

The Security Sector Legislation of the Federal Democratic Republic of Nepal

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Published in the European Union in 2009 by Brambauer Publishers, Hungary.

The Security Sector Legislation of the Federal Democratic Republic of Nepal

ISBN 978-963-86833-8-0

First edition

The Transition Series is jointly published by the Geneva Centre for the Democratic Control of Armed Forces and the Centre for European Studies.

This volume was made possible by generous support of the Ministry of Foreign Affairs of Denmark, the Ministry of Foreign Affairs of Norway, the Ministry of Foreign Affairs of Switzerland, and the UK Department for International Development (DFID) as part of the SSR Step Stone Project in Nepal.

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Acknowledgments

The programme partners the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the National Peace Campaign (NPC) would like to thank the platform of like-minded states (Denmark, Finland, Norway, Switzerland and the UK) for their generous support.

Equal thanks go to our editor, Mr. Hari Phuyal and the commentators, who in spite of heavy work-loads found time and inspiration for their contributions.

Mr. Peter Vanhoutte, the erstwhile DCAF project leader, took great care in instructing and accompanying the editor and the team of contributors through the early stages of the project. He will remain with select parts of the project as a senior advisor.

The finishing touch to this English edition was given by Mr. Adrian Arjun B.A. (Hons), LL.B (Hons), associate legal advisor to DCAF Geneva.

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Preface

In May 2009, a platform of five like-minded states (Denmark, Finland, Norway, Switzerland and the UK) entrusted the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Nepal Peace Campaign (NPC) as its local partner with an ambitious and comprehensive parliamentary capacity building programme which has the objective to assist the Constituent Assembly and the Parliament of the Federal Democratic Republic of Nepal in their efforts to create a democratic republican constitution, to endow itself with the tools and instruments of an effective and efficient democratic parliament and to create a sound basis for inter-parliamentary discourse with other democratic parliaments, thus to support both the peace process and the early steps towards a comprehensive parliamentary work and engagement with the security sector of Nepal.

At the beginning of a democratic transition process it may be best to inventorise what already exists. Non-democratic societies as a rule are not much interested in *transparency*. Thus the laws and policies regulating the security sector – if they exist – may not be universally known and accessible, and the same or similar may hold true for the rules of engagement for parliament and parliamentary committees with the security sector. The DCAF-NPC project thus not only comprises of a comprehensive cooperation programme with parliament and the security sector, but also allows for the compilation and publication of highly pertinent documentations which will facilitate the work of lawgivers and policymakers in the very near future.

These documentations are:

- (1) a comprehensive collection of all security-sector relevant legislation in Nepali and English
- (2) commentaries to the existing legislation by Nepali and international experts
- (3) the first edition of an Almanac – initiated and edited by civilian experts - on the structure and orientation of the security sector in Nepal, again published in the English and Nepali, thus to contribute to transparency in the security sector, and greater civilian involvement in the analysis and documentation of security sector institutions and processes.

The two project partner organisations are delighted to present herewith as a second volume in the series the compilation of security sector relevant legislation of the

Federal Democratic Republic of Nepal. We are proud to have found in Mr. Hari Phuyal, LL.M., a most able and capable editor who also most successfully oversaw the work of the translators.

Kathmandu and Geneva, Dashain 2009

Philipp Fluri, DDr. habil.
Deputy Director DCAF

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Director NPC Kathmandu

Part I

The General Framework

Interim Constitution of Nepal, 2063 (2007)

Part 19, Emergency Powers

143 Emergency Powers:

- (1) If a grave emergency arises in regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, the Council of Minister of the Government of Nepal may, by Proclamation, declare or Order a state of emergency to be enforced in Nepal or any specified part thereof.
- (2) The Proclamation or the Order issued pursuant to clause (1) shall be laid before the meeting of the Legislature-Parliament for approval within a month from the date of its issuance.
- (3) If a Proclamation or Order laid for approval pursuant to clause (2) is approved by a two-thirds majority of the Legislature-Parliament present at the meeting such proclamation or order shall continue in force for a period of three months from the date it was made.
- (4) If the Proclamation or the Order laid before a meeting of the Legislature-Parliament pursuant to clause (2) is not approved pursuant to clause (3), such Proclamation or the Order shall be deemed, *ipso-facto* to cease to operate.
- (5) Before the expiration of the period referred to in clause (3), if a meeting of the Legislature-Parliament, by a majority of two-thirds of the members present, passes a resolution to the effect that circumstances referred to in clause (1) continue to exist, it may extend the period of the Proclamation or Order of State of Emergency for another one period, not exceeding three months as specified in such resolution.
- (6) After a state of Emergency has been declared pursuant to clause (1), the Council of Ministers of the Government of Nepal may issue such orders as are necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the State of Emergency is in operation.
- (7) During the time of the Proclamation or Order of the State of Emergency made by the Council of Ministers of the Government of Nepal, pursuant to clause (1), the fundamental rights provided in

Part 3 may be suspended so long as the Proclamation or Order is in operation.

Provided that clauses (1), (2) of article 12 and sub-clause (c) and (d) of clause 3, Article 13 and 14, clause (2) and (3) of Article 15, Article 16, 17, 18, 20, 21, 22, 23, 24, 26, 29, 30 and 31 and the right to constitutional remedy related to Article 32 and the right to *Habeas Corpus* shall not be suspended.

- (8) In circumstances where any Article of this Constitution is suspended pursuant to clause (7) above, no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.
- (9) If, during the continuance of a Proclamation or Order pursuant to clause (1), any damage is inflicted upon any person by an act of any official done in contravention of law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for the said damage, and if the court finds the claim valid, it shall cause the compensation to be delivered.
- (10) The Council of Ministers of the Government of Nepal may, at any time during its continuance, revoke the

Part 20

Provisions Regarding the Army

144 **Formation of Nepal Army:**

- (1) There shall be an institution of the Nepal Army in Nepal.
- (2) The Council of Ministers shall appoint the Commander-in-Chief of the Nepal Army.
- (3) The Council of Ministers shall control, mobilize and manage the Nepal Army in accordance with the law. The Council of Ministers shall, with the consent of the political parties and by seeking the advice of the concerned committee of the Legislature-Parliament, formulate an extensive work plan for the democratization of the Nepal Army and implement it.
- (4) In the case of formulating and implementing the action plan pursuant to clause (3), determination of the appropriate number of the Nepal Army, its democratic structure and national and inclusive character shall be developed, and training shall be imparted to the army in accordance with the norms and values of democracy and human rights.

- (5) The other matters pertaining to the Nepal Army shall be as provided for in the law.

145 National Defence Council:

- (1) There shall be a National Defence Council in order to recommend the Council of Ministers for mobilization, operation and use of the Nepal Army Consisting with the following Chairperson and members:-
- (a) Prime Minister Chairperson
 - (b) Defence Minister Member
 - (c) Home Minister Member
 - (d) Three ministers designated by the Prime Minister Members
- (2) In case the Prime Minister and the Defence Minister are the same person, the senior-most member of the Council of Ministers shall be the member of the National Defence Council.
- (3) If the National Defence Council considers it necessary, it may invite other persons to the meeting of the Council.
- (4) The Secretary of the Ministry of Defence shall work as the Secretary of the National Defence Council, and, in his/her absence, the officer designated by the Prime Minister shall carry out such work.
- (5) Except in the case of mobilization of Nepal Army for the reason of natural calamities, the decision made by the Council of Ministers of the Government of Nepal for the mobilization of the army shall be presented to the special committee prescribed by the Legislature-Parliament within a month of the decision, and be approved accordingly.
- (6) The National Defence Council may regulate its own working procedures.

146 Transitional Provision for the Combatants:

The Council of Minister shall form a special committee to supervise, integrate and rehabilitate the combatants of the Maoist Army, and the functions, duties and powers of the committee shall be as determined by the Council of Ministers.

147 Management and Monitoring:

The other arrangements in regard to the management and monitoring of the arms and the army shall be carried out in accordance with the

"Comprehensive Peace Accords" (*Bishtrit Shanti Samjhauta*) concluded between the Government of Nepal and Nepal Communist Party (Maoist) on 5 Mangsir 2063 (November 21, 2006) and the agreement regarding the 'Monitoring of Arms and Army Management' reached on 22 Mangsir 2063 (December 8, 2006).

Part 25

Short Title, Commencement and Abrogation

166

Short title and commencement:

(3) The "Comprehensive Peace Accord" concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) on Mangsir 5, 2063 (November 21, 2006), and an agreement relating to "Monitoring of Arms and Army Management" reached on Mangsir 22, 2063 (December 8, 2006) are exhibited in Schedule 4.

Nepal Treaty Act, 2047 (1990)

Date of Royal Seal and Publication:
2047.08.01 (17.11.1990)

Preamble: whereas it is expedient to make legal provisions in regard to the working procedure relating to the signing, ratification, accession, acceptance, or approval of treaties or agreements to which the Kingdom of Nepal or His Majesty's Government is a party, as well as with regard to their implementation, now therefore, His Majesty King Birendra Bir Bikram Shah Dev has enacted this law under Article 129 of the Constitution on the advice and with the approval of the Council of Ministers.

1. Short title and commencement
 - (1) This law may be called the Nepal Treaty Act, 1990.
 - (2) It shall be deemed to have come into force from Kartik 23, 2047, (November 9th, 1990).
 - (3) It shall be applicable in respect to the treaties to be signed with the Kingdom of Nepal or His Majesty's Government as a party after the commencement of the Constitution.
2. **Definitions:** : In this Act, unless subject matter or context requires otherwise shall mean:
 - (a) **Treaty** means an agreement concluded in writing between two or more states, or between any state and any inter-governmental organization. The term includes documents of this nature, irrespective of how they are designated.
 - (b) **Full powers** means the letter of authority issued by His Majesty's Government (HMG)-empowering anyone to negotiate or accept a final draft or certified copy or to sign a treaty. The term includes the authority granted to maintain reservations while holding such negotiations or signing a treaty, or to perform any other function in respect to such treaty.
 - (c) **Reservation** means the declaration made by any party while signing a multilateral treaty or ratifying, acceding to, accepting or approving such a treaty, that any provision of the treaty shall not be applicable to it. The term includes the declaration made by any party in order to explain its position in respect to such provision.

- (d) Abrogation means the declaration made for the termination of a treaty by fulfilling the formalities mentioned in the treaty.
- (e) Constitution means the 1990 constitution of the Kingdom of Nepal.

3. Power to Conclude Treaties:

No one except His Majesty, the Prime Minister and the Minister of Foreign Affairs, shall negotiate, accept the final draft or a certified copy, or sign or maintain reservation, or perform any other function related to a treaty to which the Kingdom of Nepal or HMG is a party to, without full powers.

Provided that nothing contained in this section shall prejudice the power of the Royal Nepal Ambassador or Charge d' Affaires representing (the Kingdom of Nepal) in any foreign nation or international organization to conclude treaties on any issue with such nation or inter-governmental organization, as well as the leader of a conference to negotiate or accept the final draft or a certified copy of a treaty to be signed at a conference.

4. Working procedure in relation to the participation and accession of Treaties:

- (1) In case it becomes necessary for HMG to ratify, accede to accept, or approve any treaty, on subjects other than those mentioned in clause (2) of Article 126 of the Constitution, in need of ratification, accession, acceptance or approval, or in case it becomes necessary for HMG, it shall table a resolution to that effect at the House of Representatives.
- (2) A resolution concerning ratification, accession, acceptance or approval of any treaty tabled under subsection (1) must be passed by a majority of the members present at the House of Representatives.
- (3) After the House of Representatives pass a resolution, according to sub section (2), HMG shall notify the concerned party or authority about the ratification, accession, acceptance or approval of the treaty in accordance with the provision made in the treaty.
- (4) In the case any treaty relating to the establishment of any inter-governmental organization, or acquisition of membership of any such organization, or any treaty that conflicts with any current law, the Kingdom of Nepal or HMG may not become a party to any such treaty until a resolution is passed by the House of Representatives for its ratification, accession, acceptance or

approval, even if no provision has been made in such treaty for ratification, accession, acceptance or approval.

5. Ratification, accession, acceptance or approval of specific treaties:
 - (1) In case it becomes necessary for HMG to have treaties on subjects mentioned in clause (2) of article 126 of the Constitution ratified, accepted or approved, or to obtain permission to accede to any such treaty, it shall table a resolution to that effect in parliament.
 - (2) After a resolution is passed by parliament according to clause (2) of article of 126 of the Constitution in respect to a treaty tabled under subsection (1), HMG shall notify the relevant party or authority in the manner prescribed in the concerned treaty, on ratification, accession, acceptance and or approval.

6. Power of HMG to sign and enforce treaties:

After a treaty on any subject other than those mentioned in Section 4 (of this Act), or clause (2) of article 126 of the Constitution, is signed according to a decision of HMG, the Kingdom of Nepal or HMG shall be considered a party to that treaty, and such treaty shall be considered to have been accepted.

7. Power of HMG to abrogate or suspend a treaty:

Unless otherwise mentioned in a treaty to which the Kingdom of Nepal or HMG is a party, HMG shall have the power to abrogate, either partially or fully suspend, such treaty, or withdraw the suspension imposed thereon. In case the relevant treaty in connection with the treaty mentioned in Section 4 or clause (2) of article 126 of the Constitution, the House of Representatives must be informed about any such action.

8. Treaty not to be enforced with retrospective effect:

Unless otherwise provided for in a treaty, it shall not be enforced with retrospective effect.

9. Provisions of treaties applicable as laws:
 - (1) In case the provisions of a treaty to which the Kingdom of Nepal or HMG has becomes a party following ratification accession, acceptance or approval by parliament conflicts with the provisions of current law, the latter shall be held invalid to the extent of such conflict or the purpose of that treaty, and the provision of the treaty shall be applicable in that connection as Nepal law.
 - (2) In case any treaty which has not been ratified, acceded to, accepted or approved by parliament, but to which the Kingdom of Nepal or HMG has become a party, imposes an additional obligation or burden upon the Kingdom of Nepal, or upon HMG, in this case legal arrangements need to be made for its execution,

and HMG shall initiate action as soon as possible to enact laws for its execution.

10. Submission before the House of Representatives:
Notice regarding the treaties accepted and enforced by HMG according to Section 6 must be presented before the House of Representatives for information purposes within a month after a meeting of the House of Representatives is convened.
11. Registration of treaties:
The treaties deemed appropriate by HMG from among those to which the Kingdom of Nepal or HMG is a party may be registered with the Secretaries of the concerned international organization, and or the United Nations Organization.
12. Treaties to be published:
Authentic copies of the treaties deemed appropriate by HMG from among those to which the Kingdom of Nepal or HMG is a party shall be published in the Nepal *Rajapatra*. (Royal Gazette)
Provided that the treaties ratified, accepted or approved by parliament, and the treaties acceded to by the Kingdom of Nepal or HMG, in accordance with a decision of Parliament, must be published in the Nepal *Rajapatra* within 60 days after a ratification, accession, acceptance or approval.
13. Power to establish Rules:
HMG may establish necessary rules for the purpose of implementing the objectives of this Act.
14. Transitional Arrangement:
Until the commencement of the first session of Parliament after elections held according to the Constitution, the power to ratify, accede to, accept or approve treaties on subjects other than those mentioned in clause (2) of article 126 of the Constitution to which the Kingdom of Nepal or HMG is a party, shall be vested in the Council of Ministers.

Part II

The Legislative Framework for Security Providers

Army Act, 2063 (2006)

Date of Authentication and Publication: 2063.06.12 (...)

Act designed to provide for the amendment and unification of the laws regarding Nepalese Army

Chapter-1 Preliminary

Preamble: Whereas the sovereignty of Nepal is inherent in the people of Nepal as the result of the historical movement and the source of sovereign authority is vested in the people of Nepal, whereas it is desirable to make apt amendments and consolidate the existing laws regarding the establishment, arrangement, control, use and mobilization of the Nepalese Army for making the Nepalese Army accountable to the people of Nepal.

Be it enacted by the House of Representatives in the first year of the issuance of the Declaration of the House of Representatives 2006.

1. Short title and commencement:
 - (1) This Act shall be called the "Army Act, 2006".
 - (2) This Act shall come into force immediately.
2. Definition: In this Act, unless the subject or context otherwise requires:
 - (a) "Nepalese Army" means the collective organization of the persons recruited in the Nepalese Army under this Act or any part thereof.
 - (b) "Force" means an organized group formed with a particular objective.
 - (c) "Engagement in military operation" means any of the following situations:
 - (i) Working as a part of or in affiliation with the Nepalese Army during engagement in an operation against an enemy,
 - (ii) Engagement in an military operation in a territory or area controlled by an enemy in whole or in part, or working as a part of or affiliated with the Nepalese Army moving towards
 - (iii) such territory or area,

- (iv) Engagement as a part of or affiliation with the Nepalese Army which is taken hostage by the Military of a foreign country, or
 - (v) Involvement in the maintenance of internal security as a part of or affiliated with the Nepalese Army engaged against any individual or group who are involved or are suspected to be involved in destructive or violent activities with or without arms.
 - (vi) Declaration as "engagement in military operation" by the Nepal Government in accordance with Section 135.
- (d) "Chief of the Army Staff" means the Commander in Chief of the Nepalese Army appointed by the Nepal Government.
- (e) "Officer" means an officer of the Nepalese Army above the rank of junior commissioned officer, and this term also includes similar officers of the reserve force.
- (f) "Junior commanding officer" includes Subedar-Major, Subedar, and Jamadar, and this term includes the reserve forces of similar rank.
- (g) "Commanding officer" means any of the following officers:
- (i) the head of the Unit, Subunit, or
 - (ii) the officer who commands the Unit or Subunit during the period of deployment respectively, or
 - (iii) the Commanding officer of any Corps, Detachment or Department in respect to the person under Clause (b) of Subsection (1) of Section 3 who is affiliated therein,
 - (iv) the officer who is nominated or prescribed by the officer who commands the force in which the person is currently working at the time when he has no involvement elsewhere as prescribed in Sub-Clause (iii).
 - (v) the officer who commands the relevant force if no officer has been prescribed or nominated in accordance with Sub-Clause (iv).
- (h) "Non-commissioned officer" (Billadar) shall include Sergeant (Hudda), Corporal (Amaldar), Lance Sergeant

- (Pyuth), and the person of similar rank of an organized force established for a particular purpose;
- (i) "Corps" (chamu) shall mean the separate Unit specified as a corps within the Nepalese Army.
 - (j) "Battalion" shall mean a separate Unit specified as a "battalion" within the Nepalese Army.
 - (k) "Brigade" shall mean a separate Unit specified as a "brigade" within the Nepalese Army.
 - (l) "Gan" shall mean a separate Unit specified as "Gan" within the Nepalese Army.
 - (m) "Pati" shall include the officer to non-commissioned officer.
 - (n) "Senior officer" means the senior officer closest in rank, and it shall also include Junior Commissioned Officer (padik barg) and Non- Commissioned Officer (billadar) for the purpose of this Section.
 - (o) "Offence" shall mean the acts defined under Chapter-7.
 - (p) "Enemy" shall include an armed mutineer, armed person who committed treason, armed person involved in disorder or armed burglar and any armed person who is subject to action by a person to whom this Act is applicable.
 - (q) "Court Martial" shall mean the General Court Martial, District Court Martial, Summary General Court Martial, Summary Court Martial formed in accordance with Section 67 and the Special Court Martial formed in accordance with Section 119.
 - (r) "Committee" means the Military Welfare Fund Operation and Management Committee formed under Section 29.
 - (s) "Welfare acts" means acts of providing insurance, medical treatment, health, scholarship, residence, operating canteens for the wellbeing of current and past military personnel and their families, and this term shall include the establishment and operation of schools and universities.
 - (t) "Welfare planning" means income generating acts which support welfare acts, and this term shall include infrastructure and service oriented projects, financial institutions and provisions of loans or shares as prescribed in the industrial profession.

- (u) "Income generating acts" means acts of generating money for the purpose of supporting welfare acts by investing money in any institution after obtaining permission in accordance with existing law.
- (v) "Chief of Army Police" shall mean the Chief of Army Police who is appointed in accordance with Section 78, and this term shall include any person who exercises power, under his supervision, in accordance with law on his behalf.
- (w) "Prad Viwak" shall mean the person who is present in the Court Martial as the Prad Viwak in accordance with Section 81.
- (x) "Other court" shall mean other courts established in accordance with prevailing laws except the Court Martial.
- (y) "Departmental action" shall mean departmental actions to be imposed in accordance with Section 105.
- (z) "Prison" means a prison established in accordance with laws regarding prisons, and this term shall also include a military prison established in accordance with Section 136.
- (aa) "Order" shall mean the order issued by an officer authorized in accordance with this Act and the Regulation framed hereunder.
- (bb) "Prescribed" or "as prescribed" shall mean prescribed or as prescribed in accordance with this Act or the Regulation framed hereunder.

3. Persons under the jurisdiction of this Act:

- (1) The following persons shall fall under the jurisdiction of this Act:
 - (a) Persons recruited in the Nepalese Army under this Act;
 - (b) Other persons assigned for some acts by, or persons in the service of the Nepalese Army staying in a camp or in a march for military operation, or staying in an area declared by the Nepal Government as a military operation zone; or civilian persons who assist in the works of the Nepalese Army,
 - (c) Persons selected for recruitment in the Nepalese Army.
- (2) Persons under Subsection(1) (b) shall be under the command of the commanding officer of a department, formation or unit in which he is engaged.

- (3) If a person prescribed in Subsection (1) (b) is not engaged under the command of a commanding officer of any department, formation or unit, he shall fall under the command of an officer who is prescribed or nominated by the commanding officer of the force in which he is currently engaged for the time being, or of a commanding officer of the relevant force if such officer is not prescribed or nominated.
- (4) The commanding officer shall not keep a person prescribed in Subsection (1)(b) under the command of an officer junior to him as long as an officer senior to him is available.
- (5) The person prescribed under Subsection (1) shall fall under the jurisdiction of this Act even if he commits an offence outside Nepal.
- (6) Offences committed by persons under Subsection (1) against citizens of a country in which he has been deployed while engaged with a peace-keeping force of the United Nations shall fall under the jurisdiction of other courts.

Chapter-2

Establishment and management of Nepalese Army

4. Establishment and arrangement of the Nepalese Army:
 - (1) The Nepalese Army shall be established for the protection and defense of the independence, sovereignty, territorial integrity and national unity of the state of Nepal.
 - (2) The Nepalese Army existing at the commencement of this Act shall be deemed to have been established in accordance with this Act.
 - (3) The management of the Nepalese Army shall be regulated in accordance with this Act and the Rules made pursuant to this Act, and other matters shall be dealt with in accordance with the instructions issued by the Nepal Government.
5. Control, use and mobilization of the Nepalese Army:
 - (1) The Nepal Government shall control, use and mobilize the Nepalese Army on the recommendation of the National Defence Council.
 - (2) Decisions of the Nepal Government regarding the mobilization of the Nepalese Army in accordance with Subsection (1) shall be submitted, within thirty days, before the Defence Special Committee of the House of Representatives for approval.

6. National Defence Council:

- (1) There shall be a National Defence Council for the control, use and mobilization of the Nepalese Army which shall be comprised of the Chairperson and members as follows:
 - (a) Prime Minister -----Chairperson,
 - (b) Defence Minister ----- Member,
 - (c) Home Minister ----- Member,
 - (d) Finance Minister ----- Member,
 - (e) Foreign Minister ----- Member.
- (2) The National Defence Council may invite, as necessary, other Ministers, the Chief of Army Staff, the Chief Secretary of the Nepal Government, Secretaries and the Chief of other security agencies or experts to its meetings.
- (3) In addition to the functions mentioned in Subsection (1), the functions, duties and powers of the National Defence Council shall be as follows:
 - (a) Make policies, plans and programmes regarding the control, use and mobilization of the Nepalese Army and submit them before the Nepal Government,
 - (b) Submit recommendations regarding the number and organizational structure of the Nepalese Army,
 - (c) Submit necessary advice before the Nepal Government regarding the management of the Nepalese Army,
 - (d) Submit necessary advice before the Nepal Government regarding the management of arms, weapons and other military equipment of the Nepalese Army,
 - (e) Perform other acts as prescribed.
- (4) The Secretary of the Defence Ministry shall act as the Secretary of the National Defence Council. In his absence, another officer as prescribed by the Prime Minister shall replace him.
- (5) There shall be a Secretariat within the Ministry of Defence for the conduct of acts and proceedings of the National Defence Council. Other arrangements of the Secretariat shall be as prescribed.
- (6) Procedures regarding the meetings of the National Defence Council shall be made by the National Defence Council itself.

7. Composition of organization:

- (1) The composition of the Nepalese Army shall be inclusive and patriotic.
- (2) The Nepal Government shall make necessary policies, plans and programmes for the implementation of the provisions of Subsection (1).

- (3) The organizational structure and number of positions in the Nepalese Army shall be as agreed by the Nepal Government. Provided that there shall be only one position of Maharathi and the same Maharathi shall be appointed for the post of the Chief of Army Staff.
- (4) There shall be a Chief of Army Staff and positions as mentioned in Schedule-1 in the organization of the Nepalese Army.

Chapter-3

Appointment, functions, duties and powers of Chief of Army Staff

8. Chief of Army Staff:
 - (1) The Chief of Army Staff shall be appointed by the Nepal Government and the Prime Minister shall provide him rank markings.
 - (2) The Chief of Army Staff shall be the Chief of the Nepalese Army.
 - (3) In a case of vacancy of the post of the Chief of Army Staff because of his leave or any reasons, the senior officer of the Nepalese Army as prescribed by the Nepal Government shall be the Acting Chief of Army Staff and perform his duties.
9. Responsibility to the Nepal Government:
 - (1) The Chief of Army Staff shall be responsible to the Nepal Government for the functions and duties to be performed by him.
 - (2) The Chief of Army staff shall, before assuming his office, take an oath of office in accordance with Schedule-2 before the Prime Minister.
10. Functions, duties and powers of the Chief of Army Staff:
 - (1) The key function and duties of the Chief of Army Staff shall be to manage the Nepalese Army subject to instructions given by the Nepal Government and existing laws.
 - (2) The Chief of Army Staff shall submit an annual report on the management of the Nepalese Army before the Nepal Government every year within the month of Baishakh (April - May), and the Nepal Government shall cause to present the report so received before the House of Representatives and the State Affairs Committee shall discuss such reports.
 - (3) Other functions, duties and powers of the Chief of Army Staff shall be as prescribed by this Act and Rules framed under this Act.

11. Age bar and period of holding office:
- (1) The Chief of Army Staff shall hold office until the completion of 61 years of age.
 - (2) Subject to Subsection (1), the term of office of the Chief of Army Staff shall be three years.
 - (3) Notwithstanding anything provided by Subsection (2), the Nepal Government may, if it deems necessary, remove the Chief of Army Staff before the completion of such term, and an opportunity to defend himself shall be given prior to such removal.
 - (4) The Chief of Army Staff who is holding office at the time of the commencement of this Act shall continue his office subject to the provisions of Section (2).

Chapter-4

Appointment and terms of service

12. Appointment and filling of vacancy:
- (1) For the purpose of making a recommendation to fill a vacancy of officer level of the Nepalese Army, a Vacancy Filling Committee chaired by the Chairperson of the Public Service Commission or a member of the Commission nominated by the Public Service Commission shall be formed, and for the purpose of making a recommendation to fill the vacancy of posts lower than officer level, a Vacancy Filling Committee including a representative nominated by the Public Service Commission as member shall be formed. This notwithstanding, after completion of written examinations conducted by the Committee formed in accordance with Subsection (1), no provisions of this Section shall bar the taking of examinations other than such examinations under the supervision of a representative nominated by the Chairperson of the Public Service Commission.
 - (2) Other functions, duties and powers of the Vacancy Filling Committee formed in accordance with Subsection (2) shall be as prescribed.
 - (3) Other arrangements regarding the filling of vacancies shall be as prescribed.
 - (4) The qualifications required for the appointment to different posts of the Nepalese Army shall be as prescribed.

13. Ineligibility:
- (1) The following persons shall be deemed ineligible for appointment to the posts of the Nepalese Army.
 - (a) Non-Nepalese citizen,
 - (b) Who is convicted of a criminal offence indicating him morally destitute,
 - (c) Who is expelled from a Government job with ineligibility for any of Government service in the future,
 - (d) Who was convicted of a human rights violation,
 - (e) Who does not have the qualifications as prescribed in Subsection (4) of Section 12.
 - (2) Nothing which is provided by Clause (a) of Subsection (1) shall be deemed to affect the receipt by the Nepal Government of technical and expert services from non-Nepalese citizens for a short term.
14. Authority to appoint: On the recommendation of the Vacancy Filling Committee in accordance with Section 12, the Nepal Government shall appoint posts of officer level and the prescribed authority shall give appointment to the posts of other levels.
15. Post of Commissioner may be granted: The Defence Minister shall, subject to the provisions in accordance with this Act and the Rules framed under this Act, grant the post of Commissioner to the officer of the Nepalese Army who is qualified.
16. Taking of oath: Any individual who is to be appointed to a post of the Nepalese Army shall take an oath in accordance with the format provided in Schedule 2.
17. Period of service:
- (1) Except as provided by Section 11, the age limit of officers working in the Nepalese Army shall be as prescribed in Schedule-1.
 - (2) Subject to Subsection (1), the term of officers of the Nepalese Army shall be as mentioned in Schedule-4.
 - (3) Notwithstanding anything provided by Subsection (2) the Nepal Government may extend the terms of officers in accordance with Schedule-5 on the recommendation of the Chief of Army Staff to the Nepal Government stating the reasonable grounds and causes that an officer who is physically capable after contributing long service is needed by the Nepalese Army.

18. Removing from the service and demoting from the rank:
- (1) The Nepal Government may remove or dismiss any person working in the Nepalese Army from their service.
 - (2) The Commander-in-Chief may demote to a lower grade or rank or remove from service any person working with the Nepalese Army other than an officer.
 - (3) The Commander of a Corps (chamu), Division (pritna) or Brigade or a commander of an equivalent rank or an officer vested with equivalent authority may remove from service and demote to a lower rank any person under his command other than an officer or junior commissioned officer.
 - (4) The commanding officer of a Unit or Sub-unit may remove from service or demote to a lower rank a Sergeant (hudda) and other personnel of lower rank who are under his command.
 - (5) The power conferred by this Section shall be exercised subject to this Act or the Rules framed hereunder.
 - (6) While taking action in accordance with this Section, the opportunity to a hearing shall be provided.
 - (7) If a person who falls under the jurisdiction of this Act is removed or is in the process of being removed from service, the commanding officer shall provide him a certificate that includes details as prescribed.
19. Prohibition on the establishment, conduct and participation in an organization and institution:
- (1) Any person who falls under the jurisdiction of this Act shall be prohibited to act as follows:
 - (a) To establish, operate, become a member, assist a union, institution or organization, or participate in a programme organized by such union, institution or organization.
 - (b) To participate in a meeting or deliver a speech, or participate in a demonstration organized for political or similar objectives by any individual or group.
 - (c) To print any poster, pamphlet or other similar documents.
 - (2) Notwithstanding anything provided by Subsection (1) (a) any person who falls under the jurisdiction of this Act shall not, unless with permission from the Nepal Government and subject to this Act, be prejudiced from helping any religious, social, cultural and entertaining union, institution or organization, or shall not be

deemed to prejudice participation in programmes organized by such union, institution or organization.

20. Training:
- (1) Any individual who shall be included in the organization of the Nepalese Army shall be provided trainings on topics including military education, ethics, physical exercise, human rights and international humanitarian law.
 - (2) The arrangements of trainings in accordance with Subsection (1) shall be as prescribed.
21. Promotion, leave and other terms of services: The appointment, promotion, leave and other terms of service and benefits shall be as prescribed.

