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## Part 2

Nepal Government

Ministry of Law, Justice and Parliamentary Affairs

**Special Economic Zone Act, 2073**  
(Translated)

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**Part 2**  
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The Act mentioned herein below has been made by the Legislative-Parliament pursuant to Sub-Article (1) of Article 296 of the Constitution of Nepal and has been published for the general public.

**Act No. 9 of the Year 2073**

**An Act made in relation to the establishment, operation and management of Special Economic Zone**

**Preamble:** Whereas it is expedient to proceed with the industrialization process in the country through import promotion and to provide impetus to economic development through the provision of establishment, operation and management of Special Economic Zone,

Now, therefore, the Legislature-Parliament has enacted this Act pursuant Sub-article (1) of Article 296 of the Constitution of Nepal.

**Chapter - 1**  
**Preliminary**

1. **Short Title and Commencement:**
  - (1) This Act shall be called "Special Economic Zone Act, 2073".
  - (2) This Act shall come into force immediately.
2. **Definition:** Unless the subject or context otherwise requires, in this Act-
  - (a) "Chairperson" shall denote Chairperson of the Committee.

- (b) "License" shall denote license obtained pursuant to Section 8.
- (c) "License-holder" shall denote investor obtaining license pursuant to Section 8.
- (d) "Industry" shall denote industry listed pursuant to Section 5.
- (e) "Prescribed" or "As Prescribed" shall denote prescribed or as prescribed in the Rules framed under this Act.
- (f) "Infrastructure" shall denote infrastructure deemed necessary for the development of the special economic zone and the term shall denote pharmacy, hospital, postal, banking service, child care center, school and canteen.
- (g) "Authority" shall denote Special Economic Zone Authority established pursuant to Section 14.
- (h) "Investor" shall denote individual, firm, company or organized institution investing in the construction of industry or infrastructure and the term shall also denote foreign government, foreign national or international organization investing in the construction of industry or infrastructure.
- (i) "Ministry" shall denote Ministry of Industry.
- (j) "Special Economic Zone" shall denote Special Economic Zone prescribed pursuant to Section 3.
- (k) "Member" shall denote Member of the Committee and the term shall denote the Chairperson.
- (l) "Committee" shall denote Board of Directors established pursuant to Section 19.

**Chapter -2**  
**Provision Relating to Establishment, Operation and Management of Special Economic Zone**

3. **Shall Prescribe Special Economic Zone:**
  - (1) Nepal government on the recommendation of the Authority shall prescribe any place within Nepal as Special Economic Zone and the same shall be published in the Nepal Gazette.
  - (2) Import processing sector, import promotion center or any other sector prescribed by Nepal government shall be

included in the Special Economic Zone prescribed pursuant to Sub-section (1).

**Clarification:** For the purpose of this Section-

- (a) "Import Processing Sector" shall denote the land developed within the Special Economic Zone for the establishment of import related industry.
- (b) "Import Promotion Center" shall denote company, firm or cooperative established pursuant to law for the purpose of collecting products from industry established within the Special Economic Zone and exporting them abroad.

**4. Shall Propose for Establishment of Special Economic Zone:**

- (1) Provided, the Authority pursuant to Section 3 deems it appropriate to prescribe any place as special economic zone, the Authority shall conduct survey as deemed necessary and along with a detailed report shall propose to Nepal government to declare such place as Special Economic Zone.

**Clarification:** For the purpose of this Section, "survey" shall denote the survey carried out to identify the appropriate place for the establishment of Special Economic Zone and the term shall also denote feasibility study and engineering design of the Special Economic Zone.

- (2) Provided, survey pursuant to Sub-section (1) is to be done, the Authority among others shall also look into issues relating to access to road, telecommunication service, facility of electricity and water, availability of land, availability of workers and raw materials.

**5. List of Industry Shall be Prepared:**

- (1) Authority shall prepare a list of industry as prescribed to be established in the Special Economic Zone and shall publish the same.

- (2) Notwithstanding anything contained in Sub-section (1), provided, the Authority pursuant to Sub-section (4) of Section 8 has provided license for the establishment of any particular industry in the Special Economic Zone, the said industry ipso facto shall be included in the list of industry.

- (3) List of industry prepared pursuant to Sub-section (1) shall be regularly updated by the Authority.

**6. Establishment and Operation of Special Economic Zone shall be carried out by Private Sector:**

- (1) Nepal government on the recommendation of the Authority shall in joint participation of private sector or through the private sector develop or cause to develop the establishment, operation, management and infrastructure of Special Economic Zone.

- (2) Other provisions relating to establishment, operation and management and development of infrastructure of Special Economic Zone pursuant to Sub-section (1) shall be as prescribed.

**7. Industry shall not be Transferred and Operated in Special Economic Zone:**

- (1) Investors having acquired license or having their industry registered pursuant to the law during the commencement of this Act and in operation shall not transfer and operate the industry in the Special Economic Zone on the basis of the license or registration and the machine, equipment or appliances used by the investor shall not be used or transferred in the Special Economic Zone.

