

## **Foreign Exchange (Regulation) Act, 2019 (1962)**

### Date of Royal Seal and Publication

2019.3.15 (29 June 1962)

### Amending Acts:

1. Some Nepal Acts Amendment, Repeal and Continuanance Through Rearrangements Act, 2019 (1963) 2019.12.30 (April 12, 1963)
2. Judicial Administration Reform (Fourth Amendment) Act, 2043 (1986) 2043.7.24 (Nov. 10, 1986)
3. Foreign Exchange (Regulation) (First Amendment) Act, 2044 (1987) 2044.7.1 (Oct. 18, 1987)
4. Finance Related Some Nepal Acts Amendment Act, 2047 (1990) 2047.8.27 (Dec. 13, 1990)
5. Some Nepal Acts Amendment Act, 2048 (1992) 2049.1.8 (April 20, 1992)
6. Foreign Exchange (Regulation) (Second Amendment) Act, 2058 ( 2002) 2059.4.22 (Aug. 7, 2002)
7. Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2009) 2066.10.7 (Jan. 21, 2010)

Act number 5 of the year 2019 (1962)

## **An Act Made to Regulate Foreign Exchange Related Transactions**

**Preamble:** Whereas, it is expedient to further regulate the foreign exchange related transaction in order to maintain the economic interests<sup>1</sup> of the general public;

Now, therefore, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev in accordance with Article 93 of the Constitution of Nepal.<sup>2</sup>

**1. Short title, extension and commencement:** (1) This Act may be called as the "Foreign Exchange (Regulation) Act, 2019 (1962)."

(2)<sup>3</sup> It shall extend to throughout Nepal<sup>4</sup> and also apply to all citizens of Nepal who reside outside of Nepal,<sup>5</sup> and all firms, companies, bodies and branches and agencies of such firms, companies or bodies which have been registered in Nepal<sup>6</sup> and operating in any place outside of Nepal.<sup>7</sup>

(3) This Section shall commence forthwith and the other Section shall commence on such date in such areas as may be specified by the Government of Nepal from time to time, by a Notification in the Nepal Gazette.<sup>8</sup>

**2. Definitions:** Unless the subject or the context otherwise requires, in this Act,-

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<sup>1</sup> Amended by the Some Nepal Acts Amendment, Repeal and Continuance Through Rearrangements Act, 2019.

<sup>2</sup> Amended by the Some Nepal Acts Amendment, Repeal and Continuance Through Rearrangements Act, 2019.

<sup>3</sup> Amended by the First Amendment and re-amended by the Third Amendment.

<sup>4</sup> Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>5</sup> Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>6</sup> Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>7</sup> Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>8</sup> It is mentioned at the end of this Act.

- (a)<sup>9</sup> “currency” means any kind of currency notes, postal orders, postal notes, money orders, cheques, drafts, travelers cheques, letters of credit, bills of exchange, promissory notes and credit cards, and this term also includes similar other monetary instruments as may be prescribed by the Bank by publishing and broadcasting a public notice;
- (a1)<sup>10</sup> “currency notes” means bank notes in circulation as cash and this term also includes coins;
- (b)<sup>11</sup> “foreign currency” means any currency other than the Nepalese currency, and this term also includes special rights to draw funds (Special Drawing Rights) from the International Monetary Fund, the Asian Currency Unit, the European Currency Unit and such other instruments as may be prescribed by the Bank, by publishing and broadcasting a public notice;
- (c)<sup>12</sup> “Nepalese currency” means a currency tendered in Nepalese Rupee.
- (c1)<sup>13</sup> “convertible foreign currencies” means any foreign currencies as may be designated as convertible foreign currencies by the Bank by publishing and broadcasting a public notice ;
- (d)<sup>14</sup> “foreign exchange” means a foreign currency, deposits, credits and balances of all types which are paid or received in a foreign currency, foreign securities and cheques, drafts, travelers cheques, electronic fund transfers, credit cards, letters of credit, bills of exchange and promissory notes which are in

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<sup>9</sup> Amended by the Second Amendment.

<sup>10</sup> Inserted by the Second Amendment.

<sup>11</sup> Amended by the Second Amendment.

<sup>12</sup> Amended by the Second Amendment.

<sup>13</sup> Inserted by the Second Amendment.

<sup>14</sup> Amended by the Second Amendment.

international circulation and are or can be paid in a foreign currency, and this term also includes any other such monetary instruments as may be prescribed by the Bank by publishing and broadcasting a public notice;

(d1)<sup>15</sup> "foreign exchange transaction" means the purchase, sale, lending and borrowing the foreign exchange or receiving or giving of the foreign exchange in any other manner, and this term also includes the act of giving permission by the Bank to convert the foreign exchange;

(d2)<sup>16</sup> "license" means a license obtained by any person, firm, company or body from the Bank pursuant to Section 3 to carry on the foreign exchange transaction;

(e)<sup>17</sup> "licensee" means a person, firm, company or body who has obtained the license from the Bank pursuant to Section 3 in order to carry on the foreign transaction;

(f)<sup>18</sup> "securities" means any shares, stocks, bonds, debentures, debenture stocks issued by any body corporate or unitary saving scheme certificate or collective saving scheme certificate or transferable deposit certificate issued by any body corporate in accordance with the prevailing law, and this term also includes such other securities or receipts relating to the deposit of securities and rights and powers relating to securities as may be specified by the Government of Nepal by a Notification in the Nepal Gazette;

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<sup>15</sup> Inserted by the Second Amendment.

