

Industrial Trainee Training Act, 2039 (1982)

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Amendments,

1. Administration of Justice Act, 2048 2048-2-16 (30 May 1991)
2. Republic Strengthening and Some Nepal
Laws Amendment Act, 2066 2066 -10- 7 (21 Jan. 2010)

Act Number 15 of the Year 2039

An act made to provide for provisions on industrial training

Preamble: Whereas, it is expedient to make provisions for industrial skill training on industrial enterprises in order to enhance the involvement of Nepalese workers in industrial activities;

Now therefore, be it enacted by His Majesty the king Birendra Bir Bikram Shah Dev on the advice and with the consent of the *Rastria Panchayat*.

Chapter -1

Preliminary

1. **Short title and Commencement:** (1) This Act may be called "Industrial Trainee Training Act, 2039 (1982)".
(2) This Act shall come into force immediately.
2. **Definition:** Unless the subject or context otherwise requires; in this Act;
 - (a) "Training" means the training to be conducted pursuant to this Act for the purpose of providing industrial skill.

- (b) "Trainee" means a person who takes part in the training to be conducted pursuant to this Act.
- (c) "Advisor" means the training advisor appointed pursuant to Section 10.
- (d) "Council" means the Training Council constituted pursuant to Section 16.
- (e) "Enterprise" means a company, firm or their group incorporated under prevailing law with an object of carrying out an industrial business.
- (f) "Manager" means the manager of an enterprise.
- (g) "Department" means Labour Department of Government of Nepal.
- (h) "Prescribed" or "as prescribed" means prescribed or as prescribed in Rules made under this Act.

Chapter-2

Provisions relating to training

3. **Enterprise shall conduct training:** The enterprise prescribed by the Government of Nepal upon publishing a Notification in Nepal gazette shall, subject to the provisions of this Act, conduct training.
4. **Trainee shall sign an agreement:** (1) Every trainee shall sign an agreement as prescribed. Unless trainee signs such an agreement he/she shall not be permitted to participate in the training.

(2) Manager shall forward a copy of the agreement signed by trainee pursuant to Sub-section (1) to the Department and the Department shall maintain the record of such agreements

5. **Incomplete training may be continued by other enterprise:** (1) if an enterprise fails to complete a training being conducted by it due to any abnormal situation, the Manager shall, as soon as possible, give notice thereof to the advisor. If any other enterprise is agreed to conduct such incomplete training the manager shall set the details thereof in the said notice.

(2) After the reception of the notice pursuant to Sub-section (1) the Advisor shall discuss with the concerned Manager and if the advisor finds reasonable reasons, may approve to conduct such incomplete training by an enterprise which has agreed to continue such training, if any,. In case no enterprise has agreed to conduct such incomplete training and if it appears that the concerned enterprise is unable to conduct the said training even in near future, the Advisor may issue an order to an enterprise, which is under his/her jurisdiction and capable to conduct such type of training, in order to conduct the said training .In a condition where there is no capable enterprise under his/her jurisdiction, the Advisor shall forward the notice in writing to the Council.

(3) The earlier agreement concluded between an enterprise and a trainee shall be deemed to have been concluded with the enterprise to make complete the incomplete training pursuant to Sub-Section (2).

(4) The earlier enterprise, which failed to complete the training, shall repay the total expenses to be required to conduct the incomplete training pursuant to Sub-section (2) to the enterprise which conducts training to complete the said training.

6. **Termination of agreement:** An agreement concluded between an enterprise and a trainee shall be deemed, *ipso facto*, to have been terminated in any of the following circumstances,-

- (a) if the trainee dies,
 - (b) if the trainee is permitted to abandon the training pursuant to Section 7.
7. **Permission may be granted to abandon the training:** If a trainee submits an application to the Manager seeking permission to abandon the training upon setting out the reasons thereof and returns back the expenses made by the concerned enterprise for him/her, the Manager may grant permission to him/her to abandon the training.
8. **Training allowances:** The training allowances to be paid for trainee by the enterprise shall be as prescribed by the Council.
9. **Obligation of Manager:** The Manager of the each enterprise which conducts training shall have the following obligations;
- (a) To manage for training as referred to in this Act and Rules made here under and as prescribed by the Council.
 - (b) To fulfill the obligation created by the agreement concluded with trainees.
 - (c) To abide by the directives issued by the Council in respect of the training.
 - (d) To forward the particulars and data sought by the Department, Council or Advisors.
 - (e) To conduct training by consulting with the Advisors as per necessity.
10. **Appointment of Training Advisors:** (1) The Government of Nepal shall, for an enterprise of a particular sector or classification, appoint Training Advisors as may be required.

(2) Until an Advisor is appointed pursuant to Sub-section (1) the Government of Nepal may designate any of its' employee as an Advisor.

(3) Functions, duties and conditions of service of the Advisors appointed pursuant to Sub-section (1) shall be as prescribed.

11. **Arrangement of expenses in order to conduct training**

programme: (1) Every enterprise shall allocate an amount equivalent to the percent as prescribed by the Department from its' net profit to meet the training cost.

