



## Legal Update

# Amendments to the Privatization Act

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### **Contributors**

Mr. Narayan Chaulagain

Ms. Alangkrita Upadhyay

## Introduction

1. The Federal Parliament of Nepal is currently not in the session. Consequently, the Government of Nepal has promulgated four Ordinances, which have been approved by the President and published in the Nepal Gazette on **Poush 29, 2081 (13 January 2025)**. These Ordinances are as follows:
  - Ordinance to Amend Some Nepal Laws Relating to Promotion of Good Governance and Public Service Delivery, 2081
  - Fiscal Procedure and Financial Accountability (First Amendment) Ordinance, 2081
  - Privatization (First Amendment) Ordinance, 2081
  - Ordinance to Amend Some Nepal Laws Relating to Improvement of Financial and Business Environment and Investment Increment, 2081
2. It is important to note that the ordinance issued by the President on the recommendation of the Council of Ministers may cease to be effective under the following circumstances:
  - a. The Ordinance shall be tabled at the session of both Houses of the Federal Parliament and if not passed by both Houses, it shall *ipso facto* cease to be effective,
  - b. The Ordinance may be repealed at any time by the President, and
  - c. The Ordinance *ipso facto* cease to be effective at the expiration of sixty days after the day on which a meeting of both Houses is held.
3. This document provides an update on the key amendments introduced by the **Privatization (First Amendment) Ordinance, 2081**.

### Privatization (First Amendment) Ordinance, 2081

4. The **Privatization (First Amendment) Ordinance, 2081** (the “**Ordinance**”) amends the **Privatization Act, 2050** (the “**Act**”), introducing some major changes to its provisions. A summary of these amendments is presented below:

#### Name Amendment

5. The Ordinance changes the name of the **Privatization Act, 2050** to the **Public Enterprise (Government Investment) Management Act, 2050**.

#### Execution Committee

6. The Ordinance establishes an **Executive Committee** to complement the work of the existing Privatization Committee (the “**Privatization Committee**”). The key responsibilities of the Executive Committee include:
  - Executing the decisions of the Privatization Committee and preparing annual work plans.
  - Monitoring enterprises managed under public investment decisions at least annually and obtaining their annual reports.
  - Implementing public investment management decisions of the Privatization Committee.

- Registering revenue tax payable to the Government of Nepal arising from public investment management of relevant enterprises.
- Developing standards, procedures, and directives for public investment decisions, share divestment, leasing, and mergers, and presenting these to the Privatization Committee.

### Management Unit

7. The Ordinance establishes a **Management Unit** to assist the Privatization Committee and the Execution Committee. While the exact composition of the unit is not specified, it allows the engagement of experts from relevant departments and ministries of the Government of Nepal on a contractual basis.

### Management Contract and Lease

8. The Act outlines several privatization methods, such as public share divestment, asset sales, leasing, and private sector involvement through management contracts. Regarding leasing and management agreements with the private sector, the Ordinance has mandated specific provisions.
9. Herein, it requires the Privatization Committee's approval in principle for evaluating and short-listing private sector entities, while final approval is still to be obtained from the Government of Nepal.

### Punishment

10. The Ordinance revises the penalties for violations of contracts or restrictions on privatization activities under the Act. Previously, violators faced imprisonment of up to two months and/or a fine of up to NPR 5,000. The Ordinance increases the fine to **up to NPR 100,000**, recognizing the seriousness of such violations.

### Conclusion

11. The **Privatization (First Amendment) Ordinance, 2081** introduces reforms focused on efficient management of public enterprises, improved privatization mechanisms, and stricter penalties to ensure compliance. These amendments aim to enhance transparency, accountability, and private sector participation, fostering financial and operational efficiency in public enterprises across Nepal.

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## **Contributors**

**Mr. Narayan Chaulagain**

Managing Partner

**Ms. Alangkrita Upadhyay**

Associate