

A Brief on

**Labour Act and  
Social Security Act**

The bottom of the page features a decorative graphic consisting of two overlapping, wavy lines. The upper line is a light pink color, and the lower line is a slightly darker shade of pink. These lines curve across the width of the page, creating a soft, modern aesthetic.

**Prepared by:**

Bishnu Rimal  
Ramesh Badal

**Date of Publication:** October 2017

**Publisher:**

GEFONT  
Putalisadak, Man Mohan Labour Building, Kathmandu  
Phone: +977 1 4168000, Fax: +977 1 4168001  
Web: [www.gefont.org](http://www.gefont.org)

**Price:** Rs. 150.00

**Design and Printing Management:**

MS Mouse, Putalisadak

© GEFONT 2017

GEFONT Publication No. 142

# Contents

**5**

New Labour Act 2017: Brief

---

**7**

Timeline of Labour Act 2017  
(Preparation to the Seal)

---

**17**

Labour Act 1991 and Labour Act 2017 :  
Comparison Table

---

**37**

Labour Act 2017, 10 provisions  
need to handle cautiously

---

**39**

Contributory Social Security Act:  
Important 25 Provisions

---

**45**

Social Security Conceptual Discussion to Seal on the Contributory  
Social Security Bill: Important footprints

---

**49**

CBA Chart

---



# New Labour Act: **Brief**

1. Proposed law covers entire world of work including domestic worker.
2. This law has been agreed as the basic law; all employees will get wage and benefits not less than this law proposes. Nobody shall make agreement breaching this law
3. All forms of exploitative labour practices including child and forced labour is banned. Employers are restricted to make any agreement banning person to joining the union.
4. Employment structure is categorised as **casual work, time-bound work, task-based work, part-time and regular** work. Whatever structure is made in employment contract- there will be no discrimination in wage and benefits
5. Basic Social protection measures such as gratuity, accidental benefits, sickness benefits, Medicare including workers saving- the provident funds is payable from the day one of employment. Trainee and part time workers also covered.
6. Outsource job is made more responsible, if the non-licensee recruiting agencies supply labour to any workplace; principle employer is responsible to meet all benefits.
7. There is a provision for make work appraisal transparent.
8. Without valid reasons and fulfilling lawful obligation, no one would be fired by the employment. In case of unlawful firing, it is provisioned of case against such employer. Union leaders are protected during retrenchment
9. Retiring age is increased to 58 years from 55
10. Women workers are protected better compare to previous law-
  - a. There will be transport facilities if women are working in night shift
  - b. There will 98 days of maternity protection leave, 60 days paid
  - c. In case of miscarriage of 7 months and above pregnancy, benefit is provided as of maternity
  - d. There will be no discrimination based on gender
  - e. A strong disciplinary action proposed against harassment

11. Social dialogue
  - a. Every 2 two years of interval, minimum wage is reviewed
  - b. A provision of common bargaining committee in agreement of multi union in the enterprises is added besides right to take part in CBA by the authentic union
  - c. 21 days given for bilateral negotiation and 30 days given for labour office to conciliate the collective dispute. In case, the agreement is not signed during that time, union may call for strike by giving 30 days notice except essential service or state of emergency or dispute in EPZ or parties agreed for arbitration or government refer the case to arbitration. It is given much emphasis on arbitration in labour dispute by providing right to government to refer the case to arbitration. However, such arbitration award may be challenge within 5 working days from the date of award.
  - d. The collective agreement is valid as equivalent to law till 2 year and remain valid if it is not changed by next CBA.
  - e. Strike action should not be prohibited without making alternative mechanism for collective dispute settlement mechanism.
  - f. There is no agreement on sectorial central bargaining though Nepal already ratified ILO convention 98.
12. Leave facilities and Paid public holidays are increased and May Day and 8 March included.
13. Existing factory inspection system is changed in widen to labour inspection system.
14. Mechanism such as enforcement of agreement and judgement is included
15. Few flexible provisions of the Act may invite negative consequences if union became less smart:
  - a. Contractual, time-bound categories of employment may escalate, though workers of all categories are entitled to enjoy all benefits and social protection stuffs
  - b. Period of trainees may extend to 1 years, however there will be no difference in entitlement
  - c. Retrenchment can be done in consultation of union, here union need to be more responsible
  - d. Everyone entitle to get minimum facilities enshrine in the law, but more than minimum can be reduced through CBA- here union needs to be more smart
  - e. There is fixed list for termination of the workers, however, it can be added through collective CBA. If union plays foul, there will negative consequences

# Decade long exercise for Labour Reform: A Time Line

December 2001	The then Prime Minister Mr. Sher Bahadur Deuba decaled the government policy for 2nd amendments of existing labour act 1991's with the provision of hire and fire. GEFONT/NTUC and DECONT opposed it.
4 December 2001	FNCCI declares a 8 member taskforce on labour act revision
7 August 2002 and 14 August 2002	Labour Ministry called a tripartite meeting to revise essential part of existing Labour Law, the meeting concluded without any decision.
5 Dec 2002	<p>A bipartite agreement made between Trade Unions namely GEFONT/NTUC and DECONT and Employers' Organization –FNCCI and agreed to continue the dialogue in following 7 points to improve the world of work including social security and labour law revision.</p> <ul style="list-style-type: none"><li>• 1. Social Security, 2. Labour Flexibility 3. Gender Issues in Workplace, 4. Informal Sector, 5. Labour Administration, 6. Trade Union &amp; Collective Bargaining, 7. Settlement Policy.</li></ul>
13 January 2003	The 1 <sup>st</sup> labour law revision high level tripartite social dialogue organised by the initiation of ILO.
27-28 Nov 2003	Trade Union and Employer presented their position paper in second High level Tripartite dialogue on labour act reform
7 August 2004	Third Highlevel Traipartite meeting agreed to form 6 member task force (3 from Trade union and 3 from Employer) to prepare guideline to reform labour legislation

<p>9 August 2004            11 August 2004            17 August 2004            24 August 2004            27 August 2004</p>	<p>Task force meeting to prepare the guidelines to reform labour legislation</p>
<p>11 October 2004</p>	<p>Briefing to high level leadership of Trade unions and Employers about the guideline developed by Task force. The meeting directed again to the taskforce to come on conclusion on the unsettled 2 points.</p>
<p>9 Jan 2005</p>	<p>FNCCI, GEFONT, NTUC &amp; DECONT signed the 19 points guidelines to draft labour law.</p>
<p>12-14 Jan 2005</p>	<p>2<sup>nd</sup> National Labour Conference organized by the government has endorsed a 19 points guideline on revision and drafting of new labour law.</p>
<p>1 Feb 2005</p>	<p>King Gynendra suspended the people's rights; Emergency declared, Political parties and union activities were on control. Tripartite Dialogue stopped.</p>
<p>10-12 Sept 2005</p>	<p>Tenths of thousands of unionist organized in mass demonstration rally and organized a wider trade union conference in Kathmandu; conference denied the labour act 1991 revision by ordinance.</p>
<p>16 Sept 2005</p>	<p>Government sent a letter to provide feedback/ comments within seven days on draft ordinance to amend the labour act.</p>
<p>21 Sept 2005</p>	<p>GEFONT/NTUC/DECONT organised a Press conference against Draft Ordinance and set first phase protest programme from 22-30 Sept 2005.</p>

23 Sept 2005	GEFONT/NTUC/DECONT jointly opposes the ordinance. Jointly demanded to call the labour advisory committee meeting with the attention and warn on not to move forward to the labour act revision through the ordinance. Unions set strategy to delay the ordinance discussion on Labour Act revision.
2 Oct 2005	Technical committee meeting held on the ordinance at Labour Ministry
5 Oct 2005 7 Oct 2005 23 Oct 2005 24 Oct 2005 25 Oct 2005	Meeting held of FNCCI & Trade Unions technical committee
26 Oct 2005	Central Labour Advisory Committee (CLAC) meeting held at the Ministry of Labour
27 Oct 2005 31 Oct 2005 6 Nov 2005	Meeting held of FNCCI & Trade Unions technical committee
7 Nov 2005	Trade Unions registered its 13-point note of decent against the ordinance; a massive discussion is demanded before the implementation of the ordinance
9 Nov 2005	Trade Union Leaders and World Bank Resident Representative meeting held on the ordinance to revise Labour Act.
10 Nov 2005	Trade Union Leaders and ILO Representative meeting held on the ordinance to revise Labour Act.
13 Nov 2005	CLAC meeting held, Government didn't accept the union's 13-point note of decent against the ordinance, meeting broke

