

# **BILL TO AMEND SOME NEPAL ACTS**

**2080 (2024)**

## **HIGHLIGHTS**



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## 1. Background

The bill proposing amendments to various existing laws of Nepal was passed by the **House of Representatives** on 16 Baisakh 2082. It will become applicable once it is passed by the upper house and receives the assent of the President of Nepal.

This act amended altogether 79 existing acts, including the annulment of 2 acts. Some of the major amendments introduced by the bill in business and commercial legislation have been summarized below:

## 2. Revenue Leakage (Investigation and Control) Act, 2052

### Section 18: Authority for proceedings of cases

- (1) Proceedings and adjudication of cases concerning revenue leakage offenses under this Act shall now be initiated by the District Court located in the district where the investigating authority is based. In earlier instances, these matters were adjudicated by the High Court.
- (2) Upon the commencement of this subsection, all pending cases, reports, petitions, and related matters currently under consideration by the relevant High Court shall be transferred to the respective District Court as specified in subsection (1).

### Section 37KHA: Revenue Leakage Control Coordination Committee

- (1) A Committee, under the coordination of the Finance Minister, has been formed to control and prevent revenue leakage:
- (2) The Committee has been provided with the following rights and responsibilities:
  - a) To identify key areas contributing to leakages in both tax and non-tax revenues
  - b) To develop a Capacity Development Strategy for the 'Revenue Investigation Department'
  - c) To offer policy-level guidance aimed at enhancing the efficiency and effectiveness of revenue administration
  - d) To issue necessary directions to the Department to strengthen the investigation and control of revenue leakages.

- (3) It is also proposed to form a District Revenue Leakage Control Coordination Committee in each district, under the coordination of the Chief District Officer.

## 3. Arbitration Act 2055

### Section 14: Submission of Claims, Counterclaims, Objections or Rejoinders.

If a claim, counterclaim, defense, or response to a claim is not submitted to the arbitrator within the **specified time frame\*\***, or if such submission is delayed or handled negligently, for arbitration matters relating to a government office, the employee responsible shall be subject to departmental disciplinary action.

**\*\* 'Specified time frame' shall be understood as follows:**

- a) *The claimant must submit the claim to the arbitrator within the period stipulated in the agreement; if no such provision exists, the claim must be filed within three months from the date of the dispute and the appointment of the arbitrator.*
- b) *Another party must file a counterclaim or objection within 30 days from the date of receipt of the claim.*
- c) *The claimant must submit a rejoinder or objection to the counterclaim within 15 days.*

### Section 27: Matters to be disclosed in the decision of the dispute

While rendering a decision on the dispute, the arbitrator shall clearly specify the amount of compensation to be awarded by one party to the other, including the applicable interest, which shall be calculated only up to the day preceding the initiation of the arbitrator appointment process.

### Section 33: Interest to be paid on the compensation amount

In cases where compensation is payable by one party to another, interest in the compensation amount shall be calculated only up to the day preceding the initiation of the arbitrator appointment process. *(Previously, interest was calculated up to the date of the arbitrator's decision)*

#### 4. Public Procurement Act, 2063

##### **Section 2: Meaning of Infrastructure Company**

'Infrastructure Company' refers to Nepal Infrastructure Construction Company Limited, established under prevailing law and wholly owned by the Government of Nepal.

##### **Section 26: Rejection of Bids or Cancellation of Procurement Proceedings.**

(1Ka) If the lowest evaluated bid substantially exceeds the estimated cost, the public entity shall conduct an analysis considering the prevailing local market prices, price fluctuations of relevant goods and construction materials in international markets, the basis of the cost estimate, and the potential losses the public entity may incur due to delays in procurement.

(1Kha) If the analysis under (1ka) justifies the procurement, a price not exceeding the lowest evaluated bid may be accepted.

26(7): If procurement is canceled without valid reason other than those mentioned in this act, the responsible official shall be subject to departmental action under prevailing law.