<sup>16</sup> Inserted by the Second Amendment.

<sup>17</sup> Amended by the Second Amendment.

<sup>18</sup> Amended by the Second Amendment.

(g)<sup>19</sup> "foreign securities" means any securities issued or released in any country other than Nepal<sup>20</sup>;

(g1)<sup>21</sup> "foreign investment" means the following investment made by a foreign investor in any firm, company or body:

- (1) investment made in shares,
- (2) investment made in deposits,
- (3) re-investment of income earned from the investment as referred to in Clauses (1) and (2),
- (4) investment made in the form of a loan or loan facility.

(g2)<sup>22</sup> "technology transfer" means the transfer of technology to be made by entering into an agreement between any firm, company or body and a foreign investor in relation to the following matters:

- (1) use of right to any technology, of specialization, formula, process, patent or technical know-how of foreign origin,
- (2) Use of any trademark of foreign origin,
- (3) Acquiring any foreign technical, consultancy, management and marketing service.

(g3)<sup>23</sup> "foreign investor" means any foreign person, firm, company or body making a foreign investment or technology transfer and this term also includes a foreign government or international agency;

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<sup>19</sup> Amended by the Second Amendment.

<sup>20</sup> Amended by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>21</sup> Inserted by the Second Amendment.

<sup>22</sup> Inserted by the Second Amendment.

<sup>23</sup> Inserted by the Second Amendment.

- (h)<sup>24</sup> "gold" includes the gold in form of coins whether in circulation legally or not, *Dhikkas* and plates of gold whether processed or not and ornaments and goods made fully or substantially of or from gold;
- (i)<sup>25</sup> "silver" includes the silver in form of coins whether in circulation legally or not, *Dhikkas* and plates of silver whether processed or not and ornaments and goods made fully or substantially of or from silver;
- (j) "Bank" means the Nepal Rastra Bank;
- (k) "prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act;
- (l) "owner in relation to any securities" includes a person who has right to sell, dispose or transmit the securities or a person who holds the securities in his or her name or a person who obtains dividends or interests of the securities on behalf of him or her or other person or a person who has any right in the securities, and where the securities are held in any trust or the dividends or interest thereof are deposited into any trust fund, a person who has the right to operate or cancel or alter that trust and any terms thereof with or without consent of any other person or a person who has the right to control the investment of trust money;
- (m)<sup>26</sup> "investigating officer" means the investigating officer designated pursuant to Section 11A.;
- (n)<sup>27</sup> "person residing in Nepal" means any of the following persons:

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<sup>24</sup> Amended by the First Amendment.

<sup>25</sup> Amended by the First Amendment.

<sup>26</sup> Inserted by the First Amendment.

- (1) A citizen of Nepal other than a citizen of Nepal who is residing outside Nepal for a period exceeding the period specified by the Bank by publishing and broadcasting a public notice in the course of employment, trade or other business or for any other purpose,
  - (2) A non-Nepalese citizen who is residing in Nepal for a person exceeding the period specified by the Bank by publishing and broadcasting a public notice in the course of employment, trade or other business.
- (o)<sup>28</sup> "person residing outside Nepal" means a person other than a person residing in Nepal.

**3.<sup>29</sup> License to be obtained to carry on foreign exchange**

**transaction:** (1) A person, firm, company or body who intends to carry on the foreign exchange transaction shall obtain the license from the Bank.

(2) A person, firm, company or body who intends to carry on the foreign exchange transaction shall make an application, accompanied by the details specified by the Bank, to the Bank to obtain the license.

(3) If an application is made pursuant to Sub-section (1), the Bank shall make necessary inquiry into the matter on the basis of the specified criteria and may, if it considers appropriate, issue the license to the concerned person, firm, company or body to carry on the foreign exchange transaction. In so issuing the license, the Bank may also specify the type and limit of the foreign exchange to be

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<sup>27</sup> Inserted by the First Amendment.

<sup>28</sup> Inserted by the First Amendment.

<sup>29</sup> Amended by the Second Amendment.

transacted, the period for carrying on the transaction and other necessary terms.

(4) The Bank may, from time to time, give necessary order or directive to the licensee in relation to the regularization and management of the foreign exchange transaction. It shall be the duty of the licensee to abide by such an order or directive.

(5) The licensee bank shall pay to the Bank such annual fees and deposits as may be prescribed by the Bank. The Bank may cancel or suspend the license of the licensee who fails to pay the annual fees and deposits so prescribed.

(6) If any person, firm, company or body applies for an provisional (*Patake*) license to carry on the foreign exchange transaction, the Bank may issue the provisional license to such a person, subject to this Section.

**3A.<sup>30</sup> Power of Bank to take action:** (1) If a licensee fails to abide by the order or directive issued by the Bank pursuant to this Act, the Bank may take any or all of the following actions against such a licensee:

- (a) To admonish,
- (b) To impose restriction on any or all of the foreign exchange transaction,
- (c) To forfeit the cash deposit in the Bank or make recovery from the guarantee,
- (d) To suspend or cancel the license.

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<sup>30</sup> Inserted by the Second Amendment.



(2) In taking action against the licensee pursuant to Sub-section (1), the licensee shall be provided with a reasonable opportunity to defend himself or herself.

**3B.<sup>31</sup> Other provisions relating to foreign exchange transaction:** The provisions on the foreign exchange transaction, other than those set forth in this Act shall be as prescribed by the Bank by publishing and broadcasting a public notice.