- (2) Notwithstanding anything contained in Sub-section (1), Nepal government through notification in the Nepal Gazette shall transfer any particular industry as prescribed in the Special Economic Zone.

### **Chapter - 3**

#### **Provisions Relating to License**

#### **8. Shall Obtain License:**

- (1) Investor desirous to invest and 'establish any industry pursuant to the prescribed capital in the Special Economic Zone shall submit an application in the prescribed format before the Authority with the prescribed matters.
- (2) Provided, application pursuant to Sub-section (1) has been submitted and provided upon necessary inquiry, provided the Authority deems appropriate to issue a license, the Authority shall receive the fee as prescribed and shall within thirty days from the date of receiving the application provide the applicant with a license in the prescribed format.
- (3) Notwithstanding anything contained in Sub-section (1), provided any investor having invested the prescribed capital and not listed pursuant to Section 5, and is desirous to set up an industry that is environmentally deemed appropriate, economically feasible and commercially viable and export oriented shall submit an application in the prescribed format before the Authority.
- (4) Provided, application pursuant to Sub-section (3) has been made, inquiry as deemed appropriate shall be conducted and based on the preliminary environmental examination or environmental impact assessment provided it is deemed to provide the license, the Authority shall upon acquiring the prescribed fee shall issue a license within thirty days from the date of preliminary environmental examination or environmental impact assessment.
- (5) In a Special Economic Zone, provided application pursuant to Sub-section (1) for establishment of more than one

industry of similar nature has been made and provided approval for establishment for all the industries in the sector cannot be done, the Authority shall on priority basis provide license pursuant to the prescribed format to any investor.

- (6) Provided, inquiry against any application submitted pursuant to Sub-section (2) or (3) is done and provided license cannot be issued therein, the Authority shall within seven days from the date of such decision provide the same to the applicant with the reasons thereof.
  - (7) Provided, individual or organization not concurring with the decision of the Authority made pursuant to Sub-section (6) shall submit an appeal petition before the Ministry within thirty-five days from the date of receiving such decision.
  - (8) Provided, appeal pursuant to Sub-section (7) has been made, the Ministry shall render its decision within thirty days from the date of submission of the petition.
  - (9) Decision made by the Ministry pursuant to Sub-section (8) shall be final.
- #### **9. Tenure and Renewal of License:**
- (1) Tenure of the license shall be based on the nature of the industry and shall be for a maximum period of thirty years.
  - (2) License-holder desirous to renew the license, shall submit an application in the prescribed format before the Authority thirty-five days in advance prior to the expiry of the license.
  - (3) Provided, renewal of license pursuant to Sub-section (2) cannot be done, the license-holder shall state special reasons thereof and shall submit an application for renewal of the license in the prescribed format before the Authority within fifteen days from the date of expiry of the license.

(4) Provided, application pursuant to Sub-section (2) or (3) has been made and provided the Authority finds an industry operating 30 percent more than its total capacity, the Authority shall for application submitted pursuant to Sub-section (2) obtain renewal fees as prescribed and for application submitted pursuant to Sub-section (3) shall obtain renewal fee as prescribed and late fee and shall renew the license for a period of ten years.

(5) Other provisions relating to renewal of license shall be as prescribed.

#### **10. Cancellation of License:**

(1) Provided, license-holder fails to renew the license within the period prescribed pursuant to Sub-section (2) and Sub-section (3) of Section 9 shall have the license cancelled.

(2) The Authority shall cancel the license of the license-holder provided any of the following is done or caused to be done:

- (a) Provided, industry is not established and operated pursuant to the period prescribed in the agreement,
- (b) Provided, obligation pursuant to Section 12 is not fulfilled,
- (c) Provided, product more than that prescribed under Section 13 is sold in the internal market,
- (d) Provided, privileges available to the industry is abused,
- (e) Provided, it is proved that privilege had been obtained by providing false description.

(3) Provided, license pursuant to Sub-section (2) is to be revoked, the Authority prior to revoking such license shall provide an opportunity to the license-holder to submit any clarification thereof.

(4) Provided, license pursuant to Sub-section (1) or (2) is revoked, the agreement with the license-holder shall be ipso facto deemed to be revoked.

(5) Provided, license pursuant to Sub-section (1) or (2) has been revoked, license-holder in lieu of the investment made therein shall not make any claims regarding any compensation thereof and pursuant to this Act shall not be entitled to any privilege and facility from the day of revocation of the license.

(6) Provided, license pursuant to Sub-section (1) or (2) has been revoked, the license-holder shall within one year from the date of such revocation make necessary arrangements for management of the immovable property located within the Special Economic Zone.

(7) Provided, management of immovable property cannot be done by the license-holder within the period prescribed pursuant to Sub-section (6), the property shall belong to Nepal government.

(8) Prior to revocation of license pursuant to Sub-section (2), the Authority suo-moto or through its subordinate officer shall make an inquiry or cause to make an inquiry as deemed necessary.