(2) An enterprise which intends to send a trainee abroad for the training that cannot be conducted in Nepal may, upon the approval of the Council send him/her in its' own expenses or under the scholarship granted by a foreign institution.

12. **Compensation:** If a trainee suffers physical injury or hurt or death in the course of training, the compensation to be received by the trainee or his/her guardian shall be as prescribed.

13. **Settlement of dispute and appeal:** (1) If a dispute arises over the conditions mentioned in a training agreement between the Manager and trainee, it shall be settled by the Council

(2) A person, who is not satisfied with the decision made by the Council pursuant to Sub-section (1), may lodge an appeal with the Government of Nepal and the decision made by the Government of Nepal shall be final.

14. **Issuance of certificate:** Concerned enterprise shall issue a certificate in such format as prescribed by the Council to the trainee who has passed in the examination conducted by the Council.

15. **Trainee shall be given preference**: Every Manager shall, while appointing workers in his/her enterprise, give preference to the trainees who have completed the training from an enterprise.

Chapter -3

Provisions relating to Training Council

16. **Training council**: (1) The Government of Nepal shall, in order to conduct training and to manage thereof pursuant to this Act, constitute a Training Council by publishing a Notification in Nepal Gazette.

(2) While designating members to the Council to be constituted pursuant to Sub-section (1), generally the following representatives shall be designated;

- (a) Representative of the Ministry, Department or Office of the Government of Nepal.
- (b) Representative of factory or industrial enterprise.
- (c) Representative of Tribhuvan University.
- (d) Industrial and Labour expert or experienced person.
- (e)

(3) The tenure of office of members shall be as prescribed.

(4) Meeting allowances as prescribed by the Council shall be granted to the Member of the Council.

(5) The Council may, itself, arrange its internal working arrangement.

Omitted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066

17. **Functions and duties of the Council:** Save as provided elsewhere in this Act, the functions and duties of the Council shall be as follows;
- (a) To formulate policy in respect of conducting the training and co ordination there for;
 - (b) To determine the subject of training, to formulate the programme and to approve theoretical and practical curricula of the training.
 - (c) To fix the training allowances for the trainees.
 - (d) To determine policy relating to the selection of trainee. (e) To supervise and monitor the training
 - (f) To make necessary arrangement for timely and well-arranged training.
 - (g) To submit an information or opinion and advice sought by Government of Nepal in relation to the training.
 - (h) To issue necessary directives in relation to the training to the enterprise that conducts training.
18. **Committee may be framed:** The Council may, if it deems necessary, form a Committee in order to formulate training related curricula and to set the standard. The members of the Committee shall be as determined by the council.

Chapter -4

Miscellaneous

19. **Power to issue directives:** (1) The Government of Nepal may issue directives to the Council from time to time and it shall be the duty of the Council to abide by such directives.

(2) Council may issue directives to the manager in respect of conducting the training from time to time and it shall be the duty of the concerned manager to abide by such directives.

20. **Penalty**: (1) A Manager who commits any of the following acts shall be liable to a fine not exceeding Five Thousand Rupees;

- (a) Fails to fulfill an obligation created by the agreement relating to the training.
- (b) Submits or cause to submit fake particulars or data related to training to the Department.
- (c) Fails to maintain the record of training or hinders or obstructs to the person deputed by the Council or to the Advisor from inspecting the record.
- (d) Fails to manage for training expenses.
- (e) Employs the trainee for more than fixed period in the course of training or employs in a work which is not related to the training.

(2) Save as provided in Sub-section (1) a person who contravenes a provision of this Act or Rules made here under shall be liable to a fine not exceeding One Thousand Rupees.

21. **Adjudicating Authority**: (1) The Department shall have the power to try the case as referred to in this Act.

(2) A person, who is not satisfied with the decision made by the Department pursuant to Sub-section (1), may lodge an appeal with Court of Appeal within the Thirty five days of such decision.

22. **Limitation to file a case:** A case under this Act shall have to be filed within a period of Three months from the date of cause of action.

23. **Delegation of powers:** (1) The Government of Nepal may delegate any or all powers conferred on it pursuant to this Act to the Council.

(2) The council may delegate any or all powers conferred on it pursuant to this Act to any of its member or a committee of such members or an employee.

24. **Power to frame Rules:** (1) The Government of Nepal may frame necessary Rules to carry out the objectives of this Act.

(2) Without prejudice to the generality of powers pursuant to Sub-section (1) the Government of Nepal may frame Rules basically on the following matters;

- (a) Conduct of training.
- (b) Kinds of training and its duration.
- (c) Qualification of trainees.
- (d) Numbers and selection of the trainee.
- (e) The format of agreement to be signed by the trainee.
- (f) Provisions relating to health and safety of the trainees.
- (g) Conduct and discipline of trainees.
- (h) Provisions on record relating to training and trainee.
- (i) Provisions relating to the secretariat of the Council.
- (j) Other necessary matters related to industrial trainee training.

25. **Power to frame Bye-laws**: (1) Enterprise may, subject to this Act or the Rules made here under, frame Bye-laws in respect of the conduct and discipline to be followed by the trainees.

(2) The Bye-laws so framed pursuant to Sub-section (1) shall come into force only after being approved by the Council.

NEPAL LAW COMMISSION