Chapter-5

Privileges and immunities

22. Defending the acts performed in the discharge of duties: No case may be filed in any court against a person under the jurisdiction of this Act who commits any act in good faith, in the course of discharging his duties, resulting in the death of or loss suffered by any person.
This notwithstanding, the offences provided by Sections 62 and 66 shall not be deemed an offence committed in good faith in the course of discharging duties.
Explanation: For the purpose of this Section, the phrase "committing any act in good faith, in the course of discharging his duties," means acts performed during the performance of duties as well as any action taken for internal security or self-defence, including flag march, patrolling and sentry duty.
23. Immunity from arrest:
- (1) Any individual who is the chairperson or member of a Court Martial or legal section or any person who is relevant to the proceedings of a military court, his legal counsel, agent or witnesses who are attending in accordance with the summons issued by the military court, shall not be arrested by the order of any court or quasi-judicial authority at the time he is going to or coming back from attendance at the military court.

- (2) If the Court Martial having received information that a person in accordance with Subsection (1) has been arrested, it may request the relevant authority to release such a person immediately.
 - (3) Any person under the jurisdiction of this Act, at the time he is engaged in military operations, shall not be detained according to the judgment, decision or order of any court or quasi-judicial authority, for a loan for which he is liable.
 - (4) Upon receiving information that a person who is not to be arrested in accordance with Subsection (1) has been arrested, other courts or quasijudicial authority shall immediately release such person.
24. Freezing or confiscation: No arms, clothes, military supplies, animal, vehicle, goods or luggage of any person to whom this Act is applicable used in the course of discharging his duties, or his full or partial salary or allowances may be frozen or forfeited by the decision, verdict or order of any civil or revenue court, or any authority vested with such powers except the Court Martial.
25. Immunity and privilege to the reserve force: Every person belonging to the reserve force shall be provided with all facilities mentioned in Sections 23 and 24 while going to and from any training or service to which he has been called by the Nepal Government or while serving in his job.
26. Priority in cases and disputes [of the Nepalese Army]:
- (1) If a case has been registered in a court in which a person working with the Nepalese Army is a party, and he is present before the court with the approval of his leave by his leave approving authority for the same purpose and if he submits his application to the court requesting the adjudication of his case before the end of the period of leave attaching the leave approval letter and details of his case, the relevant court shall list it in a priority hearing order to adjudicate it before the end of the period of his leave.
 - (2) No fee shall be required for the application to be lodged in accordance with Subsection (1).
 - (3) If the hearing of a case could not be completed before the end of the period of his leave, the court shall inform him of the same.
 - (4) If a question is raised in regards to the leave approving authority, the decision of the Chief of Division or Brigade or officer of the similar rank shall be final.

27. Complaint regarding sufferings or injustice:
- (1) If an officer to whom this Act is applicable, is caused injustice on any matter by the commanding officer or any senior officer, he may complain against such injustice before his commanding officer.
 - (2) If a person is not satisfied with the decision made by the commanding officer or the Brigade in regards to the complaint lodged in accordance with Subsection (1), he may lodge his application to the Chief of Army Staff.
 - (3) Such person may lodge his complaint before the relevant Brigade if he is a person below the rank of officer.
 - (4) If a complaint lodged in accordance with Subsection (3) is not heard, such person may submit his complaint to the commanding officer and if it is also not heard by the commanding officer or he [complainant] is not satisfied with his decision, he may lodge his complaint before a superior officer, and if such complaint is received, the commanding officer shall give a receipt thereof to such complainant and forward it to the superior level. If the commanding officer fails in forwarding such complaint to the superior level, he shall be subjected to disciplinary action.
 - (5) The complaint hearing authority shall examine the complaint lodged in accordance with Subsections (1) and (4), and resolve the problem, and shall forward the complaint to the superior level if necessary.
 - (6) If a complaint is to be lodged against a person who hears a complaint, it shall be lodged before the officer superior to such officer.
 - (7) The decision made by the Chief of Army Staff on a complaint lodged in accordance with this Section shall be final.
 - (8) The procedures for the hearing shall be as prescribed by law.
 - (9) The Nepal Government, if it deems reasonable, may review decisions made in accordance with this Section.
28. No effect on privileges entitled in accordance with existing laws: The privileges in accordance with this Chapter shall not be affected by other privileges in accordance with other Acts.

Chapter 6

Army Welfare Fund

29. Establishment and conduct of welfare fund:
- (1) A welfare fund may be established for the welfare of current and past personnel of the Nepalese Army and their families.
 - (2) The following sources of funds shall be kept in the Army Welfare Fund:
 - (a) The percentage of funds deducted as prescribed from the fund received for the service of the Nepalese Army deployed in peace keeping operations in any part of the world at the request of the United Nations Organization,
 - (b) The funds saved from the cost of welfare activities which are conducted from the interest of fund deposited in various banks and financial institutions,
 - (c) The funds saved from carrying out welfare activities as prescribed.
 - (d) The funds deposited as the principal amount in various banks and financial institutions from July 1975 to the date of commencement of this Act and the interest from those amounts.
 - (e) The movable and immovable property kept in the name of the institutions prescribed by the Army Headquarters and the funds from their increased value.
 - (f) The movable and immovable property currently being used by the Nepalese Army and the funds from its increased value.
 - (3) There shall be a seven members' Army Welfare Fund Management Committee comprised as follows for the conduct of the welfare fund established in accordance with Subsection (1):
 - (a) Chief of Army Staff → Chairperson,
 - (b) Two persons nominated by the Patron from amongst current and past military officers → Member,
 - (c) Two persons nominated by the Chief of Army Staff from amongst current and past military officers → Member,
 - (d) Representative from the Ministry of Finance (gazetted first class officer) → Member,
 - (e) Representative from the Ministry of Defence (gazetted first class officer) → Member,

(4) There shall be a Welfare Planning Directorate in the Army Headquarters for assisting the daily works of the Committee. The functions, duties and powers of the Directorate shall be as prescribed.

(5) The money as accumulated in the fund in accordance with Subsection (2) shall be invested for the welfare of current and past personnel of the Nepalese Army and their families.

Explanation: The term "family" for the purpose of this Section shall mean husband or wife, son, daughter and mother and father, if it is related to female employees mother-in-law and father-in-law to whom past and current employees of the Nepalese Army is responsible for taking care.

30. Patron of the welfare fund: The Prime Minister shall be the Patron and the Minister of Defence shall be the Joint Patron of the fund.

31. Functions, duties and powers of the Committee: The functions, duties and powers of the Committee shall be as follows:

- (a) Formulate, implement, coordinate and monitor welfare acts, income generating acts as prescribed and welfare planning,
- (b) Carry out welfare acts needed for the family of Army personnel who are killed or mutilated during the period of engagement in military activities,
- (c) Reduce, add or remove facilities and concessions under the welfare acts,
- (d) Formulate procedures and guidelines necessary for the conduct of welfare acts, income generating acts and welfare planning, and implement them,
- (e) Reach agreement with Army Headquarters regarding the use of land and physical infrastructure under the possession of the Nepalese Army and carry out welfare activities,
- (f) Form administrative, financial and technical units necessary for the conduct of welfare acts, income generating acts and welfare planning, appoint necessary manpower for such units and prescribe their terms of service and salaries,

- (g) Appoint experts for the effective implementation of welfare acts, income generating acts and welfare planning, and prescribe their terms of service and salaries,
 - (h) Assign current military personnel as necessary for the security of the station where welfare acts, income generating acts and welfare planning are launched,
 - (i) Obtain, subscribe, rent, use and sell movable and immovable property subject to this Act,
 - (j) Carry out other activities as prescribed.
32. Account of fund and auditing:
- (1) Account of daily income and expenditure of the fund shall be maintained in accordance with existing laws, and the internal auditing of the fund shall be made as prescribed by the committee.
 - (2) The final auditing of the fund shall be made by the office of the Auditor General.
33. Submission of annual report: The Committee shall submit a report including income, expenditure and progress details before the patron, and provide one copy to the State Affairs Committee of the House of Representatives every year.
34. Delegation of powers: The Committee may delegate as necessary some of the powers conferred on it in accordance with this Chapter to the Welfare Planning Directorate.
35. Situations for depriving facilities and concessions:
- (1) Current and past military personnel and their families may be deprived fully or partially of their entitlement to facilities and concessions relating to programmes conducted under the welfare acts in the following events:
 - (a) If acts detrimental to the Nepalese Army are proved to have been committed,
 - (b) If acts contrary to the Constitution and this Act are proved to have committed,
 - (c) If the misuse of facilities and concessions entitled in accordance with this Chapter is proved to have been committed,
 - (d) If a penalty for an offence against state is imposed.
 - (2) Notwithstanding anything provided by Subsection (1), only those current or past military personnel or their families who committed

acts mentioned in Subsection (1) shall be deprived of the entitlement of facilities and concessions relating to programmes conducted under the welfare acts.

36. Other arrangements: Other arrangements regarding the use, conduct and management of the Army Welfare Fund shall be as prescribed.

Chapter-7 Offences

37. That which shall be understood to be a committed offence: The committing any of acts mentioned under Sections 38 to 65 by any person under the jurisdiction of this Act, shall be considered an offence in accordance with this Act.
38. Enemy related Offences: Committing any of the following acts shall be considered enemy related offences:
- (a) In abandoning or handing over in a cowardly manner to an enemy any garrison, fort, post or assigned place to guard; or in inspiring or compelling any commanding officer or other persons to do so; or
 - (b) In throwing down arms, ammunitions or equipment before the enemy shamelessly, or in behaving in a way that reflects a cowardly character; or
 - (c) In intentionally spreading false terror in the garrison, camp, or any other place where the battalion (paltan) is stationed, or in spreading propaganda with a view to undermining the morale or terrorizing the army during war or military operations; or
 - (d) In exchanging any correspondence or confidential information traitorously with any person or enemy raising arms against the State of Nepal, or in committing any such other acts;
 - (e) In helping, directly or indirectly, the enemy by supplying arms, ammunition, explosives, cash, equipment or any other goods; or
 - (f) In acting to undermine the Nepalese Army or any of its forces or wings;
 - (g) In raising a cease-fire flag before the enemy by acting in a treacherous or cowardly manner;

- (h) In knowingly working together with a detained enemy or providing assistance to an enemy;
 - (i) In providing shelter to or protecting any enemy who is not a prisoner of war;
 - (j) In sleeping or consuming medications or otherwise at post or on sentry duty during times of war or terror;
 - (k) In knowingly compelling or inspiring any person under the jurisdiction of this Act to take action, with the intention to discourage, that prevents acting against the enemy or that creates obstructions;
 - (l) In leaving his commanding officer, post, guard, picket, patrol or party at times when military operations are underway without being duly replaced or having leave sanctioned.
39. Mutiny: Committing any of the following acts shall be considered a mutiny offence:
- (a) In being involved in mutiny;
 - (b) In staging or making arrangements for staging a mutiny together with any person belonging to the Nepalese Army or any force assisting it, or instigating others or conspiring to do so;
 - (c) In not attempting to, as far as possible, stop a mutiny when present at the place of a mutiny;
 - (d) In failing to report to a commanding officer or any other superior officer, knowledge of or having appropriate reason to believe that someone is intending or conspiring to stage a mutiny;
 - (e) In Deviating from patriotism and duty, or making any attempt to incite or to cause another to deviate from patriotism or duty.
40. Enemy-related other offences: Committing any of the following acts shall be considered an enemy related offence:
- (a) In becoming a prisoner of an enemy through failure to remain alert in an appropriate manner in advance, through failure to obey orders, or through negligence of duties; or in the case of having become a prisoner of the enemy refusing to return despite the possibilities to do so;

- (b) In engaging in correspondence or in otherwise exchanging intelligence with the enemy without proper authority, or not immediately reporting to a commanding officer or other superior officer knowledge of any such activities; or
 - (c) In raising a cease-fire flag without proper authority.
41. Offences against military operations: Committing any of the following acts shall be considered an offence against military operations:
- (a) In forcefully acting against a security guard or sentry, or making him do so;
 - (b) In entering into any house or place with the intention of looting;
 - (c) In sleeping or becoming unconscious or otherwise under the influence of medications or intoxicants while working at post as a sentry;
 - (d) In leaving guard, picket, patrol or post without the permission of a superior officer;
 - (e) In intentionally or negligently giving signals or information about terror in the camp, garrison or quarters, or spreading unnecessary discouraging or terrorizing propaganda therein;
 - (f) In divulging any information about watch words and countersigns to any unauthorized person, or knowingly providing false or different signals to an authorized person.
42. Desertion-related offences:
- (1) Committing any of the following acts shall be considered an offence relating to desertion:
 - (a) In deserting service after an order of military operation or after the start of such an operation;
 - (b) In deserting service except for conditions as mentioned in Clause (a);
 - (c) In knowingly providing shelter to any person under the jurisdiction of this Act deserting service;
 - (d) In knowingly providing benefit, help or assistance to a deserter;
 - (e) Any person under the jurisdiction of this Act in failing to immediately inform a superior officer or any higher ranking officer knowledge of any person deserting or

- about to desert service, or in not arresting when authorized to do so;
- (f) In not diligently searching for and arresting a deserter;
 - (g) In not taking necessary action despite knowledge of desertion;
 - (h) In deserting barracks, camp, or quarters.
- (2) A person confirmed absent not reporting himself/herself or not being found shall be considered a deserter.
43. Offence of Allowing Someone in Custody to Escape: Releasing an individual in custody without proper authority or without reasonable grounds for release while on guard, picket, patrol, command of post or during duty; or not taking a prisoner to be taken into custody or not taking one's turn at duty shall be considered an offence of allowing someone in custody to escape.
44. Offence relating to assault or intimidation: Committing any of the following acts shall be considered an offence related to assault or intimidation:
- (a) In threatening a superior officer;
 - (b) In assaulting or using criminal force against a superior officer;
 - (c) In not respecting the dignity of a superior officer by speaking in an undermining way or treating him in a degrading manner.
45. Defiance-related offences: Committing any of the following acts shall be considered a defiance-related offence:
- (a) In knowingly defying a legal order issued through oral, written, signal or any other manner by an authority or an officer under the jurisdiction of this Act or by a superior officer during official work;
 - (b) In demonstrating negligence to obey the general, local or any other type of order issued by a superior officer.
46. Offences related to loss or damage to property: Committing any of the following offences shall be considered an offence related to loss or damage of property:
- (a) In causing loss or damage to the property mentioned in Section 41(a) or the property of a military institution, of any person under the jurisdiction of this Act, of any person

- working for the Nepalese Army or of any other person involved in the Nepalese Army;
 - (b) In setting fire to or causing loss or damage to government property;
 - (c) In mistreating, causing injury to, killing, fleeing with or losing any animal for which one is responsible.

- 47. Offences relating to forgery or falsifying particulars: Committing any of the following acts shall be considered an offences relating to forgery or falsifying particulars:
 - (a) In a person whose duty it is to confirm the authenticity or falsity of something written negligently examining any report, account, description, certificate or any other document prepared or signed by an authorised person, or in certifying false content of such document with the intention of betrayal or in being an accomplice in such an act;
 - (b) In knowingly certifying a document mentioned in Clause (a), or in not writing that which is prescribed or in becoming an accomplice to such acts;
 - (c) In knowingly distorting, hiding, fleeing with or leaving blank, with the intention of causing loss or betrayal to someone, any document for which one has the responsibility to protect or must submit when needed;
 - (d) In knowingly making any false declaration by a person whose duty it is to keep information;
 - (e) In anyone having knowledge about or reasonable grounds to believe that there are false particulars on any statement, document or record, falsify particulars of one's own or others on memoranda or statements which allow for the receipt of pension, allowances, other facilities, or special provisions.

- 48. Offence related to opposition and obstruction or use of criminal force:
 - (1) Committing any of the following acts shall be considered an offence related to opposition and obstruction or the use of criminal force:
 - (a) In disobeying the order concerning one's arrest even when given by a lower ranking officer, in the case of being involved in any quarrel, riot, or disturbance; or in attacking

- such an officer giving the order of arrest, or in using criminal force against a higher ranking officer;
- (b) In using force or attacking any person who placed him in custody according to law, irrespective of whether or not this Act is applicable to that person, or whether or not that person is a higher ranking officer;
 - (c) In opposing or obstructing any person or escort whose duty is to arrest or take one into custody;
 - (d) In obstructing the Chief of the Military Police, or his legal representative while engaged in the legal discharge of duties, or in not extending cooperation, when requested, in the discharge of his duty;
 - (e) In using criminal force or assaulting any person who supplies goods or rations to the Nepalese Army.
49. Offences against property: Committing any of the following acts shall be considered an offence relating to property:
- (a) In using the public or governmental mess band in private interest or using property of any army or of any person under the jurisdiction of this Act with mala fide intent or misappropriating it or stealing or taking them in possession fraudulently and with mala fide intent;
 - (b) In fraudulently taking or keeping such property after having known or having reasonable grounds to believe that it was related with the commission of crime in accordance with Clause (a);
 - (c) In damaging or causing loss to governmental property under one's own responsibility.
50. Offences regarding cheating or coercion: Committing any of the following acts shall be considered an offence of cheating and coercion:
- (a) In committing any acts with intent of cheating, causing unreasonable benefit or loss to any person;
 - (b) In obtaining forcibly or under coercion cash or goods of any person or forcing any person without authorization to labor.
51. Offences of desertion with arms and other items or their misuse: Committing any of the following offences shall be considered an offence related to escaping along with arms and ammunition or misusing them:

- (a) In escaping along with arms and ammunition, supplies, equipment, tools, clothes or any other governmental property obtained by oneself for own use, or becoming an accomplice in any such escape;
- (b) In losing any of property mentioned in Clause (a);
- (c) In defacing, destroying, selling, or mortgaging any medal or decoration granted to him.

52. Offences against discipline and code of conduct : Committing any of the following offences shall be considered an offence related to discipline and code of conduct:

- (a) In consuming drugs;
- (b) In behaving in a hostile or unpredictable manner, demonstrating reprehensible character or behaving in a cruel manner;
- (c) In causing one's own physical weakness or disease;
- (d) In pretending to be suffering from any disease or weakness, while being healthy; or in deliberately prolonging or increasing the severity of disease or in not allowing healing;
- (e) In causing injury to oneself or to any other person with the intention of causing disqualification from service;
- (f) In mistreating through the use of criminal force an individual officer, junior commanding officer or non-commanding officer under the jurisdiction of this Act while stating that one is of lower rank;
- (g) In not completing any act that maintains order or military discipline or in committing any act against order or military discipline;
- (h) In using intoxicants;
- (i) In not behaving in a manner suitable to the post;
- (j) In establishing or operating an association or organization in contravention to Section 19 or in taking part in such activities.
- (k) In using any Army personnel for any acts other than acts relating to the discharge of duties in accordance with this Act or Rules framed under this Act.

53. Offences related to the certification of incomplete documents: Committing any of the following acts shall be considered an offence related to the certification of incomplete documents:
- (a) If a person responsible for the preparation and certification of documents upon which is written: salary, weapon, cartridge, goods, equipment, clothes, miscellaneous goods and stores, or government property deceives or certifies any such document or leaves a blank space therein.
 - (b) If a person responsible for the preparation and submission of any report or account refuses to prepare or submit such reports or account, or negligently avoids their preparation or submission.
54. Offence related to false statements or accounts: Any person under the jurisdiction of this Act, after taking the oath in a Court Martial, in recording false statements or accounts; or if there is no ground to believe that the statements or accounts given or believed to be false are true; shall be considered an offence related to false statements or accounts.
55. Offences of taking appointment by lying: Committing any of the following acts shall be considered an offence of lying and taking appointment:
- (a) In taking an appointment in his usual Corps or Department or any other Corps or Department without fulfilling the conditions needed for one's recruitment or without being duly relieved of one's duty from one's Corps or Department,
 - (b) In being involved in the act of recruiting any person to any wing of the Nepalese Army while knowing that there are circumstances in which the person is suspected of having committed a crime under this Act or there are grounds to believe that such circumstances exist,
 - (c) In being proved that one has intentionally provided false information on the application for recruitment,
 - (d) In submitting fake or false certificate for purposes including recruitment, promotion and training.
56. Offences of escaping from custody: Escaping from custody while being held legally in custody shall be deemed committing an offence of escaping from custody.

57. Offences of false allegation: Committing the following acts shall be deemed to have committed offences of false allegation:
- (a) Making a false allegation against any person to whom this Act is applicable even though he knows or has reason to believe that the charge was false; or
 - (b) Lodging a complaint in accordance with Section 26 or making a false statement knowingly or with reason to believe that the statement is false, in a manner that could threaten the character of a person to whom this Act is applicable or hides the actual facts related thereto intentionally.
58. Offences of absence: Committing any of the following acts shall be deemed committing an offence of absence:
- (a) Being absent without approval of leave;
 - (b) Remaining on leave beyond the period of leave without sufficient cause;
 - (c) Failing, without sufficient cause, to join his formation, unit or any part thereof immediately after receiving notice from an appropriate authority about the order issued for his formation or unit or any part thereof to take military actions;
 - (d) Remaining absent from the place prescribed for his duty or exercise or from the parade at the prescribed time;
 - (e) Leaving the parade or march line without the permission of his superior authority or without sufficient cause;
 - (f) Being present at any place outside the one as prescribed through any orders of general, local level or other, or at any prohibited place, at a time of being stationed in a camp, garrison or any other place, without obtaining a pass or a written permission from his immediate superior officer;
 - (g) Remaining absent from any training institutions at a time when an order has been issued to attend a training institutions, without obtaining leave from an immediate superior officer or without appropriate reasons.
59. Offences related to Court Martial: Committing any of the following acts shall be considered an offence related to Court Martial:

- (a) In failing either deliberately or without proper reason to present oneself before a Court Martial after receiving a legal summons or formal court order to present oneself as a witness;
 - (b) In refusing to take an oath before a Court Martial;
 - (c) In refusing to obey an order to submit or hand over any document in one's custody to a Court Martial;
 - (d) In refusing to reply to any question asked in accordance with law when in the capacity of witness;
 - (e) In disrespecting or ill-treating a Court Martial by speaking threateningly or disturbing or obstructing the proceedings of the Court Martial;
 - (f) In ignoring the execution of the decision or order of the Court Martial.
60. Offence of freezing salary illegally: A person who is responsible for providing salaries who refuses to pay or freezes illegally the salary of any person to whom this Act is applicable, instead of paying in due time shall be deemed to have committed the offence of freezing salary illegally.
61. Offence related to irregular arrest or detention: Committing any of the following acts shall be considered an offence related to irregular arrest or detention:
- (a) In arresting any person or holding him in detention but failing to submit the case before the relevant officer for investigation or in delaying the proceeding of a case without reason;
 - (b) In holding any person in military custody, failing to submit an account making known the appropriate reasons for placement into custody, immediately or as soon as possible or regardless of condition within twenty four hours except in the event of reasonable grounds of those who have the right to place into military custody and the Prad Viwak.
62. Special provisions on offences of corruption, theft, torture and disappearance:
- (1) Committing any acts which are defined an offence of corruption, theft, torture and disappearance by existing law, shall be deemed

to have committed offences of corruption, theft, torture and disappearance.

- (2) There shall be a committee comprised of the following for the purpose of conducting an investigation and inquiry into the offences provided by Subsection (1):
 - (a) Deputy Attorney General prescribed by the Nepal Government - Chairperson,
 - (b) Chief of legal section of the Ministry of Defence -- Member,
 - (c) Representative of Prad Viwak not below the rank of Lieutenant-- Member.
- (3) The representative mentioned in Clause (c) of Subsection (2) shall be a person who is not involved to the Court Martial of the related case.
- (4) The jurisdiction to try and proceed with cases mentioned under Subsection (1) shall be vested with a Special Court Martial formed in accordance with Subsection (1) of Section 119.
- (5) The committee formed under Subsection (2) shall have the power equivalent to the power conferred by relevant existing laws in relation to an investigating and inquiry officer in respect to those cases.

63. Miscellaneous Offences:

- (1) Committing any of the following offences shall be considered as miscellaneous offences:
 - (a) If any person in command of any post or march misbehaves, beats or troubles by any other means any person in his command; or commits hooliganism in public places; or trespasses; or does not submit a complaint for compensation before the concerned authorities for having caused damage by trespassing; or does not provide compensation;
 - (b) In disturbing the sacredness of a religious place or in knowingly disrespecting the religion of any other person by any other means or in causing disrespect to religious sentiments;
 - (c) If any soldier below the level of junior commissioned officer (jamdar), carries weapons or explosives when not on duty, without the order of the relevant authority when

- coming and going around a camp or cantonment or the city or market;
- (d) In receiving or consenting to receive directly or indirectly any bribe or any other kind of benefits for recruitment or promotion within the Nepalese Army, in approving leave or in giving the impression of any benefit;
 - (e) In causing any loss or damage to the body or property of any citizen or inhabitant of the country one is serving.
- (2) Except as mentioned in Subsection (1), a non-commissioned officer or any lower ranking soldier who commits, during military operations, any prohibited offences other than those mentioned in this Chapter, shall be considered to have committed a miscellaneous offence.
64. Attempt to commit offences: Attempting to commit an offence mentioned in this Chapter or any act for such purpose shall be deemed an attempt to commit such an offence.
65. Inducement to commit offences: Inducing to commit any offence mentioned in this Chapter shall be deemed the inducement to commit such an offence.
66. Offences under other laws:
- (1) Except in the event that a person under the jurisdiction of this Act commits offences mentioned in Sections 38 to 65 and those offences are committed by a military personnel against a military personnel, if the person under the jurisdiction of this Act commits the following offences, the cases which arise thereto shall fall under the jurisdiction of other courts:
 - (a) Homicide,
 - (b) Rape.
 - (2) If the agency which is conducting an investigation and inquiry or if an investigating officer orders that the person who is alleged of being involved on offences mentioned under Subsection (1) shall be handed over to the commanding officer or Chief or relevant officer shall hand him over to the agency or officer issuing such order. The retirement or desertion of a person shall not be a bar to the conduct of an investigation and the taking of action in accordance with law.
 - (3) The person under the jurisdiction of this Act who falls under the jurisdiction of other court and is under investigation shall ipso facto

be suspended during the period of his custody until a final decision is reached if a case is lodged.

- (4) Even if an investigation into an offence under the jurisdiction of other courts is started in respect to a person under the jurisdiction of this Act, nothing in this Section shall be a bar to form a court of inquiry and conduct the investigation on the offence under the jurisdiction of this Act and subject such person to necessary action.

Chapter-8

Formation and jurisdiction of Court Martial

67. Formation of Court Martial

- (1) For the purpose of the trial and hearing on offences prescribed under Chapter-6, the following Court Martial shall be established:
- (a) A General Court Martial comprised of at least five officers, one Lieutenant General (Rathi), two Colonel (mahasenani) or Lieutenant Colonel (pramukh senanani) and two Majors (senani).
 - (b) A Summary General Court Martial comprised of three officers including two officers of the rank of Major.
 - (c) A District Court Martial comprised of at least three officers, officers who completed three years of the term of Commissioner.
 - (d) A Summary Court Martial comprised of one officer who commands the Department, Formation or Unit of the Nepalese Army.
- (2) There should, to the extent available, be at least one officer who is a law graduate in a Court Martial under Clause (a) and (b).
- (3) For the purpose of assisting the proceedings of the Summary Court Martial, there shall be present two officers or two Junior Commanding officers or one from each rank.
- (4) A Court Martial shall not proceed with or hear the case if the Court Martial lacks a person therein as prescribed by Subsection (1).

68. Jurisdiction of Court Martial: The jurisdiction of a Court Martial shall, except on the cases mentioned in Sections 62 and 66, be as follows:

- (a) The power of trial, hearing, action and adjudication for an offence committed by a person who falls under the jurisdiction of this Act and thereafter imposing a penalty

on him shall be with a General Court Martial and a Summary General Court Martial.

- (b) The power of trial, hearing, action and adjudication for an offence, in which maximum two years' imprisonment may be imposed, committed by a person who falls under the jurisdiction of this Act except a person of the rank of officer or Junior Commissioned Officer, and thereafter imposing penalty on him shall be with a District Court Martial.
- (c) Subject to the provisions mentioned in the following Sub-clauses, the power of trial, hearing, action and adjudication for an offence, committed by the person who fall under the extent of this Act except a person of the rank of officer or Junior Commissioned Officer, and thereafter imposing penalty on him shall be with a Summary Court Martial.
 - (i) a case for which one year of imprisonment may be imposed, if a Court Martial is convened by an officer of the rank of Lt. Colonel or more senior,
 - (ii) a case in which six months of imprisonment may be imposed, if a Court Martial is convened by an officer of the rank below Lt. Colonel.

69. Decision as to whether a case falls under the jurisdiction of Court Martial or other court:

- (1) If there is a dispute whether a case which falls under the jurisdiction of this Act shall be filed with a Court Martial or other courts, it shall be filed with other courts.
- (2) If a case is to be filed with other court, the accused shall be suspended from service and handed over to the court in which the case is to be registered.

70. No double jeopardy: Any person under the jurisdiction of this Act, after being subjected to trial, hearing and adjudication of an offence mentioned in Section 38 to 65 of this Act by a Court Martial, or after being subjected to departmental action, shall not be subjected to action again for the same offence.

71. Statutes of limitation:
- (1) Except those offences described in Sections 39, 42, 46, 49, 55, 56 and 62, no case shall be filed with a Court Martial for an offence more than three years after commission.
 - (2) When calculating the time period for the purpose of Subsection (1), the period of being held as a prisoner of war or of having been within the territory of the enemy or of having absconded without arrest after committing the offence shall not be included.
72. Case may be prosecuted:
- (1) If a person has committed an offence under this Act at the time this Act is applicable to him, he may be held in military custody and subjected to trial even if this Act ceases to remain applicable to him.
 - (2) Notwithstanding anything provided by Subsection (1) except a case prescribed under Sections 39, 42 or 55, no case can be initiated six months after the applicability of this Act ceases.
 - (3) After the imposition of imprisonment by a Court Martial on a person to whom this Act is applicable, even if such person is removed or dismissed from the service of the Nepalese Army or the applicability of this Act ceases in respect to him in any way, this Act shall remain applicable to such person until the completion of the penalty imposed on him and such penalty may be implemented.
73. Authority to convene Court Martial:
- (1) The following officers are empowered to convene a Court Martial:
 - (a) Unless otherwise ordered by the Nepal Government, the Chief of Army Staff or an officer authorized by him shall convene a General Court Martial.
 - (b) Unless otherwise instructed by the Nepal Government, the following officers shall convene a Summary General Court Martial:
 - (i) The officer who is authorized by the Chief of Army Staff,
 - (ii) The commanding officer who is engaged in a military operation or a person authorized by him.
 - (iii) The officer who commands any unit engaged in a military operation who decides that it is not practical to try a case by a General Court Martial taking into consideration Army disciplines and need.

- (c) The officer who is authorized to convene a General Court Martial in accordance with Clause (a) or an officer authorized by him shall convene a District Court Martial,
 - (d) The commanding officer of a Department, Formation or Unit of Nepalese Army shall convene the Summary Court Martial.
- (2) The Court Martial Convening Officer shall convene the Court Martial within thirty days of the date of the cause of convening.
 - (3) When giving authorization in accordance with Clause (a) and (b) of Subsection (1), the authority may lay down conditions as needed.

Chapter-9

Investigation, inquiry and filing of a case

74. To hold in military custody:

- (1) If a person to whom this Act is applicable is accused of an offence prescribed under Chapter-7, he may be detained in military custody.
- (2) A person who has been accused of an offence may be ordered to be detained in military custody by any officer whose rank is senior to him.
- (3) Notwithstanding anything provided by Subsection (2), a person who is engaged in a quarrel, rioting or causing disturbances may be ordered to detain in military custody by a junior officer even if he is an officer senior in rank.
- (4) If a person is alleged to have committed an offence outside the jurisdiction of this Act and is subject to the jurisdiction of other court, and it is necessary to detain him in custody for the period of investigation to filing of a case, he shall be suspended from service and may be held in military custody or police custody as per the order of the court. If his presence in court is necessary, he shall be presented by the relevant military officer.
Provided that he shall not be held in military custody after the filing of the case.
- (5) He shall be sent to a Court Martial if a case is to be filed with a Court Martial and to other court if a case is to be filed with the other court.