(9) Provided, license pursuant to Sub-section (2) is revoked, the license-holder shall within thirty-five days submit an appeal before the concerned High Court.

#### **11. Shall enter into an Agreement:**

License-holder having obtained the license shall for the purpose of establishing and operating the industry enter into an

- (a) Lease or rental amount to be submitted in lieu of utilization of the building, land or services (electricity, water, sewerage, management of waste etc.) deemed necessary for the industry,
- (b) Date of establishment and operation of the industry,
- (c) Quantity of product to be exported by the industry,
- (d) Matters relating to transfer of technology provided it is a foreign investor,
- (e) Other matters as prescribed.

#### **Chapter – 4**

#### **Duty and Obligation of License-Holder**

##### **12. Obligation of License-holder:**

It shall be the obligation of the license-holder to abide by the agreement made with the Authority pursuant to Section 11 and by the Act or by the Rules made under this Act.

##### **13. Shall Export:**

- (1) All materials or services produced from the industry established in the Special Economic Zone shall be exported by the license-holder.
- (2) Notwithstanding anything contained in Sub-section (1), the license-holder shall from the industry established in the Special Economic Zone sell its materials or services up to twenty-five percent of its total production in the internal market of Nepal.
- (3) Provided, any license-holder sells its materials or services in the internal market of Nepal, the license-holder prior to selling shall inform the Authority by submitting matters prescribed therein.

#### **Chapter – 5**

#### **Establishment, Function, Duties and Rights of the Authority**

##### **14. Establishment of Authority:**

- (1) Special Economic Zone Authority shall be established for the operation and management of Special Economic Zone, for construction or supervision of infrastructure of Special Economic Zone, for monitoring and regulating industry established in the Special Economic Zone and to provide services to those industries through one door unit.

- (2) Head office of the Authority shall be in Kathmandu Valley and the Authority shall with approval from the Ministry open Branch Office or Contact Office as deemed necessary.

##### **15. Authority Shall Be Autonomous Corporate Body:**

- (1) Authority shall be an autonomous body with perpetual succession.
- (2) The Authority shall have a separate seal for its activities.
- (3) The Authority may acquire, enjoy, sell or dispose or otherwise manage any movable or immovable property as an individual.
- (4) The Authority may sue or be sued in its name as an individual.
- (1) The Authority as an individual may enter into a contract and may use the rights and obligations pursuant to the contract.

##### **16. Functions, Duties and Rights of the Authority:**

In addition to the functions, duties and rights prescribed elsewhere in this Act, the functions, duties and rights of the Authority shall be as follows:-

- (a) Shall recommend to Nepal government policies to be followed for the establishment, development and operation of Special Economic Zone,
- (b) Shall prepare or cause to prepare standards deemed necessary for establishment, operation and management of Special Economic Zone and development of the infrastructure therein,
- (c) Shall issue and renew license to industries established in the Special Economic Zone,
- (d) Shall determine lease or rental amount and fees in lieu of providing land, building, services or facilities to the industry,
- (e) Shall make recommendation to the concerned Unit for services, facilities or exemption of tax for industry under this Act,
- (f) Shall as deemed necessary provide land and building on lease to the industry,
- (g) Shall periodically inspect the industry established in the Special Economic Zone and provided any industry conducts any act contrary to this Act or contrary to the Rules made pursuant to this Act, the Authority shall take actions deemed necessary,
- (h) Shall make arrangement for security in the Special Economic Zone,
- (i) Shall make arrangements for services such as bank, postal service, health unit and entertainment in the Special Economic Zone,

(j) Shall provide approval for import of machinery, equipment, spare parts, transportation, raw materials and packaging materials deemed necessary for investors in the Special Economic Zone.

(k) Shall provide approval for export and import as deemed necessary for the industry or shall provide certificate of origination,

(l) Shall perform any other work deemed necessary for the development and promotion of Special Economic Zone and industry in the sector.

#### **17. Provision Relating to Employee:**

(1) There shall be employees as deemed necessary for the operation of the Authority.

(2) Appointment, remuneration, facility and conditions of service of employees of the Authority shall be as prescribed.

(3) Provided, employees pursuant to Sub-section (2) have not been appointed, employees deemed necessary for the Authority shall be provided by Nepal government.

#### **18. Special Provision Relating to Employee:**

During the commencement of this Act, provided any employee working in Special Economic Zone Development Committee operated by Nepal government shall be converted to employees of the Special Economic Zone Authority.

