

Preamble:

Whereas, for overall economic development of the country, it is expedient to make arrangements for fostering industrial enterprises in a competitive manner through the increment in the productivity by making the environment of industrial investment more congenial, straightforward and encouraging. Be it enacted by parliament in the twenty first year of the reign of **His Majesty King Birendra Bir Bikram Shah Dev.**

1. Short Title and Commencement:

- a) This Act may be called " **The Industrial Enterprises Act, 1992**"
- b) It shall come into force at once.

2. Definitions:

Unless the subject or context otherwise requires, in this Act,

- a) "**Industry**" means any industry as referred to in **Section 3.**
- b) "**Cottage Industry**" means any industry as referred to in **Section 4.**
- c) "**Small Industry**" means an industry as referred to in **Section 5.**
- d) "**Medium Industry**" means any industry as referred to in **Section 6.**
- e) "**Large Industry**" means any industry as referred to as referred to in **Section 7.**
- f) "**Fixed Asset**" means movable and immovable properties of any industry as referred to in **Section 8.**
- g) "**Board**" means the industrial promotion Board constituted under **Section 12.**
- h) "**Committee**" means the One Window Committee constituted under **Section 17.**
- i) "**Operation Date**" means the date from which the concerned industry either starts its commercial production or provides its service.
- j) its commercial production or provides its service.
- k) "**Department**" means the Department of Industries or the Department of Cottage and small Industries or any other department or office as His Majesty's Government m's Government may, by notification published in the Nepal Gazette specify.
- l) "**Prescribed**" or "**As prescribed**" means prescribed or as prescribed in rules made under this Act or in and order issued by His Majesty's Government by notification published in the Nepal Gazette.

3. Classification of Industries :

For the purpose of this Act, Industries are classified as follows:-

- a) **Manufacturing Industries:** Industries which produce goods by utilizing or processing raw materials, semi- processed materials, by-products or waste products or any other goods.
- b) **Energy - Based Industries:** Industries generating energy from water resources, wind, solar, coal, natural oil, gas, bio-gas or any other sources.
- c) **Agro and Forest-Based Industries:** Business mainly based on agriculture or forest products such as integrated

sericulture and silk production, horticulture and fruit processing. Animal husbandry, dairy industry, poultry farming, fishery, tea gardening and processing, coffee farming and processing, horticulture and herb processing, vegetable seed farming, bee-keeping, honey production, rubber farming, floriculture and production, and forestry related businesses such as lease-hold forests, agro-forestry, etc.

d) Mineral Industries : Mineral excavation or processing thereof.

e) Tourism Industries: Tourist lodging, motel, hotel, restaurant, resort, travel agency, skiing, gliding, water rafting, cable car complex, pony- trekking, hot air ballooning, parasailing, Golf-course, polo, horse-riding etc.

f) Service Industries: Workshop, printing, press, consultancy service, ginning and bailing business, cinematography construction business, public transpiration business. Photography, hospital, nursing home, educational and training institution, laboratory, air services, cold storage, etc.

g) Construction Industries: Road, bridge, ropeway, railway, trolley bus, tunnel, flying bridge and industrial commercial and residential complex construction on and operation.

4. Cottage Industries:

The traditional industries utilizing specific skill or local raw materials and resources, and labour intensive and related with national tradition art and culture as mentioned in Annex 1 shall be names as cottage industries.

5. Small Industries:

Industries with a fixed asset of up to an amount of ten million rupees shall be named as small industries .

6. Medium Industries:

Industries with a fixed asset between ten and fifty million rupees shall be named as medium industries.

7. Large Industries:

Industries with a fixed asset of more than fifty million rupees shall be named as large industries.

8. Fixed Assets Industries:

1) The fixed assets of an industry shall consist of the following movable and immovable assets:

a) land and land improvement (works) land and land improvement (works such as land leveling, filling and fencing).

b) Physical infrastructures (such as sewerage, internal road)

c) Office, factory building, go down, electric distribution, water distribution system and residential buildings.

d) Machinery, equipment and tools,

e) Means of transportation,

f) Electrical equipment and office equipment,

g) Furniture, fixture, communication system and equipment.

