential his /her name; the police office shall make necessary arrangements to lodge the complaint on an imaginary name.

(2) The confidential name kept as pursuant to Sub-rule (1) shall not be disclosed except demand of the process of investigation, framing of charge sheet or justice dispensation period.

10. **Provision relating to translator or interpreter:** (1) The District Committee shall prepare and update a list of experts or interpreters who can translate the official language.

(2) While preparing a list pursuant to Sub-rule (1) the District Committee shall do so by issuing a public notice issued based on the skills of interested individuals

(3) The individual unable to understand the official language shall request to District Committee for a translator.

(4) If the victim makes a request pursuant to Sub-rule (3) the District Committee shall prescribed as translator for any person who are selected by the victim from among the names enlisted in the list prepared pursuant to Sub-rule (1)

11. Provision relating to the Establishment and Operation of the

Center: (1) The District Committee shall establish and operate a Center for the physical or mental treatment, social rehabilitation and family reunion of the victim.

(2) The District Committee may handover the Center established pursuant to Sub-rule (1) to private or Non Governmental Organizations for a fixed term based on a contract.

(3) While handing over the management on a contract pursuant to Sub-rule (1), the priority shall be given such institutions which can provide more contribution in financially and technically.

(4) The institution, who are interested to establish and operate a as Center pursuant to Sub-section (2) of Section 13 of Act, shall file an application before the District Committee on the format prescribed in Schedule-1 including with the following details:

- (a) Photocopy of regulation of institution and Registration Certificate
- (b) Description of the Place of establishment of Centre its capacity, and the physical infrastructures thereto.
- (c) Description of human resources required for the center
- (d) Description of the financial sources

(5) The District Committee shall give approval certificate in prescribed format pursuant to Schedule-2 for such institution to establish and operate of centre, if the infrastructure and facilities has been found or may be viable pursuant to Rule 12 in inquiring the application filed pursuant to Sub-rule (4).

(6) The operator of centre who are Operating his/her business in the commencement this Rule, shall take an approval pursuant to this Rule within Six months.

(7) The District Committee may restrict to operate the centre or suspend for certain period, or cancel the approval of a Center which are established against this Rule or has not fulfilling the standards prescribed pursuant to Rule 12 or not following the directives given by the National Committee or the District Committee.

Provided that, an opportunity shall be given to such Center for defense before the cancellation of approval shall be given.

12. Management of the Center: (1) The institution managing the center shall form a management committee.

(2) At least Fifty percent members of the management committee shall be female pursuant to Sub-rule (1).

(3) The center shall manage to provide its service through the skillful and experienced individuals.

(4) A separate individual record of each and every victim shall be kept.

13. Center Operation Standards: (1) The Center established pursuant to the Act and Rules should fulfill the following standards:

- (a) Shall have the basic minimum infrastructure to keep the victim,
- (b) Shall be able to provide the victim with the psycho social counseling and advise related to health services,
- (c) Shall be able to provide or make necessary arrangements for medical facilities as per the necessity of the victim , and
- (d) Shall be able to provide or make necessary arrangements of legal service and.
- (e) to make necessary arrangements for the education of the victim

(2) The Center shall follow the Rehabilitation Center Operation Guidelines issued pursuant Clause (i) of Sub-rule (1) of Rule 4.

14. Monitoring of the Center: (1) The National Committee shall monitor as per necessity whether or not the Center has operated in accordance with the Act and the Rule and the District Committee shall at least biannually inspect and monitor.

(2) The officials assigned to inspect and monitor pursuant to Sub-rule (1) shall submit a report to the concerned Committee on a format prescribed in Schedule-3. The District Committee shall send its report to the National Committee.

15. Skillful Training: (1) The Center shall make arrangements for the skilful training of the victims in coordination with the National Committee and the District Committee.

(2) Selecting the train person, the District Committee shall provide them seed money or co-ordinate with the bank and financial institution or program who are able to provide such capital on the basis of standards applied pursuant to Clause (h) of Sub-rule (1) of Rule 4.

(3) The Center shall facilitate the information regarding the employment market and employment training to the person pursuant to this Rule.