4 Dec 2005	All 3 trade unions demanded government to hold CLAC meeting. Unions informally suggested to the newly appointed labour minister not to replace Labour Act by the ordinance
22 Dec 2005	CLAC meeting held; the minister expressed commitment to rething on Ordinance
9 Jan 2006	ILO suggested Government of Nepal to have tripartite dialogue on Labour Act revision process.
12 Jan 2006	Wold Bank issued a letter stating its acceptance to provide its consultation with the facilitation of ILO on Nepal's Labour Law revision.
5 Feb 2006	Royal Government agreed the facilitation of ILO, Technical committee set up with the expert of ILO to include the trade union's issues into the Labour Regulations.
6 Feb 2006 28 Feb 2006 7 March 2006	Labour Regulation's drafting technical committee meeting held with the facilitation of ILO
9 March 2006	Government issued the ordinance to revised Labour Act 1991, prior to conclude drafting of the Labour Regulation by the technical committee. Trade union representatives denied continuing further discussion.
13 March 2006	All 3 trade unions warn government to withdraw the labour ordinance. Because of the union pressure the government didn't issue the ordinance in the Nepal Gazette.
18 March to 3 April 2006	Unions organised rally, agitation and picketing in the labour office against the Ordinance.
9 May 2006	The newly formed Government after the people movement also tried to enforce the ordinance with some revision

10 May 2006	Trade Unions given 72-hours ultimatum to the Government to withdraw the Labour Ordinance.
15 May 2006	The reinstated legislative parliament dismissed the Labour Ordinance (2 <sup>nd</sup> revision), before it comes into the force.
3 Dec 2006	GEFONT, NTUC, DECEONT & ANTUF agreed to work jointly on Industrial Peace for the employment creation, Labour act revision etc. through the LAHAN Declaration. ANTUF also entered into the joint work with other unions on labour law revision process.
15 Jan 2007	Nepal issued its interim constitution, The new constitution secured rights to fair labour practice, Collective Bargaining & Establishment of Trade Unions, and Social Security are the fundamental rights of workers.
6 Nov 2007	ILO Geneva assigned Mr. Robert Kyloh to facilitate Labour Law revision process. Kyloh submitted the report after having consultation with trade unions, employers' organization and the government. Based on the report, Mr. Mordi Broomburg-the consultant appointed by ILO Geneva a submitted his recommendation on labour law revision.
29 Nov 2007	Tripartite meeting held on how to move forward the Labour Law improvisation process between trade unions, employers' organization and government.
17-19 Dec 2007	Workshop organized to discuss on the ILO's draft report on labour law revision. Labour commission can be formed to deal the labour disputes based on the interim constitution.
25 Dec 2007	Bipartite meeting between Employers' Organizations and Trade Unions (GEFONT/NTUC/ DECONT/ANTUF) agreed to the concept on preparation of necessary laws to form the Labour commission.

28-29 July 2008	Tripartite dialogue begins on labour law reform including social security based on to 19-point agreement, Labour Policy 2006, Interim Constitution 2007. Workshop discussed on the contents of the labour law.
26-28 Aug 2008	Workshop organised on misconduct and its punishment provision purposed in new labour law.
24-26 Sept 2008	Workshop organized to discuss on the provision on collective bargaining, essential services, strike, and lockouts management related matters in the purposed labour law.
6 Oct 2008	Workshop organized on Labour Inspection System
24-26 Nov 2008	Workshop organized on equality, ending discrimination, gender related matters in the purposed labour law.
27 Nov 2008	Tripartite meeting with the ILO Geneva's Consultant
9 June 2009	ILO's consultant Mr. Mordi Broomburg submitted his draft to the Nepal Government, Employers' Organization and Trade Unions.
11 June 2009	Discussion held in a workshop on ILO's consultant Mr. Mordi Broomburg's draft labour law from 28 July to November 2008. One of the union didn't accept the foreigner's draft in Nepal's labour law and took stand, ILO appointed Mr. Binay Regmi as Nepali Consultant.
26-28 August 2009	Workshop on Protection of Migrant Workers. Provision of Work permit in Nepal's Labour Law was discussed.
7 December 2009	Labour law draft progress was discussed.
17 September 2009	Meeting held with ILO expert on Occupational Safety and Health.

6 April 2010	Discussion held on protection against unemployment through unemployment insurance, Unemployment assistance, and compensation against retrenchment.
June 2010	Draft was submitted by the consultant on Labour Act 2010, Social Security Act 2010, Unemployment Insurance Act 2010, Bonus Act 2010, Freedom of Association Act 2010 and National Labour Commission Act 2010. ILO submitted all the drafts to the Nepal Government and requested to continue the dialogue.
24 March 2011	Minimum wage revision meeting held between employers' organization and trade unions, the meeting also signed an agreement on the rate of contribution on the Contributory Social Security 20% by employers and 11% by workers with an agreement to continue the adjourn meeting.
30 Sept 2011	March 24 Bipartite Agreement was adopted by the CLAC
October 2011	Received ILO's comments and recommendations on draft of Nepali Team on Labour Law. Labour ministry initiated a dialogue with employers' organization and trade unions after including those comments and recommendations on Labour Act and Social Security Act
Dec 2011 to April 2012	Unions to Union and Employers to employers meeting held on the draft labour law to have their common consensus. JTUCC coordinated the unions' dialogue
24 April 2012	JTUCC and employers' organization (FNCCI, CNI, NCC and FNCSI) submitted their suggestion on New Labour Law draft to the Labour ministry.
19-21 July 2012	Third National Labour Conference concluded by presenting draft of the social security and labour act. The concept was principally agreed and discussion on the draft was kept continued.

August 2012 to 2013 January	Labour Ministry studied and prepared the integrated draft after collecting the suggestions from the Trade Unions and Employers' Organizations.
Jan 2013 to Sept 2014	The Labour Ministry set up a taskforce comprising with 7-member each from trade unions and employer's organisation. Clause wise details discussion held
5 August 2014	The parliament adopted a resolution of commitment to submit Social Security Bill with in on-going parliamentary session
10 Oct 2014	After the clause wise details discussion Employers' Organization and Trade Unions jointly signed the draft and the integrated draft was submitted to the Labour Minister for State along with their note of decent on some points
23 March 2015	An interaction was organized among the Parliamentarians and High-Level Political Leaders to realise the urgent attention and relevancy of the Social Security Law and Labour Act.
21 July 2015	JTUCC handed over a memorandum to the then Chairman of the Constituent Assembly Rt. Hon'ble Mr Subas Chandra Nembang to include the provision of Labour representation, Labour Commission, Labour Rights and Social Security as fundamental rights of the people in the Constitution.

20 Sept 2015	<p>Historical Constituent Assembly declared Constitution of Nepal with inclusion of the following labour related fundamental rights:</p> <ul style="list-style-type: none"> <li>• Every workers has the rights to be protected from the contributory Social Security,</li> <li>• Every workers has the rights to fair labour practice,</li> <li>• Rights to Collective Bargaining and freedom of Trade Unions,</li> <li>• Rights to fair wage,</li> <li>• Non- discrimination between men and women on social security and wage,</li> <li>• Rights against exploitation, prohibition of Child labour and bonded labour</li> <li>• Rights to get unemployment benefits,</li> </ul>
11 Feb 2016	Labour Bill 2015 is registered in the parliament.
11 Sept 2016	Labour Bill 2015 is tabled to the full house of Parliament
12 Sept 2016	Resolution submitted to the parliament for consideration of the Labour bill. Same day, JTUCC organised an interaction with the parliamentarians. Trade Union handed over its amendment proposal to the Parliamentarians.
25 Sept 2016	Full house of the Parliament sent the Labour Bill for the clause wise discussion to the Parliamentary Committee.
26 Jan 2017	The Labour relation and International affairs Committee of Parliamentary setup 9-members sub-committee to get suggestions and detail report on Labour Bill and Social Security Bill.
2 Feb 2017	Stakeholders' Discussion held in the sub-committee setup by the Parliamentary committee
February- March 2017	Intensive discussion held between employers' representatives, unions and labour ministry on Labour Bill and Social Security Bill in the subcommittee

