

LABOUR RULES
2018



Table of Contents

Regular Employment (Rule 3)	5
Mandatory disclosures in Employment Contract (Rule 4):	5
Labors kept on reserve (Rule 6 & 7)	5
Labor Permit (Rule 7 & 8)	5
Application required for permission of employment (Rule 9)	5
Period of employment (Rule 11)	6
Extension of duration (Rule 12)	6
The number of foreign citizens to be employed (Rule 13)	6
Cancellation of Permit (Rule 14)	6
Inspection (Rule 15)	6
Working Hours (Rule 16)	6
Additional time for Rest (Rule 17)	7
Birth Certificate to be submitted (Rule 18)	7
Methods of Deduction in Remuneration (Rule 19)	7
Payment for weekly holidays (Rule 20)	7
Payment via Banking Channel (Rule 21)	7
Provident Fund (Rule 22)	7
Gratuity (Rule 23)	7
Calculation of Gratuity Amount	8
Payment of Provident fund and Gratuity amount (Rule 24)	8
Settlement of dispute (Rule 25)	8
Determination of Percentage of Disability (Rule 26)	8
Labor Outsourcing (Rule 27)	8
Bank Guarantee (Rule 29)	8
Renewal of License, Submission of details and Suspension (Rule 30, 31 & 32):	8
Duties of the Main employer (Rule 33)	8
Business-related Security and Health Policy (Rule 34)	9
Duty of the employer (Rule 35)	9
Safety and Health Committee (Rule 37 and 38)	9
Security Arrangements (Rule 41)	9
Lifting heavy weight (Rule 42)	9
Other arrangements regarding business related health and security	9
Child Care, Relaxing room and Canteen (Rule 45, 46 and 47)	9
Labor Audit (Rule 56)	9
Transfer of Labor (Rule 59)	9
Facilities to Labors during Transfer (Rule 60)	11
Labor Relations Committee (Rule 61 and 62)	11
Labor Performance Evaluation (Rule 63)	11
Collective Bargaining Committee (Rule 64)	11
Termination of Employment (Rule 72)	11
Retirement Age (Rule 73)	11
Payment after termination (Rule 74)	11
Basic Remuneration (Rule 77)	12
Fixation of Piece Rate (Rule 78)	12
Personnel Record (Rule 81)	12
Service Charge Distribution (Rule 82)	12
Public and weekly holiday of Domestic Labor (Rule 83)	12
Welfare Fund (Rule 84)	12
Housing fund (Rule 85)	12







HIGHLIGHTS OF LABOR RULES 2018



Highlights of Labor Rules 2018

REGULAR EMPLOYMENT (RULE 3)

- In case of any disagreement on the type of employment, the entity/labor may submit application to the labor office to determine whether the employment is regular or not.
- Within 1 month from the date of application, the labor office shall provide a decision on whether the employment is regular or not.
- Based on the Act or the rules, in case any question is raised on the type of employment in an application made to the department or in a suit filed in court, The Department of Labor (DoL) or the court can provide a decision on the matter.

MANDATORY DISCLOSURES IN EMPLOYMENT CONTRACT (RULE 4):

- Nature of Employment.
- Job description and position.
- Bylaws established under Section 108 of the Labor Act, 2074 (hereafter referred to as "the Act") to be an indispensable part of the contract.
- Place, time and effective date of implementation of the contract.
- Other relevant employment terms.

LABORS KEPT ON RESERVE (RULE 6 & 7)

- The labor must be provided prior information on the reason and period of being kept on reserve.
- 50% of the existing remuneration to be provided to the labor during the period when the labor is kept on reserve.
- Outsourced labors can also be kept on reserve. Information about relocation shall be provided to the outsourcing agency.
- Labors kept on reserve could be deputed to other departments within the same enterprise or to another enterprise under its

control, provided that the appointment is not a demotion and there is no reduction of remuneration, unless otherwise agreed by the labor.

LABOR PERMIT (RULE 7 & 8)

Application should be submitted to the DoL, in the format prescribed in Annexure 1 of the Rules, prior to employing a foreign citizen.