16. Rehabilitation and Family Reunion : (1) The victims relieved pursuant to the Act and this Rule and the minors living with them shall be kept in the Center until their rehabilitation or family re-union.

(2) The Center shall search for the family of the individual, pursuant to Sub-rule (1) and shall arrange a family reunion. The Center shall take necessary measures inter alia advising the family members or victim, facilitating while organizing a family reunion

(3) Recently the victims who are kept in the Center shall not be kept for more than Six months period.

Provided that, if the relived individual is a minor, he/she shall be alternatively moved to Child Center.

17. Management and Operation of Rehabilitation Fund: (1) A Central Level Rehabilitation Fund shall be under the National Committee.

(2) The National Committee shall establish Rehabilitation Fund under the District Committee as per necessary.

(3) Pursuant to the Act and this Rule the money of the Rehabilitation fund shall be spent only on the relief and rehabilitation of the victims

(4) The amount of District Level Fund shall be obtained from the Central Level Fund as prescribed by National Committee and the amount of local level fund shall be as obtained by the District Committee in local level.

(5) The account of the National Level Rehabilitation Fund shall be operated by the joint signature of the Member Secretary of National Committee and the chief of the Financial Administration Branch of ministry.

(6) The account of the District Level Rehabilitation Fund shall be operated by the joint signature of Secretary Member of District Committee and official of the Financial Administration Branch of the women development section.

18. Provisions relating to the Closure of the Center: (1) An application shall be filed in the District Committee mentioning the such cause if the operational Center need to close. In filing the application the individual description of the victims rehabilitated and re union shall be included therewith.

Provided that, the family re-union and social rehabilitation of all the victims shall have to be arranged before filling the application.

(2) If an application is filed pursuant to Sub-rule (1), the District Committee shall carry out the necessary inquiry and remove the name of the Center from its list.

19. Perusal of Code of Conduct: (1) The Center shall make and apply necessary code of conduct to be pursued by the Management Committee as well as other individuals based on standards determined by the District Committee.

20. Change and alteration in the Schedule: (1) The Ministry shall make necessary changes and alteration in the Schedule by publishing a notice in the Nepal Gazette.

Schedule -1

(Related to Sub-rule (4) of Rule 10)

Application for the Approval of Operation of Rehabilitation Center

Date:

Sub: Center Establishment / Approval for Operation

The Coordinator,

District Committee against Human Trafficking and Transportation

.....

Since our institution is interested to establish /operate a rehabilitation center pursuant to the Human Trafficking and Transportation (Control) Act 2064 and Human Trafficking and Transportation (Control) Rules 2065, an application is, hereby, filed including the following descriptions.

- (a) Name of the Institution :
- (b) Address of the Institution:
- (c) Name, Caste and Address of the Officials of the Institutions:
- (d) Contact Person:

I, hereby, agree to abide by the guidelines made pursuant to the Human Trafficking and Transportation (Control) Act, 2064 and Human Trafficking and Transportation (Control) Rules, 2065 as well as the directives given by the National Committee and the District Committee.

Authorized Person of the Institution

Signature:

Name, Caste:

Contact Address:

Schedule -2

(Related to Sub-rule (5) of Rule 10)

Certificate of Approval for Establishment of Center

..... (Name of the Institution) is awarded this certificate of approval in accordance with Human Trafficking and Transportation (Control) Act, 2064 (2007) and Human Trafficking and Transportation (Control) Rules, 2065(2008) for the establishment/ operation of Rehabilitation Center.

Approved Authority:

Date:

NEPAL LAW COMMISSION

Schedule -3

(Related to Sub-rule (2) of Rule 13)

In accordance with the decision of the National Committee /District Committee dated..... as I was assigned to monitor the rehabilitation center, the following report is presented after monitoring.

1. Name and Address of Rehabilitation Center:
2. Number of Victims in the Rehabilitation Center:
 - (a) Male Child:
 - (b) Female Child:
 - (c) Woman:
 - (d) Others:
3. Situation of Pursuance of standard determined by Act, Rules and Guidelines:
 - (a)
 - (b)
 - (c)
4. Situation of Pursuance of Directives given earlier
5. Other necessary matters
6. Opinion/ Suggestion