30 March 2017	Subcommittee submitted its report to the Labour relation and International affairs Committee
2 April 2017	Subcommittee report on Labour Bill is discussed in the committee
3 April 2017	The sub Committee report is passed by the committee after discussion, the Committee forwarded the Bill for the full house of parliament for final approval
20, 24 and 28 July 2017	The Labour Bill was removed from the daily business of the full house due to the demand of Civil Servant's to include them in the labour law
10 Aug 2017	Chairperson of Labour relation and International affairs Committee of the Parliament submitted the report to the full house of Parliament.
11 Aug 2017	Labour Bill adopted by the full house of Parliament

## Labour Act, 2048 and Labour Act, 2074

# Comparison of Provisions

Title	Labour Act, 2048	Labour Act, 2074
Scope of the Act	<ul style="list-style-type: none"><li>• Applicable only for enterprises employing more than 10 workers.</li><li>• Not applicable in the case of part-time worker, trainee, foreign citizen, higher-level management, employees of Government owned enterprises and Universities and banks under certain circumstances.</li></ul>	<ul style="list-style-type: none"><li>• Applicable in the case of domestic workers; as well as workers engaging even one person under enterprises or even individual employer.</li><li>• The Act is applicable to all sectors.</li></ul>
Compliance of International Labour Standards	<ul style="list-style-type: none"><li>• The Act does not have any provision to ban forced labour, to end discrimination, recognition to participate in trade unions as a matter of right.</li></ul>	<ul style="list-style-type: none"><li>• The Act clearly prohibit forced labour, child labour, all forms of discrimination, recognized right to participate in Unions per the provisions of the Constitution of Nepal pursuant to convention of ILO. It makes clear that violation of which is punishable under the Act.</li></ul>
The Provision of the Labour Act shall be minimum standard	<ul style="list-style-type: none"><li>• It was unclear on whether the Labour Act was the minimum or maximum standard.</li></ul>	<ul style="list-style-type: none"><li>• The Act has specified that the provisions of the Labour Act shall be the minimum standards for employment. No employment contract shall be made containing less favourable provisions than as mentioned under the Act and Rule. Any agreement lower than the minimum standards shall be void.</li></ul>

