

**Terms and Conditions and Process for Granting Approval for
Adoption
Of Nepali Child by Alien (First Amendment), 2010**

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Whereas, it is expedient to amend to the Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien, 2065 (2008);

Now, therefore, in exercise of power conferred by No. 12A of Chapter on Adoption of the Country Code (*Muluki Ain*), the Government of Nepal framed following Terms and Conditions and Process.

1. Short Title and Commencement: (1) These Terms and Conditions and Process may be cited as the " Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien (First Amendment), 2067 (2010)".

(2) These Terms and Conditions and Process commence forthwith.

2. Amendment to Section 5 of the Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien (First Amendment), 2065 (2008):

The following Sub-Section (7) has been inserted after Sub-Section (6) of Section 5 of the Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien (First Amendment), 2065 (2008)" (hereinafter referred to as the "Principal Terms and Conditions and Process"):

"(7) After certification from the District Administration Office pursuant to Sub-Section (6), the Child Welfare Home, Orphanage or Children's Home shall prepare details of each child in a format prescribed by the Ministry and submit to the Committee and Family Matching Committee constituted pursuant to Section 14 within 7 days."

3. Amendment to Section 8 of the Principal Terms and Conditions and Process:
Of Section 8 of the Principal Terms and Conditions and Process,-

(1) The words "in the format prescribed by the Ministry" have been inserted after the words "other description" appearing in Sub-Section (1).

(2) Clause (h) of Sub-Section (2) has been substituted by the following Clause (h) :

"(h) Documents relating to the applicant's minimum annual income as prescribed by the Ministry".

(3) The Following Sub-Section (5) has been inserted after Sub-Section (4):

"(5) The documents as referred to in Sub-Section (2) shall have to be certified by the Notary Public."

4. Amendment to Section 9 of the Principal Terms and Conditions and Process:
Of Section 9 of the Principal Terms and Conditions and Process,-

(1) Sub-Section (1) has been substituted by the following Sub-Section (1):

"(1) A Child Welfare Home, Orphanage or Children's Home, which is working at least six years in the field of children after being registered as per the prevailing laws, wishes to work in the field of inter-country adoption, shall submit an application to the Ministry for enlisting."

(2) The following Sub-Section (6) has been inserted after Sub-Section (5):

"(6) The documents relating to the personal details of children as prescribed in Sub-Section (5) shall have to be certified by the Notary Public".

5. Amendment to Section 10 of the Principal Terms and Conditions and Process: The following Sub-Section (3) has been inserted after Sub-Section (2) of Section 10 of the principal terms and procedures :

"(3) The Child Welfare Home, Orphanage or Children's Home which are delisted from the list pursuant to Sub-Section (1) shall not be re-enlisted until completion of five years from the date of such delisting."

6. Amendment to Section 11 of the Principal Terms and Conditions and Process: Of Section 11 of the Principal Terms and Conditions and Process,-

(1) Sub-Sections (4) and (5) have been substituted by the following Sub-Sections (4) and (5):

"(4) A foreign organization or agency enlisted pursuant to Sub-Section (3) shall establish its Contact Office in Nepal as per the prevailing law and shall give information thereof to the Ministry ".

(5) In order to carry out child welfare activities in Nepal, a foreign organization or agency enlisted pursuant to Sub-Section (3) shall have to pay annually an amount as prescribed by the Ministry on the recommendation of the Committee."

(2) The following Sub-Sections (5a) and (5b) have been inserted after Sub-Section (5):

"(5a) The amount so received pursuant to Sub-Section (5) shall be deposited in the account of an Organization as per the

recommendation of the Committee and as prescribed by the Ministry by entering into an agreement with the organization which is working in the field of the rights of the child.

(5b) Audits of the accounts of the money deposited pursuant to Sub-Section (5a) shall be carried out by an auditor approved by the Auditor General."

7. Amendment to Section 13 of the Principal Terms and Conditions and Process: The following Clause (c1) has been inserted after Clause (c) of Sub-Section (2) of Section 13 of the Principal Terms and Conditions and Process :

" (c1) Joint Secretary, Ministry of Foreign Affairs - Member"

8. Amendment to Section 14 of the Principal Terms and Conditions and Process: Of Article 14 of the Principal Terms and Conditions and Process,-

- (1) Sub-Section (3) has been substituted by the following Sub-Section (3):

"(3) The Family Matching Committee referred to in Sub-Section (1) and (2), while selecting the family and children shall select on the basis of first come first priority as per the details set out in the application pursuant to Section 8 and the details mentioned by the first family (applicant) pursuant to Sub-Section (5) of Section 9 and the children first registered in the Family Matching Committee."

(2) The following Sub-Sections (3a) and (3b) have been inserted after Sub-Section (3):

"(3a) Notwithstanding anything contained in Sub-Section (3), while selecting the family and children as per the said sub-Section, the children's age, sex and health details does not match as required by the first priority family, next children which match with the requirement of that family may be selected as per the chronology."

"(3b) In case of death of the children so selected before receiving by the applicant or any other person have claimed over such children, such applicant shall be given priority to adopt another children as son or daughter with priority."

(3) The word "Committee" appearing in Sub-Section (6) shall be substituted by the words "Family Matching Committee".