**4.<sup>32</sup> Procedure for carrying on foreign exchange transaction:<sup>34</sup>(1)** No person shall, without obtaining permission from the Bank, carry on the foreign exchange transaction with any person other than the licensee.

(2) No licensee or any other person whoever shall carry on the foreign exchange transaction by giving the Nepalese currency and taking foreign currency and *vice versa* at a rate that is different than the exchange rate specified by the Bank.

(3) If any person obtains the foreign exchange for any specific purpose or on any terms, that person shall not use such a foreign currency for any other purpose or violate such terms. If the foreign currency so obtained cannot be used in the concerned purpose or the terms cannot be met, that person shall sell such a foreign exchange to the licensee person or bank at the rate specified by the Bank, within Thirty days after the date of knowledge of that matter.

(4) If any person obtains the foreign exchange to import any goods into.....<sup>35</sup> Nepal and does not import such goods within the

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<sup>31</sup> Inserted by the Second Amendment.

<sup>32</sup> Amended by the First Amendment.

<sup>33</sup> Amended by the Second Amendment.

<sup>34</sup> Amended by the Second Amendment.

<sup>35</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

reasonable period of time or the goods of the value equal to that of the foreign exchange so obtained, that person shall be deemed to have failed to use the foreign exchange so obtained in that purpose or to fulfill such terms.

**4A.<sup>36</sup> Provisions relating to foreign exchange obtained by citizen of**

**Nepal:** (1) Provisions relating to the foreign exchange obtained by a citizen of Nepal shall be as specified by the Bank by publishing and broadcasting a public notice.

(2) If a citizen of Nepal who has earned foreign exchange or made investment from the foreign exchange during his or her stay in a foreign country intends to keep such a foreign exchange in or make invest from the foreign exchange in, a foreign country even after returning to .....<sup>37</sup>Nepal, except on the conditions set forth in Section 6, such a citizen of Nepal may keep such a foreign exchange in or make investment thereof in, the foreign country, by giving information thereof to the Bank.

**4B.<sup>38</sup> Payment for sale of goods or provision of services to**

**foreigner:** In taking payment by a person, firm, company or body residing in.....<sup>39</sup>Nepal for the sale of any goods or provision of any services to any foreign person, firm, company or body, such a payment shall be taken in a convertible foreign currency except as otherwise provided by the Bank by publishing and broadcasting a public notice.

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<sup>36</sup> Inserted by the First Amendment and amended by the Second Amendment.  
<sup>37</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.  
<sup>38</sup> Inserted by the Second Amendment.  
<sup>39</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

5.<sup>40</sup> **Restriction on export or import of certain currency and**

**bullion:** (1) The Government of Nepal may issue an order by a Notification in the Nepal Gazette, thereby restricting the importing of or sending any certain type of Nepalese currency or foreign currency by any person, firm, company or body into or to the whole or any certain area of.....<sup>41</sup> Nepal, without obtaining the license from the Bank. In issuing such an order, the Government of Nepal may specify in the order that such a restriction is not application to any person, firm, company or body or to any certain type of Nepalese currency or foreign currency.

(2) No person, firm, company or body shall, without obtaining the license from the Bank, carry or send any foreign exchange, except the Nepalese currency or any foreign exchange obtained from the licensee, outside any area of .....<sup>42</sup> Nepal.

Provided that, the Government of Nepal may, by a Notification in the Nepal Gazette, issue an order exempting any foreign exchange from such a restriction.

6. **Power of Government of Nepal to obtain foreign exchange:** (1)

<sup>43</sup>In the event of foreign exchange crisis due to economic and monetary crisis in the country, the Government of Nepal may, by a Notification in the Nepal Gazette, order the citizens of Nepal who are owner of the foreign exchange to do as follows in relation to the foreign exchange owned by them:

- (a) To produce, or cause to be produced, by the person who has the foreign exchange specified in the

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<sup>40</sup> Amended by the Second Amendment,

<sup>41</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>42</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>43</sup> Amended by the Second Amendment.

notice to the Bank in the name of the Government of Nepal, or to the person authorized by the Bank in that behalf, for sale at the rate determined by the Bank,

- (b) To transmit the right by the person who has the right to transfer the title to the foreign exchange specified in the notice to another person in the name of the Government of Nepal by receiving the value to be set at the rate determined by the Bank.

Provided that, the Government of Nepal may, by the same notice or issuing another order, exempt any certain persons or persons of certain class from such an order.

(2) This Section shall not apply to the foreign exchange obtained by any person from the licensee for any purpose by obtaining permission of the Bank.

**7. Duty of persons who have source to obtain foreign exchange:**

(1) No person who has the right to obtain any foreign exchange outside Nepal or obtain payment in the Nepalese currency<sup>44</sup> shall, without obtaining .....permission of the Bank, do any act impeding payment of or delaying payment of such a foreign exchange or Nepalese currency<sup>45</sup>.

(2) If any person violates Sub-section (1), the Bank may give such direction as it thinks necessary to such a person to obtain the foreign exchange or effect payment of the Nepalese currency<sup>46</sup>.

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<sup>44</sup> Amended by the First Amendment.

<sup>45</sup> Amended by the First Amendment.

<sup>46</sup> Amended by the First Amendment.

8.<sup>47</sup> **Duty of importers:** (1) In importing any goods by any person, firm, company or body on payment in a foreign exchange by opening a letter of credit in .....<sup>48</sup> Nepal or otherwise, such a person, firm, company or body shall import such goods within the time specified by the Bank and submit to the Bank such documents as specified by the Bank.

