

## Brief Description of the Industrial Enterprises Regulation, 2076 (2019)

The Industrial Enterprises Regulation, 2076 (2019), enacted under the authority of the Industrial Enterprises Act, 2076 (2019), is a comprehensive framework governing the establishment, operation, and regulation of industries in Nepal, including those involving Foreign Direct Investment (FDI). Published by the Government of Nepal under the Ministry of Industry, Commerce, and Supplies, it outlines procedures for industry registration, investment approvals, operational incentives, and compliance requirements. The regulation aims to promote industrial growth, streamline administrative processes, and attract foreign investment by providing clear guidelines and incentives, particularly for export-oriented and national priority industries. All documents submitted under this regulation must be certified by the Printing Department for authenticity.

### Specific Focus: FDI Procedures

The regulation details six key procedures for foreign investors to establish and operate industries in Nepal, ensuring legal compliance and access to incentives. Below is a brief overview of each procedure, with specific details drawn from the provided document:

#### 1. Register Your Industry

- **Purpose:** To legally establish an industry.
- **Process:** Foreign investors apply to the **Department of Industry** using the **Schedule-1** form, submitting:
  - A copy of the investor's passport.
  - A foreign investment approval letter (e.g., from **Investment Board Nepal**).
  - A project description in the **Schedule-2** form.
- **Details:** If documents are complete, the Department issues a registration certificate (Schedule-3) specifying operational timelines. All documents require Printing Department certification.
- **Significance:** Mandatory first step for all FDI projects to ensure legal operation.

#### 2. Get Investment Board Approval

- **Purpose:** Required for large or sensitive industries listed in Schedule-1 of the Act.
- **Process:** Apply through the Department of Industry using the **Schedule-7** form, including registration documents. Upon approval, a **Schedule-5** permission letter is issued.
- **Details:** The Investment Board reviews applications, and approved industries receive formal permission to proceed.
- **Significance:** Ensures oversight for significant FDI projects, aligning with national priorities.

#### 3. Import Parent Company Goods

- **Purpose:** Allows importing goods from a foreign parent company for testing or market development.
- **Process:** Submit an application to the Department of Industry detailing the goods' nature, quantity, and purpose. Permission (up to 1 year) allows:
  - Imports up to 5% of the approved scheme.
  - Sales for testing purposes only.
  - Monthly reports to the Department.

- **Details:** Not applicable to Schedule-1 industries. Imports must not be distributed through third parties, and compliance is strictly monitored.
  - **Significance:** Facilitates market entry for foreign companies while ensuring controlled imports.
4. **Access Export Loan Incentives**
- **Purpose:** Provides concessional loans to export-focused industries.
  - **Process:** Industries exporting at least 30% of production in the first year can apply through banks for loans:
    - Micro: NPR 500,000
    - Cottage: NPR 1,500,000
    - Small/Medium: NPR 2,000,000
    - Large: NPR 5,000,000–15,000,000.
  - **Details:** Loans are disbursed via the banking system to support export goals.
  - **Significance:** Encourages export-oriented industries, boosting Nepal’s foreign exchange earnings.
5. **Request Land Acquisition Help**
- **Purpose:** Assists industries exporting 60% or more of production in acquiring land.
  - **Process:** Submit a written request to the registration authority, which coordinates with the **Single Point Service Centre** and local entities (e.g., landowners, local administration).
  - **Details:** Eligible industries include national priority projects, those in underdeveloped areas, or those with significant investment/employment.
  - **Significance:** Simplifies land access for high-export industries, addressing a key operational barrier.
6. **Lease Government Land**
- **Purpose:** Provides government-owned land on lease for national priority FDI projects.
  - **Process:** Apply using the **Schedule-18** form to the registration authority, which forwards the request to the **Ministry of Industry** and the Government for approval.
  - **Details:** The application must include the industry’s registration certificate, project details, and justification for land needs.
  - **Significance:** Supports strategic FDI initiatives by ensuring access to critical infrastructure.

## Investor Essentials

- **Certification:** All documents must be certified by the Printing Department.
- **Compliance:** Adherence to the Industrial Enterprises Act, 2076, is mandatory.
- **Support:** The Department of Industry and Investment Board Nepal provide guidance.
- **Export Focus:** Many incentives are tied to export performance (e.g., 30% for loans, 60% for land acquisition).
- **Resources:** Investors can access forms and guidance via the Investment Board Nepal website.

