

THE IMMIGRATION ACT, 2049 (1992)

Date of Royal Seal and Publication

17 kartik 2049 (2 November 1992)

The Amending Act

- | | |
|---|-----------|
| 1. The Immigration (First Amendment) Act, 2050 (1993) | 2050.6.27 |
| 2. The Act Amending Some Nepal Acts, 2053 (1996) | 2065.8.12 |

Act No. 30 of the year 2049 (1992)

An Act Made to Provide for Immigration

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

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

1. **Short Title and Commencement:** (1) This Act may be called "Immigration Act, 2049 (1992)."
 - (2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act: -
 - (a) "Immigration" means the process of entering of the foreigners into Nepal, their stay presenting therein and their depart therefrom.
 - (b) "Foreigner" means any person at that time, who is not a citizen of Nepal.

- (c) "Passport" means a passport, travel document or permit to make a visit, issued by the government of any country for visiting a foreign country, and this term also includes the *laissez passé* issued by the United Nations Organization.
- (d) "Visa" means a permit issued by the Government of Nepal to a foreigner for entering into and staying in Nepal.
- (e) "Department" means the Immigration Department established by Government of Nepal to regulate the entry of foreigners into Nepal, their stay therein and their departure therefrom, and to manage the arrival and departure of the citizens of Nepal.
- (f) "Office" means the Immigration Office under the Department.
- (g) "Director General" means the Head of the Department.
- (h) "Immigration Officer" means the Officer in service in the Department and the Office, and it also includes the In charge of the Office.
- (i) "Trekking" means a journey to be made by a foreigner on foot with night haltage and it also includes a journey on foot by a foreigner upto the base camp of the Himalaya range.
- (j) "Prescribed" or "as prescribed" means prescribed or as prescribed in this Act or in the Rules framed hereunder.

3. **Provisions relating to entry, stay and departure:** (1) No foreigner shall be entitled to enter into and stay in Nepal without holding a passport and a visa.

(2) The category, fees and other provisions relating to visas shall be as prescribed.

(3) A foreigner intending to trek in the prescribed area of Nepal has to obtain, in addition to a visa, the permit as prescribed.

(4) Fees for trekking and other provisions relating thereto shall be as prescribed.

(5) The point of entry into Nepal departure therefrom by a foreigners shall be as prescribed.

(6) The provisions relating to departure from Nepal or entry into Nepal and departure therefrom of a citizen of Nepal shall be as prescribed.

4. Conditions to be followed by a foreigner: (1) The terms to be followed by a foreigner staying in Nepal shall be as prescribed.

(2) The conditions to be followed by an agency providing service to a foreigner for a visa and trekking shall be as prescribed.

5. Prohibition on the use of a fake passport or visa:(1) No one shall lie his/her name, age, nationality or any other detail or make a false statement or use, or cause to be used a fake passport or visa.

(2) No one shall enter into, stay in and depart from Nepal by submitting fake passport or visa.

☒(3) No one shall cause any foreigner who does not hold a passport and a visa issued by the government of a foreign country or by the official authorized by such government to enter into stay there in and depart there from.

☒ *Inserted by the First Amendment*

☒ *Inserted by the First Amendment*

6. **Power to examine and take into possession of document:** The Immigration Officer or any employee designated by the Director General may, at any time and in any place, examine the documents related with the entry, stay and departure of a foreigner and may take the documents pertaining thereto into his own possession.
7. **Functions, duties and powers of the Director General:** The Functions, duties and powers of the Director General shall be as follows:
- (a) To regulate, manage and control the entry of a foreigners their stay there in and departure there from or cause to the same
 - (b) To provide permit to the foreigners trekking.
 - (c) To issue visa as prescribed and extend the validity thereof.
 - ☒(c1) To cancel the trekking permit issued under clause (b) or the visa granted or extended under clause (c) in the prescribed circumstances.
 - (d) To manage the arrival and departure of the citizens of Nepal.
 - (e) To carry out or cause to be carried out the other functions in accordance with the directions given by Government of Nepal from time to time.
8. **Investigation of crime relating to immigration:** (1) ^{*}(I) In a case where the Department or Office comes to be directly or indirectly informed that any crime has been committed or is likely to be committed contrary to this Act or the Rules framed hereunder, the Immigration Officer designated by the Director General shall conduct investigation and initiate the proceeding of, the crime pertaining thereto.