(2) The provisions relating to the type of foreign exchange to be paid for import and procedures for such payment shall be as specified by the Bank by publishing and broadcasting a public notice.

(3) Except with the prior approval of the Bank, the importer shall make import of the goods declared in the letter of credit in consonance with the price and quantity set forth in the same letter of credit.

Provided that, in the event of amendment to the letter of credit, nothing shall bar the importing of goods in consonance with the amended price and quantity.

(4) If, in opening a letter of credit in a commercial bank by any importer, another person, firm, company or body furnishes guarantee or is directly or indirectly involved in that transaction and such a transaction involves misappropriation or deflection of foreign currency in any manner, notwithstanding anything contained in the prevailing law, punishment shall, pursuant to this Act, be imposed also on the person, firm, company or body who has so furnished guarantee or been directly or indirectly involved in that transaction for the misappropriation or deflection of foreign currency.

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<sup>47</sup> Amended by the Second Amendment.

<sup>48</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

(5) Notwithstanding anything contained elsewhere in this Section, the procedures for the import of knowledge and informative technology and payment for the same shall be as specified by the Bank by publishing and broadcasting a public notice.

(6) The importer shall make actual invoicing. The importer shall not do any act not conforming thereto and any act pertaining thereto.

**9. Payment of price for the exported goods :** (1) The Government of Nepal may prohibit export of goods as indicated in a Notification published in the Nepal Gazette to any place outside .....<sup>49</sup> Nepal except as per the provision as referred to in Sub-section (2).

(2) For the purposes of this Section, the Government of Nepal may frame necessary Rules or issue directive or order, upon holding consultation with the Bank.

**9A.<sup>50</sup> To receive payment of value of exported goods:** (1) The exporter shall have to declare before the Customs Officer that he or she shall bring the payment of declared value within the period in the approved foreign exchange as prescribed by the Bank by filling up the said details in the export declaration form as prescribed by the Bank.

(2) If there occurs a condition to receive the payment in excess or less than the value as declared in the declaration from before receiving the payment for exported goods, the exporter shall have to submit an application to the Bank, along with the evidence of such fact, and if such fact is found justifiable, the Bank may give permission to receive the payment in such excess or less amount.

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<sup>49</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>50</sup> Inserted by the First Amendment.

(3) If the exporter does not receive the payment of price of the exported goods within the time limit as prescribed under Sub-section (1), it shall be deemed that he or she has violated this Act.

(4) Notwithstanding anything contained in Sub-section (3), if the exporter submits an application to the Bank setting out the reasonable reason of being failed to receive the payment of price of the exported goods within the period as prescribed in Sub-section (1) and if the Bank is satisfied with that matter, it may issue the following order to the concerned exporter setting out the next period:

- (a) To bring the payment, if the goods have already been sold.
- (b) If the goods have not yet been sold, to bring the payment by selling them or return back such goods to Nepal.

<sup>51</sup>Provided that, if an application has been submitted to the Bank setting out the reasonable reason of being unable to bring the payment for exported goods due to the condition of beyond control of the exporter, the Bank may, upon holding necessary examination, give concession not to return back such goods or bring payment fully or partly.

(5) If the Bank desires to have certified the consent that the payment of the price declared in the declaration form shall be made within the prescribed period and mode, it may cause the submission of the agreement and other evidence relating to the same concluded between the exporter and the foreign buyer.

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<sup>51</sup> Inserted by the Second Amendment.

(6) The Bank may issue an order to do the following in relation to all or any particular type of goods to be exported or all or any particular exporter in order to manage the provision to receive the payment of total value of the exported goods:

- (a) Except as otherwise prescribed by the Government of Nepal, the payment for the exported goods has to be received through the means of letter of credit and other means as prescribed,
- (b) In order to certify covenanting that the price as declared in the declaration form as referred to in Sub-section (1) is the real price for export, it is required to submit the said declaration form to the authority or institution as prescribed by the Bank.

(7)<sup>52</sup> Notwithstanding anything contained elsewhere in this Section, the procedures for the export of knowledge and informative technology and payment for the same shall be as specified by the Bank by publishing and broadcasting a public notice.

**9B.<sup>53</sup> Acts not to be done by the exporter:** The exporter shall not do any of the following acts:

- (a) To receive payment for the exported goods through other mode except as prescribed,
- (b) To arrange the payment for the exported goods delayed than the period as prescribed,
- (c) To do any act in order not to receive payment for total value of the exported goods,

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<sup>52</sup> Inserted by the Second Amendment.

<sup>53</sup> Inserted by the First Amendment.



(d)<sup>54</sup> To do any act defying real invoicing or any other act pertaining to such an act.

9C.<sup>55</sup> **Restriction on making or receiving payment:** Except in accordance with the provisions specified by the Bank,<sup>56</sup> no person residing in Nepal shall do or cause to be done any of the following acts directly or indirectly:

- (a) To make payment of any kind in any manner to any person residing outside Nepal,
- (b) To draw, accept or negotiate any negotiable instrument or promissory notes or accept any loans in such a manner as to create or transfer the right to receive payment in favor of any person residing outside Nepal,
- (c) To make payment of any kind to any person by the order or on behalf of any person residing outside Nepal.

10. **Restriction on export and transmission of securities:** Except in accordance with the provisions specified by the Bank,<sup>57</sup> no person shall do any of the following acts:

- (a) To export any securities to any place outside Nepal,
- (b) To transmit any securities to any person residing outside.....<sup>58</sup> Nepal,
- (c) To give any securities to any person residing outside.....<sup>59</sup> Nepal for earning, use or control by that person or for other purpose.