2. In addition to the assets referred to in **sub-section (1) above**, expenses incurred or to be incurred in connection

with technical consultancy and supervision prior to the making investment in any industry or during different stages of construction, and which is to be capitalized, pre investment and pre- operation cost as well as the amount interest during the construction period, which is the capitalized, shall be considered as the fixed assets of industry.

9. Permission:

- 1) Industries other than those as set forth in Annex 2 may significantly cause adverse effect on the security public health and the environment, shall not be required obtain permission for their establishment, extension diversification.
- 2) Whoever desires to establish an industry for which a license is required to be obtained by virtue of **sub-section (1)** shall for obtaining permission, be required to make an applicant to the Department in the prescribed form along with the prescribed particulars
- 3) If an application is made pursuant to **sub- section (2)** above the Department shall, as per the decision of the Board, grant permission in the prescribed format within thirty days for the dated of application. If the Board decides not to grant permission for the establishment of the industry., Department shall inform the applicant to such decision.

10. Industries to be Registered:

- 1) In establishing any industry whether or not permission that effect is required pursuant to this Act, registration the Department as prescribed shall be required to be made.
- 2) Notwithstanding anything contained in **sub-section** above, a Cottage Industry shall be required to get registered within 6 months from the date of operation.
- 3) The Department shall, within twenty-one days from the date of application for registration pursuant to sub- sections and (2) above register such industry and issue an industry registration c industry registration certificate to the applicant as prescribed.
- 4) The registration of a Cottage and Small Industry shall be made in the Department of Cottage and Small Industry or any district level office under the Department or any office designated by the Department on its behalf anment on its behalf and the registration of Medium and Large Industry shall be made in the Department of Industries or at such office as may be designated by the Department

11. Matter to be Contained in a License Registration :

A license or Registration Certificate shall clearly contain matters relating to the facilities and concessions to be enjoyed matters relating to the facilities and concessions to be enjoyed by the industry and the prescribed terms and conditions to be observed by the industry.

12. Constitution of Industry Promotion Board:

- 1) His Majesty's Government shall constitute an Industrial Promotion Board consisting of the following members:-
 - a) The Minister or State Minister for Industries Chairman.
 - b) The Assistant Minister for Industries Member.

- c) Member Looking after Industries, National Planning Commission Member
- d) The Governor, Nepal Rastra Bank Member
- e) The Secretary, Ministry of Industry Member
- f) The Secretary, Ministry of Finance Member
- g) The Secretary of Finance Member
- h) The Secretary, Ministry of Commerce Member.
- i) The Secretary, Ministry of Tourism Member.
- j) The Director General Department of Cottage and Small Industries Member
- k) Representative, Federation of Nepal Chamber of Commerce and Industries Member
- l) Two Person nominated by His Majesty's Government, either from among the Industries Commerce and Tourism sector organizations or from among the persons of high distinction in the same field Member
- l) The Director General, Department Member Secretary
- 2) His majesty's Government may, by notification published in the Nepal Gazette, make necessary alternation or change in the membership of the Board
- 3) The Board may, if it deems necessary, invite any national for foreign expert consultant at any meeting of the Board to participate therein as an observer.
- 4) The procedures relating to the meetings of the Board shall be as determined by the Board.

13. Functions, Duties and Power of the Board:

The functions, duties and powers of the Board shall be as follows:-

- a) To render necessary co-operation in formulating and implementing policies, laws and regulations pertaining to the industrialization of the country.
- b) To give guidelines in attaining the objectives of liberal, open and competitive economic policies pursued by the country so as to make the industrial sector competitive.
- c) To maintain coordination between the policy level and the implementation level of the industrial policy.
- d) To cause to follow the ways and means for the prevention of the environmental pollution by putting more emphasis on the avoidance of effects on the environment and the public health.
- e) To make recommendation to His Majesty's Government for the inclusion of any industry in the classification of industries.
- f) To make recommendation to His Majesty's Government to introduce changes in the Areas mentioned in Annex 3 by making evaluation thereof from time to time.
- g) To give directives to the concerned body after making inquiries into the application submitted by any industry complaining that the industry has not received the facilities and concessions to be made available by the Committee.
- h) Others functions, duties and on, duties and powers of the Board shall be as prescribed

14. Change in the Classification and Areas:

His Majesty's Government may, on the recommendation of the Board and by notification published in the Nepal Gazette, include any industry in the classification of industries or make timely changes in the Areas mentioned in Annex 3.