☒ Inserted by the First Amendment

(2) While investigating the crime referred to in Sub section (1) or collecting evidence or proofs, the Immigration Officer shall have all such powers as so conferred on to the police under the prevailing law, including the powers to arrest the person involved in the crime, to search any place in regard to the crime, to take into control of the document or other materials concerned with the crime, and to prepare a deed of public inquiry (Sarjamin) as well. IN the course of investigation, the Immigration Officer ^{*}may take statement of the accused, and release him/her un date ail or guarantee based on reasonable grounds or [∞]detain him/her for a term not exceeding twenty five days, upon obtaining permission of the Court.

Provided, the Immigration Officer shall immediately inform the Director General as he/she begins the investigation of the crime.

☒(2a) In cases the accused fails to furnish bail or guranttee under Sub section (2), he/she may be detained.

(3) While conducting on investigation pursuant to Sub section (2), the Immigration Officer may, it necessary, consult with the Government Attorney.

9. **Power to expel:** (1) The Director General, on the basis of the report received from the Immigration Officer after having completed the investigation of the crime pursuant to this Act, may (in the case of a foreigner) and upon regulating the matters required to be regulated as prescribed, and with the approval of Government of Nepal, expel such a foreigner from Nepal, by disqualifying the foreigner from re entering into Nepal, with or without prescribing the period of time.

* Amended by the First Amendment

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

☒ Inserted by the First Amendment

☒ (1a) The Director General may, upon obtaining the approval of Government of Nepal, issue order requiring the expulsion of a foreigner who has undergone punishment for the commission of the acts contrary to this Act or the Rules framed hereunder or the prevailing laws, from Nepal, with or without prescribing the period of time.

(2) The foreigner expelled under * Sub sections (1) and (1a) shall not be entitled to re-enter into Nepal during the period of expulsion.

(3) Other provisions relating to expulsion shall be as prescribed.

10. Punishment: (1) Any person who commits, or causes to be committed, the crime referred to in Section-5 shall be punished with a fine not exceeding fifty thousand rupees or imprisonment for a term not exceeding five years or with both.

(2) Any person who violates, or causes to be violated, Sub-section (2) of Section 9 shall, for the first time, be punished with a fine not exceeding twenty five thousand rupees or imprisonment not exceeding two years, or in cases where such person repeats the violations thereof, he shall be punished with a fine of up to fifty thousand rupees or with imprisonment for a term not exceeding five years or with both, for each violation.

(3) Any accomplice of the crime carrying punishment referred to in Sub-section (1) or (2) shall be punished with half the punishment to be imposed on the offender.

(4) Except for the matters laid down in the Sub-sections above, a person who commits any act in contravention of this Act or the Rules framed

☒ Inserted by the First Amendment

* Amended by the First Amendment

hereunder may be awarded by the Director General a fine of ^{*}up to fifty thousand rupees, and [⊠]the amount in question held to be payable by such person shall also be realized from such person.

11. **Appeal:** A party who is not satisfied with the punishment imposed pursuant to sub section (4) of Section 10 may file an appeal in the Appellate Court within 35 days.
12. **Government of Nepal to be plaintiff:** In the cases under this Act, Government of Nepal shall be plaintiff.
- ^{*}13. **Exemption from visa fees:** Any foreigner, who has been detained in the course of investigation under this Act or the prevailing laws, shall be exempted from the visa fees for the period of his detention and any foreigner against whom a case has been filed shall be exempted from the visa fees for the period, commencing from the day of filing the case against him up to that of the delivery of judgment of and in case of the imposition of punishment of imprisonment on him, up to the day of completion of imprisonment, and in case of imposition of a fine only, up to the day of the payment of the fine.
14. **Power of Government of Nepal :** (1) Government of Nepal may make provision for exempting the foreigner of any class, tribe or caste or nationality from the application of all or any of the provisions of this Act or the Rules framed hereunder, or for the application of only the prescribed terms to such foreigner.

(2) Government of Nepal it thinks so appropriate that any foreigner's entry into, stay in or departure from Nepal may be detrimental to the

* Amended by the First Amendment

⊠ Inserted by the First Amendment

♣ Amended by the First Amendment

national interest, may prohibit the entry, stay or departure of such foreigner.

15. **Power may be delegated:** The Director General may delegate any or all of the powers conferred on him under this Act to other officer or staff under him.
16. **Institution of proceedings under other prevailing law not Prohibited:**
No matter set forth in this Act shall be deemed to bar the institution of a case against any person in the court under other Prevailing law.
17. **Protection of action in good faith:** No claim of or institution of prosecution or any other legal proceedings shall be made against any staff for anything done or intended to be done in good faith under this Act.
18. **Power to frame Rules:** Government of Nepal may frame Rules to fulfill accomplish the objective of this Act.
19. **Repeal and saying:** (1) The Foreigners Act, 2015 (1958) is hereby repealed.

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