Following documents should be annexed with the application:

- Original copy of the published job advertisement containing particulars as prescribed in section 22 (3) of the Act.
- Attested copy of passport having validity of at least 6 months.
- Bio-data of the foreign citizen.
- Proof of payment of applicable taxes by the employer.
- Summary of the selection procedure and skills and qualifications of Nepalese candidates, if any, who applied for the job based on the published advertisement.
- Work plan to groom and train a Nepalese citizen to substitute the foreign labor.
- Copy of work approval from Ministry of Home Affairs, if applicable.

On verification of submitted documents, DoL, shall notify with reason, a rejected applicant within 7 days. If application is accepted, the DoL shall give permission of employment within 30 days.

APPLICATION REQUIRED FOR PERMISSION OF EMPLOYMENT (RULE 9)

A foreign citizen desiring to work in Nepal shall submit an application to DoL in the format prescribed in Annexure 3 of the Rules.

CHARGES (RULE 10)

Following charges shall apply for Labor permit:

Period	Charge per person
For period up to 6 months	NPR 15,000
For period exceeding 6 months	NPR 20,000

Where application has been made through Nepalese Embassies or Diplomatic Missions, equivalent amount can be paid in convertible foreign currency to respective Embassy or Mission.

PERIOD OF EMPLOYMENT (RULE 11)

The permission of employment granted to the labor as per Rule 8 or 9 shall not exceed the period mentioned by the working committee of the Ministry of Labor (herein after referred as "Ministry").

Per rules 8 and 9, permission of employment may be granted to a foreign citizen for the following period:

For technically skilled labor	Not exceeding 5 years
For other foreign labor	Not exceeding 3 years

However, on special circumstances, DoL may grant permission for an additional 2 years after approval from the Ministry.

EXTENSION OF DURATION (RULE 12)

To extend the permission for employment for a foreign citizen, the employer shall submit an application with requisite documents to the department, 30 days prior to the expiry date of prior approval.

THE NUMBER OF FOREIGN CITIZENS TO BE EMPLOYED (RULE 13)

The number of foreign citizens to be employed shall be as follows:

Particulars	Maximum number of foreign citizen to be employed
For organizations with foreign investment or foreign aid	In accordance with agreement between Government of Nepal (GoN) and Foreign Government or organization if any; Or, in absence of such an agreement, maximum of 3 foreign citizens.
For other organizations	Not exceeding 5% of total labor requirement in the concerned organization.

If records are not maintained for labors whose records are required to be maintained under the Act, DoL shall fine the employer double the charges per Rule 10(1) and maintain records of such labors.

CANCELLATION OF PERMIT (RULE 14)

The DoL may cancel the work permit or approval in following cases:

- On expiry of work permit provided by the Home Ministry, GoN.
- Nonpayment of applicable taxes or any payment due to the GoN within the prescribed time.
- Conviction of labor by court for any criminal offense.
- In the interest of National Security.
- Negligence in performing duties or depletion in moral values and integrity.

INSPECTION (RULE 15)

The DoL has the responsibility of inspecting or of directing inspections regarding the employment of foreign citizen within the scope of Rules 8 and 9 and Rule 13(3). The DoL may direct employer to terminate services of such foreign citizen immediately, whose permission for employment has not been received or records have not been maintained.

WORKING HOURS (RULE 16)

The employer shall determine the working hours as per the nature of work and should inform all workers.

ADDITIONAL TIME FOR REST (RULE 17)

Half an hour of additional rest time shall be provided to pregnant women or women having children below 3 years of age. Such additional rest time shall form part of regular working hours.

BIRTH CERTIFICATE TO BE SUBMITTED (RULE 18)

Within 3 months from the end of maternity leave, female labors under maternity leave shall furnish to the employer, a copy of the birth registration certificate of the child or a certificate provided by the hospital/health post where the child was born.

- Upon submission of documents mentioned above, the employer shall approve the maternity leave of the labor.
- The female labor shall submit a medical report in case of miscarriage or a birth certificate from the hospital/health post in case of stillbirth.

