

The Right to Employment Act, 2075 (2018)

Date of authentication:

2075/6/2 (18 September 2018)

Act Number 17 of the year 2075 (2018)

An Act Made to Provide for the Right to Employment

Preamble:

Whereas, it is expedient to make necessary provisions in order to ensure the right of every citizen to employment, provide every citizen with an opportunity to choose employment according to his or her capacity, and in relation to the terms and conditions of employment and unemployment support;

Now, therefore, be it enacted by the Federal Parliament.

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be cited as the “Right to Employment Act, 2075 (2018).”
 - (2) It shall commence immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,-
 - (a) “Prescribed” or “as prescribed” means prescribed or as prescribed in the Rules framed under this Act,
 - (b) “Livelihood allowance” means the livelihood allowance referred to in Section 22.
 - (c) “Minimum employment” means such a minimum period of employment that is at least one hundred days as to be provided in one fiscal year pursuant to this Act.
 - (d) “Family” means husband, wife, son, daughter, adopted son, adopted daughter, father, mother or step-mother jointly living in an undivided family, and this term also includes grandfather and grandmother whom he or she has to maintain on his or her own.
 - (e) “Unemployed person” means a citizen of the age group from eighteen years to fifty-nine years who is not involved in employment for at least one hundred days in one fiscal year or who

is not involved in self-employment generating such minimum income as prescribed.

- (f) “Unemployment support” means the support program referred to in Section 20 to be provided to the unemployed person.
- (g) “Ministry” means the Ministry of the Government of Nepal that looks after the matters relating to labor, employment and social security.
- (h) “Self-employment” means an act of producing any good or service by mobilizing one’s labor, skills, knowledge, resources, means and capital, trade in such good and service or carrying on any industry or trade and business or any such entrepreneurship or income generation.
- (i) “Employer” means any such office and body of the Government of Nepal, Provincial Government, Local Level and subordinate office thereunder, and public corporation and body corporate, industry, institute and employment-oriented institution in operation pursuant to law as may be providing employment to the unemployed pursuant to this Act, and this term also includes a person providing opportunity for private employment.
- (j) “Employment Service Center” means the Employment Service Center established pursuant to Section 10, in order to collect data of the unemployed person, identify employment opportunities and disseminate information, provide information on the availability of laborers to the employer and provide other services relating to employment,
- (k) “Committee” means the Steering Committee as referred to in Section 17.
- (l) “Local Level” means a Rural Municipality or Municipality.

Chapter-2

Right to employment

3. Right to employment: (1) Every citizen shall have the right to employment.

(2) For the purposes of sub-section (1), every citizen shall have the right to practice appropriate labor subject to this Act or the prevailing law.

- 4. Right to choose employment:** (1) Every citizen shall have the right to choose employment according to his or her wish.
- (2) Every citizen shall have the right to voluntarily engage in employment according to the qualification and capacity and leave or change such employment, subject to this Act and the prevailing law.
- (3) No person shall engage or employ any citizen in employment against his or her will or in employment that he or she does not choose or force or compel him or her to engage in such employment.
- 5. Right to get unemployment support:** Every citizen shall have the right to get unemployment support pursuant to this Act.
- 6. Not to make discrimination:** Except for a special provision made by the prevailing law for any particular class or community with respect to the provision of employment to the unemployed, no person shall make discrimination on the ground of one's origin, religion, color, caste, ethnicity, sex, language, region, ideology or similar other ground.
- 7. Not to remove from employment:** (1) Except as in accordance with the prevailing law, no person engaged in employment shall be removed from the employment without any reason.
- (2) If a person engaged in employed is removed from the employment except as in accordance with the law relating to the terms and conditions of service that is applicable to such a person, the person who is so removed may make an application, accompanied by the reason, to the concerned Employment Service Center for the continuation of his or her engagement in the employment.
- (3) If an application is received pursuant to sub-section (2), the Employment Service Center shall send the application to the concerned Local Level for making necessary inquiry to the reason why the person engaged in employment has been removed from the employment.
- (4) If, upon making necessary inquiry into the application sent pursuant to sub-section (3), it appears that such person has been removed for no reason, the concerned Local Level may give direction to the employer to continue his or her engagement in the work.
- 8. To conduct employment program:** (1) The Government of Nepal, Provincial Government and Local Level shall, after the commencement of this Act, conduct

necessary employment programs to provide the unemployed persons with minimum employment.

