



Ordinance Amending 8 Nepal Acts related to Investment Facilitation 2081 (2024)

On **April 28, 2024**, the **Honorable President Ram Chandra Poudel** enacted an **Ordinance** based on the recommendation of the **Government of Nepal (GoN)** and the **Council of Ministers**. This ordinance is aimed at streamlining investment processes and coincides with the ongoing **3rd Nepal Investment Summit 2024**, which seeks to attract both local and foreign investors. Notably, the following amendments to eight Acts have been introduced through this ordinance to encourage investment.

Amended Acts	Reference to the Section of the Prevailing Law	Summary of Major New and Amended Provisions
Land Act, 2021	<p>Subsection 1a and 4 of Section 12a – New provision</p> <p>Subsection 3 of Section 12c – New provision</p> <p>Section 12f – New Provision</p>	<p>1. Excess Land Applications:</p> <ul style="list-style-type: none"> Entities, industries, enterprises, or companies that hold land exceeding the prescribed land ceiling and have not previously applied for exemption can now submit applications specifying the reason for requiring such excess land. Along with the prescribed fees, they must apply within one year from the effective date of the Ordinance for approval from the GoN through the Ministry. An inventory of land within the upper ceiling limit and land exceeding the upper ceiling must be maintained at the Department of Land Management and Archives. <p>2. Selling Excess Land:</p> <ul style="list-style-type: none"> Public entities, industries, companies, projects, educational institutions, or other establishments that have purchased excess land within the upper ceiling can now sell that land within the prescribed upper ceiling limit. Approval from the Ministry is necessary, and this sale can occur after fulfilling set criteria for loan repayment from Banks and Financial Institutions (BFIs) or debt payment. Importantly, selling land within the prescribed upper ceiling does not retroactively convert the excess land held before selling into land within the prescribed limit. <p>3. Excess Land by BFIs and Cooperatives:</p> <ul style="list-style-type: none"> BFIs or Cooperatives holding excess land beyond the prescribed upper ceiling due to accepting or transferring collateral land from borrowers during loan recovery must sell this excess land within 3 years of accepting such land. If the land is not sold within this time limit, approval from the GoN is required before selling.

Amended Acts	Reference to the Section of the Prevailing Law	Summary of Major New and Amended Provisions
National Parks and Wildlife Protection Act, 2029.	Section 5a – New Provision Subsection 1a of Section 6 – New provision	<ul style="list-style-type: none"> ▪ Provision has been introduced to designate highly sensitive areas within national parks, reserves or protected areas. ▪ Additionally, it permits GoN to approve national priority projects or those of national pride sanctioned by the Investment Board within these protected areas while maintaining the co-existence of nature and humans.
Land Acquisition Act 2034	Subsection 3 of Section 16 – New provision	The upper limit of compensation against land to be acquired for institutions other than local bodies and institutions fully owned by GoN has been set at a maximum of three times of minimum land value established for registration purposes.
Special Economic Zone Act, 2073 (Sec 7 replaced)	Section 7 – Replaced provision Subsection 1 of Section 13 – Replaced provision	<ol style="list-style-type: none"> 1. Transfer of Business to Special Economic Zone (SEZ): <ul style="list-style-type: none"> ▪ Following the amendment made in Section 7 of the SEZ Act 2073, an industry that is registered or holds a license and operates outside the SEZ as per prevailing laws can now transfer its business to the SEZ. ▪ This transfer includes the relocation of used machinery, tools, and equipment to the SEZ. 2. Export Requirements for Licensed Industries in SEZ: Licensed industries operating within the SEZ are subject to specific export requirements: <ol style="list-style-type: none"> a) For the first four years from the date of commencement of production, they must export at least 15% of their production. b) After this initial period, they are required to export at least 30% of their produced goods or services.
Public-Private Partnership and Investment Act, 2075	B1 of Subsection 1 of Section 9 – New provision Section 68a – New provision	<ul style="list-style-type: none"> ▪ The Secretary of the Ministry of Finance shall serve as a member of the Investment Approval Board. ▪ In cases where financial liabilities arise due to the implementation of this Act, the Board must obtain preapproval from the Ministry of Finance.
Foreign Investment and Technology Transfer Act, 2075	Point c and Point 3 of Sec 2 – Replaced provision Section 7a – New provision	<ol style="list-style-type: none"> 1. Non-Resident Nepali Definition: <ul style="list-style-type: none"> ▪ The definition of “Non-Resident Nepali” now includes both non-resident Nepali citizens and non-resident Nepali identity cardholders, in accordance with prevailing laws. ▪ Additionally, the definition of “Technology Transfer” now encompasses reverse engineering. 2. Technology Transfer: <ul style="list-style-type: none"> ▪ An industry or company established and operating in Nepal can transfer technology to an industry, firm, or company registered and located abroad. ▪ Furthermore, such a Nepali industry or company can open a branch or unit in the respective foreign country after obtaining approval from the Department of Industry.