75. Responsibility of the commanding officer during custody:
- (1) If the commanding officer receives a report that a person under his command has been held in custody, he shall make arrangements not to hold him in custody exceeding the period of twenty four hours without an investigation.
 - (2) Notwithstanding anything provided by Subsection (1) if there is situation that the same [twenty four hours] is not possible because of the lack of transportation services, he may be held in custody for a reasonable period.
 - (3) The commanding officer shall send all of the details of the person who is held in custody exceeding twenty four hours, and reports with reasons, to the Chief of Army Staff or the Prad Viwak.
 - (4) If it is necessary to hold a person who is not engaged in a military operation for more than eight days due to the failure to issue an order to convene the court Martial for the proceeding of his case, the commanding officer shall submit reports with reasons for such delays to the officer prescribed by Subsection (3) every eight days until the formation of a Court Martial or the release of the accused person.
 - (5) For the purpose of this Section, the calculation of twenty four hours shall not include the period of public holidays.
76. Request to arrest:
- (1) If it is necessary for a commanding officer to arrest a person alleged to have committed an offence, he may request the Chief District Officer of the district where the alleged person lives, and if the Chief District Officer receives such a request, he shall arrest the alleged person and hand him over to the relevant officer.
 - (2) The commanding officer of the Formation, Unit, or Sub-unit to which a deserted person belongs may request the Chief District Officer to arrest him, mentioning his personal details, and if the relevant officer receives such request, he shall arrest such deserting person and shall hand him over to the relevant officer.
 - (3) Notwithstanding anything provided by Subsection (1) or (2), if a police officer has reasonable cause to believe that a person has absconded and deserted his job or committed an offence, he may arrest such person without an arrest letter and shall forward him to the Chief District Officer for necessary action.

77. Inquiry as to absence: If any person to whom this Act is applicable remains absent for more than 30 days without permission, a Court of Inquiry shall be formed as soon as possible. The officer of the Court of Inquiry, while conducting an inquiry after taking an oath, shall conduct enquiries whether or not the person is absent without approval of leave or without any cause of leave, and on whether or not he lacks property, arms, ammunition, equipment, clothes or other baggage under his custody, and make a decision. The commanding officer shall submit the record of such decision to the record book of the Court Martial of the relevant Division or Corps.
78. Chief of Army Police:
- (1) Unless otherwise ordered by the Nepal Government, the Chief of Army Staff or any officer prescribed by him may appoint a Chief of Army Police.
 - (2) It shall be the duty of the Chief of Army Police to take under his custody persons held in detention in consideration of any crime committed by them, maintain order and discipline in the Army, and prevent violation of order or discipline by persons who are enlisted or are serving in the Nepalese Army.
 - (3) The Chief of Army Police may arrest any person who has committed or is accused of committing a crime, at any time for appearing at trial, and he shall implement the penalty ordered by a Court Martial or by any officer exercising the powers to order departmental action.

Chapter-10

Procedures of Court Martial

79. Duty station and bench of Court Martial:
- (1) A Court Martial may establish a duty station at any place inside or outside the State of Nepal during the proceeding of case.
 - (2) Except in situations to protect national security, public order and the rights of victims, a Court Martial shall normally sit in open session.
80. Chairperson of Court Martial:
- (1) The senior officer amongst the officers of a Court Martial shall chair the Court Martial.

- (2) If the senior officer who chairs the Court Martial is absent, the second in seniority shall, subject to the provisions of Section 67, chair the Court Martial.

81. Presence of Prad Viwak:

- (1) The Prad Viwak or the Prad officer assigned or prescribed by him shall be present in every General Court Martial, Summary General Court Martial and District Court Martial as the Prad Viwak.
- (2) If a person who is accused of any offence submits a request for his defence by a Prad Officer of his choice in a Court Martial to the Defence Section of the Prad Viwak, the Prad Viwak shall assign a Prad Officer. The Prad Officer shall defend him in the Court Martial if he is so assigned.

82. Objection may be raised:

- (1) After the submission of case to a Court Martial for trial, the name of the Chairperson and members of the Court Martial shall be read to the accused, and he shall be asked whether he has any objection regarding the Chairperson or any member or not.
- (2) If the accused person raises any objection regarding the Chairperson or any member, the Court Marshal shall keep records of the reasons thereof and the reply submitted by the Chairperson and such member. The Chairperson and members who are not objected to shall discuss the objection and shall make a decision in the absence of the Chairperson and member.
- (3) If at least fifty percent of members agree with the objection, the seat of the Chairperson or member who is objected to will be vacated. The vacant seat shall be filled by nominating another officer, and the procedures of objection in accordance with Subsection (1) shall also apply to such new Chairperson or member.
- (4) After completion of procedures of objection in accordance with Subsection (1) and (2), the Court Martial shall begin the trial of the case.

83. Oath: Before the beginning of trial, the Chairperson, members, the Prad Viwak shall take an oath in the manner as prescribed.

84. Procedures for decision making:

- (1) A Court Martial shall make decisions on the basis of a majority vote. In the case of tie, the decision shall go in favor of the accused.

This notwithstanding, the following matters shall be decided as follows:

- (a) The rendering of the penalty of life sentence along with confiscation of entire property by a General Court Martial shall require at least a two thirds majority vote.
 - (b) The rendering of the penalty of life sentence along with confiscation of entire property by a Summary General Court Martial shall require an unanimous vote.
- (2) Notwithstanding anything provided by Subsection (1), the opinion supported by the Chairperson shall prevail on the procedural matters other than the imposition of penalty and rendering of the judgment.
 - (3) When determining the penalty by the Court Martial, the Prad Viwak sitting in the Court Martial or his representative may give a separate opinion.
 - (4) In the course of an investigation and hearing of a case which falls under the jurisdiction of a Court Martial, the rights regarding criminal justice of an accused shall be protected and the opportunity to produce evidence in defence shall be given.

85. Taking judicial notice: A Court Martial may take judicial notice of military matters which are within the general knowledge of the Chairperson and members.

86. Summoning:

- (1) The officer convening a Court Martial or the Chairperson of a Court Martial or the Prad Viwak or the commanding officer of the accused may issue a summons to the relevant persons to produce any document or any item, and to attend at the place and at the time as prescribed for recording their statements as witnesses.
- (2) If it is necessary to order the production of a particular document or any item that is in the possession of a witness, the same shall be mentioned in the summons.
- (3) If a witness is a person under the jurisdiction of this Act, the summons shall be dispatched to the commanding officer and such officer shall dispatch the summons to such person.

- (4) If it is known that a witness is living under the jurisdiction of the Chief District Officer, the summons to such witness shall be dispatched to the Chief District Officer and he shall dispatch the summons to him.
- (5) Every person who records his statement in the Court Martial shall take an oath as prescribed before recording his statement.

87. Sealed questionnaire:

- (1) If a Court Martial believes that the summoning a witness will cause delays and add costs or difficulties unnecessarily, an order may be given to the Prad Viwak allowing him to ask sealed questions.
- (2) After receiving an order in accordance with Subsection (1) the Prad Viwak may request to the Chief District Officer to dispatch the sealed questions to the witness within his territory, and after receiving such request, the Chief District Officer shall dispatch the sealed questions in accordance with existing law.
- (3) The Court Martial shall include questions which an accused person or his legal counsel intends to raise and which are relevant to the case in the sealed questionnaire.
- (4) If an accused person is not held in custody, the legal counsel or agent of the accused person may cross-examine a witness by being present before the Chief District Officer.
- (5) After completion of recording statement in accordance with sealed questionnaire, the sealed questionnaire shall be sent to the Prad Viwak.
- (6) The Prad Viwak shall send the sealed questionnaire received in accordance with Subsection (5) to the concerned Court Martial. In case of the dissolution of the Court Martial, it shall be sent to the other court which is hearing such case. The Court Martial or other court shall include the sealed questionnaire so received to the file, and the accused person or his legal counsel shall be allowed to see such questionnaire.
- (7) A Court Martial may postpone the trial of a case until the period needed for dispatching the sealed questionnaire and obtaining a response.

88. Presumption as to signature: The signature contained, in the course of the proceeding of a case, on any application, certificate, arrest letter, response or any document by any officer of whatever rank of the Nepal Government, shall be deemed, unless otherwise proved, to be his own signature.

89. Documents admissible in evidence: The information contained in the following documents shall be admissible as evidence in a case adjudicated by a Court Martial:
- (a) The information contained in the Sheet Role form by the relevant person when taking appointment;
 - (b) Original copy of a Sheet Role form or its photocopy indicating "copy is same as original" and signed by the officer responsible for it;
 - (c) Any letter, response or details of any document signed by the Chief of Army Staff or an officer prescribed by him regarding the service, removal or termination of service with the Nepalese Army;
 - (d) Registration in the registry of the Nepalese Army, the publication of the military order or status, rank of junior commissioned officer or noncommissioned officer published in the Nepal Gazette and military orders regarding appointment mentioned in the same registry or details mentioned in the Nepal Gazette;
 - (e) Information contained in the Regimental Book signed by the commanding officer or an officer responsible for keeping records;
 - (f) The information contained in the copy which is attested as "copy is same as original" and signed by the officer responsible for the Regimental Book;
 - (g) In case a person to whom this Act is applicable is under trial on offences under Section 42 and 58, and has surrendered himself before any officer or any person to whom this Act is applicable or any camp of the Nepalese Army, or in case such person has been arrested by any officer or any person to whom this Act is applicable; a certificate signed by such officer, such person or the commanding officer of such camp indicating the place and date of surrender or arrest and the clothes as worn;
 - (h) In case a person to whom this Act is applicable and who is under trial for offences under Sections 42 or 58 has surrendered himself during his trial before any police officer, in-charge of a police office or in case such person has been arrested by such police officer; information contained in a letter certified and signed by such police

officer indicating the place and date of surrender or arrest and the clothes as worn;

- (i) Information contained in the report received from a forensic expert or forensic laboratory prepared upon request for examination or investigation.

90. Requesting information from Governmental authorities:

- (1) A Court Martial may, upon request by the person charged with an offence in accordance with Sections 42 or 55, examine an officer of the Nepal Government or if a Court Martial itself deems it reasonable to examine him to obtain information about it [offence], question such officer as needed, and may postpone the trial of the case until the collection of such information.
- (2) The information recorded in accordance with Subsection (1) shall be recognized as equivalent to a statement recorded before a Court Martial.
- (3) In case a Court Martial is dissolved before receiving information in accordance with Subsection (2) or the Court Martial failed to observe the procedures in accordance with this Section, the officer convening the Court Martial may cancel the trial and issue an order to carry out a retrial.

91. Previous penalty and certificate of character:

- (1) In the course of making a decision regarding a person charged with an offence under Chapter-6, a Court Martial may collect information on whether such person was previously convicted or not, or whether he was subjected to departmental action or not, and may admit the decision in the case as evidence. For this purpose, a Court Martial may take judicial note of his character and his previous activities.
- (2) A copy may be made of the oral statement recorded in accordance with Subsection (1) or the information contained in a regimental book or any governmental book, and it shall not be necessary to give prior notice to the accused that the previous conviction or character of accused person or his previous activities shall be admitted as evidence.
- (3) A Summary Court Martial, if it deems reasonable, may keep records of information, without attestation, of the decision if any decision has been made in regards to a person, his character or previous activities.

92. Provisions of Evidence Act, 1974 to be applicable: A Court Martial, while examining evidence in the course of the trial for an offence under this Act, shall apply the procedures provided by this Act, and the procedures provided by the Evidence Act, 1974 to deal with other matters.
93. Defence of mentally abnormal accused person:
- (1) If it is found that a person is unable to defend himself due to mental insanity during trial by a Court Martial or he committed the alleged acts under circumstances during which he was unable to know the nature of the acts and that such acts were unreasonable and illegal, the Court Martial shall issue a notification in this regard.
 - (2) The Chairperson of a Court Martial or investigating officer of a Summary Court Martial shall submit immediately the notification issued in accordance with Subsection (1) before the approving authority or an official mentioned under Subsection (3) of Section 115.
 - (3) In case the approving authority does not approve the verdict of the report [notification] received under Subsection (2), necessary action may be taken to try the case in the same or another Court Martial.
 - (4) If the approving authority approves the details of the notification submitted by a Summary Court Martial in accordance with Subsection (2), the approving authority shall issue an order to hold the accused person in custody and shall submit the notification to the Nepal Government Ministry of Defence for approval.
 - (5) After receiving the report [notification] under Subsection (4), the Nepal Government Ministry of Defence shall give an order to hold such person in a mental hospital or in custody in any appropriate safe place.
94. Trial of a mentally abnormal accused person:
- (1) The Army, Army Corps, Divisional Headquarters, or the Brigade chief or any prescribed officer on his behalf may issue an order to proceed with a case in the same or other Court Martial on the grounds of the report of a doctor stating that the person detained under Section 92 is able to defend himself; or on the grounds of a certificate issued by the chief of a mental hospital or prison stating that the insane person is able to defend himself in case the person has been detained in mental hospital or prison. If the charge has been made for an offence under other existing laws except the

offence under this Act, an order may be given to try the case in other courts.

- (2) The order issued in accordance with Subsection (1) shall be sent to the Ministry of Defence for notification.

95. A mentally abnormal accused person may be released: The Ministry of Defence may release a person who was held in detention in accordance with Section 93 or hold him in custody or send him to a mental hospital in case he was not already held in a mental hospital based on a Doctor's report in respect to a person who was held in detention, or if the chief of the mental hospital or prison ordered his release or a certificate stating that the person might not be harmful to himself or anyone after release in respect to the person who was held in detention.

96. A mentally abnormal accused person may be handed over to guardian: If a relative or guardian of a person held in custody under Section 93 lodges an application requesting that he be given them his caretaking or responsibility, and if the Ministry of Defence is satisfied that the same person shall be taken care of, and that he will not harm himself or others and shall be produced to the prescribed officer on the prescribed date and at the prescribed time, the Ministry of Defence shall hand him over to his relative or friend.

97. Seizure, sale and management of things relevant to an offence:

- (1) A Court Martial shall protect objects relevant to an offence and which is submitted to it in the course of a trial in a case.
- (2) In case the objects kept for protection in accordance with Subsection (1) are in a state of decay or has melted or been damaged, a Court Martial may give an order to auction such objects and provide any funds generated to the governmental account as income.
- (3) After completion of the trial by a Court Martial, the authority having power to approve a verdict and penalty of such Court Martial or an officer senior to such officer or if a decision of a Court Martial does not need approval for imposing penalty, the chief of Army, chief of Army Corps, chief of Divisional Headquarters or Brigade commander may issue an appropriate order to seize, destroy or to return such objects to the person who claims its ownership or to sell any goods, or documents related to an offence that are received in the court in the course of the trial in a case.

- (4) The official issuing the order under Subsection (1)3 shall send a copy of such order to the Chief District Officer of the territory where the objects were found if the case was not tried in the territory of Nepal, and the Chief District Officer shall also perform the acts in accordance with the order.

Explanation: the term "objects" used in this Section shall include not only the objects held in primary possession or ownership but also objects which have changed form immediately or after some time and goods obtained through exchange.

98. Recognitions of the actions of Court Martial: The proceedings conducted by a Court Martial in accordance with this Act shall be recognized as the proceedings of a court.

99. Postponement and dissolution of Court Martial:

- (1) A Court Martial shall be postponed in the following situations:
- (a) If, after the beginning of trial, the number of Chairperson and members determined in accordance with Section 67 decreases,
 - (b) If, during the trial, it is impossible to continue the trial because the representative of the Prad Viwak or the accused person fall sick,
- (2) The authority convening the Court Martial may dissolve a Court Martial if it is deemed impossible or unreasonable to continue the Court Martial in view of military necessity or discipline.
- (3) If a Court Martial which is postponed in accordance with Subsection (1) returns to the original composition it may be re-continued.
- (4) The Court Martial dissolved of the reasons in accordance with Subsection (2) may be reconvened and the trial shall be continued.
- (5) After completion of all acts related to decision making a Court Martial shall ipso facto be dissolved.

100. Forwarding files:

- (1) After completion of the trial, proceeding and hearing of the case by a Court Martial except the Summary Court Martial, the file with the decision shall be forwarded to the Prad Viwak, and the Prad Viwak shall examine the file as necessary and shall forward it to the

- authority as prescribed in Sections 108, 109, and 110 for the approval of the decision or file.
- (2) After completion of the trial, proceeding and hearing, the file along with the decision shall be forwarded to the Prad Viwak, and the Prad Viwak shall examine it as necessary.
 - (3) In case departmental action in accordance with Section 105 is ordered, the penalty ordering authority shall send an attested copy of the file to the authority prescribed in Section 118.

Chapter-11

Penalty

101. Penalties by Court Martial

- (1) The Court Martial may impose the following penalties:
 - (a) Life imprisonment along with confiscation of entire property;
 - (b) Confiscation of his entire share of ancestral property;
 - (c) Imprisonment of up to fourteen years;
 - (d) Removal from service without prejudicing eligibility for any governmental service in the future, or dismissal with ineligibility for any governmental service in the future;
 - (e) Demotion to a lower rank;
 - (f) Freezing of promotion for five years;
 - (g) Deduction of salary and allowances for three months in case the offence has been committed in the course of military operation;
 - (h) Freezing of salary and allowances until the recovery of compensation;
 - (i) Freezing of salary increments for a period not exceeding two years;
 - (j) Warning.
- (2) The following penalties shall be imposed for the following offences:
 - (a) Life imprisonment along with confiscation of entire property for the commission of offences prescribed under Sections 38, 39 or 42 (1)(a).
 - (b) A maximum of fourteen years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 40,
 - (ii) Offences provided in Sections 41 and 45 (a) during a military operation,

- (iii) (iii) Offences provided in Sections 43 or 46 if committed knowingly,
- (iv) Offences provided in Section 44 (a) or (b) committed against a person while discharging his duties during a military operation.
- (v) Offences provided in Section 47.
- (c) A maximum of ten years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences of Section 44 (a) or (b) committed against a person not during the military operation,
 - (ii) Offences provided in Section 48, 49 or 50,
 - (iii) Offences provided in Section 51 (a) or 52 (a).
- (d) The penalty of confiscation of entire property shall be imposed for the commission of offences provided in Section 42 (1) (b).
- (e) A maximum of seven years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 41 not committed during a military operation,
 - (ii) Offences provided in Section 46 that are committed unintentionally,
 - (iii) Offences provided in parts (b),(c), (d), (e), (f), or (g) of Section 52.
 - (iv) Offences provided in Sections 43, 54 or 63.
- (f) A maximum of five years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 44(c),
 - (ii) Offences provided in Section 45 (a) not committed during a military operation,
 - (iii) Offences provided in Section 51(b) or (c) or Sections 45, 56 or 57.
- (g) A maximum of three years of imprisonment shall be imposed for the commission of offences provided in Sections 42(1)(c) or (d), or Sections 58, 59, or 60.
- (h) A maximum of two years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 42 (1) (e), (f), (g) or (h),
 - (ii) Offences provided in Section 45 (b),

- (iii) Offences provided in Section 52(h) committed by personnel below the rank of officer while discharging duties during a military operation,
 - (iv) Offences provided in Section 43 that are committed unintentionally,
 - (v) Offences provided in Section 61.
- (i) A maximum of six months of imprisonment shall be imposed if personnel below the rank of officer commits offences provided in Section 52(h).
 - (j) A person who commits offences provided in Section 52(i) and (j) shall be removed from service.
 - (k) A person who commits offences provided in Section 62 (k) shall be barred from two salary increments or promotion for two years.
 - (l) A person who attempts to commit offences mentioned in Chapter-7 or induces another person to commit such offences shall, unless there is specific provision in this Act, be imposed the following penalties:
 - (i) A maximum of fourteen years of imprisonment for attempting to commit an offence for which a penalty of life imprisonment along with confiscation of property may be imposed, and half of the maximum imprisonment for other offences which have been attempted,
 - (ii) Equal penalty for inducement to commit an offence as is imposed for committing an offence,
 - (iii) A maximum of fourteen years of imprisonment for inducement to commit an offence which has not been committed, and half of the maximum punishment for inducement to commit a specific offence which had not actually been committed.
- (3) If a person who committed an offence provided in Section 42(1) (b) has absconded and is not found within thirty five days or does not present himself, his partition share to ancestral property shall be frozen from being transacted. If such person does not present himself or is not found by search within three years, his partition share to ancestral property shall be confiscated and auctioned, and the money thereafter shall be placed to the Government Account.

- (4) After confiscation of partition share to ancestral property, if the offender is found, he may be imposed life imprisonment along with confiscation of the entire property.
- (5) A person who is dismissed from service and disqualified for any governmental job in the future in accordance with Clause (j) of Subsection (2), shall not be paid his remaining salary or allowance and pension to which he is entitled and other facilities except the money accumulated in his provident fund.

102. Addition or reduction of penalty:

- (1) If a Court Martial convicts an accused of an offence mentioned in Chapter-7, the Court Martial, depending on the degree of penalty or offence mentioned in Subsection (2) of Section 101, may sentence a lesser penalty amongst the penalties mentioned in Subsection (1).
- (2) If a Court Martial imposes a penalty of removing from service without prejudicing eligibility for any governmental service in the future, or dismisses with ineligibility for any governmental service in the future in accordance with Clause (d) of Subsection (1) of Section 101, it may impose one or more of additional penalties mentioned in Clause (e), (f), (g), (h), (i) or(k) of the same Subsection.
- (3) The imposition of a penalty under Clause (d) of Subsection (1) of Section 101 shall be a prerequisite to imposing penalties in accordance with Clause (a), (b) or (c) of the same Section to a person of officer rank.

103. A person accused of an offence may be convicted of other offences:

- (1) A person who has been accused of the following offences may be convicted and punished for the following offences by a Court Martial:
 - (a) A person accused of deserting may be convicted for attempted desertion or absence;
 - (b) A person accused of attempted desertion may be convicted for absence;
 - (c) A person accused of using criminal force may be convicted for the offence of attacking;
 - (d) A person accused of using threats may be convicted for the offence of using disrespectful language;

- (e) A person who is accused of offences provided in Clause (a) and (b) of Section 49 may be convicted for the offence provided in Clause (c) of the same Section.
- (2) If a person is accused of serious offences which cannot be proved, a Court Martial may convict him for a lesser offence and punish him accordingly.
- (3) If a person is accused of an offence provided by this Act, he may be convicted and punished for attempting or inducing to commit the same offence even if he has not been accused of attempting or inducing to commit such offence.

104. Battlefield penalty:

- (1) If a personnel commits an offence provided in Subsection (2) of Section 63, he may be imposed a penalty for detention or fatigue, however he may not be physically injured.
- (2) If a Sergeant (hudda), Corporal (Amaldar) or Lance Sergeant (pyuth) is ordered a battlefield penalty, he shall be handed over to Military Police.

105. Departmental action:

- (1) Notwithstanding anything provided in Chapter-8 and this Chapter, if the persons of the following ranks who fall under the jurisdiction of this Act commit an offence under this Act, they may, without convening a Court Martial, be subjected, taking into consideration the gravity of the case, to the following departmental actions by the following officers:
 - (a) The commanding officer or the commander of a similar rank or other officer assigned by the Chief of Army Staff upon approval from the Nepal Government may order one or more departmental actions mentioned below against persons who are other than the rank of Officer or Junior Commissioned Officer:
 - (i) to detain in military custody for up to thirty days,
 - (ii) to detain for up to thirty days,
 - (iii) to wait to be detained for up to thirty days,
 - (iv) to place on additional guard duty or duties,
 - (v) to remove the duties being performed by him or remove him from any acting posts in which he is serving,

- (vi) freezing or removing the salary or allowances which were already awarded for good service, conduct or qualifications,
 - (vii) subjecting to warning,
 - (viii) subjecting to a fine up to an equivalent of fourteen days of salary per month,
 - (ix) freezing of salary or allowances up to the recovery of the loss,
 - (x) subjecting to thirty days' battlefield penalty during a military operation,
 - (xi) subjecting to battlefield penalties.
- (b) The Chief of Division or the Brigadier or other officer assigned by the Chief of Army Staff upon approval of the Nepal Government may order one or more departmental actions mentioned below against persons of the rank of Officer or Junior Commissioned Officer:
- (i) subjecting to reprimand,
 - (ii) subjecting to warning,
 - (iii) freezing of salary up to the recovery of losses,
 - (iv) freezing of promotion for up to two years,
 - (v) removal of seniority rank for up to one year.
- (c) A Major General or an officer of the similar rank or other officer assigned by the Chief of Army Staff upon approval by the Nepal Government may order one or more departmental actions mentioned below against persons of the rank of Lt. Colonel or below and Non-Commissioned Officers:
- (i) subjecting to reprimand,
 - (ii) subjecting to warning,
 - (iii) freezing of salary up to the recovery of the losses,
 - (iv) freezing of promotion up to two years,
 - (v) removing of seniority rank up to one year.
- (d) The officer assigned by the Chief of Army Staff or the commanding officer upon approval by the Nepal Government may try an army personnel of the rank of non-commissioned officer who is accused of an offence under this Act, and he may freeze the salary or allowances until the recovery of loss if he is convicted. .

- (2) Prior to the order of departmental action in accordance with Subsection (1), the concerned accused person shall not be denied the right to apply for trial by a Court Martial if he so seeks.

106. Limitation to departmental action:

- (1) When ordering a penalty provided in Clause (a) of Subsection (1) of Section 105, the battlefield penalty provided in Sub-Clauses (1), (2) and (3) shall not be added to it.
- (2) Amongst the penalties provided in Sub-Clauses (1), (2), (3) or (4) of Clause (a) of Subsection (1) of Section 105, if a person is imposed more than one penalty, the penalties provided in Sub-Clauses (3) or (4) shall be added only after the completion of penalties provided in Sub-Clauses (1) or (2).
- (3) If more than one penalty provided in Sub-Clauses (1), (2), (3) or (4) of Clause (a) of Subsection (1) of Section 105 is ordered, the total period of penalties shall not exceed forty five days.
- (4) Personnel who are below the rank of non-commissioned officer (billadar) shall not be imposed the penalty provided in Sub-Clause (7) of Clause (a) of Subsection (1) of Section 105.

107. Collective fine:

- (1) If any equipment, arms or ammunition, bullets, parts of arms of any company (gulm), squadron, battery or other such unites are lost or stolen, the Chief of Army Staff, Corps, Division or Brigade, after receiving the report of a Court of Inquiry, may impose a collective penalty on all noncommissioned officers (padik), Sergeants (hudda), Corporals (amaldar), Lance Sergeants (pyuth) of such unit or the persons whom he decides responsible thereto.
- (2) Such fine shall be reimbursed from the salary of personnel who are fined according to the proportionate amount.

Chapter-12

Approval of case and rehearing

108. Approval of the decision or penalty of General Court Martial: The decision or penalty issued by a General Court Martial shall be approved by the Nepal Government or the officer authorized by the Nepal Government.

109. Approval of the decision or penalty of Summary General Court Martial:
The decision or penalty issued by a Summary General Court Martial shall be approved by the person who convened a Court Martial or the senior officer if he [who convened a Summary General Court Martial] ordered the submission of the decision or penalty to a senior level.
110. Approval of the decision or penalty of District Court Martial: The decision or penalty issued by a District Court Martial shall be approved by the officer who is empowered to convene the General Court Martial or an officer authorized by him.
111. Procedures applicable on approval of case: For the purpose of approval of a case in accordance with Sections 108, 109 and 110, the Court Martial which decided the case shall prepare, within seven days from the date of the decision, the full text of decision along with clear grounds and reasons, and shall send the relevant files for approval within thirty days. The agency or authority who has the authority for approval shall finalize his actions on the files so received within thirty days from the date of receipt.
112. Conditions may be laid down: While giving authorization in accordance with Sections 108 and 110, the authorizing officer may lay down conditions.
113. Reduction of penalty: The officer who is authorized to approve the penalty imposed by a Court Martial, may, subject to the conditions laid down in accordance with Section 112, reduce the penalty imposed by the Court Martial or approve a lesser penalty amongst the penalties prescribed in Section 101.
114. Rehearing decision or penalty:
- (1) The endorsing officer may give an order to rehear the penalties imposed by a Court Martial.
 - (2) If an order is issued in accordance with Subsection (1), a Court Martial shall examine additional evidence and proceed with and adjudicate the case.
 - (3) If it is necessary to rehear a case, it shall be reheard by the same officers who issued the previous decision unless they are unable to be present for inevitable reasons.
 - (4) If the officers who issued the original decision cannot be present, the documents indicating reasons thereto shall be attached to the file and the members equal to the number who fail to be present shall be added, and the case shall proceed.

115. Decision or penalty of Summary Court Martial:
- (1) The decision or penalty of a Summary Court Martial shall not be approved and it shall be implemented immediately.
 - (2) Notwithstanding anything provided by Subsection (1), if the case is proceeded by an officer who has served less than five years, the penalty shall not be implemented, except during a military operation, unless approval from the Brigadier or officer senior to the Brigadier is obtained.
 - (3) The decision or penalty by a Summary Court Martial shall be submitted to the head of Brigade or Division or the officer authorized by the Chief of the Army Staff, and such officer shall examine the case and may nullify or reduce the conviction or penalty.
116. Alteration of decisions or penalties:
- (1) If a penalty of a Court Martial which is approved or a decision or penalty which does not require approval, is not supported by evidence or cannot be recognized for any reason, and the officer who is empowered to reduce the penalty in accordance with Section 113 issues a new decision or penalty, the same penalty shall be implemented.
Provided that no new decision or penalty shall be issued except in the case if a Court Martial questions the jurisdiction in respect to such decision or penalty, or a Court Martial is not satisfied with reasons given in such decision or penalty.
 - (2) Except if a new decision or penalty is issued in accordance with Subsection (1), if the penalty issued by a Court Martial which is approved or does not need approval is not recognized for any reason, the officer prescribed in Subsection (1) may, subject to the provisions mentioned in the same Subsection, issue a new penalty as he deems reasonable.
 - (3) The penalty which is imposed in accordance with Subsections (1) or (2) shall not exceed the penalty imposed by a Court Martial.
 - (4) The alteration or imposition of a penalty in accordance with this Section shall take effect as if imposed by a Court Martial.
117. Non-recognition of decision or approval : The decision or penalty issued by a Court Martial except by the Summary Court Martial shall not be recognized unless it is approved.
118. Reviewing order of departmental action: If the order of departmental action is deemed illegal or unjust or excessive, the following officers may review such order and nullify or alter or reduce such penalties.

- (a) Any senior commanding officer in respect to the penalties ordered by the commanding officer,
- (b) The Nepal Government, Chief of Army Staff or other officer as assigned by the Chief of Army Staff.