Title	Labour Act, 2048	Labour Act, 2074
Employment Relation	<ul style="list-style-type: none"> <li>• Employment may be permanent, contractual, daily waged and contractual basis.</li> <li>• The probation period was 240 days and a worker shall be permanent after its completion. Only the permanent workers shall be entitled to benefits provided by the law.</li> </ul>	<ul style="list-style-type: none"> <li>• The worker shall be entitled to similar benefits from the date of employment irrespective of the terms of employment.</li> <li>• The probation period shall be 6 months (180 days) and the Act permits removal of a worker from service within this period. Terms of employment contract have been divided into 5 categories:               <ol style="list-style-type: none"> <li>a) Regular employment (work requiring continuous engagement or if the no description has been included in the Contract),</li> <li>b) Task Bound (appointment based on specification of the work),</li> <li>c) Time-Bound employment (engagement specifying the time),</li> <li>d) Casual (if the number of days engaged is less than seven days in a months' period),</li> <li>e) Part-time employment (work not exceeding a period of 35 hours in a week).</li> </ol> </li> </ul>
Change in ownership	<ul style="list-style-type: none"> <li>• Change in ownership did not affect terms of reference and benefits.</li> </ul>	<ul style="list-style-type: none"> <li>• In addition to the existing provision, the new Act has further added that it shall not be affected if the change in ownership is a result of Built-Operate and Transfer model of business.</li> </ul>
Intern-Apprentice ship	<ul style="list-style-type: none"> <li>• No provisions related to internship.</li> </ul>	<ul style="list-style-type: none"> <li>• Any enterprise may engage a person as an intern and not as a worker as a requirement of a curricular of an educational institution. Working hours must be fixed and provisions related with industrial safety must be ensured.</li> </ul>
On the job Trainee	<ul style="list-style-type: none"> <li>• No provisions related to traineeship.</li> </ul>	<ul style="list-style-type: none"> <li>• The Act has provisioned for the engagement of a trainee for a period not exceeding one year.</li> <li>• Trainee also entitled to receive minimum wage, provided Fund, Gratuity, Insurance and related provision</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Part time employment	<ul style="list-style-type: none"> <li>No provisions related to part time employment.</li> </ul>	<ul style="list-style-type: none"> <li>No probation after trainee period in the same enterprise</li> <li>The Act permits part time employment for work requiring less than 35 working hours per week. The part time workers shall be entitled to benefits, similar to other workers, on the basis of their working hours and shall also be entitled to work at other places.</li> </ul>
Provisions related to work permit	<ul style="list-style-type: none"> <li>No foreign citizen could be employed without work permit from Department of Labour.</li> <li>A benefit for a foreign citizen was limited to those prescribed in the Contract.</li> </ul>	<ul style="list-style-type: none"> <li>No foreign citizen could be employed without work permit from Department of Labour.</li> <li>Work permit for the Chief Executive and limited number of workers as prescribed by rule of the enterprise involving foreign investment may be granted, even if the process for work permit has not been completed, by submission of records. An expert whose work duration will be less than 3 months, or installment of new technology or engaged in emergency situation may be permitted to work upon submission of the records.</li> <li>Period of employment shall be as specified in the Contract. However, other benefits shall be equivalent to Nepali citizen.</li> </ul>
Working-hours and overtime	<ul style="list-style-type: none"> <li>8 working hours per day and 48 working hours in a week.</li> <li>30 minutes break after 5 hours of continuous work.</li> <li>Provision of 20 hours overtime in a week.</li> <li>Workers do not bind to perform overtime work.</li> </ul>	<ul style="list-style-type: none"> <li>In addition to these provisions, the Act changes the overtime provision and makes it clear that 4 hours (per day) and 24 hours (per week) of overtime. Although workers do not bound to perform overtime work, however, employer may ask to perform overtime work in case of non-performance of an act adversely affects life, security or health of the people or causes substantial loss to the employer.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Issue concerning women workers and gender equality	<ul style="list-style-type: none"> <li>• A female worker could be engaged only between 6 am to 6 pm.</li> </ul>	<ul style="list-style-type: none"> <li>• Transportation facilities for women whose work commence before Sunrise or ends after Sunset.</li> <li>• It has included provisions to punish sexual harassment at workplace.</li> <li>• It states that suitable work shall have to be allotted after a woman notifies of her pregnancy in order to avoid adverse health impacts.</li> <li>• Mandatory inclusion of 2 female representatives in the Central Labour Advisory Council from both side the employers' and trade union.</li> </ul>
Provision related with remuneration	<ul style="list-style-type: none"> <li>• It provided for revision of minimum remuneration, but was silent on the interval in which it would be reviewed.</li> <li>• It provided for payment of remuneration on daily, weekly, partial and monthly basis.</li> <li>• Permanent workers completing one year employment were entitled to yearly increment equivalent to half-day's salary.</li> <li>• No provision for festival expenses such as the Dashain expenses, even for permanent workers.</li> </ul>	<ul style="list-style-type: none"> <li>• The government shall form a permanent tripartite committee in order to determine the Minimum Remuneration. Review process shall take place every 2 years. It shall begin on Baisakh 1 (April 15) and shall come into force from Shrawan 1 (July 15).</li> <li>• It has further provisioned that payment of remuneration shall not exceed an interval of one month and it also prohibits reduction of the current salary and facilities.</li> <li>• Every worker who has completed one year employment shall be entitled to grade increment equivalent to half-day's salary irrespective of their employment relationship. However, additional increment may be based on performance evaluation system.</li> <li>• A worker shall be entitled to Festival expenses equivalent to one month's basic salary every year. However, if a worker has not completed 1-year employment, festival expenses shall be provided on an equitable basis.</li> </ul>
Union fees may be deducted from the Remuneration	<ul style="list-style-type: none"> <li>• Indirectly, the Act prohibited deduction of Union fees from the workers' salary.</li> </ul>	<ul style="list-style-type: none"> <li>• The Act has introduced new provisions for deduction for membership fees to the Union and collective bargaining fees from the salary of the workers.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Lay off and remuneration for this period	<ul style="list-style-type: none"> <li>• Approval required from Labour Office to keep workers in lay off.</li> <li>• Half remuneration of the worker to be provided during the period.</li> </ul>	<ul style="list-style-type: none"> <li>• If there arises a unavoidable situation where it becomes impossible to reach or operate at the workplace, then the employer may declare lay off for a period not exceeding 15 days without any approval if the situation is attributable to insufficient supply of electricity, water, raw materials or economic resources. If the lay off period is to exceed the aforementioned period, then consultation with Authorized Trade Union or Labour Relation Committee is mandatory.</li> <li>• Half salary shall be paid during the period of lay off. This provides an opportunity to the employer to keep worker in law off or declare holiday on that day and to operate work on holidays in case of general strike called by political parties.</li> </ul>
Provision related to leave	<ul style="list-style-type: none"> <li>• Based on the principal that leave is a privilege and not matter of a right.</li> <li>• Leaves: <ul style="list-style-type: none"> <li>○ Weekly leave – One day in a week</li> <li>○ Public Holiday – 13 days paid remuneration</li> <li>○ Home leave – 1 day leave for 20 working days</li> <li>○ Sick leave – 15 days with half salary for permanent workers only</li> <li>○ Maternity leave – 52 days, 45 days for workers at tea estate</li> <li>○ Obsequies leave – 13 days (for permanent workers who are required to perform the last rites)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Recognized sick leave, obsequies leave and maternity leave as matter of right and other leaves as privilege.</li> <li>• Leaves <ul style="list-style-type: none"> <li>○ Weekly leave – 1 day in a week</li> <li>○ Public Holiday – 13 days including May Day and 14 days for women including International Women’s workers Day (paid leave)</li> <li>○ Substitute Leave – Must be given within 21 days of work.</li> <li>○ Home leave – 1 day leave for 20 working days, however, educational institutions or workers receiving annual or winter leave exceeding the above mentioned days shall not be entitled to the leave.</li> <li>○ Sick leave – 12 days paid leave for all workers.</li> <li>○ Maternity leave – 60 days with pay and a total 98 days leave. Equivalent leave in case of miscarriage for 7 months pregnancy.</li> </ul> </li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
	<ul style="list-style-type: none"> <li>○ Home leave could be accumulated for 60 days and Act was silent regarding accumulation of sick leave.</li> <li>○ Remuneration available for accumulated home leave.</li> </ul>	<ul style="list-style-type: none"> <li>○ Paternity leave: 15 days Paid leave for the husband (maternity care leave).</li> <li>○ Obsequies leave – 13 days leave with pay in case of father/mother or father in law/mother in law for female worker</li> <li>● Home leave can accumulate up to 90 days and 45 days in case of sick leave. Accumulated leave may be en-cashed.</li> </ul>
Provident fund and gratuity	<ul style="list-style-type: none"> <li>● Only a permanent worker was eligible for provident fund and worker would be eligible for gratuity only after three years of service as permanent status.</li> </ul>	<ul style="list-style-type: none"> <li>● From the date of joining, each worker under any form of employment relation, the employer shall have to deposit in the Social Security fund, by deducting 10 % basic salary of the worker and adding an equal amount as Provident Fund and shall have to deposit 8.33 % on a monthly basis as Gratuity.</li> <li>● If pension facility has been provisioned then, the Act has enabled the provision of pension instead of gratuity.</li> </ul>
Compulsory Insurance	<ul style="list-style-type: none"> <li>● Provision for medical treatment in case of an accident and compensation in case of disability arising out of in the course of employment. No provision for insurance for medical treatment.</li> </ul>	<ul style="list-style-type: none"> <li>● The employer is required to have medical insurance for each worker covering 1 lakh annually and accidental insurance covering 7 lakhs. Employer should pay full premium of accident insurance. In case of medical insurance premium, worker and employer shall pay half and half amount. In the event of demise attributable to an accident, or total mental or physical disablement while performing actions under employment, if worker has not been insured, then, employer shall have to bear the cost.</li> <li>● However, insurance is not required if contribution has been made in the social security fund.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Provision related to Labour Supply, (Outsourcing of labour)	<ul style="list-style-type: none"> <li>The Act is silent on it.</li> </ul>	<ul style="list-style-type: none"> <li>Hiring workers from Labour Suppliers is permitted in job, which is notified in official Gazette by MOLE on the recommendation of CLAC. However, it is not permitted to hire the workers in core business of the establishment. The Act prohibited collecting any fees or commission from the worker.</li> <li>Labour Suppliers should have license from labour office or department. If a worker is hired from a labour supplier without having license, then the worker shall be considered to be the worker of the principle employer.</li> <li>To create a specialization of labour supplier, they cannot supply the workers in more than two category of job.</li> <li>The Labour Supplier shall be liable to provide remuneration, facilities or amount or obligations under the Labour Act to the workers. The Labour Suppliers shall not submit bids or sign agreements contrary to the law and shall be void if it is contrary to the law.</li> <li>The principle employer shall be liable for occupational safety and health and shall also be liable for monitoring compliance with labour laws.</li> </ul>
Occupational safety and health	<ul style="list-style-type: none"> <li>It included some provisions which were relevant only to factories,</li> <li>Applicability of provisions related to occupational health and safety for workplaces involving intellectual or mental work were not considered.</li> </ul>	<ul style="list-style-type: none"> <li>The employer is required to draft and implement Policy regarding Occupational Health and Safety for workers and other personnel at the workplace as per the provisions of the Labour Act and Rule.</li> <li>Establish Occupational Safety and Health Committee in an enterprise engaging more than 20 workers.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Provisions regarding specific enterprises (businesses)	<ul style="list-style-type: none"> <li>• Specific provisions existed for specific enterprises.</li> <li>• No provision for domestic workers and informal sector workers.</li> </ul>	<ul style="list-style-type: none"> <li>• In addition to the provisions of the previous Act, it provides specific rules for tea estates, construction business, transportation, tourism industry, domestic workers, and seasonal enterprises. The Act also states that specific rules may be made for specific industries and informal sector.</li> <li>• Legally created informal sector covered by the Act because the law is applicable where only one worker is employed. So, most of informal sector come in the formal employment relation.</li> <li>• Except for provision related with minimum remuneration and leave in case of domestic workers, all provisions of the Act shall be equally applicable for workers in any form of employment.</li> </ul>
Unfair Labour Practice	<ul style="list-style-type: none"> <li>• The act is silent on it</li> </ul>	<ul style="list-style-type: none"> <li>• Unfair labour practice has been defined as omission of legal duties by the employer, or cause non-implementation of legal provisions or restriction on exercise of rights to the workers provided by the law.</li> <li>• Acts such as creation of fake evidence to take disciplinary action against the worker, transfer with the intention to inflict difficulty or harass or demotivate in any manner, differentiating between member or non-member or official of a union, closing the enterprise or retrenchment simply because of formation of a union or submission of a claim, interfering with internal matters of the union, negotiation with malafide intentions have been included as unfair labour practice.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>• Acts such as pressurizing an worker to be or refrain from being a member of a union, forced collection of funds or other donations, picketing at residence of the employer except the workplace and residence is same or damaging of property have been considered unfair labour practice on behalf of the union.</li> <li>• Any such performance at a personal level by a worker has been recognized as misconduct.</li> <li>• Petition may be made at the Court in case of unfair labour practice or an attempt to it.</li> </ul>
Provision related to Labour Inspection	<ul style="list-style-type: none"> <li>• Provision related to Factory Inspector</li> <li>• As a head of the Labour Office, labour inspector has right to conciliate and decide the case filed before the office.</li> </ul>	<ul style="list-style-type: none"> <li>• For the first time, a provision for Labour Inspection system has been included in Labour Act.</li> <li>• The Act has provided for monitor, implementation of Labour Act, issue necessary orders to the concerned party, implement collective agreement or decision of Labour Arbitration, inspect whether the employer has implemented provisions of occupational safety and health, and if deemed necessary, inspect books and register of the employer.</li> <li>• The Act has further introduced provision for Labour Audit regarding implementation of the Act and submits the report to the Labour Office upon its request.</li> </ul>
Provision related to bylaw	<ul style="list-style-type: none"> <li>• Enterprise could draft bylaws and were required to register at the Labour Office.</li> </ul>	<ul style="list-style-type: none"> <li>• The enterprise is required to consult with the Union when drafting bylaws related to service, terms and facilities for the workers.</li> <li>• It must be considered that the the byelaws do not contradict with the minimum standards set by the law and the collective agreement when making the bylaws or when approving the byelaws by a regulatory authority.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>The Act has further added that the workers shall be entitled to receive the bylaws and shall have the bylaws voided through the courts if it contradicts with the laws.</li> </ul>
Performance Appraisal	<ul style="list-style-type: none"> <li>The Act is silent on it.</li> </ul>	<ul style="list-style-type: none"> <li>The employer may conduct performance appraisal generally once a year. Standards and procedures of evaluation have to be set before-hand. Worker must be consulted after their appraisal and opportunity must be given to them to improve and justify oneself. This has made the evaluation process transparent.</li> <li>This is a new provision introduced in the Labour Act.</li> </ul>
