

## ORDINANCE TO AMEND CERTAIN ACTS FOR INVESTMENT FACILITATION, 2081 (2024 A.D.)

### Introduction

On April 28, 2024, an Ordinance to amend certain Acts for investment facilitation was issued by the President of Nepal upon recommendation of the Council of Ministers in accordance with Article 114(1) of the Constitution.

A Nepali version of the Ordinance can be accessed by clicking [here](#). Some of the notable amendments brought about by the Ordinance are highlighted below:

### Amendments to the Foreign Investment and Technology Transfer Act, 2075 (2019 A.D.)

#### Definitions

The definition of Technology Transfer in Section 2 (f) has been amended to include transfer of technology between an industry and a foreign investor or between an industry or company operating in Nepal and an industry, firm, or company located abroad, on the following matters:

- Patents, designs, trademarks, goodwill, technical specifications, franchises, formulas, processes,
- License of use (user's license), or provision of technical information (know-how sharing),
- Management and Technical Services,
- Reverse engineering.

#### Technology Transfer to Foreign Jurisdiction

Section 7A has been added thus allowing an industry or company established and operating in Nepal to transfer technology to an industry, firm, or company located abroad. The foreign currency received in this process shall be brought into Nepal with the permission of Nepal Rastra Bank

("NRB"). The respective entity may open its branch office or unit in the concerned country with the permission of the Department of Industry ("DOI").

#### Recommendation from the Ministry

The recommendation from the Ministry of Industries is no longer required for any industry with foreign investment to access loans from foreign financial institutions under Section 12. Such industries can obtain loans through project loan agreements or project financing agreements, approved by NRB in accordance with prevailing Nepalese laws.

#### Approving Authority

As a result of amendment to Section 17, the DOI is now authorized to approve any foreign investments under the Act including those above NPR 6 billion.

#### Contract Manufacturing

Subsection (1) of Section 45 has been replaced thereby allowing an industry having foreign investment to contract or subcontract with other industries having similar objectives to produce or to order the production of goods or services.

#### Ceiling of Foreign Investment in Ride Sharing

Ride sharing business has been restricted from receiving more than seventy percent foreign investment.

#### Amendments to the Industrial Enterprises Act, 2076 (2020 A.D.)

#### Registration and Operation of Start-up

A new provision 4A has been incorporated recognizing “Start-up Industry or Business” engaged in commercial activities through innovative research and creative approaches in developing, producing, operating, and distributing products or services satisfying the following criteria:

- (a) Registered as a new company, private firm or partnership firm;
- (b) Utilizing novel concept or technology in the production of goods or services;
- (c) Having possibility for rapid improvement;
- (d) Not being over ten years since establishment; and
- (e) Not having conducted transactions exceeding NPR 150 million in any fiscal year since establishment.

Government of Nepal (“GON”) or concerned Province of Local Authority may establish and operate Business Promotion Center to promote Start up Industry or Businesses.

#### **Other Amendments:**

- Large scale industries shall be required to be registered by making an application to the Department.
- The following new clauses have been incorporated in Section 29:
  - GON may provide incentives and facilities to industries related to IT sector with a capital investment of more than one billion.
- GON, provincial government, or local level may provide incentives, discounts, concessions, or financial and non-financial facilities to startup enterprises or businesses.
- Subsection (6) of section 32 is replaced whereby an industry that is allowed to retain land in excess of the land holding ceiling may obtain loan from banking and financial institution by mortgaging 50 percent of such purchased land for the capacity enhancement of the industry in the area determined by the industry registration body based on the Detailed Project Report.
- Subsection (1) of section 50 is replaced whereby industries, firms, companies, or establishments registered under prevailing laws having the same purpose are permitted to enter into contracts or sub-contracts with each other to produce or order production of goods or services.
- Domestic and International Air Services, Cable Car industries have been incorporated in Schedule-9 as industries of national priority.

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