119. Appeal against decisions or orders of Court Martial:

- (1) There shall be an Army Special Court Martial which will hear appeals against a decision or final order rendered by a General Court Martial and Summary General Court Martial under Clause (a) of Section 68.
 - (a) Judge of an Appellate Court nominated by the Nepal Government on the recommendation of the Judicial Council → Chairperson
 - (b) Secretary of Ministry of Defence → Member
 - (c) Chief of Prad Viwak → Member.
- (2) The party aggrieved by the decision or final orders rendered by a General Court Martial and Summary General Court Martial under Clause (a) of Section 68 may lodge an appeal before the Special Court Martial under Subsection (1) within 35 days of the date of such decisions or final orders.
- (3) The Special Court established under Subsection (1) shall have original jurisdiction to proceed with and adjudicate the cases mentioned in Section 62.
- (4) An appeal may be lodged to the Supreme Court against a decision made in accordance with Subsection (3) within 35 days of the decision.
- (5) The procedures applicable to the original proceedings and adjudication and appeal proceedings and adjudication shall be as prescribed.
- (6) The party aggrieved by a decision or final order of a Court Martial regarding offences mentioned under Clauses (b) and (c) of Section 68 may lodge an appeal before the Chief of Army Staff through the Prad Viwak within 35 days of the date of decision or final order.
- (7) There shall be an Appeal Hearing Committee which shall proceed with and adjudicate cases lodged in accordance with Subsection (6):
 - (a) Brigadier General (Sahayak Rathi) nominated by the Chief of Army Staff- Chairperson
 - (b) Colonel (Mahasenani) nominated by the Chief of Army Staff → Member

- (c) Representative of Prad Viwak who was not involved in the Court Martial of the relevant case → Member
- (8) The procedures applicable during the proceedings and adjudication of an appeal to the Committee under Subsection (7) shall be as prescribed.

Chapter-13 Implementation of penalties

- 120. Calculation of duration of imprisonment:
 - (1) The term of imprisonment imposed on any person by a Court Martial in accordance with this Act shall be counted from the date he is taken into custody irrespective of whether such penalty has been reheard or not, and from the date the Chairperson signs the penalty in the first instance and an officer of Court Martial signs the penalty in case of the Summary Court Martial.
 - (2) If a person convicted by a Court Martial for an offence during a military operation is imposed a sentence of imprisonment but not dismissal from the service, and such person could not be sent to the prison for any reason, the prescribed officer may give an instruction assigning him to continue carrying out the responsibilities of his post.
 - (3) The period of service performed in accordance with Subsection (2) shall be counted in the period of imprisonment.
- 121. Implementation of the penalty of imprisonment:
 - (1) An officer having authority to approve the penalty imposed on a person convicted by a Court Martial shall give an order to send to prison to serve the term of imprisonment or an officer of a Court Martial shall give such order in regards to a person who is convicted by a Summary Court Martial.
 - (2) Upon the orders received in accordance with Sub-section (1), the commanding officer of the person subjected to a penalty or another prescribed authority shall send him to prison along with a detention letter.
 - (3) When transferring a prisoner from one place to another, arrangements shall be made to prohibit escape, flight or commission of other undesirable acts.
 - (4) If a new order is issued regarding a prisoner replacing a previous order, the ordering officer shall issue a detention letter accordingly to the relevant prison chief.

- (5) Detention shall not be deemed illegal merely on the ground that there is/are some error/s in the detention letter or any document or it does not match with the prescribed format, in case a person has been held in prison as per the decision imposing imprisonment by a Court Martial or for any other reasons.
 - (6) If an order is issued to hold a convicted person in prison for the term of imprisonment, he may be held in custody at any appropriate place until he is sent to prison.
 - (7) In case the penalty does not exceed the term of three months, the officer prescribed under Subsection (1) may give an order to hold such person in military custody until the completion of term of imprisonment.
 - (8) During a security operation, the term of imprisonment may be completed by holding him in custody as prescribed by the commanding officer.
 - (9) No prisoner held in prison in accordance with this Act shall be subjected to corporal punishment during the period of imprisonment, and no imprisonment shall be imposed on him which is not in accordance with existing law.
 - (10) If the Army, Corps (chamu), Division or Brigade believes that it is not possible to execute any penalty in military prison or military custody, he may issue an order to hold the concerned person in any prison.
122. Period as prisoner of war: For the purpose of Section 131, a person shall be deemed to be a prisoner of war until investigations into his conduct are completed in accordance with Section 129 and until the day of his dismissal from service in case he is dismissed from service on grounds of his conduct after the completion of investigations.
123. Reduction in salaries and allowances:
- (1) For the purpose of implementing an order of penalty, the salary and allowances of an officer shall be deducted as follows:
 - (a) The salary and allowances for the day of his absence, except when satisfactory explanations are given to the commanding officer and those explanations are approved by the Nepal Government,
 - (b) The salary and allowances for the period held in custody or on suspension from duty as per the order given by any Court Martial or other court or any authority who has power to order departmental action,

- (c) The amount of the salary to be paid to any person whose salary is illegally frozen or who is refused the payment,
 - (d) The amount required to reimburse the expenses resulting from an order issued by a Court Martial or an authority who has the power to order departmental action,
 - (e) All such salaries and allowances subjected to confiscation or freezing as ordered by a Court-Martial or an authority who has the power to order departmental action of confiscation or freezing.
 - (f) The amount required to pay the fine imposed by a Court-Martial or other court in accordance with Section 66.
 - (g) The amount required to reimburse the stolen property or the loss to any property of the Nepal Government or the Nepalese Army which as found by the investigations conducted according to the rules to have been lost or damaged resulting from the negligence or mistakes of the officer,
 - (h) All such salaries and allowances forfeited through an order of the Nepal Government after a Court of Inquiry formed by the Chief of Army Staff has held that the concerned officer had cooperated with the enemy, or stayed with and served the enemy or helped the enemy as per the orders of the enemy or otherwise, or that he had been captured by the enemy negligently or intentionally while on duty and held under the custody of the enemy, or that he had failed to return to his side even when he could do so after being captured by the enemy,
 - (i) The amount to be paid as per the order of the Nepal Government by the relevant officer for the maintenance of one's wife and children, or the amount being paid by the Government as maintenance for such children.
- (2) Subject to the provisions of Subsection (1), the salary and allowances of persons other than officers shall be deducted as follows:
- (a) The salary and allowances payable for each day of absence, desertion, detention as a prisoner of war or while being held in custody by the Court Martial, other courts or an authority who may order departmental action or absence resulting from battlefield penalty ordered by a Court Martial or an authority who may order departmental

- action and the salary and allowance payable for each day of absence resulting from detention prior to imprisonment after being convicted of a crime by a Court Martial or other court,
- (b) The salary and allowances payable for the period of detention or suspension from duty on the charge of committing a crime for which the person concerned is subsequently convicted by any criminal court or other court or an authority who has power to order departmental action,
 - (c) The salary and allowances payable for each day of hospitalization after falling ill for which the supervising doctor issues a certificate to the effect that the person concerned has fallen ill because of action taken by him which is deemed to be a crime under this Act,
 - (d) The amount of salary and allowances payable for each day of hospitalization as determined by the officer prescribed or authorized by the Nepal Government after falling ill for which the supervising doctor issues a certificate to the effect that the person concerned has fallen ill because of his misconduct or negligence,
 - (e) All such salaries and allowances as ordered for forfeiture or freezing by a Court Martial or an authority who has the power to order departmental action,
 - (f) In case he is held as a prisoner of war or in custody by the enemy, the salary and allowances payable for the date of dismissal from service in consideration of the conduct of person concerned to the date of his release from the custody of enemy,
 - (g) The amount needed to compensate as determined by his commanding officer for the loss or damage or destruction or unnecessary expenses caused by him to any building or asset of the Nepal Government,
 - (h) The amount required to pay the fine imposed by a Court Martial or other court or any authority who exercises power under Sections 66, 105 or 107,
 - (i) The amount to be paid as per the order of the Nepal Government by the relevant person for the maintenance of his wife and the children, or the amount being paid by the Government as maintenance for such children.

124. Calculation of period of absence or custody: For the purpose of Clause (a) of Subsection (2) of Section 123:
- (a) No person shall be deemed to have been detained or remained absent for a full day except when he has been detained or has remained absent for six or more hours consecutively on a single day or during several days.
 - (b) If any person remains absent or is detained for less than a day and thereby fails to discharge his military duty, and in case any other person is assigned to discharge such duty, such absence or detention for less than a day shall be treated as absence or detention for a day.
 - (c) If any person remains absent or is detained for 12 or more hours consecutively on any day, the period of such absence or detention, irrespective of its duration, shall be taken as one day's absence or detention.
 - (d) If any person remains absent or is detained from before midnight and such absence or detention ends after midnight, the period of such absence or detention shall be taken as one day's absence or detention.
125. Salary and allowances during trial: If any person who falls under jurisdiction of this Act is detained or suspended on any charge, the prescribed authority may, for the purpose of implementing Clause (b) of Subsection (1) and Clause (b) of Subsection (2) of Section 123, issue a directive to freeze his salary and allowances as prescribed until the adjudication of the case.
126. Limitation of reduction: Except when the concerned person has been punished with dismissal, all deductions to be made from his salary and allowances according to the provisions contained in Clause (d), (f), (g), and (h) of Subsection (2) of Section 123 shall not exceed half of his salary and allowances for any month.
127. Reduction from funds other than provident fund, pension: Any amount to be deducted from the salary and allowances of any person in accordance with this Act may be deducted from any other amount payable to the person, excluding the army provident fund and pension, without prejudice to any other procedure for collecting such deductions.
128. Reimbursement of governmental dues: The relevant Chief District Officer may be requested to reimburse the fine imposed by action of Court Martial under this Act. The Chief District Officer, if so requested, shall reimburse the fine in accordance with existing laws applicable to governmental dues and shall refer to the relevant department.

129. Salary and allowances of Prisoner of War detainees during inquiry regarding conduct: If any person who falls under the jurisdiction of this Act becomes a prisoner of war or is captured by the enemy, and in case it becomes necessary under this Act or any other law to investigate his conduct during the investigation, the Chief of Army Staff or any officer authorized by the Chief of Army Staff, may issue an order to freeze his full or partial salary and allowances until the result of the investigations are known.
130. Reductions may be exempted: Any deduction to be made from salaries and allowances under this Act may be exempted up to the prescribed limit in the manner as prescribed.
131. Arrangement for the dependants of war detainees from the money exempted form reduction:
- (1) The salary and allowances of a person, to whom this Act is applicable and who has been held a prisoner of war, subjected to forfeiture under Clause (h) of Subsection (1) and Clause (a) of Subsection (2) of Section 122, if exempted under Section 130, shall be used for the arrangement of rations and other essential materials for the dependents of such person. If such an arrangement is made, the remaining balance out of the salary and allowances shall be deemed to have been exempted.
 - (2) If a person who falls under the jurisdiction of this Act has been held as a prisoner of war or is lost during a military operation, the arrangements for rations and other materials for the dependents of such person shall be made out of his salary and allowances.
132. Implementation of penalties during stay outside Nepal:
- (1) If a person who has been subjected to a penalty in accordance with this Act is staying outside the territory of Nepal, the penalty shall be implemented in the country where he is staying or he shall be brought to Nepal where it shall be implemented.
 - (2) If a person working with the Nepalese Army is subjected to removal or has been removed at the time he is staying outside Nepal, he may be brought to Nepal.

Chapter-14

Miscellaneous

133. Control and responsibility on arms, weapons and military equipment:
- (1) The responsibility to control arms, weapons and other military equipment shall, subject to arrangements prescribed by the Nepal Government, remain with the Chief of Army Staff.

- (2) If it is necessary to buy arms, weapons and other military equipment for the Nepalese Army, the Chief of Army Staff shall submit the details including justification thereof to the Ministry of Defence. The details so received shall be submitted to the National Security Council for determining policies in this regard.
- (3) The Chief of Army Staff may give an order to provide such arms, weapons and other military equipment under his responsibility in accordance with existing laws and instructions issued by the Nepal Government to any unit of the Nepalese Army while taking control and responsibility for them.
- (4) The Chief of Army Staff may hand over or rent out, upon approval from the Nepal Government, the arms, weapons and other military equipment of the Nepalese Army to the organs other than a unit of the Nepalese Army.
- (5) The Chief of Army Staff shall submit updated details of arms, weapons and other military equipment of the Nepalese Army to the Ministry of Defence every six months, and in addition to this, the Chief of Army Staff shall have duty to submit updated details for them as demanded by the Ministry of Defence.
- (6) The power to grant exemptions for arms and ammunition used in the works and trainings shall remain with the Chief of Army Staff, except that the power to grant exemptions for arms and ammunition used for other purposes shall remain with the Ministry of Defence.

134. Salary and benefits to the Chief of Army Staff:

- (1) The monthly salary of the Chief of Army Staff shall be as prescribed by the Nepal Government.
- (2) The Nepal Government shall deduct ten percent from the monthly salary of the Chief of Army Staff for the provident fund, and shall add hundred percent of the deducted sum and deposit to the provident fund.
- (3) The Nepal Government shall arrange appropriate residence to the Chief of Army Staff who has no appropriate residence in Kathmandu.
- (4) The Nepal Government shall arrange a vehicle for the Chief of Army Staff.
- (5) After retiring from service, the Chief of Army Staff shall be entitled to pensions in accordance with existing rules on pensions of the Nepal Army.

- (6) The family of the Chief of Army Staff shall be entitled to a family pension as follows:
 - (a) In case the Chief of Army Staff dies during his term, the total sum of money as determined by the Nepal Government,
 - (b) If he dies before completion of nine years of his pension period getting in accordance with Subsection (5), pension for the period remaining to nine years.
 - (7) Notwithstanding anything provided by Subsections (5) and (6), a pension or family pension shall not be granted for the period while assuming the duties of Acting Chief of Army Staff.
 - (8) The Chief of Army Staff shall be granted, along with full salary, the following leaves every year:
 - (a) Casual leave 20 days,
 - (b) Home leave 45 days,
 - (c) Sick leave 15 days.
 - (9) Casual leave which is not used within the same year shall not be accumulated for the next year. Home leave shall be accumulated for a maximum of 45 days and sick leave shall be accumulated for the whole period of his service. The Chief of Army Staff, when retiring, shall receive cash for the period of accumulated home leave and sick leave.
 - (10) The Chief of Army Staff may grant casual leave himself, and home leave and sick leave shall be approved by the Defence Minister.
 - (11) The Nepal Government may call the Chief of Army Staff to work before the expiry of the leave period.
135. Declaration of military operation: The Nepal Government may declare any person or force under the jurisdiction of this Act as engaged in military operations regardless of where they may be working, or whether other Acts are in effect.
136. Military prison: The Nepal Government may prescribe any building, or any portion of a building which has humanely physical facilities as the military prison for the purpose of imprisoning the person to whom the penalty of imprisonment is rendered by a Court Martial.
137. Applicability of this Act to another force:
- (1) The Nepal Government may establish a separate force for a specific purpose upon publishing a notification in the Nepal Gazette.
 - (2) The Nepal Government, in the notification published in accordance with Subsection (1), may issue an order applying any or all

Sections of this Act, either altering or not altering, or postponing any Sections for some period, and may prescribe necessary conditions in the same order.

- (3) The provisions of Subsection (2) shall be applicable in respect to the persons mentioned under Clause (b) of Subsection (1) of Section 3.
 - (4) The Nepal Government may deploy military personnel of different ranks working with the Nepalese Army to the force established under Subsection (1).
138. Officer who exercises powers in special circumstances:
- (1) The Nepal Government may appoint an officer of any Army, Corps, Division and Brigade exercising the power of commanding officer to exercise power over persons to whom this Act is applicable and whose number is bigger than a number of army normally contained in any unit.
 - (2) When appointing a person in accordance with Subsection (1) all or any powers, limitations, exceptions and conditions may be assigned under this Act.
139. Classification and inclusion:
- (1) The Nepal Government may classify any person or force of persons mentioned in Section 3 and to whom this Act is applicable into classes of officers and non-commissioned officers, and include any person into such classes and cancel the classification.
 - (2) Any person who is not classified into the class of officer or noncommissioned officer in accordance with Subsection (2)⁴ shall be deemed below the rank of non-commissioned officer.
140. Formation of Commission of Inquiry:
- (1) The Nepal Government may form a Commission of Inquiry in accordance with the Commission of Inquiry Act, 1969 to inquire into a matter of public importance in which a person to whom this Act is applicable is engaged, and submit the report thereof.
 - (2) The functions, duties, powers and other arrangements of a Commission of Inquiry formed in accordance with Subsection (1) shall be as provided by the same Act.
141. Powers may be delegated:
- (1) The Nepal Government may delegate the power conferred on it in accordance with this Act and Rules framed under this Act to the Chief of Army Staff and subordinate agencies or officials or any governmental agencies or officials.

- (2) The Nepal Government may, in extra-ordinary situations, delegate, as necessary, powers conferred on it or any agency or officials in accordance with existing laws to the Chief of Army Staff and units subordinate to him.
- (3) The power delegated in accordance with Subsection (1) and (2) shall not be barred from being resumed, during the period of delegation, by the Nepal Government, relevant agencies or officials.
- (4) The Chief of Army Staff may delegate the power conferred on him in accordance with this Act and existing laws to subordinate agencies or officials under his own responsibility.

142. Instruction may be issued:

- (1) The Nepal Government may issue necessary instructions to the Chief of Army Staff for pursuing the objectives of this Act.
- (2) It shall be the duty of the Chief of Army Staff to implement the instructions issued by the Nepal Government.

143. Powers to frame Rules:

- (1) The Nepal Government may frame necessary Rules pursuant to the objectives of this Act.
- (2) Without prejudicing the general application of the power conferred in accordance with Subsection (1), the Nepal Government may frame Rules in the following subjects:
 - (a) Regarding the appointment, leave, promotion, demotion, retirement, dismissal and other terms of service,
 - (b) Regarding immunities and privileges,
 - (c) Regarding the conduct of the Welfare Fund,
 - (d) Regarding the investigation, inquiry, detention of an accused and registration of a case,
 - (e) Regarding the formation, dissolution, postponement, continuance, jurisdiction, procedures, approval and rehearing of cases, implementation of decisions or penalties,
 - (f) Regarding the determination on the type of battlefield penalty,
 - (g) Regarding the formation and procedure of the Court of Inquiry, the manner of taking the oath, and recording evidence,
 - (h) Regarding the arrangement of assistance to dependants and its implementation,
 - (i) Regarding the grant of concessions on military goods,

- (j) Regarding the salary, allowances and other privileges of an escapee.
- (k) Regarding the administration, supervision, and management of the Army prison and terms of service of prison officers,
- (l) Regarding security, discipline, special service, work, penalty for offences and exemptions of penalties for prisoners,
- (m) Regarding maintenance, handling of arms and ammunition and other military equipment,
- (n) Regarding granting of concessions regarding the money invested in intelligence, money used from the rebuilding fund, and money used from emergency fund,
- (o) Regarding entertainment subsidies,
- (p) Regarding actions against escapees,
- (q) Regarding arrangement of military hospitals,
- (r) Regarding military donations and prizes,
- (s) Regarding appointment of the Prad Viwak,
- (t) Regarding air transportation and preservation of airplanes,
- (u) Regarding women parachute folder,
- (v) Regarding daily and travel allowances,
- (w) Regarding pensions,
- (x) Regarding short term services,
- (y) Regarding military nurses,
- (z) Regarding accounts,
- (aa) Regarding Military Police,
- (bb) Regarding army technicians,
- (cc) Regarding appointment of former Army personnel.

144. Repeal and Saving:

- (1) The following Acts are repealed:
 - (a) Act regarding handing over of Army Authority, 2015
 - (b) Army Act, 2016
 - (c) Functions, duties, powers and terms of service of the Chief of Army Staff Act, 2016.
- (2) Persons of all ranks working with the Nepalese Army at the time of entry into force of this Act shall remain in their respective posts and ranks of the Nepalese Army, and they shall remain in office until the period prescribed by the prevailing law related to the Army.

- (3) The acts performed in accordance with the Acts prescribed in Subsection (1), shall be deemed to have been performed in accordance with this Act.
145. Alteration: The following terms used in the existing laws shall be replaced as follows:
- (a) "Royal Nepalese Army" by "Nepalese Army"
 - (b) "Armed Army of His Majesty" by "Nepalese Army".

Schedule: 1 (Positions in Army organization)

Schedule: 2 (Format of oath)

Schedule: 3 (Age limit of persons working with the Nepalese Army)

Schedule: 4 (Terms of officers of the Nepalese Army)

Schedule: 5 (Terms extendable to the officers of the Nepalese Army)

Date of Authentication: 2063.06.12 (28.09. 2006 (B.S.))

Schedule-1

(Related to Subsection (4) of Section 7)

Ranks in Nepal Army

1. Maharathi (General)
2. Rathi (Lieutenant General)
3. Upa-Rathi (Major General)
4. Sahayak-Rathi (Brigadier General)
5. Mahasenani (Colonel)
6. Pramukh Senani (Lieutenant Colonel)
7. Senani (Major)
8. Sahasenani (Captain)
9. Upa-Senani (1st Lieutenant)
10. Sahayak-Senani (2nd Lieutenant)
11. Pramukh Subedar(Subedar Major)
12. Subedar (Chief Warrant Officer)
13. Jamdar (Warrant Officer)
14. Hudda (Sergeant)
15. Amaldar(Corporal) (Naik)
16. Pyuth (Lance Sergeant) (Lance Naik)
17. Sepahi
18. Followers

Armed Police Force Act, 2058 (2001)

Date of Royal Seal and Publication:
2058.05.06 (22.08.2001)

"An Act designed to provide for the formation and mobilisation of an Armed Police Force"

Preamble: Whereas it is desirable to enact laws with regard to the formation and mobilisation of the Armed Police Force for the maintenance of peace and order, and the protection of life, liberty and property of the people,
Be it enacted by the Parliament in the first year of the reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

Chapter -1 Preliminary

1. Short title and commencement:

This Act shall be called the "Armed Police Act, 2001".

This Act shall come into force immediately.

2. Definitions-

In this Act, unless the subject matter or context otherwise requires:

"National Defence Council" means the National Defence Council constituted in accordance with Article 118 of the Constitution of the Kingdom of Nepal.

"Central Security Council" means the Central Security Council constituted in accordance with Section 7.

"Armed Police Service" means the service of the Armed Police Force constituted under Section 3.

"Armed Police" means persons appointed for the service of the Armed Police.

"Armed Police Officer" means an Armed Police Assistant Inspector and the Armed Police officers superior to him.

"Gazetted Officer" means an Armed Police Inspector and Armed Police officers of superior rank.

"Commission" means the Armed Police Commission constituted under Section 11.

"Authorized person" means the person who has the power to appoint in accordance with Section 13.

"Other police" means police to be governed in accordance with the Police Act, 1955.

"Armed Police Special Court" means the Armed Police Special Court constituted in accordance with Section 28 or Section 29.

"Armed mutiny" means the armed activities resulting in disorder, conducted with a motive to jeopardize the sovereignty, integrity or the national unity of the Kingdom of Nepal; rebellion against the Government of Nepal; or obstruction in conducting activities of the Kingdom of Nepal.

"Prescribed or "as prescribed" means prescribed or as prescribed in accordance with rules established under this Act.

Chapter-2

Formation and mobilisation of the Armed Police Force

3. Formation of the Armed Police Force:

1. An Armed Police Force has been established in the Kingdom of Nepal.
2. The numbers of posts in the Armed Police Force established in accordance with subsection (1) shall be as established by His Majesty's Government.
3. The Inspector General of the Armed Police shall be the Chief of the Armed Police Force.
4. The Headquarters of the Armed Police Force shall be established in the Kathmandu valley and subordinate offices shall be established as prescribed.

4. Supervision, control and instructions:

1. The power to supervise, control and instruct the Armed Police Force shall be under the remit of His Majesty's Government.
2. His Majesty's Government may delegate the power conferred in the Government in accordance with subsection (1) to any official subordinate to it.
3. It shall be the duty of all Armed Police to abide by orders or instructions issued by His Majesty's Government and officers authorized in accordance with subsection (2).

5. Administration of the Armed Police Force:

The administration of the Armed Police Force shall be conducted by the Armed Police Inspector General and or other Armed Police officers subject to this Act and the Regulation established under it, and the instructions issued from time to time by His Majesty's Government.

6. Mobilisation of the Armed Police Force:

1. His Majesty's Government shall mobilize the Armed Police Force for the following purposes:
 - a. To control an armed struggle which occurs or is likely to occur in any area of the Kingdom of Nepal;
 - b. To control an armed insurgency or separatist activities which occur or is likely to occur in any area of the Kingdom of Nepal;
 - c. To control terrorist activities which occur or is likely to occur in any area of the Kingdom of Nepal;
 - d. To control riots which occur or is likely to occur in any area of the Kingdom of Nepal;
 - e. To assist in rescue operations for the victims of natural disasters or epidemics which occur or are likely to occur in any area of the Kingdom of Nepal;
 - f. To use in rescue operations of abducted persons, (in case any Nepalese citizen or any person who has been abducted), or to control any type of heinous and serious crimes after such crimes have been committed or a breach of peace of a serious nature which occur or is likely to occur;
 - g. To defend the territories of the Kingdom of Nepal;
 - h. To assist the Royal Nepal Army in case of an external attack;
 - i. To protect buildings, structures and other places of public importance as prescribed by His Majesty's Government;
 - j. To protect a person determined by His Majesty's Government as person to be protected and institutions as prescribed;
 - k. To carry out work as mentioned in this Act, Regulation established under this Act or in accordance with any prevailing law;
 - l. To carry out other work as prescribed by His Majesty's Government from time to time.
2. If His Majesty's Government has mobilized the Armed Police Force in any part of the Kingdom of Nepal in accordance with subsection (1), it shall report, weekly to the National Defence Council and the Central Security Council on the numbers of Armed Police mobilized in that area and the activities performed by them.
3. His Majesty's Government can delegate the power conferred under subsection (1) to any officer of the Special Class subordinate to it.
4. If an officer authorized in accordance with subsection (3) has mobilized the Armed Police Force in any part of the Kingdom of Nepal, he shall report, at weekly to His Majesty's Government on the numbers of Armed Police mobilized in that area and the activities performed by them.

5. His Majesty's Government shall inform the National Defence Council and the Central Security Council of the communications received in accordance with subsection (4).

7. Central Security Council:

1. For the purpose of subsection (1) of Section 6, the Central Security Council shall be established with the following composition in order to advise His Majesty's Government:
 - a. Home Minister or State Minister → Chairperson
 - b. Baladhikrit (Chief of the Army Staff) of the Royal Nepal Army → Member
 - c. Secretary, Ministry of Defence → Member
 - d. Secretary, Ministry of Home Affairs → Member
 - e. Inspector General of the Police → Member
 - f. Inspector General of the Armed Police → Member
 - g. Chief of the National Investigation Department → Member
 - h. Joint Secretary, Ministry of Home Affairs → Member/Secretary
2. Other relevant officers may also be invited to Central Security Council meetings.

8. To be under the command of the Royal Nepal Army:

If the Royal Nepal Army has been mobilized in any part of the Kingdom of Nepal for the maintenance of peace and order, the relevant Armed Police Force shall be under the command of the Royal Nepal Army during a period of mobilisation of the Royal Nepal Army.

Chapter -3 **Terms of service**

9. Posts and tenure of service:

1. There shall be a post of Inspector General of Armed Police and other posts as prescribed, in the Armed Police Service.
2. The tenure of the Inspector General of Armed Police shall be for four years, and the tenure of other gazetted officers shall be as established.

10. Filling of vacancies:

The vacancies for the posts of Armed Police Force shall be filled as prescribed.

11. Armed Police Service Commission:

1. For the purpose of making recommendations for appointing the posts of the Armed Police Service to be fulfilled by free competition, an Armed Police Service Commission shall be established comprised of the following chairperson and members:
 - a. Chairperson of the Public Service Commission or a member of the Public Service Commission as assigned by him → Chairperson
 - b. A person prescribed by His Majesty's Government from among officers of the Special Class of service of His Majesty's Government → Member
 - c. Secretary, Ministry of Home Affairs → Member
 - d. Representative (Special Class), Royal Nepal Army → Member
 - e. Inspector General of the Armed Police → Member Secretary
2. The tenure of a chairperson shall be four years, and he shall be eligible for re-appointment.
3. The remuneration, terms of service and privileges of the chairperson and members of the Commission shall be as established.
4. The Commission shall examine the suitability of candidates and recommend appointments under procedures and grounds as determined.
5. The Commission shall self determine its own procedures.
6. The other functions, duties and powers of the Commission shall be as established.
7. The Commission may delegate a number of its functions, duties and powers to any of its members or employees of His Majesty's Government to be performed or to abide by subject to the conditions as prescribed.

12. To be appointed on the recommendation of the Commission:

Posts of The Armed Police Force's are to be filled by free competition by recommendation of the Commission.

13. Authority to appoint:

His Majesty's Government shall appoint gazetted officers and a prescribed authority shall appoint other Armed Police.

14. Qualifications of candidate:

The basic academic qualifications and other qualifications for the posts to be filled by free competition in the Armed Police Force shall be as prescribed.

15. Promotion and transfer:

The promotion and transfer of Armed Police shall be as prescribed.

16. May be transferred:

1. Notwithstanding anything provided in this Chapter, His Majesty's Government may, until a Commission is formed, may transfer the immediate employees of the Royal Nepalese Army and immediate employees of another police service to the Armed Police Force and may employ therein, and the service of the Army and other police service personnel so employed shall be calculated as being in the service of the Armed Police Force.
2. Armed Police shall not be transferred to the Royal Nepalese Army or to other police posts, and after the formation of the Commission no other employees of the Royal Nepalese Army and other police services shall be transferred to the Armed Police Service.

17. Oath:

Upon first appointment and before taking responsibility of office, every Armed Police officer shall take an oath in the format as prescribed.

18. Continue office:

The work of the Armed Police shall continue in the following situation:

- a. During a period he continues to work,
- b. During a period he is required to hold office from the date of his transfer,
- c. During a period of leave,
- d. During a period of being suspended,
- e. During a period he performs work as assigned by His Majesty's Government,
- f. During a period of working with other posts.

19. Departmental action, penalty and appeal:

1. An Armed Police officer who performs duties with negligence or recklessness or evades his duties under any pretence or becomes incapable to perform duties, breaks discipline codes or commits unreasonable acts as prescribed, or fails to perform duties provided by Section 24, or commits an offence provided by Section 27 or in any other conditions as prescribed, may, depending on the degree of an offence, be dismissed from service with prejudice to future governmental service, and or removed from service without prejudice to future governmental service or be subjected to other departmental actions as decided.
2. The power to order departmental action against Armed Police shall be as authorized.
3. Without prejudice to the general application of a power as prescribed by subsection (1), the authority to order departmental action against an Armed Police shall be as prescribed.

4. The authority empowered to order departmental action in accordance with subsection (2) or (3), while ordering departmental action in accordance with subsection (1), shall make a decision mentioning the charge with reasons and grounds for action, details of an investigation thereof, arguments for his defence if he has been provided an opportunity to do so, and an opinion with regard to an argument for a defence, or grounds, reasons and situations for denying an opportunity to a defence or where he had not been provided the opportunity to defend himself, shall be attached with the disciplinary file.
5. An order of departmental action against any Armed Police may be appealed to the prescribed authority.

20. Suspension:

1. The authority empowered to order departmental action may suspend an Armed Police officer who has been subjected to departmental action in accordance with Section 19 for the period as prescribed.
2. Before suspending Armed Police personnel in accordance with subsection 10, the authority empowered to order the action should disarm him.
3. An Armed Police shall *ipso facto* be suspended in the following situations:
 - a. From the date of arrest, if an Armed Police officer has been arrested for committing a crime provided by Section 27, and from the date of the decision to lodge a case against him, if he has not been arrested.
 - b. For the period of his detention if he has been arrested for committing a criminal offence.
4. If an Armed Police has been suspended with regards to official duties, or as the result of action by His Majesty's Government, he shall, during the period of suspension, receive half his salary entitlement.
 - (a) Provided that if the charge against him is not proved and he is acquitted, he shall receive the other half of the salary as reduced. If he is convicted, he shall not receive any salary from the date of his suspension.
5. If any Armed Police has been suspended for reasons other than mentioned in subsection (4), he shall not receive the salary for the period held in detention.