15. Facilities and Concessions to be Accorded to Industries:

Notwithstanding anything contained in the laws relating to income tax, sales tax, excise duty and customs duties and any other existing laws, and industry shall be entitled to receive the following facilities and concessions:-

- a)** No cottage industry shall be levied sales tax, excise duty and income tax.
- b)** Manufacturing industries (except cigarettes, bidi, alcohol, beer, vegetable ghee, plastic and electronic assembly), energy-based, agro and forest-based (except sawmill and catechu) and mining industries shall be entitled to an income tax exemption for a period of five years from the date of commercial production by the industry.
- c)** The industries classified under national priority as mentioned in Annex 4 shall be entitled to an income tax exemption for an additional period of two years.

Provided that the agro and forest based industries as mentioned in Annex 4 shall be entitled to a five-year income tax exemption.

- d)** Manufacturing, energy-based, agro and forest-based industries, other than cigarette, bidi, alcohol, sawmill and catechu, utilizing 90 percent or more of the local raw materials for their production and which are not listed in Annex 4 shall be, upon the expiration of the five year income tax exemption period to be made available pursuant to clause (b) above, shall be entitled to an income tax exemption for an additional period of two years.

- e)** Industries shall be entitled to a reduction in tax rate on each income tax slab or corporate tax by 5 points.

Example:- If the rate of the income tax in the existing laws is 10,15 and 20 percent, industries shall be taxed at the rate of 5,10 and 15 respectively, and if the rate of the corporate tax is 40 percent, industries shall be taxed at the rate of 35 percent .

- f)** Industries, other than cigarette, bidi, alcohol and beer, established in the Remote, Undeveloped, Underdeveloped and Relatively Developed Areas as mentioned in Annex 3 will be granted a rebate of 60,50,20, and 10 percent of the income tax, and 35,25,15 and 10 percent of excise duty respectively. If the Annex of the classification of Areas is changed and as a consequence of which the industry is deprived of granted exemption, the industry shall be entitled to such exemption for a period of five years from the date of such change.

- g)** Fruit based fruit processing and cider and wine industries with a fixed asset of up to two million five hundred thousand rupees established in Mugu, Humla, Jumla, Dolpa, Kalikot, Bajura, Darchula, Bajhang, Achham, Mustang, Manang, Solukhumbu, Sankhuwashavha and Taplejung Districts shall be entitled to an excise duty and sales tax exemption for a period of ten years, and fruit based alcohol industries shall be entitled to excise duty and sales tax exemption for a period of five years. On completion of such exemption period, His Majesty's Government may grant excise duty and sales tax exemption to the fruit based alcohol industries for up to an additional period of

three years.

h) While calculating depreciation on the fixed assets, industries shall be entitled to add one third to the rate of depreciation allowed under the existing income tax laws.

i) Industries established as a Public Limited Company with a minimum of 15 percent of shares distributed to more than 100 persons and listed in the stock exchange shall be entitled to a reduction of additional 5 points at the rate of the corporate tax to be levied under clause **(e)**

j) If an industry diversifies itself through reinvestment in the same or any other industry, or expands its installed capacity by 25 percent or more, modernizes its technology or develops ancillary industries, it shall be entitled to a deduction of 40 percent of new additional fixed assets from its taxable income. Such remission may be deducted on a lumpsum or on an installment basis within a period of three years.

k) Permission shall be granted for a reduction of up to 50 percent from the taxable income for the investment of an industry for a reduction of up to 50 percent from the taxable income for the investment of an industry on process or equipment, which has the objective of controlling pollution or which may have a minimum effect on the environment. Such remission may be deducted on a lumpsum or on an installment basis within a period of three years.