## **Chapter – 6**

### **Provision Relating to Board of Directors**

#### **19. Establishment of Committee:**

- (1) A Board of Directors shall be established for the purpose of carrying out acts pursuant to this Act and pursuant to the Rules made under this Act.
- (2) Following shall be the Members in the Committee constituted pursuant to Sub-section (1):-
  - (a) Secretary, Ministry of Industry Chairperson
  - (b) Joint Secretary, Ministry of Industry Member
  - (c) Joint Secretary, Ministry of Commerce Member
  - (d) Joint Secretary, Ministry of Law, Justice and Parliamentary Affairs Member
  - (e) Joint Secretary, Ministry of Labor & Employment Member
  - (f) Director General, Department of Industries Member
  - (g) Director General, Department of Customs Member
  - (h) Director General, Department of Internal Revenue Member
  - (i) Director General, Department of Immigration Member
  - (j) Deputy Governor, Nepal Rastra Bank Member
  - (k) Registrar, Office of the Company Registrar Member
  - (l) Chairperson of FNCCI or one Member of FNCCI nominated by the Chairperson Member
  - (m) Chairperson of Nepal Industry Confederation or one Member of the Confederation nominated by the Chairperson Member
  - (n) Chairperson of Cottage and Small Industries or Member of the Federation nominated by the Chairperson Member
  - (o) Chairperson of Federation Women Entrepreneurship or one Member of the Federation nominated by the

- (p) From among the person having special knowledge in the area of industry, commerce or tourism at least two women including three persons nominated by Nepal government Member
- (q) Executive Director Member-Secretary

- (3) Nepal government through notification in Nepal Gazette shall as deemed necessary make necessary changes in the Members of the Committee.

- (4) Tenure of Member nominated by Nepal government pursuant to Part (p) of Sub-section (2) shall be for a period of four years.

- (5) Notwithstanding anything contained in Sub-section (4), provided the work of the Member nominated by Nepal government is deemed unsatisfactory, Nepal government shall remove such Member anytime.

Provided, the Member shall be given an opportunity to submit clarifications therein.

#### **20. Meetings and Decisions of the Committee:**

- (1) Meeting of the Committee shall be held as deemed necessary.
- (2) The meeting of the Committee shall be held at such place, time and date as may be specified by the Chairperson.
- (3) Member-Secretary shall inform Members of the meeting of the Committee seven days in advance.
- (4) The presence of more than fifty percent out of the total number of Members of the Committee shall be deemed to constitute a quorum for a meeting of the Committee.



- (5) The meeting of the Committee shall be presided over the Chairperson and in the absence of the Chairperson by Member selected from among the Members present in the meeting.
- (7) A majority opinion shall prevail at the meeting of the Committee. In the event of a tie, the person presiding over the meeting shall exercise the casting vote.
- (8) Committee shall as deemed necessary invite any expert or officials in the meeting of the Committee.
- (9) Decision of the Committee shall be authenticated by the Member-Secretary.
- (10) Other procedures relating to the meeting of the Committee shall be as determined by the Committee.

## **21. Meeting Allowance and Facility of Member:**

- (1) Members of the Committee shall for having participated in the meeting of the Committee receive meeting allowance as prescribed.
- (2) Members of the Committee in lieu of services with the Authority shall receive other facilities as prescribed.

## **Chapter – 7**

### **Provision Relating to Executive Director**

## **22. Executive Director:**

- (1) There shall be one Executive Director who shall be the Administrative Chief of the Authority.
- (2) Nepal government through recommendation of the Recommendation Committee constituted pursuant to Sub-

- (3) A Recommendation Committee for recommending the appointment of an Executive Director shall be formed which shall constitute of the following:-

- (a) Member, National Planning Commission
- (Overseeing the concerned sector) Coordinator
- (b) Secretary, Ministry of Industries Member
- (c) From among the experts working in the area of industry, commerce, trade, revenue, administration, law, engineering or management, one person nominated by the Committee Member

- (4) Recommendation Committee constituted pursuant to Sub-section (3) shall through open competition select three persons having diploma degree in management, economics, engineering or law and having ten years of experience working the area of industry, commerce, trade, revenue, administration, engineering or management and shall recommend the same for the post of Executive Director to Nepal government.

- (6) The tenure of office of the Executive Director shall be for a period of four years. Provided, work of the Executive Director is deemed satisfactory, Nepal Government shall on the recommendation of the Recommendation Committee constituted pursuant to Sub-section (3) shall appoint the person to the post of Executive Director.

- (7) Notwithstanding anything contained in Sub-section (5), provided it is deemed that the Executive Director failed to fulfill its official obligation or has performed contrary to the interest of the Authority, Nepal Government shall at any time remove the Executive Director from the post.

Provided, the Executive Director shall be given an

(1) The provision relating to the remuneration, terms of service and facilities of the Executive Director shall be as prescribed.

**23. Functions, Duties and Powers of Executive Director:**

Functions, duties and powers of the Executive Director shall be as follows:-

- (a) To implement or cause to implement the decision and directives of the Committee,
- (b) To implement or cause to implement the program approved by the Committee,
- (c) To inspect and monitor the works relating to the operation and management of Special Economic Zone and to submit a report to the Committee,
- (d) To operate the daily administration of the Authority,
- (e) To perform such other functions as prescribed.

**Chapter – 8**

**Provisions Relating to Facilities to Industries Established in Special Economic Zone**

**24. Shall Provide Special Treatment:**

Commercial transaction, levies levied on products or services produced by industries established in the Special Economic Zone or for the purpose of taxation the zone shall be deemed to be outside the jurisdiction of tax and shall be accorded special treatment.