21. Protection from arbitrary dismissal:

While taking departmental action against Armed Police, they shall be provided an opportunity to show grounds for why such action should not be taken except under the following circumstances:

- a. If he has been convicted by a court for the criminal charge of loose moral character and subsequently imprisoned,
- b. If he has been convicted for an offence under Section 27 and punished thereof,

- c. If the punishing authority has made a decision that precludes him the opportunity to defend himself.

22. Initiating a case not to be prejudiced:

If any Armed Police commits an offence which is defined as crime under this Act or other prevailing laws, this shall not prejudice the initiation of a case against him in accordance with this Act or other prevailing laws merely on the grounds that he has been subjected to departmental action or punishment in accordance with Section 19 of this Act.

23. Salary, allowances, other privileges and terms of service:

Salary, allowances, other privileges and the terms of services of Armed Police personnel shall be as prescribed.

Chapter -4

Duties and responsibilities of Armed Police

24. Duties and responsibilities of Armed Police:

1. Duties and responsibilities of Armed Police shall be as follows:
 - a. All Armed Police shall be deemed to be on duty at all hours and they shall go to any place as assigned and perform their responsibilities,
 - b. All Armed Police shall diligently obey the orders of Armed Police superior in rank,
 - c. All Armed Police shall be cautious and careful of the responsibilities assigned to him or his team,
 - d. It shall be the duty of all Armed Police to perform the responsibilities provided in this Act or the Regulation established under it and in accordance with prevailing laws.
2. If there are sufficient and reasonable grounds to suspect that goods prohibited by prevailing law or a person involved in the commission of a crime is present at any residence, place or vehicle in an area where he is deployed, an Armed Police officer may conduct a search of such residence, place or vehicle, and arrest the person involved in the criminal activities and hand him over, as soon as possible, to other police.

25. Authority of superior Armed Police:

The authority conferred on an Armed Police officer in accordance with this Act or the Regulation established under this Act, may be exercised by the Armed Police of a superior rank where he is deployed.

26. Exceptions for acts performed in good faith:

An Armed Police officer shall not be liable for acts performed in good faith in the course of performing his duty, exercising the power provided under this Act or the Regulations established under this Act.

Chapter-5
Offences and penalties

27. Offences for which imprisonment may be imposed:

1. Armed Police who commit the following offences shall be sentenced to life imprisonment coupled with confiscation of his entire property:
 - a. If he is involved in armed insurgency,
 - b. If he propagates either in writing, speech or gesture, or disseminates anything that spreads hatred, hostility or disrespect, likely to jeopardize the sovereignty, territorial integrity or continuity of the Kingdom of Nepal,
 - c. If he sells or surrenders governmental arms or weapons under his or others' responsibility,
 - d. If he deserts taking arms or weapons for his use or under his responsibility,
 - e. If he assists, either directly or indirectly in terrorist activities,
 - f. If he provides either national or international unauthorized persons, agencies or groups with security related information or news.
2. Armed Police who commit the following offences shall be sentenced to seven to twelve years imprisonment:
 - a. Attempts to carry out armed insurgency,
 - b. Riots at a building, construction, place, office or any other place to which he is deployed or is responsible for to protect, or flees in a cowardly manner when an attack on such place is made,
 - c. Destroys any building or place with the intent of looting, or loots any property in any form, causing damage, loss or harm to it.
3. Armed Police who commit the following offences shall be sentenced to five to seven years imprisonment:
 - a. Should he use or attempt to use criminal force, while on or off duty, against an Armed Police of superior rank or other officials empowered with security related authority, even if he knows them or has reasonable grounds to know them,
 - b. Should he knowingly fail to impart, as soon as possible, news or information regarding a conspiracy or attempt of an armed insurgency to officers superior to him or high level authorities,

- c. Should he commit anything in writing, speech or gesture which spreads hatred, hostility or disrespect likely to jeopardize His Majesty's Government or the activities of His Majesty's Government,
- d. Should he intentionally allow prisoners or detainees under his responsibility to escape or assist in their escape.
4. Armed Police who commit the following offences shall be sentenced to three to five years imprisonment:
 - a. Should he defy an order given by Armed Police of superior rank,
 - b. Should he provide intentionally false information on the numbers, situation of persons under his responsibility or command, money or goods,
 - c. Should he take membership of any political organization or party, or take part in a demonstration or procession organized for political objectives,
 - d. Should he misuse, carelessly lose, damage or destroy arms, ammunition, vehicles, money or goods,
 - e. Should he desert taking government property or goods under his responsibility,
 - f. Should he extort other's property or goods,
 - g. Should he assist in unbalancing the good religious and or social beliefs of the country,
 - h. Should he escape from the service of the Armed Police,
 - i. Should he resign from his post without permission of the officer who was authorized to appoint him or fail to perform his duties.

Chapter-6

Armed Police Special Court and appeal

28. Formation of an Armed Police Special Court:

1. His Majesty's Government shall constitute an Armed Police Special Court upon publishing a notification in the Nepal Gazette for conducting trials and adjudicating cases punishable under Chapter-5.
2. The duty station of an Armed Police Special Court formed in accordance with subsection (1) shall be in the Kathmandu valley.
3. The Armed Police Special Court formed in accordance with subsection (1) shall be composed of three committee members under the chairmanship of a special class officer from the judicial service and an officer not below the rank of Deputy Inspector General of the Armed Police and an officer not below the rank of joint secretary of the Ministry for Home Affairs or any office under it, as members.

29. Arrest and detention:

1. Any Armed Police who is charged with an offence under Chapter- 5 may be arrested by the order of any police officer superior to him in rank and may be held in custody.
2. Prior to custody in accordance with subsection (1), Armed Police shall be disarmed.
3. If Armed Police is disarmed in accordance with subsection (1), a notification thereof shall be imparted, as soon as possible, to the Chief of the office to which he is attached, as well as to the Inspector General of Armed Police.

30. Recording statements and ordering the production of witnesses and evidence:

1. The Armed Police Special Court shall record the statement of the accused and attach it to a case file.
2. If it is necessary for the Armed Police Special Court to examine, in the course of a hearing, any document or evidence, it may order any relevant office or official to provide evidence within a specified period.
3. If the Armed Police Special Court deems it necessary, during the course of a hearing, to obtain information from a witness, it can summon such witnesses for examination.
4. Provided that if the Armed Police Special Court deems that the summoning of a witness causes unnecessary delay, expense or difficulties, it can prepare sealed questions and order the Chief District Officer of the relevant district to examine a witness and to send back a written statement back to the court.

Other procedures of the Armed Police Special Court shall be as specified.

31. Duration for adjudication of a case:

The Armed Police Special Court shall generally adjudicate a case within ninety days from the date of the examination of witnesses.

32. Provisions regarding custody and prison:

If necessary to detain an accused in custody, in the course of proceedings, as per the order of the Armed Police Special Court or to detain in prison as per the judgment, His Majesty's Government may detain him in any prison of the Kingdom of Nepal.

33. Provisions regarding appeal:

Anyone who is not satisfied with the decision of the Armed Police Special Court may appeal to an appellate court within thirty-five days.

34. Coordination Committee:

1. There shall be a Co-ordination Committee comprised of the Secretary of the Ministry of Home Affairs as chairperson and the Inspector General of Police and the Inspector General of Armed Police as members, for ensuring uniformity and coordination between the Armed Police Force and other police organizations in maintaining peace and order in the Kingdom of Nepal.
2. There may be a Coordination Committee in the Regions and Districts comprised of an official as specified for the purposes mentioned in subsection (1).
3. The Coordination Committee constituted in accordance with subsections (1) and (2) shall self determine Rules of procedure.

35. Delegation of power:

An officer, who is conferred power in accordance with this Act or Regulation established under this Act, may delegate power conferred on him to the officer below his rank, but will remain responsible for any consequences.

36. Power to establish Rules:

His Majesty's Government may determine Rules pursuant to the objectives of this Act.

37. Exceptions:

1. Notwithstanding anything provided by prevailing law, matters shall be dealt with in accordance with the provisions of this Act as long as it so provides for.
2. The acts and proceedings dealt with in accordance with the Armed Police Ordinance, 2001, promulgated on 22 January 2001 shall be deemed to have been dealt with in accordance with this Act.

38. Results of the repeal of the Armed Police Ordinance, 2001:

Unless otherwise intended, the repeal of the Armed Police Ordinance, 2001 shall:

- a. not create anything which was not in existence at the time of the repeal of that Ordinance.
- b. not affect anything performed, on acts conducted or anything experienced in accordance with that Ordinance.
- c. not affect any right, privilege, duty or responsibility conferred in accordance with that Ordinance.
- d. not affect any penalty or punishment or requisition ordered in accordance with that Ordinance.
- e. not affect any proceedings or measures performed with regards to such rights, privileges, duty or penalty as aforementioned, and such legal proceedings or measures may be initiated, continued or commenced as if that Ordinance was in force.

Armed Police Force Regulation, 2060 (2003)

Date of Publication in Nepal Gazette
12.02.2060 (26.05.2003)

In the exercise of the authority provided under the section 36 of Armed Police act 2003, The Government of Nepal shall establish these rules.

Chapter -1 Preliminary

1. Short title and commencement:
 - (1) These rules may be called the Armed Police Force Rule, 2003.
 - (2) These rules come into force immediately.

2. Definitions: In this Act, unless the subject matter or context requires otherwise shall mean:
 - (a) "Act" means the Armed Police Force Rules, 2003.
 - (b) "Headquarters" means the headquarters of the Armed Police Force.
 - (c) "Armed Police personnel" means a Senior Head Constable, Head Constable, Assistant Constable, and the Armed Police personnel of the Armed Police Force.
 - (d) "Recruit" means appointed police personnel of the Armed Police Force who have been on a training course.
 - (e) "Promotion Committee" means a committee constituted under Rule 33 of this Regulation.
 - (f) "Family" means husband, wife, son, unmarried daughter, adopted son & daughter, father, mother or step mother living together with an Armed Police personnel as a dependent, and this term shall also refers, in case of male Armed Police personnel, a grand father and mother, and in case of female police personnel a mother or father-in-law.

Chapter - 2
Hierarchy and rank of the Armed Police

3. Hierarchy and rank of the Armed Police Force-

(1) The Armed Police service shall have the following hierarchy:

<u>Gazetted</u>	<u>Non-Gazetted</u>
Special class	First class
First class	Second class
Second class	Third class
Third class	Fourth class

(2) There shall be the following ranks within the hierarchy provided for in sub-Rule (1):

Gazetted

Special class:	Inspector General of Armed Police and an additional Inspector General of Armed Police
First class:	Sub-Inspector General of Armed Police and Senior Police Inspector of Armed Police.
Second class	Superintendent of the Armed Police Force and Sub-Superintendent of the Armed Police Force.
Third class	Armed Police Inspector

Non-Gazetted

First class:	Senior Sub-Inspector of Armed Police, Sub-Inspector of Armed Police
Second class:	Assistance Inspector of Armed Police
Third class:	Senior Constable of Armed Police, Head Constable and Assistant Constable of Armed Police
Fourth class:	Recruit and Armed Police personnel.

(3) There shall be various technical and non-hierarchical posts in the Armed Police Force.

4. The Office of the Armed Police Force:

- (1) The Head Office and the additional following offices of the Armed Police Force shall be exist in the state of Nepal:-
- (a) Regional Headquarters of the Armed Police Force;
 - (b) Training Academy of the Armed Police Force;
 - (c) Training College of the Armed Police Force;
 - (d) College of Technique for the Armed Police Force;
 - (e) Special Commando Force of Armed Police;
 - (f) Technical Directorate of the Armed Police Force;
 - (g) Battalion of the Armed Police Force;
 - (h) Training Centre of the Armed Police Force;
 - (i) Unit (*Gulm*) of the Armed Police Force; and
 - (j) Other offices of the Armed Police Force so designated from time to time by the Government of Nepal.
- (2) The Inspector General of the Armed Police Force (IGAP) at Headquarters, and the following police authorities as designated by the Government of Nepal shall be in-charge(head) at other offices of the Armed Police Force:

(a)	Training Academy of the Armed Police Force	Additional Inspector General of Armed Police Force / the Deputy-Inspector General of Armed Police
(b)	The Regional Headquarters of the Armed Police Force-	The Deputy-Inspector General of Armed Police
(c)	Training College of the Armed Police Force	The Senior Superintendent of Armed Police
(d)	College of Technique for the Armed Police Force	The Senior Superintendent of Armed Police
(e)	Special Commando Force of Armed Police	The Superintendents of Armed Police
(f)	Technical Directorate of the Armed Police Force	The Deputy-Inspector General of Armed Police / the Senior Superintendent of Armed Police
(g)	Battalion of the Armed Police Force	The Superintendents of Armed Police
(h)	Training Centre of the Armed Police Force	The Senior Superintendent of Armed Police / The Superintendents of Armed Police
(i)	Unit (<i>Gulm</i>) of the Armed	The Deputy Superintendent of Armed

	Police Force	Police
(j)	Other police authorities designated by the Government of Nepal in the Office of the Armed Police Force which is designated from time to time by the Government.	

Chapter - 3

Filling of vacant posts in the Armed Police

5. The filling of vacant posts in the Armed Police service:
 (1) The following post shall be filled in the following way:

	Post	Open competition (in percentage)	Promotion (in percentage)
(a)	Peon or similar post	100	-
(b)	Armed Police personnel	100	
(c)	Assistant Head constable of Armed Police	-	100
(d)	Head Constable of Armed Police	-	100
(e)	Senior Head Constable of Armed Police	-	100
(f)	Assistance Sub-Inspector of Armed Police	25	75
(g)	Sub-Inspector of Armed Police	-	100
(h)	Senior Sub-Inspector of Armed Police	-	100
(i)	Inspector of Armed Police	60	40
(j)	All posts above Inspector of the Armed Police Force	-	100

- (2) Notwithstanding anything contain in sub-Rule (1), the technical posts of the Armed Police shall be filled by open competition or promotion through a method determined by the Government of Nepal.
- (3) Notwithstanding anything provided for in other part of this Regulation, in order to make the Armed Police service inclusive, 45 percent of the posts shall be allocated out of the posts of open competition, the posts shall be filled by a separate competition from the following candidates only:
- | | | |
|-----|---------------------|-----|
| (a) | Woman | 20% |
| (b) | Indigenous/ Janjati | 32% |
| (c) | Madhesi | 28% |
| (d) | Dalit | 13% |
| (e) | A backwater area | 5% |

Clarification:

- (i) Woman, indigenous/ *Janajatis*, *Madhesi* and *Dalit* people stipulated under (a), (b), (c) and (d) of this sub-Rule shall mean those who are economically and socially deprived in their respective community.
- (ii) For the purpose of this sub-Rule, the term backwater shall refer to the geographical area of the Districts of Bajhang, Accham, Jajarkot, Jumla, Dolpa, Bajura, Mugu, and Humla.
- (4) For the purposes of filling a vacancy under sub-Rule (3), the detailed description of economically and socially impoverished woman, indigenous, *Janajatis*, *Madhesi* and *Dalit* people shall be, as stated by a Government of Nepal notice published in the Nepal Gazette.
Provided that until such prescription is made by the Government of Nepal, any woman, indigenous *Janjatis*, *Madhesi*, and *Dalit* shall be deemed to fall under a deprived community.
- (5) The following proof is required to accompany an application for a post allocated in accordance with sub-Rule (3):
- (a) Proof of indigenous/*Janajatis* status, a recommendation letter from the National Foundation for Development of Indigenous Nationalities is required;

- (b) Proof of *Dalit* community status, a recommendation letter from the National Dalit Commission is required;
 - (c) Proof of claiming *Madhesi* community status, a recommendation letter from the institution which is prescribed by the Government of Nepal publishing in Nepal Gazette is required; and
 - (d) For proof of origin from a “backward” district as laid down in sub-Rule - (3), citizenship as a permanent resident and a recommendation letter from the relevant Village Development Committee or Municipality containing the date of the application is required.
- (6) If, in determining a percentage in accordance with the sub-Rule 3, a fraction remains, such fraction shall be transferred to that community which immediately follows on the list.
- (7) If no application for the allocated post under sub-Rule 3- is lodged, or if the post is not sufficiently filled due to the lack of successful applicants, the remaining posts shall be filled by an open process in accordance with the sub-Rule (1) and (2).
6. Restriction on filling a vacant post:
- (1) No post of the Armed Police force shall be filled by means other than those set forth in this Regulation.
 - (2) Remuneration shall not be paid without approving a salary report, in the case of the Armed Police working at Headquarters or other offices in the valley from the Police Personnel Registration Office, as well as also those working in other offices for the Treasury and Account Control Office.
7. Employment post in the Armed Police service
8. Essential qualifications for the appointment to the Armed Police service:

Chapter - 4

The function, duties and authority of the Armed Police Service Commission

9. The process of examination to be taken by the Commission:
The Commission shall recourse to one or the more of the following processes of

Examination, in order to fill a vacant post in the Armed Police service:

- (a) Preliminary physical test;
- (b) Endurance and obstacle test;
- (c) Medical checks;
- (d) Practical test;
- (e) Written test;
- (f) Interview; and
- (g) other processes as specified by the Commission.

- 10. The matters concerning the exam curriculum:
- 11. A competition advertisement shall be published:
- 12. The cancellation of an examination or advertisement:
- 13. Examination fee:
- 14. Practical examination:
- 15. Selection:
- 16. Publication of the list of successful candidates:
- 17. Constitution of interview committee:
- 18. Nomination of experts:
- 19. Provisions in respect of remuneration:
- 20. Preparation of a merit list:
- 21. Character report:
- 22. Recommendation based on merit list:
- 23. Reviewing:
- 24. Maintaining confidentiality:
- 25. Taking an oath:
- 26. Personal profile form:
- 27. Probation period:
- 28. Maintaining seniority:
- 29. Annual report:

Chapter - 5

Transfer, posting & promotion

- 30. Authority to transfer and deploy in posting:
- 31. Provisions in respect of acting, officiating and on behalf of:
- 32. Authority to make a promotion:
- 33. Promotion Committee:
- 34. Service tenure required for promotion candidate:
- 35. Eligibility of candidacy promotion:
- 36. Criteria for promotion:

37. Work-Performance evaluation
38. Evaluation of seniority:
39. Evaluation of experience obtained in various fields:
40. Academic qualifications:
41. Training:
42. Commando evaluation:
43. Appointment of promoted person

Chapter - 6
Salary, allowances (daily and travel expenses)

- 44. Remuneration:
- 45. Remuneration entitlement:
- 46. Dashain festival allowance:
- 47. Daily and travel allowances:

Chapter - 8
Code of conduct

- 64. Punctuality and regularity:
 - (1) Armed Police shall be regularly on duty during the times specified by His Majesty's Government and shall not, as far as possible, be absent from duty without obtaining prior approval for leave.
 - (2) Armed Police shall not leave their [designated] area without receiving permission from an authorized officer.
- 65. Discipline and obedience:
 - (1) Armed Police shall act with discipline, and carry out their duties with honesty and diligence.
 - (2) Armed Police shall diligently abide by the orders issued by a superior officer in regard to duties.
 - (3) Armed Police shall pay due respect to all Armed Police superior to them.
- 66. No participation in politics: Armed Police shall not subscribe to membership of any political institution, participate in politics, give donations as aid to any political institution nor influence in any way, any political institution or movement.
- 67. No criticism against Government:
 - (1) No criticism shall be made by any Armed Police, nor shall any article be published in their real, pen name or anonymously, nor any information be imparted to any press, nor any speech be broadcast by radio, nor any public speech be delivered or be published which may affect the policies of His Majesty's Government or affect the mutual relations between His Majesty's Government and the people; or relations with any foreign nation.

- (2) Notwithstanding anything provided by subsection (1), an article shall not be prohibited from being broadcast or published which is not contrary to the policies of His Majesty's Government.
68. Prohibition on publishing news on governmental activities: No Armed Police shall, without the prior approval from His Majesty Government or without special authorization, disclose any confidential or legally restricted information obtained during the discharge of his official duties or any document or news prepared or collected by him, to any Armed Police who are not authorized thereto or any person who is not associated with the Government, or to any media. This prohibition shall also be applicable to any person who has been removed from governmental service.
69. Prohibition on accepting donations, gifts, presents and or loans:
- (1) No Armed Police nor his family members shall, without prior approval from His Majesty's Government, accept any type of gift, prize or present from anyone or ask for a loan or donation from anyone who is associated with a Government service.
- (2) If Armed Police are offered any gifts from a foreign Government or a representative of a foreign Government, he shall inform His Majesty's Government and shall act in accordance with a decision made.
70. Prohibition on the establishment, management and the conduct of a company/business:
- (1) No Armed Police shall be engaged in the following activities without prior approval from His Majesty's Government:
- (a) Establishment, registration or operation of a bank or company,
- (b) Conducting of any kind of business or profession that requires registration in accordance with prevailing law,
- (c) Accepting any kind of job elsewhere.
- (2) Notwithstanding anything provided by subsection (1), Armed Police may be engaged in activities relating to literature, science or humanitarian aid.
71. Prohibition on participating in an election: No Armed Police shall participate in an election organized for any political post or influence any person to vote for any individual.

However, the exercise of the right to vote in accordance with the prevailing law by participating in casting votes, and preparing to cast a vote without disclosure shall not be prejudiced.

72. Prohibition to be involved in a demonstration or strike: Armed Police shall not organize demonstrations nor participate in strikes which are likely to jeopardize the sovereignty and integrity of the Kingdom of Nepal, threaten peace and security, foreign relations and social dignity or which may be in contempt of court; nor shall he spread hostility among various castes, tribes, religions, races and communities or communal ill feelings or support any type of crime.
73. Prohibition on conducting a strike, obstructing the way or gherau (*Translator's note: "Gherau" is a type of sit-in strike where protesters stand around a person against whom they are protesting*): Armed Police shall not organize any strike or *pen-down* (*Translator's note: "Pen-down" is a type of strike in where employees refuse to write i.e. refuses to work while at the office*) likely to obstruct the discharge of duties prescribed by law, nor use pressure likely to be physically or mentally oppressive nor shall they provoke others with such objectives.
74. Prohibition on representation: Armed Police, except when filing an application in person or through an agent on a personal matter, shall not represent any individual or group.
75. Details of property:
 - (1) Armed Police who are transferred shall submit the details of their property before an official prescribed by His Majesty's Government within three months of his attendance, and a newly recruited Armed Police who attends office shall submit the details of his property within one month of his attendance as follows:-
 - (a) Details of every immovable property, shares, bank balance in his or his family's name,
 - (b) Money or estimated price of jewellery, gold, silver on his person or in his name.
 - (c) When submitting details of property in accordance with sub-Rule (1), Armed Police who come from an extended family shall submit the details of property in the name of the head of his family.

- (2) Armed Police have duty to inform an authorized person of any addition or reduction to his property within three months.
76. To abide by a code of conduct as prescribed for the service or post: Every Armed Police shall abide by the code of conduct as prescribed for his post or service.
77. Not to influence: Armed Police, with a motive to gain from personal interest in relation to his work, shall not use or attempt to exert a superior officer to any political, unwanted, external or unreasonable pressure.
78. No subscription of immovable property without prior notification: Without prior notification to His Majesty's Government, no Armed Police shall subscribe in his or his family name any immovable property except the residential plot required by him.
79. No contact with a radio station or newspaper: Armed Police shall not, without prior approval from His Majesty's Government, publish any article in any newspaper or broadcast it by radio in his real name, pen name and or anonymously.
Provided that if such publication or broadcasting concerns a literary, artistic, historical or scientific and professional matter, prior approval is not necessary.
80. Defence of functions performed by Armed Police: No Armed Police shall, without prior approval from His Majesty's Government, resort to the press or media in order to defend a false charge alleged by any individual against him in regards to the discharge of his duties.
Provided that this Rule shall not be deemed to prejudice the right to defend himself in regard to his personal affairs or moral character.
81. Prohibition on marriage: Armed Police shall not engage or force another person to engage in polygamy, a child marriage, and or incompatible marriage contrary to the Chapter on Marriage of the Civil Code.
82. No loss or damage: Armed Police shall not perform any act negligently or without discipline, nor commit reckless errors nor cause loss or damage to any governmental office.

Chapter- 9 Security of Service

83. Defence of Armed Police:
- (1) No case may be filed against any Armed Police with regard to the governmental acts performed in the course of discharging their duties as prescribed by the Armed Police Act and this Regulation and or other prevailing laws, save in accordance with the procedures specified by sub-Rule (2).
 - (2) In order to file a case (*Translator's note: The term ' case' means 'charge-sheet'*) against Armed Police in accordance with sub-Rule (1), approval from the authorized person shall be obtained if it is a criminal case, and the following action shall be taken if it is a civil case: (*Translator's note: Authorised person is defined by Section 2(h) of the APF Act, 2001 as the person who has the power to appoint in accordance with Section 13 of the Act. Section 13 provides that His Majesty's Government and other prescribed authorities as the authorised officer. The power of punishment is implied in the power of appointment*)
 - (a) Two months shall have passed from the date of a written notification being dispatched to the authorized person or relevant Armed Police which includes grounds to file a case, and the name and address of his representative (if relevant), or from the date it is registered at the post office and a copy thereof is submitted to His Majesty's Government.
 - (b) It shall be lodged within three months from the date of the cause of action.
 - (3) No suit shall be brought against Armed Police without permission from His Majesty's Government, with regard to the work performed in the course of the discharge of duties of his post, even after termination from office.
 - (4) If His Majesty's Government grants permission to file a case in accordance with sub-Rule (3), His Majesty's Government shall subsequently defend him.

Chapter-10
Penalty and appeal

84. Penalties: If there are reasonable and sufficient grounds, Armed Police may be subject to departmental actions as follows:

A) Simple penalties:

- (1) Penalty of fatigue or holding in confinement in a guardroom.
- (2) Warnings,
- (3) Freezing of salary increments not exceeding two years,
- (4) Demotion of rank and or time scale (*Translator's note: The term 'time scale' means 'salary scale', which is increased depending on the period of service*);
- (5) Deductions from his salary, either in full or part, for the loss suffered by His Majesty's Government caused by his negligence or defiance of a Rule or order.

B) Special penalties:

- (6) Removal from his post without prejudice to eligibility for a future governmental post,
- (7) Dismissal from a post and future disqualification from any governmental post.

85. Warnings and a detrimental opinion: In case an Armed Police officer is negligent in his duties, he may be subjected to a warning. If he continues to be negligent even after being subjected to two warnings, a detrimental opinion shall be appended to his personal performance report.

86. Freezing salary increments, promotions or demotions: An officer assigned for imposing penalties may freeze salary increments for two years or freeze promotions for up to five years or demote a rank or time scale of any Armed Police in the following situations:

- (a) If he violated discipline;
- (b) If he did not attend an office after transfer;
- (c) If he did not act satisfactorily;
- (d) If he is subjected to two warnings within the same year in accordance with this Rule;
- (e) If he violated the Code of Conduct;
- (f) If he relied on false reasons to resign from his post within five years of his posting;

- (g) If he fails to submit an official clearance in accordance with Rule no. 128;
- (h) If he defies or fails to implement directives and guidance issued by a superior authority;
- (i) If he takes leave without reasonable cause or remains absent without approval of leave or does not attend office;
- (j) If he fails to implement his post responsibilities as prescribed by the prevailing law.

87. Removing from service or dismissal:

- (1) Armed Police may be removed from a post without prejudice to eligibility for a future governmental position in the following situations:
 - (a) If he fails to perform his duties and responsibilities due to incapacity;
 - (b) If he shows negligence during his training and shows indifference or irresponsibility to his professional knowledge;
 - (c) If he deliberately violates discipline;
 - (d) If he drinks alcohol while in official uniform during office hours or before or after office hours;
 - (e) If he deliberately acts in violation of the Code of Conduct;
 - (f) If he participates in politics;
 - (g) If he remains absent for fifteen days without approval of his leave;
 - (h) If he deliberately ignores the responsibilities of his post.
- (2) Armed Police may be dismissed from a post and disqualified from any future governmental position in the following situations:
 - (a) If he is convicted of an offence prescribed by Section 27 of the Act;
 - (b) If he is convicted of a criminal offence which shows him to be morally destitute;
 - (c) If he is convicted of involvement in corruption.

88. Officer to impose departmental action and an appeal hearing authority: The power to order a penalty against Armed Police in accordance with Rule 84 and the power to hear an appeal against a penalty so ordered, shall be within the powers of the officer mentioned in Schedule-6.

89. Suspension:

- (1) If it is necessary to investigate an allegation in accordance with Rule 87 in relating to Armed Police, the officer assigned to order penalties may suspend him until the completion of an investigation. There will be no suspension unless any of the following situations exist:
 - (a) If he has committed an offence prescribed by Section 27 of the Act (*Translator's note: If an Armed Police is suspected (it does not mean convicted) of an offence provided under Section 27 of the Act, he shall be suspended for further investigation*);
 - (b) If there are possibilities that he may collect false evidence or destroy evidence against him if he is not suspended and allowed to work; or
 - (c) If there are possibilities that he may cause loss if he is not suspended and allowed to work.
- (2) Armed Police shall not be suspended for more than two months, if suspension is necessary. The action against him shall be finalized within the same period. If there is an extra-ordinary situation where action cannot be finalized and the period needs to be extended, the period of suspension may be extended, upon prior approval of the authorized person, for up to one month.
- (3) If Armed Police, except when suspended as the result of action taken in accordance with this Regulation, is arrested for an allegation regarding his personal activities and detained, he shall *ipso facto* be suspended for the period of his detention.
- (4) If it is necessary to suspend an Armed Police, the officer assigned to order penalties shall provide the relevant Armed Police with a letter of suspension and shall also provide him with a letter that gives him the opportunity to defend himself in accordance with sub-rule (2) of Rule 91.
- (5) An officer assigned to order penalties in accordance with Rule 88, may carry out a departmental investigation in accordance with sub-rule (2) of Rule 91 before requesting a defence from any Armed Police, and may prepare a report with an opinion.

90. Termination of suspension: Suspension shall be terminated if any Armed Police is reinstated to his post, removed or dismissed from service in accordance with Rule 87 or if the period of suspension expires in

accordance with sub-rule (2) of Rule 89, or he is released from detention in accordance with sub-rule (3) of the same Rule.

91. An opportunity to defend shall be provided:
- (1) The officer assigned to order departmental actions shall, except in the situations prescribed by Section 21, provide Armed Police the opportunity to defend himself, before ordering a penalty against him, mentioning the grounds for action against him, having prescribed a reasonable period for him to submit his defence. When providing such opportunity, he shall clearly cite the charge, as well as reasons and grounds for the charge. In such cases, the relevant Armed Police shall submit his defence within the indicated period. The relevant officer shall seriously consider the submitted defence.
 - (2) If the officer assigned to order departmental actions deems necessary, he may carry out an investigation himself or through another officer and prepare a report with an appending opinion.
92. Investigating officer procedures:
- (1) The investigating officer shall abide by the following procedures when exercising the power to order departmental actions:
 - (a) Exercise power equivalent to a court in regard to recording statements, ordering the production of written evidence and issuing summons to witnesses,
 - (b) Examining evidence in the presence of the accused Armed Police,
 - (c) Providing the accused Armed Police with the opportunity to cross-examine the witnesses and to produce evidence in his defence.
 - (2) After completion of the investigation carried out in accordance with sub-rule (1), the investigating officer shall present a report before an officer assigned to order penalties. He shall include the grounds for the penalty along with his opinion and shall attach evidence as found.
93. Departmental investigation is not required: The officer assigned to order penalties (*Translator's note: The Regulation includes "the officer assigned to order penalties" or "the officer assigned to order departmental action", however, both terms have the same meaning and are interchangeable*)

need not carry out a departmental investigation when ordering the following departmental action against Armed Police:

- (a) Ordering simple penalties in accordance with Rule 84(a),
- (b) If it is necessary to order departmental action against an Armed Police who is not found after desertion or if there is no way to establish contact with him.
- (c) If it is necessary to order departmental action against an Armed Police who is convicted for offences prescribed by Section 27 of the Act or who is convicted by a court for committing an offence of immoral character.