METHODS OF DEDUCTION IN REMUNERATION (RULE 19)

The details of such deduction are summarized in the table below:

Rule	Deductions Nature	Maximum Permissible deduction
19(1)	Government Order/ Court Decree (Page:10)	If period is specified, within such period. If period is not specified, amount not exceeding 50% of monthly salary until total amount is realized.
19(2)	Any benefits provided	Not exceeding 33% of monthly salary.
19(3)	Any receivables to the company	Not exceeding 33% of monthly salary.
19(4)	Where it is not possible to realize the total deductible amount only just charging 33% due to limited term of employment	May deduct more than 33% based on duration and time of work.

Rule	Deductions Nature	Maximum Permissible deduction
19(5)	If percentage has been specified on mutual agreement	As per agreement.

For the purpose of determining the amount from which deduction is to be made, following shall be deducted:

- Fees to be paid to trade union
- Amount to be contributed to provident fund
- Fees for collective bargaining

PAYMENT FOR WEEKLY HOLIDAYS (RULE 20)

Employer shall pay labors for the weekly holidays.

PAYMENT VIA BANKING CHANNEL (RULE 21)

Based on the availability of banking services, the Ministry may direct the employer located in a specified area to pay the remuneration to labor only through proper banking channel.

PROVIDENT FUND (RULE 22)

Until the Social Security Fund is established per contributions from Social Security Act 2074 or until the implementation of the aforementioned Act, the employer shall deposit the amount of provident fund in:

- Provident Fund Account
- Approved Retirement Fund or
- Separate account

Per section 20 of the Social Security Act, 2074, the employer shall transfer the amount deposited in aforementioned funds in a lump sum or in maximum of 3 installments within 6 months from registration in the Social Security Fund.

GRATUITY (RULE 23)

Until the Social Security Fund is established as per contributions from the Social Security Act 2074 or until the implementation of aforementioned Act, employer shall deposit the amount of gratuity in:

- Citizen Investment Trust
- Approved Retirement Fund or
- Separate account

Per section 20 of the Social Security Act, 2074 the employer shall transfer the amount deposited in aforementioned funds to the Social Security Fund in lump sum or in maximum 4 installments within 6 months from registration in the Social Security Fund.

CALCULATION OF GRATUITY AMOUNT

For the period before 19 Bhadra 2074

Period of Service	Amount of Gratuity
Labor who has served for 7 years	Amount equivalent to half of the current monthly remuneration for every year of service.
Labor who has served between 7 to 15 years	Amount equivalent to two-third of the current monthly remuneration for every year of service.
Labor who has served more than 15 years	Amount equivalent to one month's remuneration for every year of service

For the period after 19 Bhadra 2074 (4 Sept 2017),

- The employer shall deposit 8.33% of basic remuneration for every month of service.

PAYMENT OF PROVIDENT FUND AND GRATUITY AMOUNT (RULE 24)

Before transferring the amount related to Provident Fund or Gratuity in Social Security Fund, the employer may pay such amount to the concerned labor in case of termination of employment or his family in case of death of the labor.

SETTLEMENT OF DISPUTE (RULE 25)

The Labor office may direct for settlement in case of dispute between employer and labor regarding Gratuity or Provident Fund. The settlement needs to be done within 2 years.

DETERMINATION OF PERCENTAGE OF DISABILITY (RULE 26)

- If the laborer is unable to work due to disability caused by accident in the workplace, the laborer may file an application for determination of percentage of disability to the Labor Office within 1 year of discharge from hospital.
- The labor office shall send such labor to a GoN approved hospital, medical offices or medical board for determination of percentage of disability.
- Concerned Insurance Company shall pay the compensation based on the percentage as determined by such hospitals, medical offices or medical board on NPR.700, 000.

LABOR OUTSOURCING (RULE 27)

Application with prescribed details and documents needs to be filed for license for outsourcing of labor in the concerned area office or the DoL if there is more than one labor office in that area.

BANK GUARANTEE (RULE 29)

Bank guarantee provided as token money by license holder must have a validity period of at least 3 months more than that of the license.

RENEWAL OF LICENSE, SUBMISSION OF DETAILS AND SUSPENSION (RULE 30, 31 & 32):

Rule	Particulars	Due Date
30 (1)	File an application for renewal of license	Within Ashwin end every year
30 (2)	Upon failure to renew	Renew within the fiscal year by paying fines of 10% of renewal fee for every month exceeding the due date.
32	Labor office may suspend license (up to 6 months at a time) on failure to comply with the prescribed conditions.	By providing 7 days advance notice. Reasonable opportunity of being heard would be given.