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<sup>54</sup> Inserted by the Second Amendment.

<sup>55</sup> Inserted by the First Amendment.

<sup>56</sup> Amended by the Second Amendment.

<sup>57</sup> Amended by the Second Amendment.

<sup>58</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>59</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

**Explanation:** The term "transmission", in relation to any securities includes the transmission made in the form of loan or securities.

**10A.<sup>60</sup> Restriction on investment:** (1) In making investment by a person in a foreign country or in .....<sup>61</sup> Nepal by a foreign investor in accordance with the prevailing law, such a person or investor shall make so as specified by the Bank by publishing and broadcasting a public notice.

Provided that, nothing contained in this Section shall be deemed to affect the investment made by a citizen of Nepal, residing in.....<sup>62</sup> Nepal, in a foreign country from his or her earnings made during his or her stay abroad.

**10B.<sup>63</sup> Provisions relating to lending and borrowing of loan in foreign exchange:** Except in accordance with the provisions of the prevailing law and the provisions specified by the Bank by publishing and broadcasting a public notice, no person shall lend or borrow a loan in a foreign exchange.

**10C.<sup>64</sup> Provisions relating to repatriation, investment of, and transfer of right in, foreign exchange:** (1) A foreign investor who has got permission to make investment in securities in accordance with the prevailing law shall be entitled to repatriate or send the following amount in a foreign currency outside.....<sup>65</sup> Nepal, in accordance with the procedures specified by the Bank by publishing and broadcasting a public notice:

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<sup>60</sup> Inserted by the Second Amendment.

<sup>61</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>62</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>63</sup> Inserted by the Second Amendment.

<sup>64</sup> Inserted by the Second Amendment.

<sup>65</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

- (a) Investment made in the securities and profit or dividend earned from the investment,
- (b) Investment made in the form of a loan or loan facility and interest thereof.

(2) If a citizen of Nepal residing outside.....<sup>66</sup> Nepal obtains permission to make investment in.....<sup>67</sup> Nepal in a foreign exchange, he or she shall be entitled to the facility as referred to in Sub-section (1).

(3) Such repatriation in the foreign exchange may be made or sent on the basis of the amount to be set by the price or value of the securities at the stock exchange, in the case of the enlisted securities, out of the securities as referred to in Clause (a) of Sub-section (1), and on the basis of the property of the concerned body as determined in accordance with the procedures specified by the Bank by publishing and broadcasting a public notice, in the case of the securities not enlisted.

(4) If payment of such tax or fee as required to be paid pursuant to the prevailing law is made in a foreign currency, any foreign person, firm, company or body may transfer the securities acquired by such a person, firm, company or body to any other foreign person, firm, company or body in accordance with the procedures set forth in the prevailing law.

(5) Any foreign investor may repatriate or send abroad the amount of technological fees, royalty etc. as mentioned in the agreement for the transfer of technology made by that investor pursuant to the prevailing law.

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<sup>66</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>67</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

(6) The procedures for repatriating or sending the amount in lieu of the sale of air ticket and cargo made by any licensed foreign airlines or their agents operating in .....<sup>68</sup> Nepal or any Nepalese person, firm, company or body authorized to do that act within Nepal shall be as specified by the Bank by publishing and broadcasting a public notice.

(7) Notwithstanding anything contained elsewhere in this Section, a person, firm, company or body who makes investment in the Nepalese currency but does not earn foreign currency shall be entitled to receive or give payment in a foreign currency in accordance with this Section.

**11. Power to demand statements:** (1).....<sup>69</sup>

(2) If the Government of Nepal or Bank is of the opinion that it is necessary or expedient to obtain or examine any statements, books of account or documents for the accomplishment of the objectives of this Act and that any person has such statements, books of account or documents or may obtain and submit the same, the Government of Nepal or Bank may order such a person to submit or obtain and submit the statements, books of account or documents to the Government of Nepal or Bank.

(3) .....<sup>70</sup>

**11A.<sup>71</sup> Designation of investigating officer:** The Government of Nepal may designate the investigating officer to inquire and investigate into the offences under this Act.

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<sup>68</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>69</sup> Deleted by the Second Amendment.

<sup>70</sup> Deleted by the Second Amendment.

<sup>71</sup> Inserted by the First Amendment.

**11B.** <sup>72</sup> **To search suspicious person:** (1) If there is adequate reason and ground to doubt that any person has any foreign exchange in contravention of this Act, the body of such a person may be searched by an employee of at least Gazetted second class by the order of the investigating officer.

Provided that, the body of a woman shall be searched only by a woman.

(2) If, in searching a suspicious person, any foreign exchange or document pertaining thereto is found, such a foreign exchange and document may be taken into custody.

(3) Any search to be made pursuant to this Section shall be made in presence and witness of at least Two local persons. A statement of the foreign exchange and document pertaining to it found in the course of search shall be prepared and caused to be signed also by the witnesses.

**11C.** <sup>73</sup> **Power to stop and search motor vehicle:** (1) If there is adequate reason and ground to doubt that any motor vehicle has been used or is going to be used in committing any act in contravention of this Act or that any foreign exchange is concealed in the motor vehicle in a manner to be in contravention of this Act, the investigating officer may stop such a motor vehicle at any time or place.