Amended Acts	Reference to the Section of the Prevailing Law	Summary of Major New and Amended Provisions
Foreign Investment and Technology Transfer Act, 2075	<p>Section 12</p> <ul style="list-style-type: none"> - Amended provision <p>Section 17</p> <ul style="list-style-type: none"> - Replaced provision <p>Subsection 1 of Section 45</p> <ul style="list-style-type: none"> - Replaced provision <p>New item under schedule</p> <ul style="list-style-type: none"> - New provision 	<p>3. Project Loan Approval:</p> <ul style="list-style-type: none"> ▪ The requirement to obtain a recommendation from the Ministry of Industry for obtaining project loans from foreign financial institutions has been removed. ▪ However, approval from the Nepal Rastra Bank (NRB) is still necessary. <p>4. Foreign Direct Investment (FDI):</p> <ul style="list-style-type: none"> ▪ All FDI approvals can now be obtained from the Department of Industry (DOI). Previously, FDI approval from the Investment Board was required for investments exceeding NPR 6 billion. ▪ FDI industries in Nepal can now have their products or services manufactured or rendered through contract or sub-contract agreements with other industries having similar objectives. This is a change from the previous restriction on contract manufacturing for their main products. <p>5. Ride-Sharing Services:</p> <p>Ride-sharing services with foreign investments exceeding 70% have been included in the negative list schedule. This list comprises industries or businesses restricted from foreign investment.</p>
Forest Act, 2076	<p>Point r of Section 2</p> <ul style="list-style-type: none"> - Replaced provision <p>Subsection 2 of Section 43</p> <ul style="list-style-type: none"> - Replaced provision 	<p>1. Definition of Forest Products:</p> <p>The definition of forest products no longer includes rivers and mineral substances.</p> <p>2. Excavation of Mineral Resources in National Forests:</p> <ul style="list-style-type: none"> ▪ If there is a need to excavate mineral resources within the National Forest, the Government of Nepal (GoN) may grant approval to use the forest area for such excavation, provided it does not have adverse impacts on the environment. ▪ However, the excavation of boulders, stones, and soil within the National Forest is generally not allowed. Exceptions include cases where raw materials are required for national priority projects, Investment Board-approved projects, or projects of national pride or priority industries.
Industrial Enterprise Act 2076	<p>Section 4a</p> <ul style="list-style-type: none"> - New provision <p>Subsection 2 and 4 of Section 9</p> <ul style="list-style-type: none"> - Amended provision <p>Subsection 3, 5, 6 and 7 of Sec 9 removed</p>	<p>1. Startup Business Definition:</p> <ul style="list-style-type: none"> ▪ IEA now includes a separate section defining startup businesses. ▪ Businesses that utilize creative thinking and innovative research can register as startup businesses if their date of registration does not exceed 10 years, they demonstrate rapid growth potential, and the annual turnover is below NPR 150 million. <p>2. Commencement of Commercial Operation:</p> <ul style="list-style-type: none"> ▪ The previous requirement to inform the commencement of commercial operation within 30 days before the expiry period has been removed. ▪ Industries can now regularize their registration by filing an application along with a reason and paying the prescribed fees.

Amended Acts	Reference to the Section of the Prevailing Law	Summary of Major New and Amended Provisions
Industrial Enterprise Act 2076	Point (m), (n) and (o) added in Section 29 - New Provision Subsection 6 of Sec 32 - Replaced Provision New item in list of Schedule 9	3. Additional Exemptions and Facilities: <ul style="list-style-type: none"> ▪ The DOI may establish standard quantities of raw material wastage based on industry consumption capacity. ▪ The GoN can provide incentives and facilities to information technology-based industries established with a capital investment of NPR 1 billion. ▪ Both the GoN and Provincial Governments, along with local bodies, have the authority to offer incentives, exemptions, concessions, and financial facilities to startup businesses. 4. Land Collateral for Loans: <ul style="list-style-type: none"> ▪ Industries that have obtained permission to hold excess land beyond the prescribed upper ceiling can now use 50% of their purchased land as collateral with Banks and Financial Institutions (BFIs). ▪ This collateral can be used to obtain loans against detailed project reports for expanding capacity in areas determined by the DOI. ▪ However, this limitation clause does not apply to project financing obtained after fulfilling set criteria. 5. Industries of National Priority: <ul style="list-style-type: none"> ▪ The list of Industries of National Priority now includes National and International Airlines services and Cable cars.

PKF Comment

By revising existing laws and acts, even through an ordinance, the government is signaling its unwavering support for investment. This move instills confidence in both local and foreign investors, assuring them of a stable and conducive business climate. The amendments aim to simplify bureaucratic procedures, making it easier for investors to navigate legal requirements.

The focus on foreign investors underscores Nepal’s openness to global capital inflows. These amendments position Nepal as an attractive destination for FDI.

The provision allowing national priority projects within protected areas demonstrates a delicate balance between economic development and environmental conservation.

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