

HIGHLIGHTS OF  
**INDUSTRIAL**  
**ENTERPRISE RULES**  
2076 (2019)

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### Effective Date

Industrial Enterprise Rules 2076 was enacted by GON under section 55 of the Industrial Enterprise Act 2073 (IEA). These Rules have become effective from Baisakh 30, 2076 (i.e. 13 May 2019).

### Background

The IEA was enacted to develop healthy, competitive and production oriented economy with a focus on export promotion and import management with an objective to increase domestic production and employment opportunities, facilitate industries, create investment friendly environment by optimum utilization of natural, physical and human resource.

### Registration of Industries (Rule 3)

Any person willing to set up an industry can do so by registering under the IEA. For registration, an application in the format as prescribed in Annexure 1 along with the details: project report (in prescribed format of Annexure 2 and documents mentioned in Rule 3(1) of Rule shall be submitted to DOI. Application for registration can also be submitted in electronic format.

### Issuance of Registration Certificate (Rule 4)

DOI, after examination of submitted application/ documents and if satisfied, shall issue a registration certificate within 15 days of receipt of the complete application. In case of refusal of registration, it shall give notice to the applicant within 7 days mentioning reasons for refusal.

### Permission to be obtained from the Board (Rule 5)

For the registration of specific industries prescribed in section 7(1) of IEA, permission from the Board (i.e. Industry and Investment Promotion Board

as per section 18 of the IEA) is required after an application (as prescribed in Annexure 6) has been submitted along with documents mentioned in Rule 3. Thereafter, the registration of such industry shall be completed within the validity period of 90 days of such permission.

### Extension of Commercial Production (Rule 6)

Where an industry cannot commence commercial operation within the period prescribed in the registration certificate, an application for extension with justification shall be submitted and the DOI may grant an extension up to a maximum period 1 year.

### Prior Permission for Relocation of Industry (Rule 7)

If an industry wants to relocate the industry an application along with required documents shall be submitted as prescribed in the Rule for approval from DOI. DOI shall not approve relocation of industries which have obtained facilities in the form of land exceeding the threshold as per prevailing laws and to those industries established at SEZs.







### **Submission of Annual Returns (Rule 8)**

All industries are now required to submit the following returns to DOI within 6 months from the end of the financial year:

- Audit report with the audited financial statements
- Tax clearance certificate of previous year.
- Approved and installed capacity.
- Updated return prepared as per Annexure 10 of rule.

### **Inform DOI of Closure of Industry (Rule 9)**

The industry shall inform DOI of the closure the industry or suspension of its commercial production and operations with 7 days of such closure as per Annexure 11 of the Rules.

### **Cancellation of Registration (Rule 10)**

Similarly, where an industry has to cancel its registration for non-operation for any reason it shall notify the DOI in the format prescribed in Annexure 12 with the documents prescribed in Rule 10(1).

Such industry also has to make a self-declaration that there are no claims against the industry and no litigation is ongoing. Where litigation is ongoing, evidence of depositing the possible liabilities.

The registration is cancelled within 7 days after settlement of any claims established by DOI after publication of a 35-day notice in a national daily.

### **Permission to be obtained for Change in Fixed Capital or Capacity (Rule 11)**

The industry shall file an application in the format prescribed in Annexure 13 along with the information in Rule 11(1) for permission of any change in the fixed capital as per section 15(3) of IEA or in the capacity of the industry.

DOI may grant permission after an inspection of the industry. However, prior approval of the Board is required for fixed capital or capacity enhancement which were registered only with the permission of the Board.

### **Duty Drawback (Rule 14)**

Export industries not utilizing the bonded warehouse facility or cash deposit (passbook) as per section 23 (Kha) of IEA can claim duty drawback for which application in the prescribed format shall be submitted within 90 days of end of fiscal year along with details/documents as mentioned in Rule 14(2). Such duty drawback will be provided through one stop service center.

The tax clearance certificate related to the application should be sent to IRD for attestation and on receipt of such attestation, the duty drawback process should be completed within 6 months.

### **Import of Goods through Bank Guarantee (Rule 15)**

Industries not having bonded warehouse facilities and exporting goods and receiving payments in convertible currency can import raw materials or auxiliary raw materials (including materials not produced in Nepal) through bank guarantee as per prevailing law.

### **Concession for Women Entrepreneurs (Rule 16)**

To promote women entrepreneurs to invest in industries the following concessions have been granted to industries fully owned by women:

- 25% less investment can be made compared to any other competitive industry.
- 15% lower rent shall be charged in industrial area compared to competitive industry.
- Industry with only women owners who wants to export their products can avail export loans under section 49(1)(cha) on the recommendation of the Ministry.

### **Approval for Imports (Rule 18)**

Industries established with foreign investment can apply to DOI, specifying detail of product, quantity, time period, for development of its new product and market promotion by importing finished product from the parent company situated outside Nepal.

DOI can recommend to One Stop Service Centre for providing approval for such import of finished products on the basis of following:

- Details regarding nature, quantity and time limit of import.
- Contribution towards market development and reform from the new product.

One Stop Service Centre can provide approval for a maximum period of one year on fulfillment of following conditions:

- Monthly submission of imported material and

returns of sale and distribution.

- Imported product not being sold by any person, firm and company in Nepali market.
- Imported product not eligible for sale and distribution for business purpose.

Products that can be produced from industries mentioned in Annexure 1 cannot be imported.

### **Simplification for Purchase/Availability of Land (Rule 19)**

Based on request letter from Industry, DOI can make land available or assist in acquiring land for the following industries:

- National priority industries;
- Industries exporting at least 60% of its production;
- Medium and large scale industries established in very undeveloped, undeveloped and less developed areas;
- Industries providing direct employment to at least 500 people;
- Industries invested fixed capital more than Rs 10 billion; and
- Medium and large industries utilizing more than 50% local raw material or in case of imported raw material, value addition of at least 50%.