(2) While conducting programs pursuant to sub-section (1), priority shall be given to the women, Dalits, economically destitute, martyr's families and families of the persons enforced to disappear.

(3) Other matters relating to conducting the programs pursuant to sub-section (1) shall be as prescribed.

9. **Authority to make decision:** If a question is raised as to whether any person is employed or not, the concerned Local Level shall make decision of that matter on such basis as prescribed.

Chapter-3

Employment Service Center

10. **Employment Service Center:** (1) The Government of Nepal shall, by a notification in the Nepal Gazette, establish an Employment Service Center in each Local Level, which shall act under the Local Level.

(2) The Ministry shall have the responsibility to give directive to, coordinate with and facilitate the functioning of the Employment Service Center, from the Federal level.

(3) Other matters relating to the operation of the Employment Service Center referred to in sub-section (1) shall be as prescribed.

11. **Application to be made:** (1) An unemployed person who wants to be involved in the minimum employment pursuant to this Act may make an application, setting out his or her details and the skills, qualification or capacity that he or she has, to the concerned Employment Service Center in such a format and within such period as prescribed.

(2) Upon making necessary inquiry into the application received pursuant to sub-section (1), the Employment Service Center shall keep updated records by preparing the list of the persons who are actually unemployed.

(3) The Employment Service Center shall provide the updated records referred to in sub-section (2) to the Government of Nepal and concerned Provincial Government, as prescribed.

12. **To provide information:** (1) If any person who has made an application to the Employment Service Center pursuant to Section 11 is involved in employment

elsewhere through personal effort before being recommended for employment pursuant to Section 16 or is involved in self-employment or is no longer willing to participate in the employment or receive the unemployment support to be provided pursuant to this Act, he or she shall provide information thereof to the Employment Service Center as soon as possible.

(2) If any person provides information pursuant to sub-section (1), the Employment Service Center shall remove such a person's name from the records of the list of the unemployed person.

13. To keep details of employers: (1) The Employment Service Center shall update and maintain the list of the employers within its territory.

(2) For the purpose of updating the list pursuant to sub-section (1), the Employment Service Center may write to any governmental or non-governmental body or organization and institution, in addition to the Local Level, to provide such details as demanded to the employers within the concerned Local Level.

(3) If it is so written by the Employment Service Center pursuant to sub-section (2), all the bodies concerned shall provide the details of the employers under them or of the works being performed by them and the human resources needed for such works to the Employment Service Center.

(4) The Employment Service Center shall send the details of the employers referred to in this Section to the Ministry and the Provincial Government concerned.

(5) Other matters relating to the collection and updating of the details of the employers shall be as prescribed.

14. To make demand for laborers: (1) An employer shall give a notice, setting out the number of such laborers, their qualification and the period, as needed for the employer for any work, to the Employment Service Center.

(2) An employer may demand through the Employment Service Center for such laborers as needed for the employer for any work at the local level.

(3) While making a demand for laborers pursuant to sub-sections (1) and (2), the employer shall write to the Employment Service Center, setting out the number of laborers, their qualification, capacity, skills and the nature of work, in such a format as prescribed.

15. To provide employment information: The Employment Service Center shall provide information, relating to the availability of laborers required for the

employers, and employment opportunity for the listed unemployed person, within its jurisdiction.

- 16. To provide employment to the unemployed person :** (1) After any employer has made a demand for laborers pursuant to Section 14, the Employment Service Center shall send the unemployed person listed pursuant to sub-section (1) of Section 11, on the basis of his or her qualification, skills and experience, to the concerned employer for employment.

(2) The employer of governmental or public sector shall employ the person sent for employment pursuant to sub-section (1) in the work suitable to his or her qualification and skills pursuant to the prevailing law, and the employer of private sector may employ him or her in the available work suitable to his or her qualification and skills. Such a person shall perform the work assigned by the employer.

(3) The rate of daily wages to be provided by the employer for employing him or her in the work pursuant to sub-section (2) shall be as prescribed by the Ministry.

(4) The Employment Service Center shall remove the person who fails to perform the work assigned by the employer pursuant to sub-section (2) from the list of the unemployed persons.