**25. Shall Not Be Nationalized:**

Industry established and operational in the Special Economic Zone shall not be nationalized.

**26. Rebate in Rent or Lease of Land or Building:**

Industry established within the Special Economic Zone and

the amount to be deposited as rental or lease amount. The rebate shall be fifty, forty and twenty-five percent for the first, second and third year.

**27. Rebate in Income Tax:**

(1) Notwithstanding anything contained in the prevailing law, investor investing in infrastructure or any license-holder shall from the date of operation of the infrastructure or commercial transaction shall pursuant to the law receive hundred percent rebate in lieu of income tax for the first five years and provided the industry consumes minimum sixty percent of local raw materials shall receive fifty percent rebate for the next ten years and for any other industry, the industry shall receive fifty percent rebate for a period of five-years.

(2) Notwithstanding anything contained in Sub-section (1), industry established in Special Economic Zone in mountain or hilly district prescribed by Nepal Government shall from the date of commercial transaction receive hundred percent rebate for the first ten years and thereafter for the fiscal year shall receive fifty percent rebate for a period of ten years.

(3) Notwithstanding anything contained in the prevailing law, industry established in the Special Economic Zone shall be entitled to the following rebate:-

(a) From the date of commencement of commercial transaction, the industry shall for the first five-years receive hundred percent rebates on tax in lieu of dividend amount to be distributed by the industry.

(b) Upon expiry of the period prescribed in Part (a), the industry shall receive fifty percent rebate as income tax on the income for a period of three-years.

(4) Notwithstanding anything contained in the Section

pursuant to Sub-section (2) of Section 7 shall not be entitled to rebate in income tax pursuant to this Section.

**28. Value Added Tax Shall Not Be Applicable:**

Materials or services exported outside Nepal by industry operational within the Special Economic Zone and raw materials sold to industry in Special Economic Zone and materials produced therein shall be applied zero rate value added tax. Provided, this facility shall not be applicable provided there is no export.

**29. Rebate in Custom Duty:**

(1) Nepal government shall through bank guarantee provide rebate on custom duty and other facility to industry located in the Special Economic Zone while importing and exporting any of the following good:

- (a) Raw materials deemed necessary for production, additional raw materials, packing materials and other materials consumed in production of goods,
- (b) Plant deemed necessary for the industry, machinery and equipment, instruments and spare parts and pursuant to the size and nature of the industry up to three vehicles.

(2) Provided any exporter sells any imported materials as prescribed to industry located in Special Economic Zone and provided such exporter has submitted any custom fees in lieu of import of such goods, the custom office shall reimburse the custom fee as prescribed.

(3) Provided any industry located outside the Special Economic Zone sells any of its products to the industry located inside the Special Economic Zone, the selling of such goods shall be deemed to be import of such goods and shall be provided with custom fees and other facilities.

(4) Provided, industry established in the Special Economic Zone produces goods from raw materials having custom rebate and sells the goods in Nepal, the said goods can be transported from the Special Economic Zone after having submitted fees in lieu of the raw materials used in production of such good.

(5) Provided, industry inside Special Economic Zone wants to hand over the ownership of goods imported through rebate to anyone inside the Special Economic Zone or outside, Nepal government shall prescribe procedures therein and shall through notification in the Nepal Gazette issue an order therein. It shall be the duty of the concerned industry to follow such orders.

**30. Shall Receive Facility Equivalent to Import:**

Provided any firm, company or industry established pursuant to prevailing law sells its raw materials or any of its product to industry established in the Special Economic Zone, the sale of such goods shall be deemed to be an import and provided pursuant to the prevailing law any facility in lieu of such import is to be received, the firm company or industry shall be entitled to such facility.

**31. Shall Take Back Foreign Currency:**

(1) Foreign investor investing in foreign currency in industry established in Special Economic Zone, shall take back foreign currency outside Nepal as follows:

- (a) Amount received from the sale of some or all shares of foreign investment,
- (b) Amount received in lieu of profit or dividends from such foreign investment,
- (c) Amount in lieu of payment of foreign capital loan or interest.

- (2) Provided, license-holder investing pursuant to Sub-section (1) enters into an agreement pursuant to Section 11 and provided such agreement prescribes entitles the investor to take convertible currency, the investor shall take the currency prescribed in the agreement.

### **32. Foreign Currency Account and Transaction:**

- (1) License-holder on the recommendation of the Authority shall open an account in foreign currency in a commercial bank established pursuant to laws relating to banking and financial institutions.
- (2) License-holder in relation to the industry established in the Special Economic Zone shall conduct its transaction in foreign currency.

### **33. One Door Unit:**

- (1) In order to provide services, facilities and privileges to industry or investor in the Special Economic Zone from one place, a one door unit shall be established that shall include units of the related sections.
- (2) Rebate, facility or privilege to be provided pursuant to the prevailing law or pursuant to this Act to industry established in the Special Economic Zone, services relating to infrastructure, registration and renewal of industry, work relating to administration of industry, registration of company and works relating to administration of company, works relating to visa and any other services and facilities to be provided from time to time by Nepal Government through notification in the Nepal Gazette shall be provided through the one door unit.