DUTIES OF THE MAIN EMPLOYER (RULE 33)

The duties of the employer shall be as follows:

- There shall be no discrimination between outsourced and permanent labors, on

the facilities and benefits- apart from the remuneration and fees- provided to them.

- Maintain personnel and attendance record
- Make payments to labor outsourcing agency as per contractual terms or on a monthly basis, if not specified in the contract.
- Include outsourced laborers in the Health and Security Committee established as per Rule 37.

BUSINESS-RELATED SECURITY AND HEALTH POLICY (RULE 34)

The employer shall prepare and maintain business-related security and health policy after consulting with the Health and Security Committee, if formed, otherwise with the concerned labors or the Trade Union.

DUTY OF THE EMPLOYER (RULE 35)

- Make necessary arrangements to promptly take the labors who get injured or fall sick during work, to a hospital or a health post.
- Inform the Labor office regarding the fulfillment of duties concerning security and health provided to the labors.

SAFETY AND HEALTH COMMITTEE (RULE 37 AND 38)

- Safety and Health committee shall be formed in an organization employing 20 or more people.
- The organization employing more than 300 people may add 3 more members to the committee.
- The committee shall meet at least 4 times a year.

SECURITY ARRANGEMENTS (RULE 41)

Appropriate security arrangements should be in place to protect laborers from possible accidents that may be caused by machines and tools.

LIFTING HEAVY WEIGHT (RULE 42)

The laborer should not be made to lift or carry more than the following weights

Adult Man	55 Kgs
Adult Women	45 Kgs

OTHER ARRANGEMENTS REGARDING BUSINESS RELATED HEALTH AND SECURITY

- Appropriate arrangements shall be made at the workplace with respect to cleanliness, appropriate temperature control, access to clean air and drinking water, proper lighting, and first aid. Any wastage or spillage generated during work shall be processed in order to not cause any harm to the health of the laborers.
- The employer should follow the directions given by the Ministry, the DoL or Labor office.
- If an labor is diagnosed with a business-related disease mentioned in the Gazette published by the GoN, the employer shall pay for the medical expenses and compensation as prescribed by the ministry.

CHILD CARE, RELAXING ROOM AND CANTEEN (RULE 45, 46 AND 47)

The employer shall make the following arrangements:

Condition	Arrangements for
50 or more female workers	Child care for children below the age of 3 years with provision of care taker
50 or more workers	-Relaxation room -Canteen

LABOR AUDIT (RULE 56)

- The enterprise may conduct a labor audit as per the criteria determined by the Ministry, through its own management or through any person or institution associated with labor sector, within the end of the Poush every year.
- The labor audit report is to be made in the format provided in schedule 10 of the Rules.
- In case of any false particulars provided in the labor audit report, the auditor would be penalized as per section 163 (2) (Kha) of the Act with a fine of NPR 20,000 for each count of falsification.

TRANSFER OF LABOR (RULE 59)

An labor interested to be transferred from one enterprise to another enterprise could be transferred based on mutual agreement between both enterprises.



FACILITIES TO LABORS DURING TRANSFER (RULE 60)

Facilities to be provided by the employer, for the labors' transfer from existing work place to another shall be as prescribed:

- Transport charges for luggage.
- One month salary for settlement arrangements in the new location.
- Travel and daily allowance and outstation allowance as prescribed in the bylaws.

The employer is not required to compensate aforementioned benefits if the labor is transferred within the same location or on transferred on his own request.

LABOR RELATIONS COMMITTEE (RULE 61 AND 62)

Labor relations committee shall be formed in an enterprise having 10 or more labors.

Meetings of the committee shall be held at the time and place determined by the meeting coordinator.

LABOR PERFORMANCE EVALUATION (RULE 63)

- The employer shall evaluate the labor's performance as per policy and procedures and should provide a performance evaluation form to the labor.
- The performance evaluation form filed by the labor at the beginning of the year, shall be securely kept for 3 years.