##### **Section 47: Review application filed**

Following a decision on the application submitted by the bidder to the Chief of the public entity regarding any loss or damage caused to the entity, and if a review petition is filed, the public entity shall not sign any procurement contract until the review period has expired.

##### **Section 59: Executing the remaining part of contract through the Infrastructure Company**

(9Ka) If a contract is terminated, remaining works up to a certain amount may be executed through an infrastructure company.

(9kha) A contract must be signed with the infrastructure company specifying the scope and timeline of the work to be done.

(9Ga) Such contracts cannot be further subcontracted or transferred to another entity by the Infrastructure Company.

##### **Section 67: Procurement process under this act not mandatory to be followed**

In the event of an emergency or government requirement necessitating urgent procurement through an infrastructure company, as

determined by the government, the procurement process outlined in this Act shall not be mandatory.

#### 5. Electronic Transaction Act, 2063:

##### **Section 74: Time limit for filing complaints**

Complaints must be filed within three months of becoming aware of any act or offense committed in violation of the provisions of this Act. *(Previously, such a time limit was 35 days.)*

#### 6 Contribution-based Social Security Act, 2074

##### **Section 4: Contribution to be deposited into the Fund**

The employer must deposit the contribution into the Fund within 25 days after the end of the respective month. *(Previously, the deposit was required to be made within 15 days.)*

##### **Section 5A: Participation of Citizens in Foreign Employment in Social Security Scheme**

A worker who goes abroad for foreign employment or a Nepali citizen engaged in self-employment abroad may participate in the social security scheme by depositing the required contribution into the fund, per prevailing laws. This participation is subject to a notice issued in the Nepal Gazette by the Ministry, following a recommendation from the concerned authority.

##### **Section 9(4): Actions against non-depositors**

The Executive Director may direct the relevant authorities to take any or all of the following actions against an employer who has not registered itself or its employees with the fund or fails to pay the required contribution as mandated by this Act:

- a. Freeze the account in the bank and financial institution
- b. Freeze the movable and immovable assets of the concerned individuals or institutions
- c. Suspend or stop the rebate facility entitled under the prevailing law
- d. Suspend the permit or license in the name of the individual or institution concerned
- e. Freeze the passport of the individual concerned

*(Earlier, these actions were applicable to employers who failed to deposit the contribution amount within the required time frame)*

**Section 9(6): Expenses to be borne by employer themselves**

Notwithstanding any other provisions, if the employer fails to deposit the required contribution by the 25<sup>th</sup> of the following month, the employer shall bear all expenses related to an employee's accident or death incurred during that period that would have otherwise been covered by this fund.

**Section 33A: Expenses from Social Security Fund**

The administrative expenses of the fund shall not exceed 10% of its annual income. Additionally, these expenses must be incurred within the approved budget of the fund.

**Section 52: Provision related to appeal**

Any person not satisfied with any order or decision of the Fund may file an appeal at the **Labor Court** within thirty-five days of receiving information about such an order or decision made. *(Earlier appeals were to be made at the High Court)*

**7 Electricity Regulatory Commission Act, 2074**

**Section 24(1Ka): Members of the commission**

In case of the absence of the chairperson of the commission or his/her inability to perform the work, the senior most members of the commission shall perform the responsibilities of the chairperson.

**PKF Comment:** *These amendments have been introduced by lawmakers to address administrative challenges and other issues experienced during the implementation of the respective laws. Furthermore, the amendments to the Contribution-Based Social Security Fund (SSF) Act clarify the mandatory requirement for all employers and employees to register with the Fund and make the necessary contributions. Failure to comply will result in strict fines, penalties, and other legal consequences.*

**Contributed By: Roshani Shah, Audit Executive**

right people  
right size  
right solutions

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**PKF T R Upadhy & Co.**

124, Lal Colony Marg, Lal Durbar, Kathmandu, Nepal

Telephone: + 977 1 4410927, +977 1 4420026

Email: [trunco@ntc.net.np](mailto:trunco@ntc.net.np)