94. Penalties to be proposed before ordering special penalties: If the Armed Police fails to submit his defence within the period as specified by Rule 91 or the defence as submitted is insufficient, before ordering a special penalty, the officer who is assigned to order departmental actions shall ask the relevant Armed Police why the proposed penalty should not be ordered and give him a reasonable period to submit his clarification (*Translator's note: As used specifically in this Regulation, "defence" means the right to defend one's innocence as provided by rule 91 whereas "clarification" means right to defend against proposed penalty as provided by rule 94. Generally, clarification is a process to clarify oneself after being questioned, and defence includes a broader right to submit one's reply sheet, evidence, and arguments etc including specific clarification*).

95. Reasons to be mentioned as to why a defence is insufficient: The officer assigned to order departmental action, while asking for clarification from any relevant Armed Police in accordance with Rule 94, shall explain why the defence submitted in accordance with sub-rule (1) of Rule 91 is insufficient. The order for clarification shall include the justification for the proposed penalty and the outcome of a departmental investigation, if it has been carried out in accordance with sub-rule (2) of Rule 91 with regard to the Armed Police.

96. Penalty orders and procedures regarding duplication:
(1) When ordering departmental action against Armed Police, the officer assigned to order penalties shall consider whether the relevant Armed Police has been provided with a sufficient opportunity to submit a defence or clarification-in order to reasonably evaluate a defence, clarification and all available evidence, in making a reasoned decision. The officer assigned to order penalties shall make a decision with a clear opinion.

- (2) Notwithstanding anything provided in this Chapter, no penalty shall be imposed on Armed Police other than that which has already been imposed and for which he has been given an opportunity to provide a defence and clarification. If there is a reason to increase or reduce the penalty, the procedures provided by Rule 92 and 94 shall be followed.
- (3) The officer assigned to order penalties, while making a decision on ordering a penalty against any Armed Police in accordance with sub-rule (1), shall not issue a decision that is effective before the date of the decision. Provided that when issuing a decision in relation to a deserter, it shall be effective from the date of desertion.
- (4) The officer assigned to order penalties shall provide the relevant Armed Police with a copy of the penalty ordered in accordance with sub-rule (1).
- (5) If any Armed Police has been removed from service in accordance with sub-clause (2) of clause (b) of Rule 84, the officer assigned to order penalties shall impart the information along with his “*three step generation*” (*Translator's note: Three step generation means grandfather, father and son*) and identification to the Commission (*Translator's note: "Commission" means "Armed Police Service Commission"*) and the Police Personnel Record Office, and the relevant office shall record this.

97. Judgment shall not be prejudiced: Any minor errors that have no substantial impact on the judgment with regard to any Armed Police made by the authorized officer (*Translator's note: "authorised officer" means the penalty ordering authority or appeal hearing authority as provided for in Schedule 6 of the Regulation*) in accordance with this Regulation shall not prejudice the judgment.

98. Appeal:

- (1) Armed Police not satisfied with the penalty order imposed in accordance with this Chapter may lodge an appeal with the prescribed officer under Rule 88.
- (2) While filing an appeal in accordance with sub-rule (1) the following procedures shall be followed:
 - (a) Armed Police who appeal, shall do so in his own name and the appeal shall be drafted in appropriate and respectful language;

- (b) Armed Police who appeal shall attach evidence in defence as far as available and a copy of the order which an appeal is being lodged against;
 - (c) The appeal shall be addressed to the appeal hearing authority and should be lodged with that office;
 - (d) An appeal shall be lodged within thirty-five days of the order of penalty;
 - (e) The relevant appeal hearing office shall register the appeal received in accordance with clause (d) and shall provide a receipt thereof.
99. Hearing and decision on appeal:
- (1) If an appeal lodged by Armed Police against the order of a penalty, is not compatible with the procedures provided for by Rule 98, the appeal hearing authority may reject the appeal.
 - (2) The appeal hearing authority shall look into the following issues on appeals which are registered other than those which are rejected:
 - (a) Whether or not the grounds relied upon in the order of penalty were proved.
 - (b) Whether or not the grounds so proved are sufficient to impose a penalty.
 - (c) Whether the penalty as imposed is correct, sufficient, low or excessive.
 - (3) After consideration in accordance with sub-rule (2) the appeal hearing authority may issue a final order approving, disapproving or reducing the penalty imposed on the petitioner.
100. No penalty for works performed in good faith: An authorized officer or Armed Police shall not be liable for a penalty or fine for duties performed in good faith in accordance with the Act or this Regulation or other prevailing laws or for the dispatching of an order or warrant issued by a court.

Chapter - 11

Provisions in respect of leave

- 101. Armed Police personnel are deemed to be on duty at all time:
- 102. Casual and Festival Leave:
- 103. Home leave:
- 104. Sick leave:
- 105. Maternity leave:
- 106. Compassionate leave:

- 107. Compensated leave:
- 108. Education leave:
- 109. Procedure for obtaining leave:
- 110.

Chapter - 12
Provisions in respect of training

- 115. Arrangement of training:
- 116. Conducting examination:
- 117.

Chapter - 13
Provisions in respect of uniform

Chapter - 14
Miscellaneous

Police Act, 2012 (1955)

Date of Royal Seal and Publication: 2012.06.31 (...)

Consolidated text

Whereas it is expedient to reorganize the police force for the whole of the Kingdom of Nepal, and make it a capable instrument for preventing crime while maintaining law and order. Now therefore, his Majesty has established and promulgated this law.

Chapter 1 Preliminary

1. Short title, extent and commencement:
 - (1) This law may be called the Police Act, 1955.
 - (a) It shall be applicable throughout the Kingdom of Nepal.
 - (b) The provision of Chapters 1, 2, 3 and 6 shall come into force at once, and the provisions of other Chapters shall come into force in such areas of Nepal with effective dates prescribed by His Majesty's Government (HMG) by notification in the Nepal Gazette (*rajapatra*). (Chapters 4 and 5 have been brought into force for the entire Kingdom of Nepal through a notification issued on December 28, 1959).
2. Definitions:
 - (1) Unless otherwise meant with reference to the subject or context, in this Act,
 - (a) "Officers" mean police officers of sub-inspector or of higher rank.
 - (b) (Deleted on November 20, 1991).
 - (c) "Personnel" means police personnel other than officers.
 - (d) "Zonal-superintendent" means senior police superintendent, superintendents or deputy superintendents; including an inspector designated by his Majesty's Government for the purpose of performing any or all the functions of a zonal superintendent through a general or special order.

- (e) "Police" means a person appointed or recruited under this Act.
- (f) "Police employee" means the officers and subordinates to an inspector.
- (g) "Subordinate rank" means an inspector and or officer above this rank.
- (h) Prescribed or as prescribed means prescribed or in the manner prescribed in the rules established under this act.

Chapter 2

Formation, supervision and control of the police force

3. Formation of police force:

- (1) There shall be one or more police forces for the Kingdom of Nepal. The formation of the police force and the number of police employees shall be prescribed by HMG from time to time.
- (2) The salaries and other conditions of service for officers and personnel of the police force shall be as prescribed by his HMG from time to time.

4. Powers of His Majesty's Government:

- (1) The power to supervise, control and issue directives to the police force shall be vested in HMG, and it shall be the duty of every police employee to comply with the orders and directives of His Majesty's Government.

5. Inspector-general of police, etc:

- (1) The responsibility for police administration shall be vested in the inspector general of police, additional inspector general of police and the deputy inspector general of police, deemed appropriate by His Majesty's Government.

6. Zonal superintendent, etc:

- (1) A zonal police superintendent shall be responsible for police administration in his sector.
- (2) HMG may, by notification in the Nepal Gazette, appoint senior police superintendents or police superintendents, deputy police superintendents or police inspectors at district police stations, as required.

(3) (Deleted on November 20, 1991).

7. Certificate of appointment:

- (1) Every police employee of the rank of inspector or below shall obtain a certificate at the time of his reappointment in the form indicated in the Schedule. An employee, as selected by HMG, by means of a general or special order shall affix his signature to such certificate.
- (2) The certificate (of appointment) shall be invalid upon termination of service, and it shall be handed back to an employee designated to take receipt of it.
- (3) In case any police employee is suspended and consequently ceases to perform the functions or to enjoy the privileges pertaining to his office, the certificate of appointment issued to him under subsection (1) shall remain invalid during a period of suspension. Provided that, irrespective of such suspension, the control of his superior officers over him shall continue as if he had not been suspended and he shall remain under discipline as and shall remain accountable.

8. Control over the police:

- (1) District level police employees shall remain under the control and direction of the Chief District Officer (CDO) in all matters relating to the law, order and administration. Police employees shall have a duty to comply with an order or directive issued in connection with the CDO. Police employees have a duty to cooperate with the CDO, for the performance of functions under the latter's remit, as required by law.

Chapter 3

Control and discipline over the police force

9. Appointment, promotion, dismissal and other departmental discipline of police employees:

- (1) The appointment and promotion of gazetted police officers shall be made by HMG, and police employees of a subordinate rank shall be appointed by the inspector general of police, as well as by a deputy inspector general of police, in the prescribed manner.
- (2) Police employee shall remain at their post at the discretion of HMG.

- (3) HMG may dismiss, remove, demote in rank or salary, or otherwise discipline gazetted police officers. In cases of officers and personnel of subordinate ranks; the inspector general of police, an additional inspector general of police, the deputy inspector general of police and senior police superintendent general of police; may subject discipline in the prescribed manner.
- (4) In cases where any police employee of subordinate rank shows carelessness or negligence in the discharge of his duties or evades the discharge of any duty, thereby providing himself incapable of such duty, or commits a breach of discipline, or otherwise behaves improperly, the prescribed officer may dismiss him, remove him from the force, demote him in rank or, if he necessary, award the following disciplinary action in the prescribed manner:
 - (a) Impose a fine amounting up to one month's salary,
 - (b) Keep him in detention at police quarters for a period of fifteen days, subjecting him to parade, additional guard duty, as a punishment.
Provided that the punishment prescribed in this clause shall not be awarded to an officer.
 - (c) Remove him from important posts of responsibility or withhold payment of special salary and allowances.

10. Immunity from arbitrary dismissal etc:

- (1) In case any police employee is to be dismissed, removed from the force or demoted in rank or salary, he shall be given an opportunity to explain why he should not be punished, as well as a reasonable time limit for doing so, except in the following circumstances:
 - (a) In case he is sentenced to imprisonment after being convicted by a court for criminal offences involving moral turpitude.
 - (b) In case he is sentenced to imprisonment after being convinced of offences punishable under this Act.
 - (c) In case the punishing authority prepares a memorandum explaining the reasons why it is proper to provide an opportunity to the police employee to submit a defence.
- (2) Only officers empowered to appoint any police employee may dismiss, or remove another from the force, and or demote him in rank or salary.

10A. Power to prosecute not to be affected:

The power to prosecute under this Act or any other current Nepal law shall not be deemed to have been affected in any way merely by reason of departmental action initiated, under this Act.

11. Procedure of departmental action and punishment and appeal:

- (1) When ordering the dismissal of any police employee, or his demotion in rank or salary, the officer empowered to award departmental punishment under Section 9 shall prepare a memorandum explaining the basis of such an order, the charges, the findings of investigations conducted in respect thereto, the explanations offered by such a police employee, and any additional information, if obtained on the basis of such explanations and his own findings. In case no opportunity has been given to the police employee to defend his case, the officer shall, in such memorandum, attach it to the case file.
- (2) An appeal may be filed with the prescribed officer against any orders of departmental punishment awarded under Section 9. Provided that no appeal filed against the punishment awarded under clauses (b) of subsection (4) of Section 9 shall be entertained.

11A. Power to take departmental action and inflict punishment:

The power to take departmental action and inflict punishment according to this Act or the rules established hereunder, shall vest in the authority prescribed in the rules if applicable, and or by a committee formed by HMG as notified in the Nepal Gazette.

Chapter 4

Power and duties of police employees

12. Police employees to remain on constant duty:

For the purpose of this Act, every police employee shall be deemed to be on constant duty. He may be deputed at any time to any part of the country.

13. Powers of police employees:
No police employees shall experience superior power or authority than is vested in or delegated to him under this Act or any other exiting law.
14. Powers of senior employees:
The powers vested in any police employee under this Act or Rules established there under, may be exercised by police employees of senior ranks.
15. Duties of police employees:
- (1) The duties of every police employee shall be to:
 - (a) Obey orders issued by the empowered authority according to law, and promptly execute and serve warrants issued by such authority.
 - (b) Collect information regarding activities that are likely to affect law and order, and submit results to a higher authority.
 - (c) Prevent crime and protect people from unnecessary harassment.
 - (d) Seek out criminals and have them punished according to law.
 - (e) Apprehend persons who must be arrested according to law and adequate grounds.
 - (f) Discharge duties according to current Nepal law.
 - (g) Provide assistance to the best of his capacity to any person lying disabled or helpless on a road, and to take charge of the mentally ill and persons who are dangerously intoxicated.
 - (h) Take the immediate and necessary action in case an arrested or detained person sustains an injury or falls ill, and to take proper care while guarding or transporting him.
 - (i) Make the necessary arrangements for rations and accommodation for persons who are arrested or detained.
 - (j) Refrain from indulging in indecent behaviour and undue harassment (to any person) while conducting searches.
 - (k) Behave decently toward the public and to treat women and children with full respect.
 - (l) Make all possible efforts to prevent loss or damage by fire.
 - (m) Make every possible effort to save [citizens] from accidents or danger.

- (2) In order to fulfil any objectives mentioned in clause (a-e), any police officer of sub-inspector rank (as a minimum), may enter and inspect without a warrant any liquor-stall, hotel, lodge, or restaurant, selling or serving narcotics or liquor, as well as gambling dens, and any other place where miscreants generally assemble.
- (3) In case (any police officer) enters or inspects (a place) without a warrant under subsection (2), the officer must inform the Chief District Officer in writing as soon as possible, with reasons for carrying out the search.

16. Power of Chief District Officer to issue warrants:

Any police officer may submit reports to the Chief District Officer requesting the issue of a suitable warrant according to law, or of a search warrant, or summons or any other notice, or prescribe time-limits in the name of any person who has committed a crime, after sending such information (to the Chief District Officer) as obtained while discharging his duties. The Chief District Officer may issue such a warrant, summons or notice, or prescribe such time-limits, unless current Nepal law explicitly provides for any officer or authority empowered to do so. In case an explicit legal provision to this effect exists, the police officer shall submit a report directly to the appropriate officer or court.

17. Power of police employees to arrest without a warrant:

- (1) A police employee may arrest the following persons without a warrant in any public place:
 - (a) One who commits or attempts any crime that is punishable with a term of imprisonment of three or more years.
 - (b) A criminal declared to be absconding and therefore required to be arrested.
 - (c) A person who moves around in a suspicious manner during a curfew.
 - (d) A person who carries weapons at night without proper reason, or tools for burglary.
 - (e) A person who escape or attempts to escape from a place where he is being detained according to law.
 - (f) A person who is reasonably suspected to have absconded after deserting the Nepal Army or Police Force.

- (g) A person who is reasonably suspected to have committed any of the crimes mentioned Chapter VI of this Act.
 - (2) Any person arrested under subsection (1), shall be produced before a court as early as possible within twenty-four hours, excluding a reasonable period for travel time.
 - (3) In case any police employee witnesses any movable or immovable public property being damaged, he may prevent such damage by using his own initiative.

- 18. Traffic arrangements on public thoroughfares:
Police employees shall have the following duties:
 - (a) Regulate and control traffic on public thoroughfares, prevent obstructions to traffic and ensure compliance with this Act as well as rules established and the orders issued for observance by the public, according to existing law on public thoroughfares and adjoining areas.
 - (b) Maintain peace on public thoroughfares, in public baths, and places where clothes are washed, river-banks (*ghats*), airports, railway stations, ferries, temples, places of worship or surrounding areas at the time of worship, and other public places.
 - (c) Maintain law and order in public baths, places where clothes are washed, bathing places (*ghats*), airports and railway stations, prevent overcrowding at such places and on public ferries, and prevent violations of the rules framed and orders issued according to this Act and other current Nepal law at such places.

- 19. Arrangements for public meetings and processions:
 - (1) With the objective of ensuring that the process of holding meetings or carrying out processions on public paths, roads or thoroughfares do not cause inconvenience to the public or disturb the peace, the Chief District Officer, or an authorised police officer (authorized by the CDO) for this purpose, may prescribe places, roads, or times for holding such meetings or carrying out processions.
 - (2) If there is a meeting and or procession in contravention of subsection (1), the Chief District Officer, or an authorised police officer, (authorized by CDO for this purpose), may stop or disperse such meetings or processions.

20. Police to take charge of unclaimed property:
It shall be the duty of every police employee to take charge of any unclaimed property and to submit an inventory of such property to the Chief District Officer.
21. Chief District Officer may impound property and issue a notification:
- (1) The Chief District Officer may freeze property and issue a notification directing the claimant to appear with evidence within six months, giving particulars of such impounded property.
 - (2) A person who has a rightful claim to such property who is unidentified, (and whose property is liable to be damaged or to perish due to natural factors, an auction thereof may be the value of such property is below Rs 10 , such property may be auctioned at any time.
22. Property to accrue to His Majesty's Government in the absence of a claim
- (1) In case no claimant to such property appears within the prescribed time-limit of six months, and in case no auction or sale of the property has taken place under subsection (2) of Section 21, it shall be auctioned or sold according to the orders of the Chief District Officer.
 - (2) The proceeds of a sale or auction of property under subsection (1) and of the sale or auction of unclaimed property under subsection 21 shall be credited to the government treasury upon the expiry of six months.
- 22A. Unclaimed corpses:
In cases a corpse is unclaimed, the police shall take possession of the body and identify it. Once conclusive that a person died of a natural death, a note shall be prepared accordingly and the corpse shall be handed over to a relative for the purpose of performing final rites. In case no relative is traced, or in cases of refusal, the police shall hand it over to the Institute of Medicine, for the purpose of research. In case no such institutes is established at that place, or in case it does not require the corpse, the police shall have it cremated through a local VDC or Municipality or a social organization.
Provided that the corpse is a result of an accident, or suicide, or any other suspicious circumstances, the body shall be handed over to such Institute, or cremated, only after completing investigations, including an autopsy, according to current law.

23. Duty of police to maintain diaries:
- (1) It shall be the duty of an empowered police employee at every police station to maintain a diary according to the form prescribed by His Majesty's Government and indicate therein all complaints and charges, the names of arrested persons, the names of complainants, offences for which a person is arrested, the arms or property recovered from them or from other sources, as well as the names of the witnesses summoned.
 - (2) A Chief District Officer may procure a diary and peruse it.
24. (Deleted on October 21, 1974).
25. (Deleted on November 20, 1991)
26. (Deleted on November 20, 1991)

Chapter 5

Special arrangements for maintaining public peace and security

27. Police reinforcement on application by any person:
- (1) In the event of an application by any person, the District Superintendent may depute additional police employees for the purpose of maintaining law and order or enforcing the provisions of this Act or other laws in respect to specific crimes, or for the purpose of discharging other police duties in any place or area.
 - (2) The applicant shall bear the expenses for such additional policing, provided that such additional police employees shall act under the orders of the District Superintendent, and remain on duty for a period as deemed necessary.
 - (3)
28. Dispatch of police reinforcements in a neighbourhood with railway or other installations:
- (1) In cases where His Majesty's Government is satisfied that the conduct or possible conduct of persons posted in or moving by or around any airport, railway line, canal or any other public utility, factory, commercial establishment, entertainment and transport facility, which is in the process of construction or operation, necessitates the deployment of police reinforcements, it may

dispatch additional policemen in numbers as it deems appropriate, to remain on duty at such places for as long as necessary.

- (2) In case police reinforcements are dispatched under subsection (1), His Majesty's Government may direct the expenses involved for deployment to be realized from the utility, service, factory or installation to which the police reinforcements are dispatched, and such expenses shall be borne by such service, factory or installation.
- (3) His Majesty's Government may delegate the powers vested in it under this section to the inspector-general of police, additional inspector general of police and the deputy inspector-general of Police, the Chief District Officer or the Zonal Superintendent, by notification in the Nepal Gazette.

29. Additional police reinforcement to be dispatched in the event of a threat to public order:

- (1) In cases of public order disturbances in any area, or in case His Majesty's Government requires to depute additional policing by reason of the conduct of citizens or a group of inhabitants thereof, His Majesty's Government may, by official notification in the Nepal Gazette, prescribe as follows:
 - (a) The place where the additional policing is to be posted, and
 - (b) The period for which additional police employees are to be posted.
- (2) The decision made by His Majesty's Government under subsection (1) shall be final.
- (3) Subject to subsection (5) of this section, the expenses for such additional police employees shall be borne in by the inhabitants of the area specified in the notification.
- (4) Person who are liable to pay expenses under subsection (5) other than those who are not required to and amounts payable by them shall be as determined by the Chief District Officer, after an enquiry. The Chief District Officer shall duly take the status of the inhabitants into consideration.
- (5) His Majesty's Government may, by notification in the Nepal Gazette, grant an exemption from payment of expenses for any group of inhabitants thereof.

Explanation- For the purpose of this section, the term '*inhabitants*' include those persons, who, although not residing in an area,

possess, and or utilize land or immovable property either personally or through their agents or servants, or the landowners who collect rents or cultivate lands personally or through agents, servants or tenants.

30. Compensation for loss or damage suffered as a result of improper conduct by inhabitants:

- (1) In case any person residing in an area notified under Section 29 dies or sustains serious injuries, loss or damage to his property by reason of improper action by inhabitants or a group of persons residing in the same area, he may submit an application to the Chief District Officer, complaining against such loss or damage, claiming compensation, within a month or within a shorter period as prescribed from the date of such damage or loss sustained.
- (2) The Chief District Officer may, with the approval of His Majesty's government, institute the necessary enquiry in an area notified under Section 29, irrespective of whether additional police employees have been posted therein, and take action as follows:
 - (a) Publish the name of persons who have suffered injury or damage by reason of improper conduct,
 - (b) Determine the amount compensation payable to injured parties, and the methods for allotment.
 - (c) Determine the compensation to be paid by specified persons from the inhabitants of an area, other than those who are not liable to pay for damages under subsection (3) of this Section.

Provided that, the Chief District Officer shall not publish (names) and determine the amount of compensation under this subsection, unless he is satisfied that the loss or damage as mentioned above, resulted from disturbances or unlawful assembly in such area, and that the person who sustained injury is not responsible for such incidents.

- (3) Upon issuance of order, Government of Nepal may exempt any person, section or class from among such inhabitants from payment of a part of such compensation.
- (4) The names of persons published, the amount of compensation agreed, or an order issued by the Chief District Officer under subsection (2) , may be reviewed by His Majesty's Government or an authorised (designated by HMG) authority. In other

circumstances, the decision of the Chief District Officer in this regard shall be final.

- (5) No civil law suit shall be filed with respect to losses for which compensation is already paid under this section.

Explanation: The term '*inhabitants*' in this section means the same as that indicated in the preceding section.

31. (Deleted on November 20, 1991)

32. Realization of amount payable to forgoing provisions:

- (1) A Chief District Officer shall realize the amount payable under the provisions of this Chapter in accordance with the existing law relating to collection of fines.
- (2) The entire amount paid or realized under subsection (3) shall be paid to the entitled person.

Chapter 6 Crimes and penalties

33. (Deleted on September 6, 1978)

33A. Serious crimes:

- (1) A police employee shall be imprisonment for life or for a term not exceeding fourteen years, or punished with a fine not exceeding the total amount of three years' salary, or both, if he commits any of the following offences:-
- (a) If he engages in, or instigates an armed rebellion in the police force, or participates in such rebellion, foments excitement, conspires, or attempts to do so with the intent of engaging in or instigating a rebellion,
- (b) If he makes no effort to forestall a rebellion as far as possible when he is present at a site thereof, or distracts, or attempts to distract any person from his patriotism, loyalty to the Crown or his duties, at such time,
- (c) In case he fails to immediately send reports or information to his senior officers in bad faith, even though he is aware or has reason to believe that an intention, conspiracy or attempt to a mutiny exists,

- (d) (Deleted on November 20, 1991)
- (e) If he assists attackers by surrendering a police station, post, patrol etc, arms, ammunition and other governmental property and documents in his possession or under his custody.
- (f) In case he wilfully spreads panic or sends a false alarm to other police force personnel or the public, with the intent to demoralize or terrorize them at a time of attack, confrontation or when an attack is imminent.

33B. Other serious crimes:

A police employee shall be sentenced to imprisonment for ten years, or to a fine not exceeding two years salary, if he commits any of the following offences:

- (g) If he takes or instigates any action by way of written or spoken words, images and symbols of otherwise in such a manner as to foment hatred, malice or contempt towards His Majesty's Government, or to prejudice the acts of his Majesty's Government, or the sovereignty, or territorial integrity and identity of the Kingdom of Nepal,
- (h) In case he indulges in or prepares to indulge in depredation within the territory of any nation friendly to His Majesty's Government, or extends any support or information to any person doing so, or contacts such person with the intention of doing so,
- (i) In case he flees in a cowardly manner when confronted by dacoits (robbers), smugglers, miscreants or hooligans, following a raid on a station, post, guard-post, patrol, team or any other installation or office to which he has been assigned, or which he is in charge of, or is required to defend, or when he apprehends such confrontation,
- (j) In case he sells arms and ammunition belonging to the government or to a person under his custody,
- (k) In case he leaves his station, post, guard-post, patrol, picket, team, installation, or office for the purpose of looting.
- (l) In case he uses, threatens or attempts criminal force against any employee, knowing or having reason to believe that such employee is of a higher rank, irrespective of whether or not the latter is on duty.

- (m) In case he fails to promptly surrender a letter of appointment, arms, ammunition, equipment, tools, materials, cases, any government property, or belonging to any other person, which were under his custody while in office, or to submit satisfactory particulars thereof, on receipt of orders from a superior officer, on termination of his service.
- (n) In case he burgles a house or any other place with the intent to loot, or loots property in any manner causing loss or damage thereto.
- (o) In case he displays cowardice while discharging his duties.

34. Further crimes:

A police employee shall be sentenced to imprisonment for a term not exceeding five years, or to a fine not exceeding the total of one year's salary, if he commits any of the following offences:

- (a) In case he wilfully or carelessly damages, destroys, loses, or misuses equipment, tools, materials, belts, uniforms, medals, insignias, cash, stores, vehicles, fuel etc. belonging to the government or to any other person which were in his charge, or takes or hands over the same for his personal use or for the use of others,
- (b) If he assaults, insults, or criminally uses force against any person bringing in rations and other essential supplies to camp, or uses force against him at any place.
- (c) In case he disobeys orders lawfully issued by a superior police officer,
- (d) In case he deserts the police force,
- (e) In case he falls asleep at the place where he is posted as a sentry, or leaves it before the routine change of guard,
- (f) In case he deserts his guard-post, picket, team or patrol before the routine change of guard without permission,
- (g) In case he resigns or ceases to discharge the duties of his post without the permission of the officer empowered to appoint him,
- (h) In case he beats up a sentry, or uses force against him, or attempts to do so,
- (i) In case he refuses to accept a prisoner or any other individual duly handed over to him while in command of a guard-post, picket or patrol, or in case he releases a

prisoner or individual under his custody without duly obtaining authority to do so, or carelessly lets a prisoner or individual escape,

- (j) In case he leaves a place of arrest or detention before (the detainee) has been released by the person in charge,
- (k) In case he feigns sickness or physical weakness,
- (l) In case he wilfully submits a false statement or report regarding the number or condition of persons under his command or custody, or of money, arms, ammunition, outfits, equipment or other materials belonging to such persons or to His Majesty's Government, policemen, or any other person joining the police force; or wilfully fails, refuses or negligently prepares to send a statement or report in bad faith,
- (m) In case he participates in, addresses, raises slogans, or delivers speeches at a meeting, procession, or demonstration organized with a political motive,
- (n) In case he unjustly harasses and arrogantly intimidates another person causing loss or damage to their property.

34A. (Deleted on September 6, 1978)

35. Right to file a suit under other laws- not prejudiced:

No provision of this Act shall be deemed to have prejudiced the right to file legal action under other laws against any person committing any offence punishable under this Act, or have such persons punished under other laws or make them liable to penalties in addition to those prescribed in this Act, or to higher penalties. However, no person shall be punished twice for the same offence. [no double jeopardy]

36. Establishment of Special Police Courts

- (1) For the purpose of hearing cases relating to offences punishable under this Chapter, a Special Police Courts shall be established, at the following levels in relation to police employees of the ranks mentioned below:
 - (a) In relation to police employees of ranks ranging from a policemen to an assistant police sub-inspector → District Special Police Court
 - (b) In relation to police employees of ranks ranging from a deputy police sub-inspector to a deputy police superintendent → Regional Special Police Court

- (c) In relation to police officers of ranks ranging from police superintendent and above → Central Special Police Court
- (2) HMG Home Affairs Ministry shall establish District, Regional and Central Special Police Courts, as per subsection (1), as required. Each court shall have three members, including a police officer, under the chairmanship of an officer of the Judicial Service. In case a person who is being subjected to action is a police officer, the Special Court shall not contain an officer below the rank of the accused.

36A. Power to constitute a Separate Special Police Court:

Notwithstanding anything contained in Section 36, in case a deputy police superintendent or officer of a higher rank and police employee of a lower rank commit any offence punishable under this Chapter in an organized manner, His Majesty's Government may, by notification in the Nepal Gazette, will constitute a Separate Special Police Court, with original jurisdiction to hear cases made against the aforementioned personnel.

36B. Appeal:

- (1) A person aggrieved over a decision made by a Special Police Court under Section 36 for cases relating to offences punishable under this Chapter may file an appeal with a Special Police Court (of a higher jurisdiction), within thirty-five days.
- (2) An appeal may be filled with His Majesty's Government against a decision made by the Central Special Police Court as per subsection (2) of Section 36 or by the Special Police Court set up under Section 36A.

36C. Procedure of the Special Police Court:

- (1) A Special Police Court established under this Act, shall self determine working procedures.
- (2) Cases shall be filed within one year after the committal of an offence punishable under this Chapter.

37. Police employee immunity for acts committed in good faith while discharging duty

- (1) The Chief District Officer or any police employee shall not be liable for any penalty or payment of compensation for action taken in

good faith while discharging his duties under this Act, other existing law, and or orders/ warrants issued by the courts.

38. Time-limit for filing suits:

No suit shall be filed against a Zonal Commissioner or any police employee in respect to any action taken by him under this Act or the Rules or Regulations established hereunder or if an action is taken in the belief and good faith it is being performed under powers conferred by this Act or Regulations, unless:

- (a) A month elapses and the submission or dispatch by registered post of a written notice to the Chief District Officer or the police employee, explaining the reasons for filing a suit and enclosing the name and address of the defendant and his attorney, if any, copying such notice to His Majesty's government.
- (2) The suit is filed within eight months from the cause date.

39. Power to establish and issue orders:

- (1) His Majesty's government may establish rules for implementing the objectives of this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1), His Majesty's Government may establish rules to provide for the following matters:
 - (a) Formation and classification of the police force,
 - (b) Inspection of the police force,
 - (c) Determining the categories and number of arms, uniform and other necessary equipment to be provided to the police force,
 - (d) Prescribing the location of camps for officers and personnel of the police force,
 - (e) The establishment, management, and administration of the police force, in connection with its role as an instrument for preventing and investigating crime as well as maintaining law and order,
 - (f) Allocation, deployment, activities and location of the police force,
 - (g) Specification of the duties of police employees of all ranks and grades, as well as the methods and conditions for exercising their powers and fulfilling their duties,

- (h) Arrangement for the police to detect (unlawful activities) and collect information (on such activities) and to report them (to the appropriate authority),
 - (i) Arrangement for making the police generally competent, and keeping in check the abuse and negligence of police duties,
- (3) Subject to the rules and orders issued by HMG, the Inspector General of Police may issue an order in connection with matters established in subsection (2)

Schedule

Form

...has been appointed as an employee of the police force under the 1955 Act, and shall be entitled to the powers, duties and facilities pertaining to a police employee.