(2) Any part of the motor vehicle stopped pursuant to Sub-section (1) and goods contained therein may be searched or examined, and if, in so searching, any foreign exchange or document pertaining thereto is found, such a foreign exchange and document may be taken into custody.

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<sup>72</sup> Inserted by the First Amendment.

<sup>73</sup> Inserted by the First Amendment.

**11D.** <sup>74</sup> **Power to search building or place of transaction:** (1) If there is adequate reason and ground to believe that that any foreign exchange is concealed or held in any building or place of transaction in contravention of this Act, the investigating officer may, by executing a memorandum to that effect, order to search such a building or place of transaction.

(2) In making a search pursuant to the order as referred to in Sub-section (1), an employee of at least non-gazetted second class shall make the search.

(3) The employee deputed to make a search in accordance with the order of the investigating officer shall give a notice, accompanied by the reason for making search, to the persons living in the building or place of transaction to be searched at the moment. If the concerned does not receive such a notice, a copy of the notice shall be affixed to a conspicuous place of the building or place of transaction to be searched. After the notice has been affixed, the concerned person shall be deemed to have received the notice of search.

(4) After the notice has been given to the concerned person pursuant to Sub-section (3), the employee deputed to make search shall be allowed to make search of the building or place of transaction.

(5) If the concerned person makes hindrance or obstruction in the making of search, the employee deputed to make search shall give a notice and opportunity to the persons staying in the building or place of transaction to be searched to leave the building or place of transaction. If, despite such an opportunity, such persons do not leave the building or place of transaction, the building or place of transaction to be searched may be

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<sup>74</sup> Inserted by the First Amendment.

searched at any time by using necessary force and breaking or demolishing outer or inner doors, windows, doors or locks of the building or place of transaction to be searched.

(6) If, in so searching, any foreign exchange or document pertaining thereto is found in contravention of this Act, such a foreign exchange and document may be taken into custody.

(7) Any search to be made pursuant to this Section shall be made in presence and witness of a member of the Village Development Committee or Municipality or at least two local persons<sup>75</sup>. A statement of such foreign exchange and document pertaining to it as is in contravention of this Act, found in the course of search shall be prepared and caused to be signed also by the witnesses.

**11E.** <sup>76</sup> **Power to arrest:** (1) If there is adequate reason and ground to doubt that any person has done an act or is going to do any act in contravention of this Act, such a person may be arrested at any place by the order of the investigating officer.

(2) The person arrested pursuant to Sub-section (1) shall be produced before the case trying authority within twenty four hours excluding the time required for journey.

**11F.** <sup>77</sup> **Power to hold in detention:** A person arrested under this Act may, with the leave of the Adjudicating Authority, be held in detention in the course of inquiry and investigation, for a period not exceeding Thirty days and not more than Seven days at a time.

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<sup>75</sup> Amended by the Finance Related Some Nepal Acts Amendment Act, 2047.

<sup>76</sup> Inserted by the First Amendment.

<sup>77</sup> Inserted by the First Amendment.

**11G.<sup>78</sup> Prohibition on divulgence of secrecy:** The investigating officer or his or her subordinate employee shall not divulge the secrecy of any matter known to him or her in the capacity of his or her post or of any document submitted, in the course of carrying out action under this Act, except where the disclosure is required by the prevailing law.

Provided that, if the Adjudicating Authority is of the opinion that such matter or document is necessary for or may be an evidence in another case and the secrecy of such matter or document is divulged by the order of that authority to the person authorized by law, secrecy shall not be deemed to have been divulged.

**11H.<sup>79</sup> To safely retain foreign exchange and document taken into custody:** The investigating officer shall safely retain the foreign exchange and document pertaining thereto taken into custody pursuant to this Act.

**11I.<sup>80</sup> To give receipt:** In taking into custody of any foreign exchange or document pertaining thereto pursuant to this Act, a receipt indicating the details of the foreign exchange or document so taken into custody shall be immediately given to the concerned person.

**11J.<sup>81</sup> To submit report:** The investigating officer shall submit a report of the acts and actions done and taken by him or her in accordance with this Act to the Government of Nepal each month.

**12. Power of Bank to give direction, frame bye-law or issue order or notice:** Without prejudice to any directive given by the Government of Nepal under Section 15, the Bank may, in order to

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<sup>78</sup> Inserted by the First Amendment.

<sup>79</sup> Inserted by the First Amendment.

<sup>80</sup> Inserted by the First Amendment.

<sup>81</sup> Inserted by the First Amendment.



implement the matters set forth in this Act, give directive or frame Bye-laws or issue orders or notices as required from time to time.

**13. Prohibition on entering into contract in contravention of the objective of this Act:** No person shall enter into any kind of contract or execute any document in such a manner as to be in contravention of any matter set forth in this Act or the Rules, Bye-laws, directives, orders or notices framed, given or made under this Act.

**14.<sup>82</sup> Inspection:** (1) The Government of Nepal or Bank may inspect, or cause to be inspected, the accounts, books and other documents of any licensee.

(2) It shall be the duty of each licensee to submit all such accounts, books and documents relating to the foreign exchange transaction as are in his or her custody or control and as demanded by the employee designated to make inspection pursuant to Sub-section (1) to the employee within the time-limit given by that employee and give all statements or information relating to such exchange transaction as demanded by him or her. If the licensee is a firm, company or body, the director of the company or concerned officer or partner or concerned office-bearer related with that business shall submit or give such accounts, books, documents, statements or information.