### **34. Provision Relating to Visa:**

- (1) Foreign nationals coming to Nepal for the purpose of studying or conducting research with the objective of

investing in the industry shall receive a six month non-tourist visa.

- (2) Foreign investor or dependent family members of such investor or authorized representative or dependent family members of such authorized representative shall for the purpose of residing in Nepal receive business visa till the period of foreign investment in the industry.

Provided, foreign investor and dependent family members investing ten million American dollars or equivalent in convertible currency shall receive residential visa till the period of foreign investment in the industry.

- (3) Foreign employee or workers working pursuant to Section 38 shall on the recommendation of the Authority receive non-tourist visa.

### **35. Other Facility:**

- (1) In addition to the facility mentioned in this Chapter, industry established in the Special Economic Zone shall receive the following facility:-
- (a) Utilization of bonded ware house as prescribed in the agreement,
- (b) Sub-contracting between industries,
- (c) Depreciation at accelerated rate as prescribed.

- (2) Nepal Government on recommendation of the Authority shall as prescribed through notification in the Nepal Gazette provide other facilities to the industries.

### **36. Guarantee of Rebate, Facility or Concession:**

- (1) Provisions curtailing the rebate, facility or concession provided pursuant to the prevailing law or provisions contrary to the rebate, facility or concession provided to industry at the time of establishment of the industry in Special Economic Zone shall not be made.

(2) Rebate, facility or concession provided to the industry established in the Special Economic Zone shall be provided for the period prescribed pursuant to this Act.

(3) Provided, any provision within this Act or in other prevailing laws is contrary to Sub-section (1) and (2), the provision contrary to that extent shall not be applicable to such industries.

### **37. Shall not receive Rebate and Concession:**

(1) Notwithstanding anything contained elsewhere in this Chapter, provided industry established in the Special Economic Zone fails to export its product pursuant to Section 13 during any fiscal year, the industry shall not receive any tax exemption and concession for that fiscal year.

(2) During any fiscal year, from among the goods or service produced and to be exported by any industry established in the Special Economic Zone, the quantity of goods or services to be exported shall be determined on the production capacity of the industry and consumption of raw materials.

(3) In order to determine the quantity of products pursuant to Sub-section (2), the Authority shall maintain and regularly updates the descriptions deemed necessary for such determination and shall regularly monitor such descriptions.

## **Chapter - 9**

### **Provision Relating to Workers and Employees**

### **38. Fulfillment of Workers and Employees:**

(1) Workers and employees deemed necessary for licensed

(2) Fulfillment of workers or employees pursuant to Sub-section (1) shall be done by license-holder through public notification.

(3) Provided, vacancy for a post pursuant to Sub-section (1) is published and provided Nepali worker or employee with special skills for a technical post is not available, the license-holder shall state the reasons thereof and submit an application to the Authority for approval to appoint a non-Nepali citizen.

(4) Upon conducting an inquiry against the application submitted pursuant to Sub-section (3), provided the Authority deems that Nepali worker or employee cannot be available, the Authority shall for special skilled technical worker or employee provide a period of seven years and other than that for other technical worker or employee, the Authority shall allow a non-Nepali citizen to work for a period not exceeding five years.

(5) Notwithstanding anything contained elsewhere in this Section, the Authority shall for employees or workers involved in the management level and state of art work provide approval for non-Nepali citizen to work for a period more than that prescribed in Sub-section (4).

(6) License-holder employing a non-Nepali citizen shall enhance the skill of Nepali citizen and respectively substitute the non-Nepali citizen with the Nepali citizen.

### **39. Remuneration of Workers or Employees:**

(1) Minimum wage of workers or employees working in the industries established in the Special Economic Zone shall be as determined by the Authority

Provided, determination of such wages shall not be lower than the minimum wage determined by Nepal Government.

- (2) Foreign workers or employees working in the industry shall take sixty percent of its total remuneration in convertible currency outside Nepal.

**40. Shall be pursuant to Contract:**

- (1) Facility, security measures, working period, duties to be followed, leave, facility relating to medical treatment, bonus, insurance or any other welfare provisions to be provided to workers or employees working in the industry established in the Special Economic Zone shall be pursuant to the contract entered between the industry and worker or employee that shall be pursuant to the this Act and Rule made under this Act.

- (2) Notwithstanding anything contained in Sub-section (2), no contract shall be entered between the industry and worker or employee that limits the facilities and welfare benefits guaranteed by the prevailing laws.

- (3) In addition to the facilities and welfare benefits prescribed in Sub-section (1), other provisions relating social security to be received by the workers or employees working in the industries established in the Special Economic Zone shall be as determined by the concerned industry.

- (4) Information regarding provisions relating to social security determined pursuant to Sub-section (3) by the industry shall be provided to the Authority.