Police Regulation 2049 (1992)

(Including 12th amendment Regulation, 2008)
Date of Publication in Nepal Gazette: 21.12.1992

Government of Nepal has enacted the following Regulations in exercising
Section 39 of the Police Act, 2012 (1955 A.D.)

Chapter-1 **Preliminary**

1. Short name and commencement:

- (1) The name of this Regulation may be called as "Police Regulation, 1992".
- (2) This Regulation shall come into force immediately.

2. Definition: Unless the context and situation otherwise requires, in this Regulation,

- (a) " Act" means the Police Act, 1992.
- (b) "Executive-Director" means Chief of the National Police Academy for Training,
 - (b1) "Police Commissioner" means Chief of the Metropolitan -City Police Office,
 - (b2) "Police Co-Commissioner" means Head of the Metropolitan-City Police Complex,
 - (b3) "Director of Instructor" mean Head of the Metropolitan Police School and Head of the Regional Police Training Centre,
- (c) " Recruit" means the new police constable during training period,
- (d) "Family" means spouse, minors, unmarried daughter and dependences including own parents or step- mothers of the incumbent police personnel,
- (e) "Police peon" means the attendants including horse shepherd.

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Constitution of Police Force and Classification

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- (d) Riot Control Police
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10. Recruiting authority:
11. Procedure of Recruitment:
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Transfer and Promotion

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23. Promotion Committee:
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27. Promotion to positions of Inspector General of Police and Additional Inspector of Police:
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- 32A. Duty and responsibility of Chief of Metropolitan-City Police Office:
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- 34. Duty and Responsibility of Chief of Riot Police Unit:
- 35. Duty and Responsibility of Chief of District Police Office:
- 35. Duty and Responsibility of Chief of Metropolitan -City Police Complex:
- 36. Duty and responsibility of chief of Municipality Police Office:
- 36A. Duty and responsibility of In Charge of Metropolitan –City Police Circle:
- 36B. Duty and responsibility of In Charge of Metropolitan-City Police Branch Office:
- 37. Duty and responsibility of In Charge of Area or Ward Police Office:
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- 41. Prior reporting/ notice before leaving the district:
- 42. Obeying orders or directives of Chief District Officer:
- 43. Chief District Officer may recommend or send report-opinion to:
- 44. Inspection of Police Offices by Chief District Officer:
- 45. Reporting and receiving prior directives from (C.D.O.):
- 46. Proceedings from Chief of the Office:
- 47. Taking advice from (C.D.O.) in sending- reports upon Code of Conduct:
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In Nepal, security guard services have been professionally provided in the private sector. Ex-army or police personnel both collectively and individually have invested in this sector. For the purpose of providing security guards, some have formed private limited companies under the Company Act, 2063 and others have set forth in the form of a service oriented as an industry under cottage and micro industries pursuant to the *Development Committee Act, 2013*. These institutions must obtain permission in respect of management and operation from the Regional Administrative Office. While submitting an application for permission, experiences in the field of private security obtained by the board of directors should be produced therewith. After receiving an application, a permission letter shall be issued by the Regional Police Office, after obtaining a police report on each member of the board. A police report is mandatory for work and management undertaken in respect to private security guard work. Though no specific laws have been adopted in this regard, the departmental circular and policy directives of the Government of Nepal have regulated this profession.

Instruments Governing the Recruitment of Gurkhas in the British and Indian Army

1. Tripartite agreement after partition to retain Gurkha services in the British and Indian Army – 1947

Memorandum of Agreement

Article – I

At a meeting held at Kathmandu on 1st May, 1947, between representatives of His Majesty's Government of the United Kingdom, the Government of India and the Government of Nepal, His Highness the Prime Minister and Supreme Commander-in-Chief of Nepal stated that he would welcome the proposals to maintain the *Gurkha* connection with the armies of the United Kingdom and India on the following basis, if the terms and conditions at the final stage do not prove detrimental to the interest and dignity of the Nepalese Government, my Government will be happy to maintain connections with both armies, provided men of the *Gurkha* Regiments are willing to serve (and if they will not be looked upon as distinctly mercenary) .

Article – II

Discussions have taken place in Delhi between representatives of His Majesty's Government of the United Kingdom and of the Government of the Dominion of India and the points of agreement are embodied in the Memorandum dated 7th November 1947, a copy of which forms Annexure 1 of this document. Necessary financial adjustments between the two governments are still under consideration.

Article – III

Further discussions between the representatives of the three Government have taken place at Kathmandu during which the Government of Nepal have put forward certain pertinent observations, on the memorandum of agreement referred to in the preceding paragraph which are set out in Annexure 2. In regard to these points, the representatives of this Majesty's Government of the United Kingdom and of the Government of the Dominion of India have replied as follows:-

Location of Recruiting Depots:-

The use of the existing depots at Gorakhpur and Ghum has been sought by His Majesty's Government of the United Kingdom for a temporary period, pending the establishment of depots in Nepal. The wishes of the Government of Nepal have been noted and arrangements for the establishment in India of the Recruitment Depots

required to meet the needs of the *Gurkha* units of the British Army will be settled between the United Kingdom and Indian Governments.

The desire of the Government of Nepal that the total number of *Gurkha* units to be employed in the Armies of the United Kingdom and of India shall be limited and brought down to the peace-time strength of 20 battalions out of which 8 battalions will be allowed to the British Army.

The representatives of His Majesty's Government of the United Kingdom and of the Government of Dominion of India have taken note of the wishes of the Government of Nepal.

The representative of His Majesty's Government of the United Kingdom has explained that the long term planning of the British post-war Army has proceeded on the assumption that the Government of Nepal would be prepared to furnish sufficient men to establish the equivalent of an infantry Division in South East Asia and he has received as assurance from the Government of Nepal that a final succession on the question of recruitment of *Gurkha* in excess of 8 battalions at peace-time strength shall be left open until His Majesty's Government of the United Kingdom has had an opportunity of considering the views of the Government of Nepal.

As regards the reduction of the *Gurkha* units in the Indian Army, the Government of Nepal have informed the representative of the Government of the Dominion of India that the reduction should not be carried out immediately in view of the existing political situation in India.

Arrangements for the import of foreign currency belonging to the *Gurkha* units of the 8 battalions serving overseas.

It is noted that the Government of the Dominion of India has agreed to afford all normal facilities in regard to the import of foreign currency belonging to these men (Annexure 1 item 10). A reply to the specific point raised in this connection will be sent to the Government of Nepal in due course.

Article –IV

The Government of Nepal being generally satisfied in regard to the terms and conditions of employment of *Gurkha* troops and taking note of the agreement dated 7th November 1947 reached between His Majesty's Government of the United Kingdom and of the Government of Dominion of India hereby signed by their agreement to the employment of *Gurkha* troops in the armies of the United Kingdom and of India.

Article – V

In addition to the observations referred to above, the Government of Nepal have put forward certain suggestions connected with the employment of *Gurkha* in the armies of the United Kingdom and of India. These suggestions are contained in Annexure 3

of the document and the views of the two Governments thereon will be communicated to the Government of Nepal in due course.

Article – VI

Note has been taken of the desire of His Majesty's Government of the United Kingdom that prompt action be taken to ascertain the wishes of the personnel of the 8 *Gurkha* battalions concerned as whether they desire to be transferred for service under the United Kingdom Government. With this object in view, the representatives of His Majesty's Government of the United Kingdom have prepared a questionnaire and Memorandum embodying terms and conditions of service. These documents are acceptable to the Governments of India and Nepal. They will be issued to the personnel of the 8 units concerned as soon as possible. In accordance with the wishes of the Government of Nepal as well as those of the Government of India it is agreed that their representatives will be present with the 8 units while the referendum is being taken.

Article -VII

The representatives of the three Governments desire to place on record that their deliberations have been conducted in an atmosphere of cordiality and goodwill and are confident that the friendly relations which have existed in the past will be further cemented as a result of the arrangements which have been agreed for the continued employment of *Gurkha* soldiers in the armies of the United Kingdom and of India.

Article- VIII

Signed in triplicate at Kathmandu this 9th day of November 1947.

ACB Symon (sgd.)
(for the Government of the United Kingdom)

Kanwar Dayasingh Bedi (Lt-Col.)
(for the Government of the Dominion of India)

Padma Shumsher JBR (sgd.)
(for the Government of Nepal)

2. Memorandum of Government of the Dominion of India and His Majesty's Government in the United Kingdom

(Bilateral Agreement to Retain Gurkha Services in their Respective Army)

That all volunteers from regular battalions of each of the Second, Sixth, Seventh and Tenth *Gurkha* Rifles, together with personnel of their regimental centres, shall be transferred to His Majesty's British Army, subjects to the negotiation of terms and conditions with the Government of Nepal.

That the personal arms and equipment of those units if required by HM Government will be issued on payment, and removed overseas with the units.

That HM Government may for the present continue to use the existing recruiting depots at Gorakhpur and Ghum and that the British and *Gurkha* military personnel serving in them may wear uniform.

That the plans of HM Government for recruiting in Nepal up to a possible strength of a Division (approximately 25,000 men) shall not in any way interfere with the recruitment to the *Gurkha* units in the India army.

That *Gurkha* officers, recruits, soldiers ex-soldiers and pensioners of *Gurkha* units serving HM Government, and their dependants shall be permitted to travel freely between Nepal and an Indian port on lawful occasions, provided mufti worn in transit through India, the stipulation regarding dress shall not apply to the four regiments named 2nd GR (the sir moor rifles) 6th GR, 7th GR, 10th GR.

That the normal road and rail transport facilities in India shall be available, at public rates prevailing from time to time to all British officers serving with *Gurkhas*, officers and their families and the necessary maintenance stores and baggage of such personnel in the service of HM Government and that such staging facilities as may be required shall be provided at the expense of HM Government.

That India's postal, money order and telegraphic services to and from Nepal shall be available to HM Government at normal rates prescribed from time to time.

That the Government of India shall annually make available to HM Government for the use of *Gurkha* Soldiers.

The following quantities of foodstuffs:

Flour	2,200 tons
Ghee	750 tons
Lentils (Dhal)	1,200 tons
Condiment powders (spices)	150 tons

Provided HM Government arranges to supply the Government of India with 2,200 tons of wheat in replacement of the flour supplied to them.

That the Government of India shall make available to HM purposes connected with their employment of *Gurkha* soldiers, provided that the sterling equivalent thereof shall be credited to the Government of India sterling account.

That *Gurkha* officers, soldiers, ex-soldiers, pensioners and their dependants shall have the right to send or take, Indian currency back to Nepal subject only to such Indian currency regulations of general application as may be in force from time to time, foreign currency imported into India shall be subject to the general India currency regulation obtaining from time to time.

That the basic rates of pay admissible to *Gurkha* officers and soldiers serving HM Government shall approximate to those laid down in the present Indian Pay Code, at which rates for personnel serving at the recruiting depots in Gorakhpur and Ghum shall be paid, and that a special allowance to compensate for permanent service overseas and the high cost of living shall in addition be admissible to *Gurkha* officers and soldiers serving HM Government overseas.

After the 8 battalions have been asked to opt for service under HM Government, the Government of India will try to make up the deficiency caused by those who do not wish to serve with HM Government, by asking other soldiers who have completed their existing engagement and those who do not wish to continue to serve in the Indian army units. If the required number cannot be made good, HM Government will make up the deficiency by direct recruitment.

For His Majesty's

Government in the UK

(ACB Symon)

For the Government of the Dominion of India

(Lt.Col. Kanwar Dayasingh Bed)

Kathmandu, 7 November , 1947

3. The Rana Government's Reaction to Points of Agreement between the Government of India and HM Government of the United Kingdom to retain Gurkha Troops.

(para.3): It appears that the arrangement of having recruiting Depots at Gorakhur and Ghum for the British *Gurkha* Regiments has, as an after-thought, been made of a temporary character that Nepal Government feels would definitely be more convenient to all three parties, if recruiting is carried out for both Indian and British armies at the present depots or any other place in India.

(Para-4) : In view of our long-standing friendship the Government of Nepal had agreed to raise the strength of the *Gurkha* Regiments during the period of the last war. But she feels that the continuation of this emergency measure will be too much of a drain on the manpower of the country. So she desires that the total be limited and brought down to peacetime strength of 20 battalions to be divided between the Indian and British Armies, as already arranged.

(Para. 9) : The Nepal Government desires that foreign currency brought by the personnel of the *Gurkha* Regiments serving abroad be credited in to the Nepal Government account in any bank (to be settled afterwards), the Government of Nepal providing Indian currency thereof at the prevailing market rate.

Local Administration Act, 2028 (1971)

Date of Royal Seal and Publication:
2028.04.20 (05.08.1971)

Amendment Acts

1. Judicial Administration Act, 1974: 02/08/1974
2. Black Market (Racketeering) and other Social Offences and Penalty Act, 1975: 05/09/1975
3. Local Administration (First Amendment) Act, 1976: 05/09/1976
4. Local Administration (Second Amendment) Act, 1980: 18/09/1980
5. Freedom of Speech and Publication Act, 1980: 13/08/1980
6. Some Nepal Acts (Amendment) Act, 1984: 12/11/1984
7. Judicial Administration Reformation (Fourth Amendment) Act 1986: 10/11/1986
8. Some Nepal Acts (Amendment) Act, 1986: 10/11/1986
9. Judicial Administration Act, 1991: 30/05/1991
10. Local Administration (Third Amendment) Act, 1991: 04/06/1991
Act No. 2 of the year 1971

An Act designed to provide for the amendment and unification of Acts relating to local administration

Preamble: Whereas it is expedient to amend and consolidate laws related to local administration to make them consistent with a decentralized administrative system to maintain peace and order, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev upon the advice and consent of the *Rastriya Panchayat*.

Chapter-1 **Preliminary**

1. Short title extent and commencement:
 - (1) This Act shall be called "Local Administration Act, 1971".
 - (2) This Act shall be applicable throughout the country.
 - (3) This Act shall come into force immediately.

2. Definition: In this Act, unless the subject or context otherwise requires
- (a) (Repealed)
 - (a1) "Regional Administrator" shall mean the Regional Administrator appointed in accordance with subsection (2) of Section 4A.
 - (b) "Chief District Officer" shall mean the Chief District Officer appointed by His Majesty's Government.
 - (c) "Meeting" shall mean the assembly of 25 or more persons in an organized or unorganized form in a public place with the intention to address particular objectives.

Chapter-2

Division of development region, zones and districts

3. Division of zones and districts:
- (1) For the purpose of administration, the Kingdom of Nepal has been divided into zones and districts as prescribed in Schedule-1.
 - (2) Boundaries and headquarters of every zone and district shall be as prescribed by His Majesty's government by notification in the Nepal Gazette.
 - (3) The zones, districts, their boundaries and headquarters as established heretofore shall be maintained unless His Majesty's Government provides otherwise upon publishing a notification in the Nepal Gazette.

Chapter-3

Regional District administration

4. (Repealed)
- 4A. Regional Administration:
- (1) There shall be a Regional Administration Office as follows in each development region.
 - (a) Regional Administration Office, Eastern Development Region, Dhankuta;
 - (b) Regional Administration Office, Mid-Development Region, Hetauda,
 - (c) Regional Administration Office, Western Development Region, Pokhera;
 - (d) Regional Administration Office, Mid-Western Development Region, Surkhet; and

- (e) Regional Administration Office, Far-Western Development Region, Dipayal.
- (2) His Majesty's Government shall appoint the Regional Administrator as the Chief of Regional Administration Office from a person holding rank of a gazetted special class.
- 4B. Functions, duties and powers of Regional Administrator:
 - (1) The Regional Administrator shall be responsible for carrying out the general administration in the region in accordance with the policies and instructions of His Majesty's Government.
 - (2) The Regional Administrator shall have the following functions, duties and powers:
 - (a) Maintain or arrange for the maintenance of peace and order within the region,
 - (b) Supervise and coordinate the operation of the functions of district administration offices within the region,
 - (c) Take or arrange for the taking of necessary actions for making the functions of regional and district level offices in his region service-oriented, efficient, by controlling delays, negligence, and corruption,
 - (d) Conserve, safeguard and maintain public and governmental property in his region or to make arrangements for doing so, except on a matter which is covered by other laws,
 - (e) Regularly provide factual information regarding the prevailing peace and security situation in the district to His Majesty's Government,
 - (f) Make periodic inspections of the borders closed to foreign countries in the region through the relevant Chief District Officer and submit a report thereof to His Majesty's Government, and make necessary arrangements for increasing the effectiveness of the local administration regarding the control of criminal activities in border areas.
 - (g) To make necessary arrangements for the settlement, in the presence of the relevant parties, of differences or disputes, if they arise between two or more districts within the region on issues of public interest such as common boundaries, roads, streams, canals and drinking water systems,

- (h) Make necessary arrangements for the control and management of critical situations such as natural calamities, epidemics and famine,
- (i) Regularly inspect jails within the region, and make necessary arrangements for their proper functioning, and to make recommendations for the pardoning of selected prisoners,
- (j) Take necessary measures to promote patriotism within the development region and maintain unity among the Nepalese population through conciliation and mutual goodwill.
- (k) To perform other functions pursuant to orders and instructions issued by His Majesty's Government from time to time, or to make arrangements for doing so, and monitor to them.

4C. Regional Security Committee:

- (1) There shall be a Regional Security Committee comprised of the following to cooperate in the task of maintaining peace, security and order in every region:
 - (a) Regional Administrator → Chairperson,
 - (b) Local Chief of the Royal Nepalese Army → Member,
 - (c) Chief of Regional Police Office → Member,
 - (d) Local Chief of the Armed Police → Member,
 - (e) Chief of the Office of the National Investigation Department assigned for the relevant district → Member.
- (2) The Regional Administrator may invite officials from other offices within the region to Regional Security Committee meetings, if necessary.
- (3) The Chairperson may convene committee meetings as per subsection (1), if necessary.

4D. Duty to work under the control of the Regional Administrator: The Regional Police Office shall discharge its functions relating to the maintenance of peace and security within the region subject to the direct control and instructions of the Regional Administrator.

5. District administration:

- (1) There will be a district administration office in each district that shall be responsible for the management of the general administration. His Majesty's Government shall appoint a Chief District Officer as the chief administrative officer of that office and such officer shall act in accordance with the policies, rules and instructions of His

Majesty's Government and under the supervision of the Regional Administrator.

- (2) Except for court offices and the Ministry of Defence, all district level offices as prescribed by His Majesty's Government upon publishing a notification in the Nepal Gazette from time to time, shall function as a branch of the office of the District Administration.
- (3) The Chief District Officer shall have no control over any powers prescribed by prevailing law to be exercised by a district level office functioning as branches of the District Administration Office under subsection (2) or any officer of such office, or in respect to the exercise of any judicial or quasi-judicial powers.
- (4) The powers and duties of the Chief District Officer or any officer concerned with the supervision, control of and instruction to district level offices functioning as branches of the District Administration Office in accordance with subsection (2), shall be regulated by rules established under this Act.
- (5) The functions, duties and powers of the Chief District Officer shall be as follows:
 - (a) Maintaining peace, order and security in the district;
 - (b) Extending co-operation in development activities undertaken in the district by His Majesty's Government, the District Development Committee, Municipalities or Village Development Committees;
 - (c) Undertaking supervision, conservation and maintenance of all property of His Majesty's Government in the district;
 - (d) [Repealed]
 - (e) Undertaking other actions in accordance with orders or instructions issued by His Majesty's Government from time to time.

6. Maintenance of peace and security:

- (1) The Chief District Officer shall act as follows in order to prevent any activities which may result in violent activities or riot:
 - (a) If an assembly, procession or mob turns violent or destructive and there is a possibility that peace may be broken due to such activities, the police must control it. If it goes beyond the control of the police, the CDO immediately, must in person or deploy a subordinate officer to the relevant place, to persuade and maintain peace for as long as possible; if this is impossible, the use

of force with the help of the police including baton charge (*lathi-charge*), teargas and water hoses and blank shots, as necessary and as required by the circumstances may be used.

- (b) If the maintenance of peace in accordance with clause (a) is impossible, and open firing becomes an option, the mob shall be clearly warned in advance that shooting will follow if it does not disperse, and if the mob does not disperse even after such warning and shooting becomes unavoidable, (the Chief District Officer) shall issue a written and signed order for opening fire (below the knee).
 - (c) [Repealed]
 - (d) For the purpose of maintaining peace and security in the district, the Chief District Office shall issue a written order to the police officer as long as time permits and an oral order if otherwise. If the order is oral, it shall be confirmed in writing as soon as possible within twenty-four hours.
 - (e) For the purpose of maintaining peace and security in the district, the District Police Officer shall work under the direct control and guidance of the Chief District Officer.
- (1A) The Chief District Officer shall impart information regarding the acts and proceedings performed in accordance with subsection (1) to the Regional Administrator and the Ministry of Home Affairs, and the Chief District Officer shall have a duty to abide by any instruction given by the Regional Administrator.
- (2) If a Chief District Officer deems that peace has or possibly been critically spent in any area under his jurisdiction, and he deems that maintaining peace or stopping the breach of peace in that area is impossible solely by the use of the police force, he may request the assistance of a local or the nearest Armed Police Force or Royal Nepalese Army if necessary. If such assistance is requested, the information thereof shall be sent to the Ministry of Home Affairs, within twenty-four hours through the quickest available means of communication.
- (2A) If the Regional Administrator deems that peace has been or possibly been critically spent in two or more districts closest to the territory under his jurisdiction, and he deems that maintaining peace or stopping the breach of peace in that area is impossible solely by the use of the police force, he may request the assistance of the local or the nearest Armed Police Force or Royal

- Nepalese Army if necessary. If such assistance is requested the information shall be sent to the relevant Chief District Officers and the Ministry of Home Affairs accordingly within twenty-four hours through the quickest available means of communication.
- (3) If there is a possibility peace and security may be breached or an inconvenience may be suffered by any person or public health may be harmed as a result of an engagement in any act, the keeping or positioning of any object at any place, the Chief District Officer may issue the following orders:
- (a) Prohibiting any person from carrying out any acts,
 - (b) Ordering a proprietor, manager or chief to remove such objects or property from a place or prohibit the carrying out of any acts.
- (3A) If there is a violent disturbance of the peace ('hooliganism or turmoil'), or sufficient grounds for believing a risk exists thereof, the Chief District Officer may issue an order banning more than five persons from gathering, at a specified place and time. The Chief District Officer may fine any one violating such an order up to five hundred rupees (Rs.500) and or punish them with up to one month's imprisonment.
- (4) The Chief District Officer shall send a notification to the relevant person explaining the reasons for the issuance of an order under subsection (3). In case the relevant person cannot be found, he shall affix the notification in accordance with current Nepal Law. The officer issuing the order may fine a person in violating of it, with a maximum of Rs.50 for each event.
- (5) If the Chief District Officer is informed that any dispute over land, canals, water or boundaries within the district has arisen, likely to disturb the peace, he shall promptly summon the relevant parties to his office, record their statements, impound property involved in the dispute, and hand it over to the person in whose custody it has been for the past three months, or to the local Village Development Committee or Municipality or a trusted third party, upon the issue of an order stating that any party aggrieved should establish his claim in a court of law.
- (6) The person aggrieved by the order or fine issued by the Chief District Officer under subsection (3), (4) and (5) may file an appeal with the appellate courts within thirty-five days.

- (7) There shall be a District Security Committee as follows in each district to cooperate in the task of maintaining peace, security and order:
- (a) Chief District Officer → Chairperson,
 - (b) Chief of local office of the Royal Nepal Army → Member,
 - (c) Chief of District Police Office → Member,
 - (d) Chief of local office of the Armed Police Force → Member,
 - (e) Chief of district Office of National Investigation Department → Member.
- (8) [Repealed]
- (9) The Chief District Officer may invite the office-bearers of other offices in the district to attend District Security Committee meetings if necessary.
- (10) The Chief District Officer may call Committee meetings mentioned in subsection (7) if necessary.

6A. Power to impose a curfew:

- (1) If it is believed that peace will be disturbed in any area as a result of an affray, hooliganism or riot, the Chief District Officer may, taking the circumstances into consideration, issue an order imposing a curfew within the prescribed boundaries of an area, thereby prohibiting the movement, the assembly of anyone or the conduct of any other prescribed action in such area. The Chief District Officer when issuing such an order, shall publicise information to the general public in the area where the curfew is to be imposed and the surrounding areas.
- (2) After an order issued under subsection (1), means no one other than authorized persons who have obtained the secret password from the Chief District Officer shall move about in the prohibited area during prohibited hours.
- (3) Police personnel shall arrest any person who contravenes the curfew order and produce such person immediately before the Chief District Officer. The Chief District Officer shall, in accordance with a summary procedure deemed appropriate by him, punish the arrested person with imprisonment for a term not exceeding one month, and or with a fine not exceeding Rs.1000, and an appeal against such order of punishment may be filed with the appellate courts.
- (4) When issuing an order of curfew, the Chief District Officer may also order the police shoot any individual or mob violating the curfew so

as to control the effect of the curfew. If it is necessary for the police to open fire, the police, before shooting, shall use *lathi*-charges, tear-gas, or water-spray or blank shots, according to the circumstances, on the individual or mob violating the curfew, and if the individual or mob violating the curfew do not disperse, a clear warning shot shall be fired. If an individual or mob violating the curfew persists, the police may open fire.

Notwithstanding, anything provided by this subsection shall not be a bar to the Chief District Officer in issuing an order to shoot on sight any individual or mob violently violating a curfew order.

- (5) The same authority shall reduce the hours of curfew issued by order of the Chief District Officer gradually; depending on the circumstances, and the curfew shall be completely withdrawn after the situation becomes normal.
- (6) After issuing a curfew order, the Chief District Officer shall immediately submit a report to the Ministry of Home Affairs.

6B. Power to declare a riot affected area:

- (1) In case any procession, mob or organized group, armed or unarmed, is likely to engage in violent or destructive acts such as looting and arson of dwellings, shops, or public property in any area, and if it seems that normal policing will not be able to quell the problem, the Chief District Officer may declare such area to be a "riot affected" area. After declaring any area to be a riot affected area, the Chief District Officer may take any or all of the following measures to maintain order and peace in such area:
 - (a) Arrest without warrant any suspicious person in that area and hold them in preventive detention under the Public Security Act 1989,
 - (b) Shoot any person on sight who is involved in the looting of and or arson of dwellings, shops, destroying public property and or committing any other violent or destructive acts,
 - (c) Prohibit gatherings, processions, assemblies, meetings, demonstrations, or the dissemination of any kind of information or material in that area,
 - (d) Make arrangements for the supply of essential commodities, controlling the transit, storage, sale and distribution of such commodities,
 - (e) Close educational and other institutions, recreation centres and offices in that area,

- (f) Prohibit strikes of any essential services in such area under the Essential Service (Operation) Act, 1957,
 - (g) Ban the assembly of five or more persons in that area,
 - (h) Impose a curfew in that area,
 - (i) Enlist the cooperation of the Royal Nepalese Army, if considered necessary to enable the abovementioned measures for that area.
- (2) If unlicensed arms and ammunitions are suspected to have been stored in riot-affected areas, police personnel of the minimum rank of assistant sub-inspector of police may conduct searches of dwellings, shops, compounds, stores etc. belongings to any persons without prior notice, on the order of the Chief District Officer.
- (3) While declaring any area as a riot-affected area under subsection (1) the Chief District Officer may do so for a maximum period of one month at once. The Chief District Officer may, if necessary, extend such period, by an additional three months with the approval of the Ministry of Home Affairs of His Majesty's Government.
- (4) If the Chief District Officer declares any area to be a riot affected area, he shall submit information thereof to the Ministry of Home Affairs of His Majesty's Government.
- (5) The Chief District Officer may, in accordance with a summary procedure deemed appropriate by him, punish any person who acts in contravention of clause (e) or (g) of subsection (1), or obstructs or opposes any search conducted under subsection (2), with imprisonment for a term not exceeding three months and or with a fine not exceeding Rupees 3,000, and appeals may be filed with an appellate court against such punishment.
- 6C. No one shall barricade roads, block public services or vandalize any dwelling or vehicle:
- (1) No one shall commit or attempt to commit the following acts: -
- (a) Prevention/obstruction of the smooth operation of roads by creating traffic jams (*chakka jam*), or by any other means, on roads specified by the Government of Nepal through publication in the Nepal Gazette,
 - (b) Damage to government, public or private vehicles, dwellings or property by vandalism, arson or looting; forced entry into vehicles or dwellings; the taking of possession of vehicles and or property

- (c) Obstruction/prevention of access to government, public authority or educational institutions by any means, including padlocking.
 - (2) The Chief District Officer may fine anyone committing any of the acts cited above up to Rs.10,000, and or punish them with up to six months' imprisonment, and additionally fine a person for an amount equivalent to the damage and loss caused by him.
 - (3) The Chief District Officer, while acting under this Section, shall follow the procedures of the Summary Procedure Act, 1971.
 - (4) Anyone wishing to challenge the punishment issued by the Chief District Officer may file an appeal with the relevant appellate court within thirty-five days.
7. Powers and duties in relation to police employees:
- (1) The Chief District Officer shall inquire, as deemed necessary, as to whether or not district and area police stations and posts are in proper condition or whether or not police officers and employees have acted in accordance with the law, and shall act as follows in this regard:
 - (a) Inspect district and area police stations and posts at least once a year on a compulsory basis and submit a report of such inspection to the Ministry of Home of His Majesty's Government. The report of the inspection shall be submitted to the Regional Administrator and the Ministry of Home Affairs.
 - (b) Submit a report on the personal conduct and performance of police officers to the Regional Administrator and the Ministry of Home Affairs twice a year, by the end of *Poush* (January 14) and *Ashadh* (July 15) respectively.
 - (c) In case it becomes necessary to make arrangements in respect to the police in a district, the Chief District Officer shall write to the Regional Administrator and to the Ministry of Home Affairs, with an opinion.
 - (d) If any person lodges a complaint to the effect that a police employee has acted in contravention of the law while discharging his duties, the Chief District Officer shall investigate the matter as necessary and submit a report along with his recommendations and opinions to the Regional Administrator and to the Ministry of Home Affairs for taking the necessary action.

8. Powers relating to disputes and appeal:

- (1) The following cases shall fall under the original jurisdiction of the Chief District Officer:
 - (a) Minor cases of theft involving a maximum sum of five hundred rupees (Rs.500),
 - (b) Cases relating to pick-pocketing,
 - (c) [Repealed]
 - (d) Cases relating to the use of inaccurate weights and measures for deception,
 - (e) Cases relating to the slaughter of female animals at places other than temples where it is customary practice.
- (2) A decision made by the Chief District Officer on cases mentioned in subsection (1) in which a guilty person is not recorded as a convicted criminal and which involves a fine not exceeding five hundred rupees (Rs.500), shall be final, and no appeal against the decision shall be considered. An appeal against the decision of the Chief District Officer in cases involving a fine exceeding five hundred rupees (Rs.500) or in which a guilty person is a convicted criminal may be filed with an appellate court within thirty-five days.
- (3) The Chief District Officer may direct the property of any woman or minor to be kept in safe custody of any prominent person in the district or of any government office with the cooperation of the local Municipality or Village Development Committee, if he deems necessary in the course of hearing a filed complaint.
- (4) [Repealed]
- (5) [Repealed]
- (6) The Chief District Officer shall proceed and adjudicate cases filed under this Act or current Nepal laws within the time-limit stipulated by current law, specifying the laws under which these are to be adjudicated.