Provision related to transfer	<ul style="list-style-type: none"> <li>Prohibition on transfer, which adversely affected terms of service, facilities, nature or level of work.</li> <li>Transfer permitted only within the enterprises.</li> </ul>	<ul style="list-style-type: none"> <li>Transfer which does not affect the terms of service, facilities, nature and level of work is permitted.</li> <li>Nature and level of work may be subjected to change if transfer has the consent of the worker or posting results in promotion or pursuant to collective bargaining or work related with training or capability or qualifications of the worker.</li> <li>A worker may be deputed as a representative in another enterprise, with his/her consent while retaining his/her position at the current enterprise.</li> <li>Additional facilities have to be provided by the employer when transferring a worker to a positing away from his/her permanent residence or current workplace.</li> </ul>
Settlement of Individual disputes	<ul style="list-style-type: none"> <li>Provision of submission of any issue as individual claim to the management.</li> </ul>	<ul style="list-style-type: none"> <li>Matters pertaining to non-compliance of Labour Act, rule, other laws and collective agreement may be submitted as Individual claims.</li> <li>Only dispute related to 'interest' issues other than those provided by Act, rule and collective agreement shall be subject matter of collective bargaining.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Subject Matter of collective Social Dialogue	<ul style="list-style-type: none"> <li>• Collective claim may be regarding right, interest benefits and protection of the workers</li> </ul>	<ul style="list-style-type: none"> <li>• It is clear that matters regarding termination of employment, payment of remuneration and implementation of the Act shall be settled through the Labour Office and Court and not a matter of collective dispute. The following matters may be included in the collective bargaining including interest issue:               <ul style="list-style-type: none"> <li>○ Reduction of current remuneration and benefit of workers if it is higher than minimum remuneration and standard.</li> <li>○ Agreement with employer and new employer during the period of transfer of ownership for interim management</li> <li>○ Agreement regarding specific facilities instead of extra half payment for overtime work.</li> <li>○ Determination of deduction of salary for benefits, if necessary.</li> <li>○ Determination of service charge in hotel, motel, restaurant, jungle safari.</li> <li>○ Determine criteria for transfer of workers.</li> <li>○ Determine remuneration rates for strike or lockout carried out pursuant to the law.</li> <li>○ Add criteria in the bylaws for termination as a result of misconduct.</li> <li>○ With regards to retrenchment of workers, find alternatives of retrenchment and determine its' criteria and terms.</li> </ul> </li> </ul>
Submission of collective demand through Collective Bargaining Committee	<ul style="list-style-type: none"> <li>• Authorized Trade Union or claim signed by 51 percent or more workers of an enterprise may submit collective demand</li> </ul>	<ul style="list-style-type: none"> <li>• In an enterprise with 10 or more number of workers, a collective bargaining committee shall be established as provided hereunder, to submit claims:               <ul style="list-style-type: none"> <li>○ Representatives nominated by Authorized Trade Union of the Enterprise,</li> </ul> </li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>○ In case of non-election of Authorized Trade Union or if the tenure has been completed, then negotiation representation group nominated through internal understanding between the unions,</li> <li>○ Representatives nominated by more than 60 per cent of workers (evidenced by their signature) in absence of an Authorized Trade Union or Trade Unions.</li> </ul>
<p>Conciliation and agreement in Collective Disputes</p>	<ul style="list-style-type: none"> <li>● An agreement with the employer is make within 21 days of filing the claim.</li> <li>● Incase no agreement is made, and then the labour office conciliate the matter within 15 days.</li> <li>● If there is no agreement take place in labour office, workers may opt either arbitration or strike.</li> </ul>	<ul style="list-style-type: none"> <li>● The employer shall call for a meeting within 7 days of receiving the claim.</li> <li>● If the meeting for negotiation is not called within 7 days or if no agreement is reached within 21 days, the committee may than apply for conciliation at the Labour Office.</li> <li>● The Labour office shall conciliate and resolve the dispute within 30 days. The agreement within this period shall be binding for both the parties. If agreement is not reached within the timeframe, then either arbitration or strike shall be sought.</li> </ul>
<p>Circumstance for Compulsory Arbitration</p>	<ul style="list-style-type: none"> <li>● Collective dispute relating to security guard and in the enterprises where Essential Service Act applicable</li> <li>● Disputes to be subjected to tripartite committee or tribunal (but no provision has been set regarding its constitution of tribunal or procedures thereof).</li> <li>● Government may declared any service as essential service</li> </ul>	<p>Government should constitute Arbitration Tribunal to settle the collective dispute in fallowing condition:</p> <ul style="list-style-type: none"> <li>● Incase union and employer has prior agreement to submit dispute before the arbitration or</li> <li>● If the enterprise operates essential services.</li> <li>● In case of enterprise located in special economic zone or</li> <li>● State of emergency has been declared and strike has been prohibited.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>The essential service has been defined as a service interruption of which may endanger the life, health and safety of whole or part of the population.</li> </ul> <p>If the Labour Ministry issues an order to resolve dispute through arbitration process, regardless the stage of collective dispute (however, if either party rejects this decision within 5 days, then course of strike may be pursued).</p>
Legal Strike	<ul style="list-style-type: none"> <li>If 60 per cent of the workers vote for strike through secret ballot, then course of strike may be sought by issuing a 30 day notice after failing conciliation in presence of Labour Office</li> </ul>	<p>Legal strike staged out under the following circumstances by giving a 30 day notice to the employer, labour office and local administration shall be considered as:</p> <ol style="list-style-type: none"> <li>If agreement does not take place at the labour office (except for disputes subject to compulsory arbitration),</li> <li>If the Arbitrator does not conduct arbitration procedure,</li> <li>If Arbitration is not formed within 21 days of filing of application at the Ministry or if decision is not rendered requiring arbitration,</li> <li>If the arbitrator is unable to give the decision within the specified time frame,</li> <li>If the employer rejects decision of the Arbitrator or legally challenges it,</li> <li>Except for matters subjected to compulsory arbitration, if any party disagrees on decision of the Arbitrator referred to by the Ministry within five working days.</li> </ol>
Legal Lockout	<ul style="list-style-type: none"> <li>After the approval from the Department and by issuing a 7 day notice</li> <li>Issue a notice within 3 days of lockout in case of violence, destruction</li> </ul>	<ul style="list-style-type: none"> <li>The management may pursue legal lockout in case of illegal strike. The management has to give the evidence of valid justifications and receive approval from Department of Labour prior to such a lockout. A 7-day notice has to be issued for lockout stating that, if the strike is not ended before such 7 days.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>• In case of threat of violence, destructive activities and picketing during the strike period, the management may cause a lockout and give its notice to the labour office or department or local administration within 3 days.</li> <li>• Lockout is prohibited in enterprises operating essential services.</li> </ul>
Provision relating to picketing and mass meeting	<ul style="list-style-type: none"> <li>• The Act is silent on it.</li> </ul>	<ul style="list-style-type: none"> <li>• To pressurize the employer to fulfil the demands, the workers may stage peaceful picketing or mass meeting in the workplace or at the main entrance of the enterprise, during the strike or lockout period. However, in any other circumstance, such picketing or mass meeting shall be carried out before or after or during rest period without affecting work of enterprise or its activities.</li> </ul>
Decision of the Arbitrator shall be binding	<ul style="list-style-type: none"> <li>• The Act is silent on it.</li> </ul>	<ul style="list-style-type: none"> <li>• The decision from a compulsory arbitration or decision of non binding arbitration referred by the Ministry shall be binding after 5 working days from the date of decision of arbitration in case both the parties do not made any objection. Strike shall be legal if the decision of the Arbitrator challenged before the court of law by an employer.</li> </ul>
Validity period of agreement	<ul style="list-style-type: none"> <li>• Valid for 2 years</li> </ul>	<ul style="list-style-type: none"> <li>• Shall be valid for 2 years, however shall be in force until replaced by another agreement.</li> </ul>
Industrial Level Collective bargaining	<ul style="list-style-type: none"> <li>• The Act is silent on it, However, the decision of Supreme Court conform that collective agreement shall be valid even it is made industrial level.</li> </ul>	<ul style="list-style-type: none"> <li>• With regards to tea estates, carpet industry, construction business, Labour Supplier, transportation business or manufacturers or service providers of similar kind as prescribed, collective bargaining shall be conducted at an industrial level.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>• Collective demand at an enterprise shall not be permitted at once where industrial level collective agreement is implemented.</li> </ul>
Remuneration during strike or lockout period	<ul style="list-style-type: none"> <li>• The law was silent with regards to lawful strike. This led to a situation where either full payment or less or zero payment by agreement was received.</li> </ul>	<ul style="list-style-type: none"> <li>• The workers would not entitle any remuneration during illegal strike, and full remuneration during illegal lockout and half remuneration for legal strike or legal lockout period.</li> <li>• The Act has retained provision for full remuneration if an agreement is made between employer and the union.</li> </ul>
Provision related to misconduct, punishment and right to be heard	<ul style="list-style-type: none"> <li>• Four categories of disciplinary actions, which include reprimand, withhold annual grade increments, suspension and dismissal from service. Conduct and punishment has been listed in the Act.</li> <li>• 7 days shall be given for right to be heard</li> <li>• Action must be taken within 2 months of the misconduct and decision must be taken within 2 months of such action.</li> </ul>	<ul style="list-style-type: none"> <li>• Deduction of one days' salary instead of suspension. List of misconduct has been provided in the Act and the bylaws may make addition to the list.</li> <li>• Provision for dismissal for workers involved in sexual harassment, riot, violence, destruction, accepting or receiving bribe, theft, financial embezzlement, intentional damage of property, absence exceeding 30 days, disclosure of secret related to manufacture processes, work with competing businesses or perform competing activities, involvement in immoral criminal activities, submission of fake qualification certificates, consumption of drugs or alcoholic drinks.</li> <li>• Worker may be terminated, in case a worker has been punished for misconduct more than two times in a period of 3 years or in case of misconduct which may result in dismissal under the prevailing laws.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
		<ul style="list-style-type: none"> <li>• Except when the employer itself files a complaint, if a worker is detained in custody for a period exceeding 90 days for investigation or detention, employment relation may be terminated without giving a chance for clarification.</li> <li>• Clarification period of 7 days must be given before imposing a punishment.</li> <li>• Action must be taken within 2 months of the misconduct and decision must be given within 3 months of such action. The decision maker has the authority to reduce the punishment.</li> </ul>
Immunity in case of financial damage	<ul style="list-style-type: none"> <li>• The Act is silent, however Trade Union Act provides immunity for Authorized Trade Union</li> </ul>	<ul style="list-style-type: none"> <li>• No right to claims economic damages due to strike action.</li> <li>• Damages may be claimed for destruction and damage of physical property.</li> </ul>
Provision related to suspension	<ul style="list-style-type: none"> <li>• Suspension may be imposed for a period not exceeding 90 days as a punishment</li> </ul>	<ul style="list-style-type: none"> <li>• Suspension not considered as punishment,</li> <li>• A worker may be automatically suspended while he/she is in custody</li> <li>• A worker may be suspended by employer if, punishment of dismissal has been proposed during the period of investigation for a period not exceeding four months. The worker shall be entitled to half remuneration when under investigation, and shall receive full remuneration if found innocent.</li> </ul>
Job security and termination	<ul style="list-style-type: none"> <li>• Job security for permanent employees and workers.</li> <li>• Prohibition on dismissal except as per the Act, Rule or Bylaws.</li> </ul>	<ul style="list-style-type: none"> <li>• Except as provided under this Act, Rules or the bylaws, no worker in any form of employment can be terminated.</li> <li>• Valid and reasonable grounds must be presented before termination.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
	<ul style="list-style-type: none"> <li>• No dismissal for a period of 1 year if medical treatment is required because of an accident arising out of and in the course of employment.</li> <li>• No further provisions.</li> </ul>	<ul style="list-style-type: none"> <li>• Except for dismissal on grounds of misconduct, termination of contract for time-bound and task-bound employment shall be terminated if such task or time is completed. Other provisions related with termination of employment are as follows: <ul style="list-style-type: none"> <li>a) In case extended time or task also ends for a time-bound and work-bound employment or it is end of work based on the nature of the work.</li> <li>b) For casual worker at any time by an employer or a worker.</li> <li>c) If the work of a worker, is deemed unsatisfactory within 6 months of probation period.</li> <li>d) By resignation (however, this Act has removed the provision of rejection of resignation, and added mutual suspension of resignation under special circumstances).</li> <li>e) When conducting performance appraisal pursuant to the Act in a transparent manner, if the performance is unsatisfactory or substandard for 3 consecutive times or more, then by giving a 7 day period for clarification.</li> <li>f) A worker shall not be dismissed from the employment if any worker becomes physically or mentally disabled or becomes unable to work because of an injury or if treatment for injury suffered during performance of duty requires a long time for recovery or requires treatment at the hospital for occupational disease. However, after one year period of bed rest treatment at home if he/she falls ill or suffers injury because of an accident elsewhere, the employment may be terminated after 6 months.</li> </ul> </li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Compulsory retirement	<ul style="list-style-type: none"> <li>• After attainment of 55 years of age</li> </ul>	<ul style="list-style-type: none"> <li>• After attainment of 58 years of age (provision of compulsory retirement to be applicable for people under regular employment only).</li> </ul>
Retrenchment of Workers	<ul style="list-style-type: none"> <li>• Approval of Government of Nepal required prior to retrenchment.</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of provision requiring approval of Government of Nepal prior to retrenchment.</li> </ul>
Notice period	<ul style="list-style-type: none"> <li>• In case of retrenchment, 30 days' notice or equivalent remuneration in lieu of notice period</li> </ul>	<ul style="list-style-type: none"> <li>• When terminating employment, the employer or the worker shall give notice as mentioned hereunder or remuneration in lieu of notice period:               <ol style="list-style-type: none"> <li>a) 1 day prior notice for an employment period not exceeding 4 weeks.</li> <li>b) 7 days notice in case of employment between 4 weeks to 1 year.</li> <li>c) 30 days prior notice for employment exceeding 1 year.</li> </ol> </li> </ul>
Retrenchment compensation	<ul style="list-style-type: none"> <li>• A permanent worker or workers were entitled to compensation equivalent to number of years multiplied by 30 days' salary.</li> </ul>	<ul style="list-style-type: none"> <li>• Except for workers receiving unemployment benefits, the retrenched workers are entitled to one-month basic salary for each year of service. However, a worker with less than 10 workers shall not be required to compensate and not even be required to fulfil the procedures.</li> </ul>
limitation to pay facilities	<ul style="list-style-type: none"> <li>• The Act is silent on it</li> </ul>	<ul style="list-style-type: none"> <li>• Regardless of the manner of termination of Contract, the employer is required to make the payment within 15 days and must also provide necessary assistance for payment from Social Security or other institutions. If the payment is not made or assistance is not provided, the employer is required to provide remuneration as though the worker were under employment.</li> </ul>