Based on request received as per Rule 19(1), DOI shall make necessary arrangements for the land required for the industries.





### Security to be provided (Rule 21)

If any industry demands additional security owing difficulty in operation due to security reasons, GoN can allocate additional security force. GoN can also allocate separate security force on request for following purpose:

- For industrial fair, exhibition and other industrial programs.
- To protect industries from property damage, fire and burglary during the period of strike and lock out.
- To protect industrial areas from possible security threats.

GoN can provide additional security on specified terms and conditions to industries with an investment in excess of Rs 2 billion or employing more than 100 employees as per Rule 21(4) on the recommendation of the District Security Committee, provided that the costs are borne by the industry.

### One Stop Service Center (Rule 22)

Provinces can set up One Stop Service Centre for the purpose of providing exemption, facilities and concession to micro industry, cottage industry and small industry from provincial level.

### Sick Industries (Rule 24)

GoN can identify and categorize an industry as 'Sick Industry' on the basis of any of following conditions:

- Incapability to pay the principal and the interest of the loan.
- Liability abnormally exceeding capital.
- Listed industries with market price per share lower than its face value.
- Industries producing lower than its break-even production level for past three years.
- Industries not able to operate due to natural disaster or other factors beyond its control.
- Industry's products are not able to compete in the international market due to change in International laws or policy relating to industry or commerce.

### Methods of identifying Sick Industries (Rule 25)

An industry operating for continuous 5 years after commercial production or transaction and meets any of the conditions mentioned in Rule 24 can apply with the detailed capital investment plan to the concerned authority established under Rule 28, to be considered as a sick industry.

The concerned authority, after an inquiry, shall recommend to the Ministry of Industries (MOI) to categorize the industry as sick. The MOI with consent of MOF will recommend to the GoN to categorize such entity as a sick industry. GoN can arrange for benefits and facilities to revive such sick industries.





### Categorization of Sick Industry (Rule 26)

Criteria / Category	Fully Sick	Sick	Sickness Oriented
Decrease in equity of industry due to operating in loss for last 3 years (not applicable in case of loss due to intentional cause or managerial weakness)	70%	50%	30%
Actual Operating level compared to installed capacity for last three years (in percentage)	Less than 20%	Less than 25%	Less than 30%
No. of years industry is fully closed. (except for intentional cause or managerial weakness)	For past 3 years	For past 2 years	For past 1 year
No. of years Industry will take to be profitable after obtaining concession, discounts and benefits facilities as per IEA and Rules provided by GoN.	5 years	3 years	2 years

### Benefits, Concessions and Discounts to the Sick Industry (Rule 27)

In addition to benefits available to Sick Industries under section 39(1) of IEA, GoN may provide or recommend the following additional benefits:

- Conversion of normal loans to soft loan by financial institutions (FI).
- Waive interest and penalty on outstanding loans.
- Extend additional loans on concessional interest rate for operation of Industry.
- Extension of loan period in case of black listed Industries due to failure to repay the loan.

- To provide facility of full or partial exemption on duties, fees and tax imposed on import of machinery, equipment and raw materials. Also such facility can be provided on export of produced goods.
- To provide full or partial exemption on tax, fee or penalty for specified period.

### Contract Manufacturing (Rule 36)

GoN can provide following concessions, exemption and facilities to the export industry producing goods or services on contractual or sub-contractual basis and fulfilling criteria specified in Rule 36(1 ka):

- Cash incentives on the basis of quantity of export;
- Export loan at concessional interest rate;
- Duty Drawback facility;
- Priority in loan facility; and
- Benefit on taxes, duties, fees and on import of raw material from time to time as specified by GoN.

### Corporate Social Responsibility (Rule 37)

Section 48(1) of the IEA requires an industry to set aside 1% of its profit before tax for CSR activities every year. Rule 37 has elaborated the following 8 broad areas where those funds can be utilized in coordination with local level governments. The CSR utilization cannot be made in those activities which may be directly profitable or beneficial to the industry.

- Natural disaster prevention and rescue related activities.
- Providing medicine and health equipment to community health organizations, conducting health awareness programs, health camps and other health related activities.
- Preservation and conservation of Nepali art, cultural heritage and monuments.
- Skill development and income generating programs for people with low income, from backward areas, rural women, differently abled, minority groups and marginalized society.
- Scholarships for community schools and Universities, distribution of educational

equipment & materials and other activities related to development of education sector.

- Pollution control, waste management, tree plantation, preservation of water source, alternative energy promotion and other environment conservation activities.
- Production and broadcasting of documentaries and awareness programs against social disorders such as smoking and drinking.
- Construction of rural drinking water, road, drainage & sewage, patipauwa, old age home, sports ground, religious site, community health building, other community building (including its repair and maintenance), orphanage, park, meditation centers, bus park, bus stand, other physical infrastructure for social welfare.

At least 25% of such set aside CSR amount should be expensed in the areas affected by the industry.

Industry can deposit amount (limited to maximum 10% of the set aside amount for CSR) in any fund recommended by DOI and such deposited amount can be claimed as expensed from related planned CSR areas.

### Abbreviation used

<b>DOI :</b>	Department of Industry
<b>GoN :</b>	Government of Nepal
<b>IEA :</b>	Industrial Enterprises Act, 2073
<b>MOF :</b>	Ministry of Finance
<b>MOI :</b>	Ministry of Industry
<b>SEBON:</b>	Securities Board of Nepal
<b>SEZ :</b>	Special Economic Zone





right people  
right size  
right solutions

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