(3) The employee designated to make inspection pursuant to Sub-section (1) may inquire any licensee or his or her agent or the director or concerned officer of a licensee person, firm, company or body into the matter in writing or verbally.

(4) If the director or officer of a licensee person, firm, company or body does not submit or give such accounts, books, documents,

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<sup>82</sup> Amended by the Second Amendment.

statements or information as required to be submitted or given pursuant to Sub-section (2) or does not answer any question put by the employee designated to make inspection, such director or officer shall be deemed to have violated this Act.

(5) If, in making inspection, the employee designated to make inspection pursuant to Sub-section (1) finds any foreign exchange or documents, accounts, books or statements pertaining thereto in contravention of this Act, the employee may take such foreign exchange or documents, accounts, books or statements pertaining thereto in his or her custody or put the same in any safe or room and seal the safe or room.

(6) In taking such a foreign exchange or document into his or her custody or making such seal, the employee designated to make inspection pursuant to Sub-section (1) shall do so in witness of the concerned licensee or at least two other persons and prepare a statement of the things or matters taken into custody and cause the same to be signed by the witnesses.

**15. Power of Government of Nepal to give directive:** The Government of Nepal may, if it so considers necessary for the purposes of this Act, give general or specific directives to the Bank from time to time, and the Bank shall abide by such directives for the performance of activities under this Act.

**16.<sup>83</sup> Permission of the Bank to be obtained to open account:** (1) Any citizen of Nepal residing in Nepal or any company, body corporate or firm registered in Nepal shall obtain the permission of the Bank to open an account with a bank in a foreign country.

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<sup>83</sup> Amended by the First Amendment.

(2) In giving permission to open an account pursuant to Sub-section (1), the Bank may demand required statements and also specify terms and conditions.

(3)<sup>84</sup> The operation and use of the account opened pursuant to Sub-section (1) shall be as specified by the Bank by publishing and broadcasting a public notice.

(4)<sup>85</sup> The matters relating to the opening, operation and use by any citizen of Nepal residing in .....<sup>86</sup> Nepal or any company, body corporate or firm registered in Nepal of an account in foreign currency within .....<sup>87</sup> Nepal shall be as specified by the Bank by publishing and broadcasting a public notice.

**17.<sup>88</sup> Punishment:** (1) If any person does any act in contravention of this Act or Rules framed thereunder or order or direction or circulation or Notification or any procedure as prescribed by the Bank, the foreign exchange related with the offence shall be forfeited and such a person shall be fined additionally from the amount in question to three fold of such amount in question.

Provided that, in relation to the offence where the foreign exchange related with such offence could not be forfeited, the amount in question for foreign exchange related with such offence shall be fixed and fined additionally from the amount in question to three fold of such amount in question.

(2) In fixing the amount in question pursuant to Sub-section (1) if the amount in question cannot be set out or cause to be set out, a fine of up

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<sup>84</sup> Inserted by the Second Amendment.

<sup>85</sup> Inserted by the Second Amendment.

<sup>86</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>87</sup> Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

<sup>88</sup> Amended by the Second Amendment.

to Two Hundred Thousand Rupees, shall be imposed, as per the gravity of the offence.

(3) If any employee deputed to perform any acts, make inspection and conduct investigation pursuant to this Act does any act violating the Act by doing such act maliciously or divulges secrecy, such employee shall be liable to punishment of a fine of up to One Hundred Thousand Rupees in view of the gravity of the offence.

(4) If the offence to be punishable by this Act is committed by any firm, company or body, the director, office-bearer, employee or agent taking responsibility of such a firm, company or body of the work related with such offence at the time of the commission of the offence shall be liable to punishment.

Provided that, if there was a situation that such a director, office-bearer, employee or agent could not be informed about the occurrence of such offence or if they submit evidence that they did their best to prevent such offence, they shall not be liable to bear the punishment pursuant to this Sub-section.

(5) Any importer who makes import without doing such acts or fulfilling such procedures as required to be done or fulfilled in relation to the import pursuant to Section 8 or by making over-invoicing or does not import goods within the fixed period or does not import such goods as required to be imported shall be punished with a fine ranging from the sum equal to the amount in question of the concerned import to additional fine that is Three fold of the amount in question.

(6) Any exporter, who commits an offence in violation of Sections 9A., 9B., and 9C. shall be punished with a fine ranging from the sum equal

to the amount in question of the concerned export to additional fine that is Two fold of the amount in question.

(7) A person who is an accomplice to or aids in the commission of the offence as referred to in Sub-sections (5) and (6) shall be liable to half the punishment set forth in the Sub-sections.

(8) In the event of failure to pay the fine imposed pursuant to this Section, such a person shall be liable to the punishment of fine for a term not exceeding four years in view of the magnitude of the offence.

(9) Notwithstanding anything contained elsewhere in this Section, if the amount in question involved in the offence relating to the foreign exchange is Ten million Rupees or more, the person concerned shall be liable to an additional punishment of imprisonment for a term not exceeding Three years, in addition to the punishment imposable on such a person.

(10) In the case of a person arrested in the course of investigation, the investigating officer, and in the case of an accused in the course of trial of case, the concerned court may institute proceeding by releasing such a person or accused, as the case may be, on recognizance against a personal bail if the amount in question involved in the offence in question is up to One Hundred Thousand Rupees or on security or bail equal to the amount in question involved in the offence or equal to the amount in question determined according to the gravity of the offence if the amount in question involved in the offence is more than One Hundred Thousand Rupees.