Chapter-4

Steering Committee

- 17. Steering Committee:** (1) There shall be a Steering Committee as follows, in order to operate, look after and steer the functions related to the protection of the rights to employment of the citizen:

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| (a) | Minister/State Minister, Ministry of Labor,
Employment and Social Security | -Chairperson |
| (b) | Member, National Planning Commission
(who looks after the matters concerned) | -Member |
| (c) | Secretary, Ministry of Labor, Employment
and Social Security | -Member |
| (d) | Secretary, Ministry of Finance | -Member |
| (e) | Secretary, Office of the Prime Minister and
Council of Ministers (who looks after the | |

- matter concerned) -Member
- (f) Secretary, Ministry of Industries, Commerce and Supplies -Member
- (g) Secretary, Ministry of Physical Infrastructure and Transport -Member
- (h) Joint-secretary, Ministry (who looks after the Prime Minister Employment Program) -Member-Secretary

(2) There shall be steering committees in the Province and Local Level, as prescribed.

(3) The secretariat of the Committee referred to in sub-section (1) shall be situated in the Ministry.

18. Meeting of the Committee: (1) The meeting of the Committee shall be convened at such date, time and venue as fixed by the Chairperson.

(2) Two persons, including at least one woman representing employers and laborers, shall be invited to the meeting of the Committee.

(3) The decisions of the Committee shall be certified and kept by the Member-Secretary.

(4) The procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

(5) Other matters relating to the meeting of the Committee and implementation of the decisions shall be as prescribed.

19. Functions, duties and powers of the Committee: The functions, duties and powers of the Committee shall be as follows:

- (a) To make analysis and projection of the demand of the labor market and the availability of existing human resources,
- (b) To make recommendation to the Government of Nepal about policies required to make provisions for employment or self-employment for the unemployed person,
- (c) To guide the Provincial Government and Local Level in the preparation of updated records of the unemployed person,
- (d) To prepare policies and programs relating to unemployment support to be provided to the unemployed person on behalf of the State,

- (e) To make policy-wise recommendation to the Government of Nepal in relation to livelihood allowance to be provided to the unemployed person,
- (f) To make coordination between the Government of Nepal, Provincial Government and Local Level in the operation of the employment program,
- (g) To evaluate the implementation of the Unemployment Support Program.

Chapter-5

Relating to Unemployment Support

- 20. Unemployment Support Programs:** (1) For the unemployment support, the Government of Nepal, Provincial Government and Local Level shall conduct the following programs:
- (a) Providing information relating to employment opportunities,
 - (b) Providing employment-oriented and skill-oriented trainings,
 - (c) Providing soft loan for self-employment through banks and financial institutions,
 - (d) Creating self-employment,
 - (e) Conducting other programs as prescribed.
- (2) Other provisions relating to the unemployment support programs referred to in sub-section (1) shall be as prescribed.
- 21. Required to do work:** (1) A person who has received training under the unemployment support program pursuant to this Act shall do the work as prescribed, upon going to such place or field as assigned by the Employment Service Center.
- (2) A person who does not go to or refuses to perform the work in the field where he or she has been assigned to pursuant to sub-section (1) shall be removed from the list of unemployed persons, and shall not be provided with the livelihood allowance referred to in Section 22.
- 22. To provide livelihood allowance:** (1) If the Government of Nepal cannot provide the unemployed person listed in the Employment Service Center with minimum employment, it shall, subject to the conditions prescribed, the livelihood allowance

in a sum of fifty percent of the amount equal to such minimum wages of one hundred days as fixed by the Ministry in one fiscal year.

(2) Notwithstanding anything contained in sub-section (1), if any unemployed person gets employment only for the period less than one hundred days in one fiscal year, only the amount equal to fifty percent of the minimum wages fixed by the Ministry for the remaining period of one hundred days shall be provided as the livelihood allowance.

(3) The unemployed person who receives the livelihood allowance pursuant to sub-section (1) shall abide by the conditions as prescribed.

(4) The livelihood allowance referred to in this Section shall be provided only in the following conditions:

- (a) If any member of the family cannot get employment as prescribed,
- (b) To the families having annual income less than that fixed by the Government of Nepal,
- (c) If no member of the family is self-employed,
- (d) If no member of the family has gone to foreign employment.

Explanation “Foreign employment” means the condition where one has gone to work in a foreign country upon obtaining work permit from the Government of Nepal.

(5) Notwithstanding anything contained in sub-section (4), the livelihood allowance shall not be provided to the family of a person who is getting pension or retirement facility from a government fund or other country or international or inter-governmental institution, organization or any other body or who is regularly receiving any kind of support from the social security fund or other support related fund of the Government of Nepal or from the employer.