l) Per-operation costs incurred by any industry in connection with skill development training shall be allowed to be capitalized.

m) His Majesty's Government may, on the recommendation of the Board and by notification published in the Nepal Gazette, grant to the prescribed tourism, service and construction industries income tax exemption up to a period of five years.

n) After an industry comes into operation, 10 percent of the gross profit shall be allowed as a deduction against taxable income on account of expenses related with technology, product development and efficiency improvement.

o) No income tax shall be imposed on dividends earned out of the investment made in any industry.

p) An industry donating an amount of up to 5 percent of its gross income to any school, college, university, hospital, religious place and in social activities shall be entitled to a deduction of such donated amount in course of assessing the taxable income.

q) Up to 5 percent of gross income spent for the advertisement of the products or promotion services, hospitality and any other similar expenses shall be allowed to be deducted while assessing the taxable income.

r) If a single industry provides direct employment to six hundred or more people, it shall be, in addition to the income tax exemption under clauses (b) and (c) granted income tax exemption for an additional period of two years.

s) If any other industry utilizes locally available raw materials, chemicals and packing materials, etc. on which excise duty, sales tax or both shall be reimbursed to the industry utilizing such raw materials, chemicals and packing materials, The amount to be so reimbursed shall be refunded within sixty days after an application to that effect has been submitted.

t) No income tax shall be levied on the profits earned through export.

u) The customs duty, sales tax, excise duty and premium levied on raw materials and sales tax levied on the raw

materials, auxiliary raw materials, etc. utilized in such product shall be reimbursed. The revenue to be so reimbursed shall be refunded to such industry within sixty days after an application to that effect has been duly submitted.

x) The customs duty, sales tax, excise duty and premium levied on the production materials of intermediate goods and goods to be utilized for the production of exportable goods, and the sales tax and excise duty levied on the production shall be reimbursed to the industry manufacturing that intermediate goods on the basis of the quantity of export. The revenue to be so reimbursed shall be reimbursed to the exporter within sixty days from the date of export. Provided that on such reimbursement shall be made if an application to that effect is not submitted within one year from the date of export.

y) No tax, duty or fee shall be levied on the machinery, tools and raw materials, utilized by any industry established in the Export Processing Zone and on the exportable products.

16. Other Facilities and Concessions:

The following industries, in addition to the facilities and concessions as set forth in section 15, may be granted further facilities and concessions as below:

a) Forest-based industry may be made available any forest on leasehold basis.

b) No royalty shall be imposed if any industry generates electricity for its use.

c) His Majesty's Government may, by notification published in the Nepal Gazette, grant additional facilities to the prescribed in to the prescribed industries established in the Export Processing Zone and in the government of non government industrial estate.

d) On the recommendation of and with the decision of the Council of Minister, and by notification published in the Nepal Gazette, additional facilities may be granted to any National Priority Industry or any industry established in Nepal by the way investment therein.

e) An income by the way investment therein.

f) An income tax exemption for an additional period of two years shall be granted to any industry established with a fixed capital investment of more than seven hundred an fifty million rupees.

g) Double sales tax shall not be levied on the raw materials and products of any industry.

17. Constitution of the One-Window Committee:

1) His Majesty's Government shall, for the purpose of making available the facilities and concessions to be enjoyed by any industry under this Act in time from a single place, constitute a One- Window Committee consisting of the following:

a) The Director General Department of Industries coordinator

b) The Director General Department of Custom Member.

c) The Director General Department of Excise Duty Member.

d) The Director General Tax Department Member.

- e) The Director General Sales Tax Department Member.
- f) The Director General Department of Commerce Member.
- g) The Chief Controller, Nepal Rastra Bank Member .
- h) Representative, Federation of Nepal Chambers of Commerce and Industries Member

- 1) One expert in the field of industry and commerce as designated by his Majesty's Government or one representative from the Federation Member
- 2) His Majesty's Government may, by notification published in the Nepal Gazette, make alternations or changes in the members of Committee.
- 3) The Committee may, if it deems necessary, invite any national or foreign expert or consultant to participate in the meetings of the Committee as an observer.
- 4) The procedures relating to t procedures relating to the meetings of the Committee shall be as determined by the Committee

18. Function, Duties and Powers of the Committee:

- 1) The functions, duties and powers of the Committee shall be as follows:-
 - a) To make necessary decisions for making available the facilities and concessions to be enjoyed by any industry under this Act.
 - b) To perform such functions as may be delegated by the Board under its functions, duties and powers.
 - c) Other functions, duties and powers of the Committee shall be as prescribed.