- (5) The Authority shall regularly monitor as to whether or not provisions relating to social security determined pursuant to Sub-section (3) by the industry is being followed by the

**41. Grievance Management Committee:**

- (1) For management of grievances relating to the service, conditions and facilities to workers or employees working in industry established in the Special Economic Zone, a Grievance Management Committee shall be formed in each economic zone that shall consist of the following:

- (a) Senior officer from the concerned special economic zone office Coordinator
- (b) One representative from among the investors from the concerned special economic zone Member
- (c) One representative from the labor organization from the concerned special economic zone Member

- (2) Submission of grievances and provisions relating to hearing of grievances before the Grievance Committee formed pursuant to Sub-section (1) shall be as prescribed.

- (3) Provided, any party does not concur to the decision made by the Committee pursuant to Sub-section (1), shall submit an appeal petition before the Labor Court within thirty-five days from the date of notification of such decision. Decision of the Labor Court shall be final.

**42. Shall Not Perform Works Detrimental to the Industry:**

Notwithstanding anything contained in the prevailing laws, workers or employees working in the industry established in the Special Economic Zone shall not stage any closure, strikes or campaigns causing adverse effect to the industry and its production thereof.

**Chapter – 10**

**Provision Relating Penalty Fine and Appeal**

**43. Penalty Fine:**

- (1) Provided any license-holder is found to have sold its goods or

section (2) of Section 13 in the internal market of Nepal, the Authority shall levy the license-holder a fine equal to the claimed amount.

- (2) Provided, any license-holder performs any task contrary to the agreement signed pursuant to Section 11 with the Authority or performs any task contrary to this Act or contrary to the Rules framed under this Act, the Authority shall on the nature of the work performed issue all or some orders mentioned herein below:

- (a) Revocation of license of the industry,
- (b) Closure of the industry,
- (c) Fine up to fifteen hundred thousand rupees.

- (3) Provided, any license-holder does not abide by the directives given by the Authority pursuant to Sub-section (2) of Section 50 or fails to submit report pursuant to Section 52 shall be fined up to rupees twenty-five thousand.

- (4) Provided, any license-holder breaches the agreement entered with the Authority or conducts any work contrary to this Act or contrary to the Rules framed under this Act thereby causing loss to anyone and provided the claim amount can be determined the same shall be recovered from the license-holder and provided the claim amount cannot be determined an amount deemed appropriate shall be recovered from the license-holder and provided to the person suffering such loss.

- (5) Prior to initiating any action pursuant to this Section, the Authority shall provide an opportunity to the license-holder to submit any clarification in lieu of the allegations made therein.

- (6) Fine pursuant to Sub-section (1), (2) or (3) or amount in lieu of loss pursuant to Sub-section (4) shall be recovered as government dues.

#### **44. Shall Appeal:**

License-holder not concurring with the decision made by the Authority pursuant to Section 43 shall submit an appeal petition before the concerned High Court within thirty-five days from the date of receiving such decision.

### **Chapter – 11**

#### **Fund of Authority and Audit**

#### **45. Fund:**

- (1) The Authority shall have a separate fund.

- (2) Following amount shall be deposited in the fund pursuant to Sub-section (1):-

- (a) Amount received from Nepal Government,
  - (b) Assistance, grant or loan received from foreign government or national or international organization,
  - (c) Amount received in lieu of license or renewal fee,
  - (d) Amount received in lieu of leasing or selling the movable and immovable property of the Authority,
  - (e) Amount received in lieu of services provided pursuant to this Act by the Authority to the industry,
  - (f) Amount received through any other sources.
- (3) Provided, amount pursuant to Part (b) of Sub-section (2) is to be received by the Authority, the Authority shall obtain approval from Nepal Government.

- (4) Amount to be received pursuant to Sub-section (2) shall be deposited in an account opened in any commercial bank within Nepal established pursuant to the prevailing banking or laws relating to financial institutions and operation of

- (5) Other provisions relating to the operation of the fund of the Authority shall as prescribed.

**46. Budget and Expense of the Authority:**

- (1) Authority for the purpose of operating its work shall prepare budget deemed necessary for each fiscal year and shall have it approved.

- (2) All expenses to be done on behalf of the Authority shall be pursuant to the approved budget under Sub-section (1) and shall be borne pursuant to the fund under Section 45.

- (3) Provided, fund for operating the work pursuant to this Act for each fiscal year is deemed insufficient, the Authority shall make a request before Nepal Government for the insufficient fund.

- (4) Provided, fund pursuant to Sub-section (3) has been sought, Nepal Government shall on the basis of appropriateness provide the fund deemed necessary.

**47. Account and Auditing:**

- (1) Account of the Authority shall be maintained in the prevailing format and procedure followed by Nepal Government.

- (2) Auditing of the Authority shall be done by the Auditor General.

- (3) Nepal Government shall at any time inspect or cause to inspect the documents relating to the accounts and cash and materials of the Authority.