COLLECTIVE BARGAINING COMMITTEE (RULE 64)

A Collective Bargaining Committee (CBC) shall be formed based on the number of labors engaged in the enterprise:

No. of labors	No. of members in the CBC
Up to 20	3
21 to 100	5
More than 100	One member per 50 additional labors; maximum up to 11.

TERMINATION OF EMPLOYMENT (RULE 72)

If an enterprise which has retrenched labors for any reason per Section 145 of the Act, re-

operates within 2 years or requires additional labors, it must call back the retrenched labors to work, by providing 15 days' notice.

This information should be placed on the job portal site of the ministry and the website of the enterprise for a minimum of 15 days.

RETIREMENT AGE (RULE 73)

The enterprise can submit an application to the Ministry, with basis and reasons, if it desires to fix the retirement age below 58 years.

PAYMENT AFTER TERMINATION (RULE 74)

The method for payment after termination of engagement shall be as follows:

If the labor is unable to collect in person.	Deposit the amount in a bank or financial institution account of the labor
Where no bank account is provided	Deposit the amount in a bank or financial institution account of a family member nominated by the labor

In case of death of the labor before receipt of remuneration, the payment shall be made to a family member in an order as prescribed below:

- Any person nominated by the labor
- In the event of death of nominee or if no nominee is appointed, payment shall be made in following order:
 - Spouse living together,
 - Son, daughter-in-law or unmarried daughter living together,
 - Grand-children, father, mother, father-in-law or mother-in-law living together,
 - Spouse, son, daughter-in-law, or unmarried daughter living apart

In cases where the amount cannot be deposited in bank account and the person does not make a claim within 3 years, the amount shall be deposited in the Social Security Fund. The labor or his representative can claim an amount not exceeding that initially deposited in the Social Security Fund.

BASIC REMUNERATION (RULE 77)

Basic remuneration of a regular labor shall be equivalent to 60% of last 3 months average gross salary. However, it shall not be less than the minimum remuneration fixed by the GoN.

FIXATION OF PIECE RATE (RULE 78)

The following must be considered when fixing a piece rate:

- As per agreement between labor and employer, if any.
- Increase piece rate in proportion to increment in minimum wage rate.
- In other cases, hourly rate of minimum wage of labor.

PERSONNEL RECORD (RULE 81)

The employer should maintain a record of name, address, family background, contact number, citizenship number, email, etc. for all labors. Any changes in labor details should be informed immediately by the labor and updated accordingly.

The employer shall maintain records of salary paid and attendance marked for all labors for a minimum period of 5 years.

SERVICE CHARGE DISTRIBUTION (RULE 82)

If service charge is collected from consumers by a hotel, motel, restaurant, jungle safari or any similar business, it shall be distributed to laborers as follows:

Per agreement with an authorized representative or trade union, if any

Otherwise, as follows:

% of Total Collection	Recipient
71%	Laborers, trainees working as per section 18 of the Act or outsourced laborers
24%	Employer
2.5%	Hotel Association
2.5%	Authorized representative or Trade Union

PUBLIC AND WEEKLY HOLIDAY OF DOMESTIC LABOR (RULE 83)

Paid public Holidays	12 days
Paid weekly Holidays	1 day

If domestic workers are made to work on public holidays or weekly holidays, they should be compensated with additional remuneration or compensatory leave, within 21 days.

WELFARE FUND (RULE 84)

For the management of funds remaining after distribution of bonus u/s 13 of the Bonus Act 2030, a welfare fund shall be established wherein 70% of the surplus bonus amount will be deposited.

In case of liquidation or retrenchment of all labors of the organization, the amount in the welfare fund should be proportionately distributed to all labors working in the organization up to 1 year prior to the date of initiation of liquidation.

HOUSING FUND (RULE 85)

Any amount remaining in the Housing Fund established u/s 41 of the erstwhile Labor Act, 2048, could be utilized for the following purposes:

- Management of residence quarters for laborers or,
- A labor welfare scheme as per decision of a labor related committee.

On liquidation of an organization, 50% of such fund shall be distributed to the existing labors on a proportional basis while the remaining 50% will be provided to the employer.





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RIGHT SIZE
RIGHT SOLUTIONS

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