19. Prohibition on the Misuse of Facilities and Concession:

No misuse of the facilities and concessions to be enjoyed by any industry under this Act shall be allowed.

20. Guarantee of Facilities:

- 1) An industry which is operated by obtaining permission or by getting registered under the Industrial Enterprises Act, 1981 shall continue to enjoy the time bound facilities and concessions under the Act and with regard to the facilities and concessions for which no time has been fixed. It shall enjoy the facilities for which no time has been fixed, it shall enjoy the facilities and concessions under this Act.
- 2) An industry which has been registered or has obtained permission before the commencement of this Act but which has started its commercial production only after the commencement of this Act shall enjoy the facilities under this Act. Provided that if the time bound facilities and concessions to be enjoyed under the industrial Enterprises Act prevailing at the time of registration or obtaining permission by such industry are for more than the period as granted by this Act or if the facilities and concessions are not to be msde available under this Act, nothing shall prevent from enjoying the facilities and concessions under prevailing Industrial Enterprises Act.

21. Industries not to be Nationalized :

No Industries shall be nationalized

22. Industrial Manpower:

- 1) The manpower required for any industry shall have to be recruited from among Nepali citizens.
- 2) Notwithstanding anything contained in sub-section (1) above, if any industry can not be operated without person living outside his own country expatriate manpower, foreign nationals may be appointed in such industry with the prior approval of the Department of Labor for a maximum period of five years. If a person so appointed happens to be a technician of a special category but not available within Nepal, such person may, with the approval of the Department of Labor, be appointed for up to an additional period of five years.
- 3) A foreign national who is working in any industry pursuant to sub-section (2) above and who is from a country wherein convertible foreign currency is in circulation, may repatriate his salaries, allowances, allowances, emoluments, etc. in convertible foreign currency in an amount not exceeding seventy five percent of such salaries, allowances and emoluments.

23. Duty to Furnish Particulars:

It shall be the duty of the concerned industry to furnish the industry-related particulars as prescribed to the concerned department on a regular basis.

24. Duty to Inform in case of Closing Down of Industry :

If an industry is close down after fulfilling the formalities as envisaged in the existing laws, information thereof shall have to be the formalities as envisaged in the existing laws, information thereof shall have to be provided to the concerned department within seven days from the date of closing down.

25. Power of His Majesty's Government:

- 1) His Majesty's Government shall take any of the following actions against any person for establishing any industry without obtaining permission required to be obtained under this Act or for non-compliance with the terms and conditions set forth in the license or certificate of registration or for violating any other provision of this act:
 - a) To impose a fine in an amount not exceeding one hundred thousand rupees.
 - b) To cancel the registration or permission of the industry,
 - c) To cause to close down the industry
- 2) Before taking any action under sub-section (1), above the concerned industry shall be given a reasonable time either to submit the explanation or to correct the mistake.
- 3) If any industry is not satisfied with the decision made by His Majesty's Government under sub-section (1) above, it may file an appeal to an Appellate Court with thirty-five days of the notification thereof

26. Delegation to Power:

1)The Board may delegate any or all of its power conferred upon it by this Act or rules made there under to the concerned department, office, official, committee, unofficial, committee, any member of the Board or any other committees or sub committees constituted by the Board as necessary

2)The Department may delegate any or all of its powers conferred upon it by this Act or rules made the under to any other department, office or official as necessary

27. Power of Frame Rules:

His Majesty's Government may frame necessary rules to carry out the objectives of this Act.

28. Power of Remove Difficulties:

If any difficulty arises in connection with the implementation of this Act, His Majesty's Government may issue orders to remove such difficulty by notification published in the Nepal Gazette.