**Chapter – 12  
Miscellaneous**

**48. Shall Handover:**

- (1) Provided, any license-holder law is desirous to sell or wants to handover the share of the industry in whole or partial shall do so pursuant to the prevailing law or through any other means.

- (2) Notwithstanding anything contained in Sub-section (1), provided fifty percent or more than fifty percent share need to sold or transferred through any other means, approval from the Authority shall be acquired.

- (3) Provided, industry pursuant to Sub-section (1) is transferred, the conditions of agreement entered between the concerned license-holder and the Authority at the time of establishment of the industry shall be deemed to be applicable in-situ to the person having ownership after the handover.

**49. Shall Conduct Environmental Test or Evaluation:**

- (1) Notwithstanding anything contained in the prevailing laws, the rights exercised by any unit relating to preliminary environmental test or environmental impact evaluation and matters relating to industrial pollution and management shall also be exercised by the Authority to the industry established in the Special Economic Zone.

- (2) Procedures relating to preliminary environmental test or environmental impact evaluation and industrial pollution and management to be carried out by the Authority pursuant to Sub-section (1) shall be as prescribed the prevailing laws.



## **50. Inspection, Monitoring and Supervision:**

- (1) The Authority shall inspect, monitor and supervise the industry established in the Special Economic Zone.
- (2) Provided, inspection, monitoring and supervision pursuant to Sub-section (1) is carried out and provided any license-holder is deemed to have performed any act contrary to this Act or contrary to the Rules framed under this Act or contrary to the agreement, the Authority shall provide directives as deemed necessary to the license-holder.

- (3) Provided, any directive pursuant to Sub-section (2) is given by the Authority, it shall be the duty of the concerned license-holder to abide by such directives.

## **51. Settlement of Dispute:**

- (1) Provided, any dispute arises between the license-holder or concerned industry or the Authority, the dispute shall be settled by the concerned parties through mutual dialogue in the presence of the Ministry.

- (2) Provided, dispute pursuant to Sub-section (1) cannot be resolved, the dispute shall be settled through arbitration pursuant to the United Nations Commission on International Trade Law (UNCITRAL).

- (3) Arbitration shall be held in Kathmandu and Nepal law shall be applicable in the arbitration.

- (4) Notwithstanding anything contained in Sub-section (1), (2),

investment, the dispute shall be resolved pursuant to the provisions prescribed in the foreign investment agreement.

## **52. Shall Submit Report:**

- (1) License-holder shall within three months from the date of expiry of each fiscal year submit a report before the Authority. The report shall provide description of goods or quantity of services exported each year and income and expenditure of the industry.

- (2) Authority shall submit its annual report regarding its work to the Ministry within four months from the date of expiry of each fiscal year.

- (3) In addition to other matters in the report submitted pursuant to Sub-section (1), achievements made through the establishment of Special Economic Zone, economic impact made therein to the country and work performed by the Authority throughout the year shall be included in the report.

- (4) Annual report submitted pursuant to Sub-section (2) shall be made public by the Ministry.

## **53. Shall Constitute Sub-Committee:**

- (1) The Committee in order to conduct or cause to conduct its work pursuant to this Act or pursuant to the Rule framed under this Act shall constitute sub-committee as deemed necessary.

- (2) Functions, duties and rights of the sub-committee constituted pursuant to Sub-section (1) shall be as prescribed by the

**54. Delegation of Power:**

Committee shall as deemed necessary may delegate some its power conferred to the Authority by this Act or by the Rule framed under this Act to any Member of the Committee, or to sub-committee constituted pursuant to Sub-section 53 or to any officer of the Authority.

**55. Shall Be Pursuant to this Act:**

Matters contained in this Act shall be governed by this and other matters shall be governed by the prevailing laws.

**56. Shall give Directives:**

Nepal Government for the purpose of overall operation, regulation and development of the Special Economic Zone shall provide directive deemed necessary and it shall be duty of the Authority to follow such directive.

**57. Contact with Nepal Government:**

Contact with Nepal Government shall be done through the Ministry.

**58. Shall Frame and Implement Guideline:**

The Authority shall frame and implement necessary guideline for management of the industry within the Special Economic Zone and for resolution of disputes between workers and employees.

**59. Power to Frame Rules:**

Nepal Government shall frame necessary Rules for the implementation of this Act.

**60. Power to Frame by-Laws:**

The Authority subject to this Act or Rule made under this Act shall with approval from the Ministry frame by-laws as deemed necessary relating to financial and administration of employees.

**61. Repeal and Saving:**

(1) Special Economic Zone Development Committee (Establishment) Order, 2069 is hereby repealed.

(2) All acts done pursuant to Special Economic Zone Development Committee (Establishment) Order, 2069 shall be deemed to have been done pursuant to this Act.

(3) All movable, immovable property and liabilities of the Special Economic Zone Development Committee established pursuant to Special Economic Zone Development Committee (Establishment) Order, 2069 shall pursuant to this Act be transferred to the Authority.

As Ordered By,

Tek Prasad Dhungana

Secretary, Nepal Government

Date of certification: October 4, 2016