(4) The word "Committee" appearing in Sub-Section (7) shall be substituted by the words "Family Matching Committee".

9. Amendment to Section 15 of the Principal Terms and Conditions and Process: The following Sub-Section (2a) has been inserted after Sub-Section (2) of Section 15 of the Principal Terms and Conditions and Process:

"(2a) While giving the children pursuant to Sub-Section (2), the Ministry shall issue a certificate of adopted son or daughter to the applicant."

10. Insertion of Sections 15A and 15B in the Principal Terms and Conditions and Process: The following Sections 15A and 15B have been inserted after Section 15 of the Principal Terms and Conditions and Process:

"15A. Special Provision on Family Matching for the Special Needs Children: (1) Notwithstanding anything contained elsewhere in this Terms and Conditions and Process, the Ministry may select a family by giving priority to the applicant which has applied for adoption which requires special care.

Explanation: For the purpose of this Section "Special Needs Children" means among the children who are orphanage or voluntarily abandoned or due to physically or mentally or unusually or unnaturally developed or older age required special care.

(2)The Committee shall determine the subject as to whether any child is a child required special care.

(3)Notwithstanding anything contained in Sub-Section (1), while selecting the family and children required special care as per the said sub-Section, the children's age, sex and health details does not match as required by the first priority family, next children required special care and which match with the requirement of such family may be selected as per the chronological order."

(4) Other procedures relating to the selection of family for the children required special care and classification of such children shall be as prescribed by the Ministry.

15B. Special Provision to Grant Adoption: (1) Notwithstanding anything contained in this terms and procedures, a well known foreign citizen wish to adopt a child as adopted son or daughter pursuant to Section 3 may submit an application to the Ministry along with a formal recommendation of the Head of State, Head of Government or Minister for Foreign Affairs of his/her country.

Explanation: For the purpose of this Section, a well know foreign citizen means the following persons:

- (1) Foreign Country's Head of State, Head of Government or Minister for Foreign Affairs,
- (2) Noble Prize Winner,
- (3) Internationally known celebrity,
- (4) Person or business man or professional having annual income more than three hundred thousand American Dollars.

(2) If the Ministry considers that the foreign citizen is acceptable to give the child to adopt as adopted son or daughter as per the application after conducting an inquiry upon the application received pursuant to Sub-Section (1), it may submit its

recommendation accordingly to the Council of Minister of the Government of Nepal.

- (3) The Council of Ministers, as per the recommendation pursuant to Sub-Section (2), may give to the foreign citizen the child to adopt as son or daughter as per his/her demand. "

11. Amendment to Section 16 of the Principal Terms and Conditions and Process: Of Section 16 of the Principal Terms and Conditions and Process,-

- (1) The following Sub-Section (1a) has been inserted after Sub-Section (1):

"(1a) In case any Child Welfare Home, Orphanage, or Children's Home have been found to have carried out illegal activities from the supervision and monitoring report of the Committee, the Ministry shall, as per the recommendation of the Committee, forward in writing to the concerned authority to take necessary action against such Child Welfare Home, Orphanage or Children's Home. "

- (2) Sub-Section (2) has been substituted by the following Sub-Section (2),-

"(2) The Ministry, if it considers, may cause to monitor from time to time by deputing any Officer or Office Bearer of the Committee about

the adopted family, and standard and performance of the organizations enlisted pursuant to Section 11 and international custom and practice with regard to adoption.”

- (3) The following Sub-Section (3) has been inserted after Sub-Section (2),-

"(3) The Monitoring Officer or Office Bearer of the Committee deputed pursuant to Sub-Section (2) shall submit a report to the Ministry by mentioning all the information so received from the monitoring and possible solutions to resolve the problems observed in the inter-country adoption."

12. Amendment to Section 19 of the Principal Terms and Conditions and Process: Of Section 19 of the Principal Terms and Conditions and Process,-

- (1) Clause (c) of Sub-Section (1) has been substituted by the following Clause (c):

"(c) Processing fee payable by the foreign citizen permitted to adopt for the inter-country adoption pursuant to Section 15."

- (2) Sub-Section (4) has been substituted by the following Sub-Section (4):-

“(4) The amount received pursuant to Sub-Section (3) shall be expended for child welfare and relevant study and research activities

and any other child welfare related activities as approved by the Ministry."

12. Insertion of Section 20A and 20B in the Principal Terms and Conditions and Process: The following Section 20A and 20B have been inserted after Section 20 of the principal terms and procedures:

"20A. Power to Frame Guidelines: The Ministry may frame and implement necessary guidelines relating to the procedural aspects of this terms and procedures under these terms and procedures.

20B. Power to Frame Standards: (1) The Ministry may frame and implement minimum standards for the enlisted Child Welfare Home, Orphanage or Children's Home for inter-country adoption under this terms and procedures.

(2) It shall be the duty of the concerned child welfare home, orphanage or Children's Home to comply with the standards framed pursuant to Sub-Section (1)."

14. Alteration: The words "Ministry of Law, Justice and Parliamentary Affairs" mentioned in different places of the Principal Terms and Conditions and Process shall be altered by the words "Ministry of Law and Justice".