Title	Labour Act, 2048	Labour Act, 2074
Establishment of Labour Court	<ul style="list-style-type: none"> <li>Establishment of Labour Court under the leadership of 1 presiding officer.</li> </ul>	<ul style="list-style-type: none"> <li>Establishment of Labour Court comprising of 3 members to hear cases.</li> <li>The High Court shall have the jurisdiction where there is no Labour Court is established</li> </ul>
Enforcement of judgment, Decision and agreement	<ul style="list-style-type: none"> <li>The Nepal gazette notified that the decision of the court shall be enforced by Labour Office. However, detail process does not mention.</li> </ul>	<ul style="list-style-type: none"> <li>If decision from the Court, Arbitrator's decision, decision of the department or office or agreements and understandings are not implemented by the concerned party, then these institutions have been given the authority to freeze, auction and sell immovable property, issue notices to freeze bank accounts, issue letters to suspend or freeze concessions, benefits available under the law, suspend license of any or labour supplier and issue necessary orders.</li> <li>If the decision is not implemented despite these actions, the Labour Court may issue a fine not exceeding 1 lakh rupees or punishment not exceeding 1 year imprisonment.</li> </ul>

---

### **New employment Contract to be prepared**

- An employment contract has to be prepared, regardless of the form of employment at the time of commencement of this Act, with workers under contract, daily wages or any other form of employment. When concluding agreement as prescribed above, the remuneration and other facilities may be adjusted with Provident Fund and other facilities payable pursuant to this Act within 3 months of commencement of this Act. However, minimum remuneration and facilities cannot be decreased.
- Workers under permanent employment at the time of commencement of this act shall, *ipso facto*, be considered to be under regular employment.