## National Priority Industries

The following have been classified as national priority industries:

### ➤ 1. Core Industrial Sectors

- Cottage, Energy-Based, and Infrastructure Industries
- Industries utilizing agricultural and forest resources
- Export-oriented industries aligned with national trade strategy (NTIS)

### ➤ 2. Tourism and Recreation

- **Adventure and Rural Tourism:** Trekking, Rafting, Polo, Pony Tours, Hiking
- **Specialized Tourism:** Religious, Cultural, Environmental, Sports, and Conference Tourism
- **High-Investment Attractions:** Golf Courses, Amusement Parks, Wildlife Sanctuaries

### ➤ 3. Resource and Manufacturing Industries

- **Mining and Mineral Processing:** Cement (using exotic limestone), Petroleum, Natural Gas
- **Agro-industries:** Sugar, Pulp & Paper, Fertilizers, Floriculture, Animal Husbandry, Fishery, Poultry, Beekeeping
- **Special Manufacturing:** Pharmaceuticals, Anti-venom, Artificial Eye Lenses, Powdered Milk
- **Machinery & Equipment:** Agricultural tools, Industrial machinery, Equipment for disabled, Eco-friendly tech, Fuel-saving and pollution-reduction devices
- Vehicle and Rubber Product Manufacturing

### ➤ 4. Health and Research Infrastructure

- Hospitals, Nursing Homes, Veterinary Services
- Medical Testing Labs, Biological Research, Teaching & Training Institutions

*(To be located outside Kathmandu Valley and major urban Terai centers)*

### ➤ 5. Technology and Creative Industries

- Information Technology (IT) Sector
- Film and Media Production

### ➤ 6. Special Industrial Zones

- Private-sector built Industrial Parks and Economic Zones
- Industrial Villages and Export Clusters

### ➤ 7. Strategic Trade & High-Value Products

- Industries producing high-price, low-weight goods as defined by GoN in the Nepal Gazette
- Sectors prioritized under the **National Integrated Trade Strategy (NTIS)**

## Fixed Capital of Industry

### Fixed Capital Definition – Industry Investment Framework (Nepal)

**Fixed capital** refers to the total value of long-term assets essential for establishing and operating an industry. The following components are recognized as fixed capital by the Government of Nepal:

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#### ➤ Infrastructure & Physical Assets

- **Land-based and sub-surface infrastructure** (including underground, underwater, and aerial structures)
- **On-site infrastructure:** internal roads, water canals, sewage systems
- **Industrial buildings:** factories, offices, warehouses

#### ➤ Machinery & Equipment

- **Production machinery and systems**, including parts and components
- **Electricity supply equipment and systems**
- **Transportation vehicles, furniture, and fixtures**
- **Communication tools and IT equipment**

#### ➤ Pre-Operational Capital Expenses

- **Technical supervision and consulting of capital nature**
- **Pre-setup operational expenses and capitalized interest**
- **Environmental research and feasibility studies**
- **Employee housing and facilities with capital characteristics**

## Key Provisions of the Industrial Enterprises Act (IEA), Nepal

#### ➤ Protection Against Nationalization

The Government of Nepal (GoN) guarantees that **industries established under the IEA will not be nationalized**, directly or indirectly. Acquisition is only possible **in cases of public interest** and must follow **strict legal procedures**.

#### ➤ Assurance of Industrial Security

GoN commits to **providing security and protection** to all industries operating under the Act.

#### ➤ Mandatory Corporate Social Responsibility (CSR)

- **Medium, large-scale, and small/cottage industries with annual turnover exceeding NPR 150 million** must allocate **at least 1% of net profit annually** for CSR.

- CSR funds must be used in **designated sectors** and are **deductible for tax purposes**.
- A **detailed CSR progress report** must be submitted to the registering authority **within 6 months of the fiscal year-end**.

➤ **Relief for Sick Industries**

Industries officially declared as **sick** are eligible for **full or partial exemption** from taxes, duties, and fees when importing **plant, machinery, and tools** for purposes such as **expansion, restructuring, or diversification**, even if other laws state otherwise.

➤ **Employment of Foreign Experts**

Industries may employ **foreign nationals in high-level managerial roles** for up to **5 years**, extendable by **2 more years, only if qualified Nepali professionals are not available**. Approval from the **Department of Labor** and recommendation by the **Department of Industry (DOI)** is required.

➤ **Repatriation of Foreign Earnings**

Approved foreign employees are allowed to **repatriate up to 70%** of their **salaries, allowances, and benefits** in **convertible foreign currency**.