(11) If the chief or member of any constitutional body or a person holding the office of political appointment does any act that is an offence under this Act, such a chief or member or person shall be liable to

punishment that is double the punishment imposable on any other person committing such an act.

Provided that, in the case of the punishment of imprisonment, the term of such punishment shall not exceed additional Two years.

(12) Action shall be taken by holding in detention the person who does not furnish security/bail pursuant to Sub-section (1).

**18.<sup>89</sup> Inquiry and institution of case:** If any verbal or written information is received from the Government of Nepal or a person authorized by the Bank that any person has done any act in contravention of this Act or the Rules, Bye-laws, orders, notices or directions framed or issued under this Act, the government attorney or the officer authorized by the Government in this behalf shall inquire into the matter and institute a case against such a person if it is found upon making such inquiry that such a person has made such a violation and acted in contravention thereof.

**18A.<sup>90</sup> Filing of case:** (1) The investigating officer shall, by the name of the Government of Nepal, file a case relating to the offence under this Act.

(2) In filing a case pursuant to Sub-section (1), the investigating officer shall consult the government attorney.

**18B.<sup>91</sup> Certification of copy of document related with foreign exchange:**

(1) The investigating officer shall make a copy or photocopy of the statement of the foreign exchange taken into custody in the course of the offence under this Act or statement pertaining thereto and certify the same.

(2) Notwithstanding anything contained in the prevailing law, the copy or photocopy of the statement of the foreign exchange or statement

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<sup>89</sup> Amended by the Some Nepal Act Amendment Act, 2048.

<sup>90</sup> Inserted by the First Amendment.

<sup>91</sup> Inserted by the First Amendment and amended by the Second Amendment.

pertaining thereto as certified pursuant to Sub-section (1) may be produced as evidence in a case relating to the offense under this Act.

**19. Document to be void:** If any contract or document is executed in violation of Section 13, such a contract or document may be voided by an order of the case trying court under this Act.

**20.<sup>92</sup> Reward to be provided for provision of information:** (1) If any person gives the Government of Nepal or the authority authorized by the Government of Nepal information that any person has done any act in contravention of this Act or the Rules, Bye-laws, orders, notices or directions or license framed or issued under this Act and the foreign exchange is seized and the offence proved on the basis of the information so given, Twenty percent of the amount in question set by converting such seized foreign exchange into the Nepalese currency shall be given as a reward to such an informant.

(2) The amount of reward to be given pursuant to Sub-section (1) shall be given from the amount to be set by converting such seized foreign exchange into the Nepalese currency after the final settlement of the case.

**21. Claim or complaint not to lie:** (1) No case, complaint or legal action of any kind shall be instituted in any court against any person for any act done or purported to be done by that person in good faith in accordance with this Act or the Rules, Bye-laws, orders, notices or directions framed or issued under this Act.

(2) No claim of any kind may be made for any loss or damage to any person as a result of non-provision of the foreign exchange by the Government of Nepal or Bank or licensee to that person (except for knowingly or recklessly).

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<sup>92</sup> Amended by the First Amendment.

22. **Power to frame Rules:** The Government of Nepal may, in consultation with the Bank, frame Rules for implementing the objectives of this Act.
23. **Repeal:** The Foreign Exchange Conversion Control Act, 2017 is, hereby, repealed.
24. **Existing licenses:** Unless and until otherwise ordered by the Bank, the licenses issued under the Foreign Exchange Conversion Control Act, 2017 shall, except as canceled earlier, be deemed to have been issued under Section 3 of this Act on such terms and for such period as specified in those licenses.
25. ....<sup>93</sup>

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<sup>93</sup> Deleted by the Some Nepal Acts Amendment, Repeal and Continuance Through Rearrangements Act, 2019.



**Place and date of commencement of the remaining Sections of the Foreign Exchange (Regulation) Act, 2019 (1962)**

- (a) Commencement on 2020.5.1 (Date of Nepal Gazette 2020.4.22) in Kathmandu, Bhadrapur, Biratnagar, Rajbiraj, Hanumannagar, Janakpur, Malanguwa, Gaur, Kalaiya, Birjung, Butwal, Bhairahawa, Parasi, Paklihawa, Krishnanagar, Shivaraj, Nepalgunj, Dhangadhi, Pokhara, Tansen, Palpa and Dharan areas.
- (b) Commencement on 2020.11.1 (Date of Nepal Gazette 2020.10.27) in Jaleswor, Taulihawa and Siraha areas.
- (c) Commencement on 2021.5.1 (Date of Nepal Gazette 2021.4.27) in Hetauda, Banepa, Dhankuta, Trishuli and Baglung areas.
- (d) Commencement on 2021.2.1 (Date of Nepal Gazette 2021.2.1) in Ilam, Koilabas, Kanchanpur (Mahendranagar), Gularia, Bhojpur, Ghorahi and Sarlahi areas.
- (e) Commencement on 2022.7.1 (Date of Nepal Gazette 2022.6.11) in Doti district.
- (f) Commencement on 2022.11.1 (Date of Nepal Gazette 2022.9.26) in Baitadi district.
- (g) Commencement on 2023.6.1 (Date of Nepal Gazette 2023.5.31) in Bagmati, Narayani, Janakpur, Sagarmatha, Koshi and Mechi Zones.
- (h) Commencement on 2023.7.1 (Date of Nepal Gazette 2023.7.1) in Gandaki, Karnali, Dhawalagiri, Bheri, Lumbini, Seti, Rapti and Mahakali Zones.