---

### **Provision related to adjustment of existing facilities**

- At the time of commencement of this Act, if the facilities being enjoyed by a worker are more than provisioned in the Act because of any legal provision or collective agreement, then the terms of service and facilities of the worker cannot be reduced. However, the Act has stated that facilities of gratuity have to be transferred to the social security fund or other facilities have to be transferred to the relevant institutions and other remaining facilities have to be adjusted in other headings.

---

### **Rule shall have to be framed within 3 months.**

- The Government of Nepal may formulate necessary rules to implement the Act. The government can formulate separate rules for specific businesses, services, industries and informal sectors. However, such rules have to be formulated within 3 months. This situation is due to adjustment of Gratuity and other facility within such period under provision of transitional arrangement.
-

# Labour Act, 2017

## 10- points need to handel cautiously

1. There are fundamental changes in employment relationship; it is defined as regular employment, time-bound employment, task-bound employment, casual employment, and part-time employment. This may lead the risk of increasing a trend of employing the worker more in task-bond and time-bound employment by the employer.
2. In case any special circumstance arise so as to hinder in reaching work place or resume work or operate the work place by arriving a situation beyond control like the short of electricity, water, raw material or lack of fund, the employer without consultation of union can put the workers in lay off for a period of 15 days. They may get only the half-salary of this period. This can encourage the employers to declare lay off even during strike, curfew or Bandh (general strike called by other than trade unions) period and order to work in substitute or in half-payment.
3. The employer has right to appoint worker on the basis of on the job training for a period of one year. During such a period the worker is entitle to get remuneration which should not be less than minimum salary along with all other benefits. It may encourage a trend to retain a trainee with a pay only in the minimum wage.
4. A provision of transport facility to be borne by employers themselves while employing a woman in the work of night shift, may effect adversely in employment opportunity to the female workers.
5. A provision, except what is stated in collective agreement the facilities and remuneration enjoying by a worker shall not be reduced; may cause the reduction in benefit being enjoyed by the workers in case the union leadership worked fraudulently.
6. It is essential to be explained in the Rules about how a worker working in casual and piece-rate work could enjoy leave facility.

7. The amount of provident fund of each labour should be deposited in social security fund by deducting 10 per cent from the basic salary adding cent per cent against it and, in gratuity, adding 8.33 per cent thereof from the very date of starting the job. There is ambiguity how to implement this provision in the case of worker working in casual and task-bound employment.
8. There is a possibility of escalating outsource job based on a provision of to appoint the worker on specified jobs through labour suppliers by notification listed in Nepal Gazette.
9. The list of punishments for misconduct such as issuing warning, deducting one day's salary, and suspension of annual grade or, promotion may be added in By-Rules. Likewise, the list of misconduct related to the termination may be added by collective agreement or obtaining approval from the department or the regulators. Here the unions need to remain alert in order to prevent by the misuse of these provisions.
10. There is a provision of retrenchment through agreement with union; this provision may yield negative outcome in case the authentic union lost the seriousness.

# Contribution Based Social Security Act:

## 25 Salient Features

1. Worker and family members' dependent on the worker shall benefit from the Contribution Based Social Security. Section 2 (a) of the Act has included spouse, son, daughter in law or daughter, parents, in-laws (mother and father), and grandchildren under the definition of dependent family.
2. Contributions to the Social Security shall be deducted from the contributable income. Contributable income has been defined by section 2 (g) of the Act as basic remuneration amount, before tax deduction, payable on a daily, weekly, fortnightly or monthly basis as a result of direct or indirect employment.
3. Only the contributors shall be entitled to benefits of the Social Security Plan. Section 2 (h) of the Act has defined a Contributor as any employee, self employed person, person employed under government service or any person eligible to receive remuneration from a particular government fund as specified through a notification published by the Government of Nepal in the Nepal Gazette, who are registered in the Social Security Plan and have taken Social Security Number.
4. The Act has specified an enlisted employer. According to Section 2 (i) of the Act, the term employer denotes a manager in case of an enterprise, the engaging employee in the case an employee is engaged by another employee, the recruitment agency in the case that the employee is a supplied employee, and the Government of Nepal, provincial government or local level government for a person under employment in Government Service or person entitled to receive remuneration from the Government's Fund.
5. Section 2 (p) has defined "Self-employed person" as a person, specified under self-employment in a notice published in Nepal Gazette by the Ministry on the recommendation of the Social Security Board.

6. According to Section 2 (q) of the Act, the Ministry, on the recommendation of the Social Security Board may publish a notification in the Nepal Gazette to include personnel working in a specific informal sector under the definition of an employee.
7. Section 5 of the Act provisions for the procedures for an employee engaged in informal sector or self-employment to participate the Social Security Plan. Section 5 (3) of the Act states that "...in order to involve employees working in informal sector or self-employment, efforts may be carried out in collaboration with co-operative institutions or organizations, community or other business institutions and organizations...". Section 5 (4) also provides that Social Security Plan, as prescribed by the Fund, may be operated for the Social Security Plan of such persons.
8. As per the agreement with employers association reached 6 years ago, it is understood that the contribution rates for the employees and the employers shall be 11% and 20% respectively. However, section (7) of the Act provides for periodic amendment of the contribution rate. Section (7) states that the rate of contribution shall be as prescribed in the notification published in the Nepal Gazette by the Ministry on the recommendation of the Board.
9. Section 8 of the Act provides for contributions when the salary is not paid. The Act states that, if for some reason, there arises a situation of non-payment of remuneration due to which regular deposits to the Fund cannot be made, then the amount of contribution such an employee is required to deposit shall be deposited by the enlisted employer in the Fund on behalf of the employee for a period not exceeding three months. The employer shall then, make the necessary arrangements for deduction from the remuneration, allowances or other facilities in order to recover the amount.
10. Section 9 of the Act has provisioned for recovery of contribution amount in the case an enlisted employer does not deposit contribution amount in the Fund. This Section has provided authority to the Fund to collect the 10% interest in addition to the contribution amount from the concerned employer. For an enlisted employer who does not submit contribution amount, processes relating to freeze accounts maintained in banks and financial institutions, to freeze movable and immovable properties, to suspend or freeze concessions facilities under the prevailing laws, to suspend license or permit and to freeze passport of concerned persons shall be commenced within 15 days. If the employer

does not deposit amount even after these actions, then a fine not exceeding one lakh (100,000 RS) or an imprisonment not exceeding one year shall be imposed pursuant to the provision of Crimes against Social Security (Section 47).

11. Section 10 of the Act has provisioned for 8 types of Social Security Plans, which are, as follows: (a) Medicare and Sickness Benefit, (b) Maternity Protection Benefit, (c) Accidental Benefit (d) Disability Benefit (e) Old Age Benefit (f) Dependent Benefit (g) Unemployment Benefit, (h) other social protection schemes specified by the Fund.
12. Section 13 of the Act has stated that the employee shall be considered to have been included in the Social Security Plan from the date of enlistment at the Fund.
13. If an employer is not enlisted at the Fund within the timeframe prescribed by the Act, then the Fund may issue the following orders against such Employer: (a) to enlist at the Fund immediately and to enlist the appointed employees, (b) from the date of contract with the employer, to deposit the total contribution amount as prescribed by the Act including interest accrued pursuant to section 9, or (c) in the case that the employment has been terminated, then to direct the employer to make payments to the employee of accumulated amount equivalent for facilities provisioned by Section 17 during the employment period, within a prescribed timeframe.
14. Section 18 of the Act has made additional provisions related with the fund. As per this section, in order to include specified workforce in the Social Security Plan, who are not involved in income generating activities of regular nature, the Government of Nepal may deposit specified amount of contribution in the Fund on behalf of that workforce.
15. Section 20 of the Act has provisioned for enlistment of the employees. An employer required to enlist at the commencement of this Act, shall enlist within 6 months of commencement of the Act and the employer enlisted after the commencement of this act shall, enlist a person appointed by or hired for the purpose of employment, within three months of establishment of such a relationship, at the Fund. Provisions related to enlistment of employees in informal sector or people under self-employment shall be as prescribed. The Fund shall provide a Social Security Number to any employee or a person under self-employment enlisted pursuant to this section.