Explanation For the purposes of this Section, “government fund” means any of the following funds:

- (a) The consolidated fund or other government fund of the Government of Nepal, Provincial Government or Local Level,
- (b) The fund of a local corporation, board, authority, enterprise or similar body which is fully or partly owned by the Government of Nepal, Provincial Government or Local Level,
- (c) A fund operated with the grant received from the Government of Nepal, Provincial Government or Local Level,

- (d) A fund established under the prevailing law to provide the person who has held a public office with pension,
 - (6) Other matters relating to the livelihood allowance to be provided pursuant to this Section shall be as prescribed.
- 23. Provisions relating to budget:** The provisions of the budget required for the programs to be operated pursuant to this Act shall be made from the annual budget appropriation of the Government of Nepal, Provincial Government and Local Level.

Chapter-6

Offence and Punishment

- 24. Complaint:** (1) Any person who knows that an offence has been committed or is about to be committed under this Act may make a complaint to the Labor and Employment Office concerned within thirty-five days.
- (2) Other provisions relating to the complaint shall be as prescribed.
- 25. Act deemed to be offence:** If any person does any of the following acts, he or she shall be deemed to have committed the offence under this Act:
- (a) Any act done contrary to sub-section (3) of Section 4,
 - (b) Discrimination made by the employer contrary to Section 6, except in accordance with the prevailing law,
 - (c) Removal by the employer from employment contrary to Section 7,
 - (d) Submission of false description to obtain the unemployment support or livelihood allowance referred to in this Act,
 - (e) Utilization of the unemployment support for any purpose other than the purpose for which the unemployment support has been received.
- 26. Punishment:** (1) If any person commits the following offence, the Labor and Employment Office shall punish such a person or institution with the following punishment, according to the degree of offence:
- (a) A fine of twenty-five thousand rupees in the case of the commission of the offence referred to in clause (a) of Section 25,
 - (b) A fine of ten thousand rupees in the case of the commission of the offence referred to in clauses (b) and (c) of Section 25,
 - (c) A fine in a sum that is equal to the unemployment support or livelihood allowance, if any received, upon recovering that amount,

in the case of the commission of the offence referred to in clause (d) of Section 25,

- (d) A fine in a sum that is equal to the amount received as the unemployment support, upon recovering that amount, in the case of the commission of the offence referred to in clause (e) of Section 25.

(2) The Labor and Employment Office concerned shall write to the concerned Local Level to prevent the service, facility to be provided by it from being provided to the person or institution that fails to pay the fine imposed pursuant to sub-section (1) within the prescribed period.

(3) The fine referred to in sub-section (1) shall be recovered as a government arrear from the person or institution concerned.

(4) Notwithstanding anything contained elsewhere in this Section, if an act under this Act is also deemed to be an offence under the other prevailing law, no provision of this Section shall prevent from instituting a separate case on such an offence and imposing punishment pursuant to such other law, and if any person is liable under the prevailing law to punishment that is more than that set forth in this Section for any act done contrary to this Act, such a person shall accordingly be liable to that punishment.

27. Appeal: (1) A party who is not satisfied with a decision made by the Labor and Employment Office pursuant to this Act may make an appeal to the Labor Court within thrifty-five days from the date of the decision made.

(2) The decision made by the Labor Court pursuant to sub-section (1) shall be final.

Chapter-7

Miscellaneous

28. To form sub-committee or task force: (1) The Committee may form a sub-committee or task force, as necessary, in order to implement this Act.

(2) The terms of reference of the sub-committee or task force formed pursuant to sub-section (1) shall be as specified by the Committee.

- 29. Monitoring and supervision:** The Ministry, Province and Local Level shall regularly carry out monitoring and supervision of the programs to be conducted pursuant to this Act.
- 30. Annual report:** (1) The Ministry shall prepare and submit the annual report of the activities performed within every fiscal year to the Office of the Prime Minister and Council of Ministers, within three months of the completion of the fiscal year.
- (2) The Office of the Prime Minister and Council of Ministers shall publish the report submitted pursuant to sub-section (1).
- 31. Power to frame Rules:** The Government of Nepal may frame necessary Rules in order to implement this Act.
- 32. To make directives and procedures:** The Ministry may, subject to this Act or the Rules framed under this Act, make and implement directives and procedures, as required.