



Legal Update

Major Changes Made by an Ordinance to Amend Certain Nepal Acts Related to Land

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Contributors

Mr. Narayan Chaulagain

Mr. Aayush Thapa

Background

The Government of Nepal has recently promulgated an ordinance titled " **An Ordinance to Amend Certain Nepal Acts Related to Land, 2081**" to make certain amendments to the laws related to lands. The Ordinance was approved by the President and published in the Nepal Gazette on Magh 2, 2081 (15 January 2025). The name of the ordinance is “

This legal update highlights key amendments made to following Legislations:

- Land Act, 2021
- National Parks and Wildlife Conservation Act, 2029
- Forest Act, 2076

Amendments in the land act

A. Inclusion of Provisions Related to Land Ceiling for Real Estate Business¹

1. With the eighth amendment to the Act on 2076/10/28, Subsection E1. was added to Section 12, allowing companies engaged in real estate business in residential areas to hold land exceeding the upper limit as per the Notified Order (i.e., notice published by the Government in the Nepal Gazette from time to time) for the purpose of residential real estate business. This current amendment is introduced to regulate that provision.
2. With this current amendment, Section 12 G. of the Act has been replaced with new provision. This provision allows companies with a permit to undertake real estate business to develop land within the prescribed limits as specified in the notified order², subdivide plots, or construct houses on such plots for sale.
3. While selling the house or apartment by the company authorized to engage in real estate business, must ensure that the land designated for collective use by the buyers is automatically placed under their collective ownership. Such land cannot be mortgaged or sold.³
4. A company engaged in real estate business in residential and commercial areas may sell and distribute land within the prescribed limits as per the notified order under the following conditions:⁴

¹ Section 12 G. of the Land Act.

² As specified in the Order Relating to Land Ceiling Exemptions, 2078, the following locations and corresponding land limits are allowed to purchase for real estate business: (a) Other hilly regions, excluding Kathmandu – 100 Ropani, (b) Inner Terai Region– 20 Bigha, and (c) Kathmandu Valley– 50 Ropani

³ Section 12 G. (2) of Land Act.

⁴ Section 12 G. (3) of Land Act.

- a) The land must be classified under residential or commercial area by the Local Land Use Council during the land use zoning process.
- b) Such land cannot be sold by subdividing or partitioning without developing it into plots, in accordance with the prevailing laws.

However, if land purchased with prior approval before classification by the council and falls outside the classification of residential or commercial area, then such land may be sold by subdividing or partitioning with the approval of the Ministry.

- 5. If a company authorized to engage in real estate business has received approval to purchase or hold land beyond the prescribed limits in its name from the concerned authority, it may develop the land and sell and distribute the plots or houses built on it. However, the company shall not be permitted to sell or distribute land that has been approved for other purposes.

B. Provisions Regarding the Allocation of Land to Landless Squatters⁵

- 6. Subsection 4 of Section 52 B of the Act mentions the types of land that cannot be provided to landless squatters. Subsection (g) of Subsection 4 specified that *“Public land, land along rivers, streams, or canals, land in risky areas, land in national parks or protected areas, land currently covered by forests, and land within road boundaries”* cannot be provided. The term '**Buffer Zone**' has now been added along with above mentioned lands. Additionally, a restrictive clause is also added in this subsection, stating that *“If land is mentioned as pastureland, market, or bazaar in the regional land records or cadastral survey records, and the squatters have been residing on it for more than ten years, and if it is not currently in use, the local government's executive decision may allow the provision of such land, based on a written report.”*
- 7. After Subsection 4, Subsection 4A. has been added, stating that landless squatters residing on the lands mentioned in Subsection 4 be provided with alternative arrangements for settlement.
- 8. Similarly, in Subsection (1) of Section 52C., the words *“Land recorded as forest area”* have been replaced with *“Land recorded as forest area or buffer zone.”*
- 9. In Subsection 3 of Section 52C., when providing land to unorganized squatters, the provisions previously required consideration of factors such as the individual's economic condition, living situation, nature of the land, valuation, area, and whether they own land elsewhere. However, with this amendment, it is now mandated that only the nature, valuation, and area of the land be taken into consideration.

⁵ Section 52 B. of the Land Act.

10. Previously, the provision only allowed the Government of Nepal to make rules for the purposes of this Act⁶. This amendment has added Section 61A., which enables the creation of directives and procedures under the Act and its regulations.

Amendments in national park and wildlife conservation act

11. Section 3B. of the National Parks and Wildlife Conservation Act includes provisions regarding the management and conservation of buffer zones. Previously, the restrictive clause of the section 3B. (1) stated, *'While managing and conserving the buffer zone, the land ownership of the local people in the area will not be affected.'*⁷ This has been replaced with a new restrictive clause, stating, *'While managing and conserving the buffer zone, the land ownership of the local people in the area will not be affected in any way. However, land recorded as forest, forest area, or shrubland in the records may be re-mapped, separated from the forest area, registered under the name of the Government of Nepal, and updated accordingly without any obstruction.'*

Amendment in forest act

12. Section 3 of the Act provides provisions related to the ownership of national forests. Subsection 2 of this section stated, *"The ownership of national forest areas cannot be altered, nor can the usufruct rights of national forests be granted to anyone, or the forest area be mortgaged, leased, or transferred in any other manner, without a decision of the Council of Ministers of the Government of Nepal"*. This amendment adds a restrictive clause stating, *"However, land recorded as forest, forest area, or shrubland in the records may be re-mapped, separated from the forest area, registered under the name of the Government of Nepal, and updated accordingly without any obstruction."*

⁶ Section 61 of Land Act.

⁷ Section 3 of National Park and Wildlife Conservation Act.

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Contributors

- **Mr. Narayan Chaulagain**
Managing Partner
- **Mr. Aayush Thapa**
Associate