16. According to section 21, provisions related with enlistment of employees under government service or persons receiving remuneration from the Government Fund shall be as prescribed by the Nepal Government.
17. Section 22 of the Act states that after the employer has received an enlistment number or when the employee has received a Social Security Number, the employer or the employee shall be considered to have been enlisted at the Fund.
18. Section 26 of the Act is related with Establishment of the Fund. It has defined the Social Security Fund as a revolving fund and has provisioned for collection of amounts prescribed hereunder:
  - a. Amount collected as contribution from the employers and employees for the Social Security Plans,
  - b. 10 percent of the basic remuneration of the employee and additional amount deposited by the employer for provident fund on a monthly basis, pursuant to the prevailing labour laws,
  - c. Gratuity, pension and amount attributable to other facilities payable by the employer to the employee pursuant to prevailing laws,
  - d. Amount collected in and to be collected in the National Level Welfare Fund pursuant to prevailing laws related to bonus,
  - e. Amount collected and to be collected as Social Security Tax,
  - f. Grant received from the Government of Nepal,
  - g. Grant, assistance and loan amount received from foreign governments, international organizations.
  - h. Interest and profits return from investments of the Fund,
  - i. Amount received from the Government of Nepal as loan and
  - j. Amount received from any other source.
19. Section 27 of the Act has defined the Fund as inalienable, autonomous and organized entity with a successor.
20. Section 28 of the Act has provisioned for composition of the Steering Committee of the Fund comprising of the representatives mentioned hereunder:
  - a. Chairperson – Secretary, Ministry of Labour and Employment
  - b. Member- Deputy Governor, Nepal Rashtra Bank (Overseeing regulation department)
  - c. Member – Joint Secretary, Ministry of Finance (Overseeing budget and program)

- d. Member – Joint Secretary, Ministry of Law, Justice and Parliamentary Affairs
  - e. Member – Joint Secretary, National Planning Commission (Overseeing social sector)
  - f. Member – Joint Secretary, Ministry of Cooperatives and Poverty Alleviation
  - g. Members – Three members, with at least one female member, nominated according to procedures specified by the Ministry from among the Trade Union Confederations.
  - h. Members – Three members, with at least one female member, nominated according to procedures the Ministry from among the Employers' Association.
  - i. Member Secretary – Executive Director.
21. If any person does not wish to receive or wishes to discontinue any facility provided under Social Security pursuant to the Act, then he/she may reject or discontinue the facilities voluntarily. Section 57 of the Act has stated that the Social Security shall be voluntary.
22. The Fund may request for assistance from professional or business associations related with the employer or employee, local administration, associated institutions and office bearers when carrying out actions under the Act, as per necessity (Section 59).
23. Section 62 of the Act has specified the duties of the Government of Nepal. It states that, if the amount in the Fund is insufficient, to provide benefits prescribed under the Social Security Plan to contributors to the Social Security Plan, then it shall be the duty of the Government of Nepal to give continuity to the Social Security Plan.
24. Provisions of this Act or provisions of the Rules framed under this Act shall not be affected by provisions or agreements pertaining to collective bargaining (section 64 - not to be affected by collective bargaining).
25. The Act shall commence from the ninety-first day (November 13, 2017) from the certification of the Act (August 13, 2017).



# TIME LINE SOCIAL SECURITY:

## Conceptual Discussion to Seal on the Contributory Social Security Bill

26 Dec 1994	The then UML President and Prime Minister of Nepal Man Mohan Adhikari introduced monthly old-age allowance who were above age of 75 years; this was first ever initiative by the state providing benefits as the universal social security to the citizens of Nepal besides those in the government service.
July 1995	Single women above age of 65 begin receiving monthly allowance
30 March 1996	GEFONT passed a resolution from its 2 <sup>nd</sup> National Congress on social security along with the national labour policy.
July 1997	In coordination and facilitation of NTUC, for the first time the MPs of Nepali Congress registered a Social Security Bill in Parliament as private bill. The House didn't accept it.
23-25 Nov 1997	1 <sup>st</sup> National Labour Conference organized by the then Government and first time the social security for workers' concept was passed.
November 1999	Government declared National Labour Policy 1999 with the concept of Social Security
5 December 2002	Trade Unions and Employers' Organization agreed to continue the dialogue to revise the Labour legislation with social security provision in order to reform World of Work. The dialogue started within one month in ILO facilitation.
9 January 2005	FNCCI, GEFONT, NTUC & DECONT signed the 19 points guidelines to draft labour law which includes Social Security Act

12-14 January 2005	2 <sup>nd</sup> National Labour Conference organized by the government has endorsed a 19-points guideline on revision and drafting of new labour law. GEFONT presented its concept of contribution ratios 1: 2.5:2.5 by the Workers: Employers: Government respectively. After NTUC and DECONT agreed on the proposal, it became joint proposal of the trade unions.
2006	National Labour Policy 2006 declared, it continued the emphasis on provision of establishing Social Security.
15 January 2007	Nepal's Interim Constitution Declared, Workers' social security was accepted as fundamental rights of workers.
24-27 Nov 2008	Tripartite dialogue begins on Social Security based on 19-Point agreement, in line with the New Labour Policy and Interim Constitution 2007. All recognized trade union centres participated in the dialogue.
12 July 2009	CPM (UML)'s Leader and the then Prime Minister MK Nepal led government levied 1% social security tax to be collected by the employees. It created the Social Security Fund. Discussion has been started to Institution for Contributory Social Security, necessary infrastructure, Social Insurance Schemes and Related laws.
2 February 2010	GEFONT mobilized workers with the demand of implementation of social security scheme. More than one million awareness materials have been distributed to general public to create mass awareness on social security.
21 March 2011	Social Security Fund (Management and Operation) by laws -2011 adopted
24 March 2011	Trade Unions and Employers' Organization signed agreement on Centrally organised Collective Bargaining. Both sides agreed on contribution-ratio 20% (of employers) and 11% (of employees) to the social security fund.

1 May 2011	The May day was celebrated the theme- "Social Security for All workers!"
30 Sept 2011	March 24 Bipartite Agreement was adopted by the Central Labour Advisory Committee (CLAC)
19-21 July 2012	Third National Labour Conference concluded by presenting draft of the social security and labour act. The concept was principally agreed and discussion on the draft was kept continued.
5 August 2014	The parliament adopted a resolution of commitment to submit Social Security Bill with in on-going parliamentary session
10 October 2014	After the clause wise details discussion Employers' Organization and Trade Unions jointly signed the draft and the integrated draft was submitted to the Labour Minister for State along with their note of decent on some points.
23 March 2015	An interaction was organized among the Parliamentarians and High-Level Political Leaders to realise the urgent attention and relevancy of the Social Security Law and Labour Act.
21 July 2015	JTUCC handed over a memorandum to the then Chairman of the Constituent Assembly Rt. Hon'ble Mr Subas Chandra Nembang to include the provision of Labour representation, Labour Commission, Labour Rights and Social Security as fundamental rights of the people in the Constitution.
25 September 2015	New Constitution promulgated by the Constituent Assembly; provision of contributory social security schemes and workers' rights to participate on it has enshrined as the fundamental rights.
Sept 2015	Social Security Bill registered at the Parliament.
2 June 2016	Parliamentary committee organised an Interaction program on social security Bill between trade unions, employer's organisations and the government's representatives.

11 September 2016	Social Security Bill has tabled to the full house of Parliament
12 September 2016	JTUCC organised an interaction with the parliamentarians. Trade Unions handed over their amendment proposal to the Parliamentarians.
22 November 2016	Parliamentary committee discussed general discussion on Social Security System.
26 October 2016	Full House of the Parliament sent the Bill for detail discussion to the parliamentary committee.
26 Jan 2017	The Labour relation and International affairs Committee of Parliamentary setup 9-members sub-committee to get suggestions and detail report on Labour Bill and Social Security Bill.
Feb-March 2017	Intensive discussion held between employers' representatives, unions and labour ministry on Labour Bill and Social Security Bill in the subcommittee
13 June 2017	The Parliamentary Committee concluded the discussion on the Social Security Bill and send report to the Full House of parliament for final approval.
20 July 2017	The Chairman of Parliamentary Committee submitted the final report on Social Security Bill to the Full House of Parliament
24 July 2017	Social Security Bill is adopted unanimously by the Full House of Parliament
13 August 2017	Social Security Bill got authentication by the President Rt. Hon'ble Bidhya Devi Bhandari