9. Other functions, duties and powers of the Chief District Officer:

- (1) The Chief District Officer may order the arrest of any intoxicated person who speaks indecently and misbehaves in a public place, and may detain him until he is relieved from his intoxication. Once sober, the Chief District Officer may issue a verbal warning to the detainee, and if he proceeds to repeat the same act, the Chief District Officer may fine him with a maximum of one thousand rupees (Rs.1,000) for each offence.

- (2) If unclaimed goods are found, the Chief District Officer shall act in accordance with the provisions of the Chapter on *treasure-troves* in the Civil Code.
- (3) If any Government employee forces any person to work without remuneration in connection with any official or domestic work, the Chief District Officer may write to the relevant departmental head requesting action against such employee under current law, or otherwise be subjected to departmental [disciplinary] action under the Civil Service Regulations.
- (4) If a report is submitted by any Municipality or Village Development Committee to the effect that any tiger, leopard or any other wild animal is creating trouble within the district, the Chief District Officer shall order such animals to be culled, and to have its fur or any other parts thereof to be handed over to the relevant Forest Office, or as instructed by the Ministry of Forests and Soil Conservation.
- (5) In case any person is found to have made undue profits through the sale of any goods, the Chief District Officer may punish the seller with a fine not exceeding one thousand rupees (Rs.1,000) and or with imprisonment for a period not exceeding three months, taking into consideration the quantity and price of the goods sold and purchased.
The aggrieved may file an appeal with an appellate court within thirty-five days, against the decision of the Chief District Officer.
- (6) The Chief District Officer shall keep records of public water taps, wells, ponds, well-sides, shelters, guest houses (*dharmasala*), temples, caves, bridges etc. situated within his district; if they are damaged or likely to collapse, he shall have them repaired by the owner or his agent, or by the local Municipality or Village Development Committee or by the *Guthi* Corporation.
- (6A) No person shall construct buildings on governmental or public land without first establishing ownership. In case any person constructs or attempts to construct a building on such land, the Chief District Officer may issue an order prohibiting such person from building a dwelling. In case the building has already been constructed or is being constructed at the time of an order, he may order the demolition and removal of materials within a month. In case the dwelling is not demolished and the materials are removed within the time-limit, the Chief District Officer may punish the builder with a fine not exceeding five thousand rupees (Rs.5,000) and subsequently

have the building demolished. The expenses incurred for the demolition may also be collected from the guilty party.

Explanation:

- (i) For the purpose of this subsection, the term "public land" includes lands being used from ancient times such as paths, roads, pastures, water sources, crematoriums, cemeteries, wells, ponds, pond embankments, sources of drinking water, cattle paths, fairgrounds, public entertainment sites, play grounds, and similar publicly used lands or adjoining plots, as well as land kept uncultivated or sequestered by orders of His Majesty's Government.
 - (ii) For the purpose of this subsection, the term 'building' includes huts and temporary structures with or without roofs of hay, straw or tin sheets [corrugated iron]
- (7) If the Chief District Officer considers that a person has become insane and that he may cause a danger to others or society, if he is not kept under control, he shall take action in accordance with Section 8 of the Law on Medical Practice of the Civil Code.
 - (8) If any person submits an application to the Chief District Officer requesting a certificate of relationship with another individual, the Chief District Officer shall, if he so deems appropriate after enquiry, issue a certificate on payment of a royalty of five rupees (Rs.5).
 - (9) If any person is aggrieved over any action taken by the Chief District Officer in the exercise of the power conferred by subsections (1) and (7), he may file a complaint to an appellate court within thirty-five days.
 - (10) If any person slaughters, except in situations which require slaughter in for traditional religious worship, animals or birds on the days of *Buddha-Jayanti* [Birthday of Gautam Buddha] *Krishna Janmastami* [Birthday of Lord Krishna], *Mahashivaratri* [Great night of Shiva] *Ramanawami* [Ninth day of Ram's birth] festival of *Ekadashi* or at any religious place where the slaughtering of animals and birds has been specifically prohibited by His Majesty's Government by notification in the Nepal Gazette, the Chief District Officer may punish him with a fine not exceeding five thousand rupees (Rs.5,000) and no appeal against this order in respect of punishment shall be considered.
 - (11) No one shall let cattle roam free inside a Municipality area, and if any person does so and the relevant Municipality does not capture

and detain such cattle, the Chief District Officer shall capture the cattle and sell them by auction in accordance with procedures considered appropriate by him, and the proceeds of the auction shall be credited to the District Development Committee fund. If no person offers a bid in the auction, the Chief District Officer may hand over the cattle to any person other than the owner without any payment.

Explanation: For the purpose of this subsection:

- (i) The term 'cattle' includes bullocks, buffaloes, female buffaloes, horses, sheep and goats.
- (ii) The term 'free cattle' means cattle let loose by the owner on roads and streets unattended by any cowman or other person.

- (12) The owner of cattle who contravenes the provisions of subsection (11) shall be punished with a fine two hundred rupees (Rs.200) by order of the Chief District Officer, and an appeal against such order may be filed with an appellate court.

Provided that even if an appellate court acquits the owner of free cattle, the judgment of such court regarding the auction or handing over of free cattle under subsection (11) shall not be prejudiced.

10. [Repealed]

10A. Records of public property:

- (1) The Office of the Chief District Officer shall prepare records of all public land, inns, rest-houses, parks, ponds, wells, pastures, outlets etc. identified through cadastral survey maps, Royal Seal, *Khadga Nishana* orders, copper and stone inscriptions, or other similar authoritative inscriptions, and send a copy to each Land Tax Office and the District Development Committee.
- (2) Public land, inns, rest houses, parks, ponds, wells, pastures, outlets etc mentioned in subsection (1) shall not be reclaimed or allowed to be reclaimed without the prior approval of His Majesty's Government. If they are reclaimed or permission thereof is granted, the guilty party shall be punished with a fine equal to the value of the property and or with imprisonment for a term not exceeding three months.
- (3) If any person has registered any public land, inn, rest-house, park, pond, well, pasture, and or outlet etc., in his name, such registration shall be invalidated. There shall be no statute of limitations for the invalidation of such registration.

Chapter-4
Miscellaneous

11. Delegation of authority:
- (1) His Majesty's Government may, by notification in the Nepal Gazette, delegate any or all of the powers vested in any authority or institution other than a court under this Act or any other current Nepal law, so as to be exercised by the appropriate District or Village Development Committee or Municipality or any other authority.
 - (2) [Subsection 2 and 3 were repealed on June 4, 1991]
 - (3) The Regional Administrator may delegate any or all the powers conferred on him under this Act or other existing laws to a Chief District Officer or any officer working under him, and the notification of such delegation shall be imparted to the Ministry of Home Affairs as soon as possible.
 - (4) The Chief District Officer may delegate any or all of the powers vested in him under this Act or any other current Nepal Laws to any officer working under him, and the notification of such delegation shall be imparted to the Ministry of Home as soon as possible.
Provided that, The Chief District Officer shall not delegate his powers to hear a [legal] case.
12. Power to establish Rules: His Majesty's Government may establish Rules pursuant to the objectives of this Act.
13. Devolution of cases: Among the cases which are pending before the erstwhile Zonal Commissioner under current law, appellate cases shall be heard by the appropriate appellate court and other cases by the appropriate Chief District Officer.
14. Saving: In matters provided for in this Act or in Rules or Orders promulgated hereunder, action shall be taken accordingly, and in other matters shall be taken in accordance with current law.
15. Repeal: The following laws have been repealed:
- (1) Local Administration Act 1966,
 - (2) Terai District Administration Act, 1955,
 - (3) Kathmandu Valley Commissioners' and Magistrates' Regulation, 1952
 - (4) District Administration (Provisional Arrangements) Act, 1962

- (5) Terai District Administration Act, 1965 (with enforcement in Hill Region) 1957.
16. The impact of the inactiveness of the Local Administrative Ordinance 2028: Unless the purpose has shown otherwise, the inactiveness of the Local Administrative Ordinance, 2028 shall: -
- (a) not infer any matter which had not in practice and existence by the time inactiveness has come in effect;
 - (b) not have any impact upon the matters operated in accordance with the Ordinance, nor any conduct or punishment duly carried out under this Ordinance;
 - (c) not have any impact upon the rights, facilities, duties or liabilities obtained, acquired or possessed under that Ordinance;
 - (d) not have any impact upon the penalty or confiscation carried out in accordance with the Ordinance; and
 - (e) not have any impact upon the aforementioned legal action or recourses taken in relation to the rights, facilities, duties, liabilities or penalties or confiscations, and to launch, continue and apply any legal proceedings or recourses as if the Ordinance has continues to exist.

Note: Section 15 of the Local Administrative Act (3rd amendment) is as follows:

Annex
(Related to subsection (1) of Section 3)
Name of Development Regions, Zones and Districts

Development Region	Zone	District
Eastern Development Region	Mechi	Taplejung
		Pachthar
		Ilam
		Jhapa
	Koshi	Sangkhwasabha
		Terhathum
		Dhankuta
		Bhojpur
		Sunsari
		Morang
	Sagarmatha	Solukhumbu
		Okhaldhunga
		Khotang
		Udayapur

		Saptari	
		Siraha	
Central Development Region	Janakpur	Dolakha	
		Ramechhap	
		Sindhuli	
		Dhanusa	
		Mahotari	
		Sarlahi	
	Bagmati	Sindhupalchouk	
		Rasuwa	
		Kabhrepalanchauk	
		Bhaktapur	
		Lalitpur	
		Kathmandu	
		Nuwakot	
		Dhading	
	Narayani	Makawanpur	
		Rautahat	
Bara			
Parsa			
Chitawan			
Western Development Region	Gandaki	Gorkha	
		Tanahu	
		Manang	
		Lamjung	
		Kaski	
		Syangja	
	Lumbini	Gulmi	
		Palpa	
		Arghakhachhi	
		Nawalparasi	
		Rupandehi	
		Kapilbastu	
	Dhaulagiri	Parbat	
		Myagdi	
		Mustang	
		Baglung	
	Mid-Western Development Region	Rapti	Rukum
			Rolpa
Pyuthan			
Salyan			
Dang (Deukhuri)			
Karnali		Dolpa	
		Jumla	
		Kalikot	
		Mugu	
		Humla	

	Bheri	Jajarkot
		Dailekh
		Surkhet
		Banke
		Bardia
Far-Western Development Region	Seti	Bajura
		Bajhan
		Achham
		Doti
		Kailali
	Mahakali	Darchula
		Baitadi
		Dadeldhura
		Kanchanpur

Part III

The Legislative Framework for Ensuring State Security

The Espionage Act, 2018 (1962)

Date of Royal seal and publication
April 11, 1962

Amending Acts

- | | |
|--|----------------|
| 1. An Act to amend, repeal
and to reform Nepal laws, 1961 | April 12, 1963 |
| 2. The Judicial Administration Reform
(First Amendment) Act, 1976 | July 25, 1976 |
| 3. The Espionage (First Amendment) Act, 1978 | July 25, 1978 |
| 4. The Judicial Administration Act, 1971 | May 30, 1991 |

Preamble: In order to maintain the national security of Nepal, it is expedient to provide for keeping in check espionage, intelligence and or secret service activities against the Government of Nepal, and to punish those who indulge in or instigate such activity.

Now, therefore, *His Majesty the King Mahendra Bir Bikram Shahdev* has enacted this Act in accordance with *Article 93 of the Constitution of Nepal*.

1. **Short title, extent and commencement:**

- (1) This Act may be cited as "The Espionage Act, 1962".
- (2) This Act shall be applicable throughout Nepal and extended to all Nepali citizens irrespective of their place of residence.
- (3) This Act shall come into force immediately.

2. **Definitions:** Unless the subject matter or context otherwise requires, in this Act

- (a) "Military Positions" means military strength including training and movements throughout Nepal.

- (b) "Strategic Arrangements" means places in Nepal where arms, munitions, military stores, and related artillery records, maps, sketches, strategic locations, models, as well as military codes or passwords including garrison and deployment of troops, are held.
- (c) "Internal Security Arrangements" mean the strength and training of the police force, records of arms and ammunition of the police forces, police codes and the disposition and deployment of forces.
- (d) "Equipment" means equipment used for writing and audio video apparatus, including cameras.
- (e) "Information" means the communication of information or messages from any kind of document in its original form or by any symbols or other type of machines or equipment.
- (f) "Notified Order" means an order published in the Nepal Gazette.

3. **Espionage:**

- (1) Any person who provides information with respect to military positions, strategic arrangements, and or internal security arrangements, with the objective of adversely affecting the welfare and or security of Nepal, or for the benefit of any foreign state with or without allurement from such state, to any person in or outside of Nepal or attempts to provide such information, incites to do so, or collects materials with the objective of transmitting such information, or arranging for any type of facility for providing such information or makes an attempt to arrange for any such facility, will be considered guilty of espionage.
- (2) Any person who provides information in respect to any diplomatic documents classified as secret by the Government of Nepal, any secret documents with objectives of adversely affecting the welfare or security of Nepal or for the benefit of any foreign state with or without any allurement from that state, to any person in or outside Nepal, or makes an attempt to, or incites others to do so, shall be considered guilty of espionage.

4. **Powers of search and arrest:**

(1) Where there are reliable grounds to believe that a person has committed the crime of espionage and is in possession of notes, plans, models or sketches on military positions, strategic locations, internal security arrangements, or any other paperwork relating to official documents of any kind maintained as secret by the Government of Nepal, the Government of Nepal may issue a warrant to arrest such person or conduct a search at any time by entering a house, land, conducting a personal body search, search boxes, bags, baggage, and any other belongings where such secret information is suspected to be held, and may take into custody any notes, plans, models, sketches, or papers relating to classified official documents or any other materials that entail espionage.

Considering a suspect may be in flight before the issuing of a warrant, or if evidence is suppressed by the suspect, the Government of Nepal may arrest the suspect without a warrant or may conduct a search at the suspect's house; and may seize all materials such as notes, plans, models, sketches and any confidential Government documents or any other materials that entail espionage.

(2) Any person guilty of espionage who attempts to flee in any type of vehicle, may be forcefully stopped by the Government of Nepal in a prescribed location.

5. **Universal obligation to provide information on the offence of Espionage:**

Any person who discovers the committing of a crime of espionage shall report the matter to the nearest police station.

6. **Penalty:**

(1) Any person who commits the crime of espionage as mentioned in subsection (1) of Section 3 shall be sentenced to imprisonment for a term ranging from five years to life imprisonment.

- (2) Any person who commits the crime of espionage as mentioned in subsection (2) of Section 3 shall be sentenced to imprisonment for a term ranging from five to ten years.
- (3) Any person who knowingly fails to provide information as required under Section 5 shall be sentenced to imprisonment for a term not exceeding four years and or will be liable for a fine of Rs.20, 000.
- (4) If a foreign national is sentenced to imprisonment or fined under this Section, the Government of Nepal may deport him from Nepal after serving a term of imprisonment or paying the fine charged.

7. **The accused to be taken into custody for a hearing:**

If a person charged with the crime of espionage as punishable under this Act, confesses before an official hearing, or if the available evidence establishes that a crime has been committed, the accused shall be taken into custody and the case shall be heard accordingly.

8. **The Government of Nepal as Plaintiff:**

The Government of Nepal shall be the plaintiff for cases punishable under this Act.

9. **Delegation of authority:**

The Government of Nepal may delegate authority in whole or in part as referred to in Section 4, to any officer or authority for the exercise of power through a notified order.

10. **Jurisdiction of the court:**

Offences under this Act shall be exclusively heard by Government authorized courts. Appeals may be lodged in the Court of Appeal.

11. **Establishing Rules:**

The Government of Nepal may establish Rules for the execution of the objectives of this Act.

12. **No adverse effect on prosecution under other Nepal laws:**

If any person convicted under this Act were to be sentenced to a more severe punishment under any other Nepal laws, this Act shall not prevent the accused from being prosecuted further and sentenced to additional severe punishment under other prevailing laws; provided that this person is not punished twice for the same case. [no double jeopardy]

The Nepal Special Service Act, 2042 (1985)

Date of Royal seal and publication

Aug. 28, 1985.

Amending Act, 1991

Nepal Special Service (First Amendment Act), 1991 April 12, 1991

An Act to manage the Nepal Special Service, 1985

Preamble: Whereas it is expedient to establish a special-intelligence service with the condition of service to maintain the national security of Nepal.

Now, therefore *His Majesty the King Birendra Bir Bikram Shah Dev* has enacted this Act with the advice and consent of the *Rastriya Panchayat*.

1. Short title and commencement:

- (1) This Act may be cited as the "Nepal Special Service Act, 1985".
- (2) This Act shall come into force immediately.

2. Definitions: Unless the subject matter or context otherwise requires, in this Act:

- (a) "Service" means the service to be established under Section 3 of this Act,
- (b) "Office" means the National Investigation Department, Regional, Zonal and District Offices established under the Department.
- (c) "Prescribed" or "as prescribed" means as applicable and established in this Act hereunder.

3. Establishment of the Nepal Special Service:

- (1) The Government of Nepal may establish the Nepal Special Service.
- (2) The establishment of the Nepal Special Service and procedures relating to it shall be as prescribed.

4. **Establishment of Office:**

- (1) A National Investigation Department under the Ministry of Home Affairs shall be established for operating the service.
- (2) Regional, Zonal and District Offices shall be established as necessary under the supervision and control of the National Investigation Department pursuant to subsection (1).
- (3) The Nepal Public Relation Headquarters and offices set up under it before the commencement of this Section (Act) shall be deemed to have been transferred to the National Investigation Department and its related offices.

5. **Powers, function and duty of the Offices:**

The power, function and duty of the offices shall be as prescribed.

5A. **Necessary powers for the exercise of investigation proceedings:**

- (1) The Government of Nepal may order the National Investigation Department to investigate matters, as deemed necessary.
- (2) During an investigation, the investigating officer from the National Investigation Department pursuant to subsection (1) may exercise powers in accordance with the Police Act, 1955.
- (3) If any irregularity is established by an investigation performed by the National Investigation Department pursuant to subsection (1), the Government of Nepal shall bring a case against a person in accordance with prevailing law.

5B. **To assist staff:**

The Government office or relevant person shall assist identifiable Special Services staff in discharging their duty.

6. **Recruitment and service conditions for staff:**
The provisions relating to recruitment, transfers, promotions, and removal from service as well as service conditions for Special Service staff shall be as prescribed.
7. **Exceptions:**
 - (1) Except for crimes punishable under Section 9, a member of Special Service staff or an assigned person shall not be questioned or presented to any office, authority or court for the purposes of the collection of information.
 - (2) No person shall be compelled to express or produce confidential documents from offices under the Department to any other office, authority or court except an authorized officer.
8. **Prohibited acts:**
 - (1) Special Services staff or the assigned person shall not act contrary to their duty or abuse power assigned to them.
 - (2) Special Services staff or the assigned person shall be precluded to disclose secrets in any way, while in service as well as after their removal or discharge from service.
9. **Penalty:**

If Special Service staff or the assigned person contravene this Act, they shall serve ten years imprisonment and or pay a fine of Rs.10, 000, depending on the magnitude of the offence; and where property is damaged, any loss shall be compensated from heritable real property. If in compensating loss, the damaged property could not be recovered from heritable property, the accused shall be imprisoned for arrears, equivalent to a non-payment for the offence in accordance with the prevailing law.
10. **Power to hear a case:**
 - (1) Offences punishable under this Act shall be heard in a prescribed court as published in the Nepal Gazette by the Government of Nepal.

- (2) With respect to the proceedings of trial and adjudication of cases under this Act, the court pursuant to subsection (1), shall follow procedures prescribed in the Special Court Act, 1974.

According to clause (g) of Section 9(2) of the Special Court Act, 1974 or other prevailing Nepal laws in respect to detention of the accused, under this Act, the accused may be tried in a detention facility if there are reasonable grounds along with a plea of a Government Attorney. If the accused is tried and prosecuted, no question shall be raised in reference to a warrant.

- (3) An appeal may be lodged in the Supreme Court of Nepal against a decision or final order of a court pursuant to subsection (1), and the proceeding and decision for an appeal shall be heard by a full bench of the Supreme Court, comprising of no less than three judges.

11. **Proceedings in a camera court:**

The proceedings, trial and adjudication of such offences punishable under this Act, shall be heard in a camera court.

12. **Establishing Rules and Regulations:**

The Government of Nepal shall determine Rules and Regulations in order to execute the objectives of this Act and such Rules and Regulations shall not be made public.

Offence Against State And Punishment Act, 2046 (1989)

Royal Seal Affixed and Publication date :
2046.06.11 (27.09.1989)

Amendment Acts

1. Judicial Administration Act: 1991
2. The Act Amending some Nepal Acts relating to penalties: 1999

Act no. 12 of 1989

An Act designed to provide for offences against the state and punishment

Preamble: Whereas, it is expedient to enact apt provisions in respect to offences against the state and apply punishment in order to keep the sovereignty, integrity and national unity of the Kingdom of Nepal intact, in order to maintain good relations among diverse classes, castes, religions and communities, as well as peace, order and friendly relations with foreign states;

Be it enacted by His Majesty the King Birendra Bir Bikram Shah Dev, upon the advice and consent of the *Rastriya Panchayat*.

1. **Short title, applicability and commencement:**
 - 1.1. This Act shall be called the "Offences Against [the] State and Punishment Act, 1989".
 - 1.2. This Act shall be applicable throughout the Kingdom of Nepal and to Nepalese citizens irrespective of residency.
 - 1.3. This Act shall come into force immediately.
2. **Attack on the royal family:** Whoever commits or attempts to commit coercion against or obstructs the movement of or intimidates through the use of force, His Majesty or His Majesty the Queen or any member of the royal family, shall be punished with either life imprisonment with confiscation of property, or for imprisonment for a term up to 10 years.

3. Subversion

- 3.1. Whoever, with intent to jeopardize the sovereignty, integrity, or national unity of the Kingdom of Nepal, commits or attempts to commit anything to break the law and disrupt order shall be punished with life imprisonment.
- 3.2. Whoever, with intent to rebel against His Majesty's Government by processing or using criminal force, commits or attempts to commit disorder shall be punished with life imprisonment or imprisonment of up to 10 years.
- 3.3. Whoever conspires with a foreign state or organized forces to jeopardize the sovereignty, integrity, or national unity of the Kingdom of Nepal shall be punished with life imprisonment or imprisonment for a term up to 10 years.
- 3.4. Whoever conspires to commit acts deemed to be an offence under subsection 3.1 or 3.2, or organizes persons, arms or ammunitions with the intent to or induces to commit such acts shall be punished with imprisonment for a term up to 10 years.

4. Sedition/Treason

- 4.1. Whoever commits, attempts to commit, induces or attempts to induce in writing or orally; or organises either directly or indirectly anything to create hatred, ill-feelings or disrespect towards His Majesty or the royal family, shall be punished with imprisonment not exceeding three years and or a fine not exceeding three thousands rupees (Rs.3,000).
- 4.2. Whoever commits, attempts to commit, induces or attempts to induce, anything to create hatred, ill-feelings or disrespect on the basis of class, caste, religion, region or other grounds, likely to jeopardize the independence, sovereignty or integrity of the Kingdom of Nepal, shall be punished with imprisonment not exceeding three years and or a fine not exceeding three thousands rupees (Rs.3,000).
- 4.3. Whoever commits or attempts to commit, in writing or orally, or forms through any other means, anything to create hatred, ill-feeling or disrespect towards His Majesty's Government by citing allegations in reference to the activities of His Majesty's Government, or the royal family, shall be punished with imprisonment not exceeding three years and or a fine not exceeding three thousands rupees (Rs.3,000).

Notwithstanding, criticizing His Majesty's Government shall in no way mean a commission of an offence under anything provided in this subsection.

5. Subversion of friendly nations: Anyone, who commits, attempts to or induces to commit rebellion against friendly nations by using arms from the territory of the Kingdom of Nepal shall be punished with imprisonment not exceeding seven years and or or a fine not exceeding Rs. five thousand or both.

6. Confiscation: Arms, ammunition or goods accumulated or used to commit an offence under this Act shall be confiscated.
7. Jurisdiction: The District Court shall have original jurisdiction on proceeding and hearing cases under this Act.
8. Transfer of cases: Cases under the Treason (Offences and Punishment) Act, 1962 submitted to the Courts or other authority that remain pending therein, shall be transferred to the relevant District Court after the commencement of this Act.
9. Repeal: The Treason (Offences and Punishment) Act, 1962 has been repealed

Public Security Act, 2046 (1989)

Date of Royal Seal and Publication:
2046.06.11 (27.09.1989)

Amendment Acts

1. Public Security (First Amendment) Act, 1991
12/04/1991
2. Public Security (Second Amendment) Act, 1991
14/11/1991
3. Some Nepal Acts Amendment Act, 1992
20/04/1992

An Act designed to provide for maintaining public security

Preamble: Whereas, it is expedient to make apt legal provisions in regard to holding a person under preventive detention or under geographical confinement for maintaining sovereignty or integrity of the Kingdom of Nepal; or public peace and order as well as in the interest of the general public to maintain amicable relations among diverse castes, communities or regions.

Be it enacted by His Majesty the King Birendra Bir Bikram Shah Dev, upon advice and consent of the *Rastriya Panchayat*."

1. Short title and commencement:
 - 1.1 This Act may be called the "Public Security Act, 1989"
 - 1.2 This Act shall come into force immediately.
2. Definitions:
 - 2.1 In this Act, unless the subject or context otherwise requires:
 - 2.1.1 "Preventive Detention Order" means an order issued in accordance with subsection 3.1.
 - 2.1.2 "Area Confinement Order" means an order issued in accordance with subsection 3.2 "Local Official" means the Chief District Officer including the official acting on his behalf, in his absence."

3. Power to issue an order:
 - 3.1 If a Local Official has reasonable and sufficient grounds to immediately prevent a person from committing specific activities, likely to jeopardise the sovereignty, integrity, or public peace and order of the Kingdom of Nepal, he may issue an order to hold that person under preventive detention for a specified term, and at a specified place.
 - 3.2 If the Local Official, has reasonable and sufficient grounds to prevent a person from committing any activities likely to jeopardise the wellbeing of the general public or amicable relations among diverse castes, tribes or communities, he may issue any of the following orders in relation to that person:
 - 3.2.1 To limit residency to a [particular] part of the Kingdom of Nepal;
 - 3.2.2 To restrict entrance to any part of the Kingdom of Nepal;
 - 3.2.3 To restrict him to reside within a specific place in the Kingdom of Nepal;
 - 3.3 The Ministry of Home Affairs may issue an order to restrict the movement of a person outside the country without the permission of His Majesty's Government, in order to prevent a person from committing activities that could prejudice the security, peace and order of the Kingdom of Nepal, as well as the friendly relations with foreign nations or the amicable relations between the peoples of diverse classes and regions [in Nepal].
4. Procedures relating to an order:
 - 4.1 The Local Official shall submit an order to the relevant person (being ordered) with supporting reasons and grounds for its issue in accordance with the provisions under subsection 3.1 or 3.2. The Local Official shall submit this information to the Ministry of Home Affairs, incorporating a copy of the same order.
 - 4.2 In case an order is issued to hold a person under preventive detention, the Local Official shall submit information within 24 hours of an order being made to the local District Court, where a person is subjected to the preventive detention.
 - 4.3 If reasons and grounds do not exist for an order under sub- section 3.1 or 3.2., the Local Official shall cancel such order within 24 hours.

5. Term of a preventive detention order:
 - 5.1 Unless a preventive detention order issued under sub Section 3.1 is cancelled, it shall be effective for a term of 90 days from the date of issue.
 - 5.2 Notwithstanding, anything provided by subsection 5.1, the term of a preventive detention order shall remain as follows:
 - 5.2.1 If a Local Officer deems it necessary to hold a person beyond the term of 90 days, he shall write a recommendation to the Ministry of Home Affairs citing reasons and grounds for doing so. If the Ministry of Home Affairs finds a recommendation reasonable and subsequently approves it, the preventive detention order shall be extended for six months from the date of issuance.
 - 5.2.2 If it is necessary to arrest a person subjected to preventive detention under this Act for more than six months, the Ministry of Home Affairs shall take advice from an Advisory Committee constituted under Section 7. If the Advisory Committee submits an opinion in favour of an extension of a term of preventive detention, an order shall be extended for 12 months from the date of issuance.
6. Term of an area confinement order:
 - 6.1 Unless an area confinement order is cancelled, it shall be effective for a term of 30 days from the date of issue.
 - 6.2 Notwithstanding anything provided by subsection 6.1, if a Local Officer deems it necessary to hold a person beyond a term of 30 days, he shall write to the Ministry of Home Affairs citing reasons and grounds for doing so. If the Ministry of Home Affairs finds the recommendation reasonable and approves it, the preventive detention order shall be extended for 90 days from the date of issuance.
7. Formation of an Advisory Committee: For the purpose of this Act, His Majesty's Government, upon consultation with the Chief Justice, shall constitute an Advisory Committee, made up of a sitting Supreme Court judge as chairperson, as well as two members selected from sitting or retired judges of the same court.

8. Procedures for an Advisory Committee:

- 8.1 If The Ministry of Home Affairs, thinks it necessary to extend the term of preventive detention beyond six months, it shall submit a report to the Advisory Committee incorporating reasons and grounds thereof, as well as advice from the Local Official in that regard, if any, as well as a complaint (if relevant) from the person held under a preventive detention order as submitted to His Majesty's Government.
- 8.2 When considering a report and supporting documentation as received as per subsection 8.1 and 8.3, an Advisory Committee, shall submit advice to His Majesty's Government on whether it is necessary to extend the term of a preventive detention order.
- 8.3 The Advisory Committee, if it deems necessary, may carry out an enquiry with the person held under preventive detention in order to obtain explanations.

9. Power to cancel orders:

- 9.1 A Local Official may cancel any orders issued by him at any time before the termination of an order.
- 9.2 His Majesty's Government may, at any time, cancel a preventive detention order and or an area confinement order.

10. Penalties

- 10.1 A Local Official may punish any person who defies an order issued under subsection 3.2 with a term of imprisonment not exceeding six months or a fine not exceeding Rs. one thousand.
- 10.2 An appeal may be filed (in an appellate court) against an order of punishment issued under subsection 10.1.
- 10.3 An appellate court shall hear an appeal submitted under subsection 10.2, restricting a decision to solely determine whether any aforesaid activity defied an order.

11. No question to be raised in any court

Any order issued under this Act, shall not be questioned in any court.

12. Procedures applicable during release: Any person held under preventive detention shall be released in front of a District Court judge or before the Registrar if a judge is absent.

Compensation against preventive detention issued in bad faith:

- 12A In case any person held under preventive detention in accordance with this Act believes they have been held under preventive detention contrary to this Act or in *mala fide*, notwithstanding anything provided by Section 11, may lodge a complaint to the District Court for compensation from the Local Official, during a term of detention or within 35 days after release.
- 12B If the indictment of the complaint lodged under 12A.1 is proved, the District Court may render a decision in favour of reasonable compensation by His Majesty's Government to the complainant, taking into account the factors such as the term of preventive detention, age of the person held under preventive detention, his reputation in society, and any financial loss suffered by him during preventive detention.
- 12C The Local Official may ask the Office of the Attorney General to defend him against a complaint lodged under subsection 12A.1, and a Government Attorney shall defend him in court accordingly.
13. Departmental action to be taken: In case any order issued under this Act by a Local Official is proved to have been done so in bad faith, such Official shall be subjected to departmental action and be punished.
14. Power to establish Rules: His Majesty's Government may determine Rules pursuant to objectives of this Act.
15. Repeal and Saving:
- 15.1 The Public Security Act 1961 has been repealed.
- 15.2 The provisions contained in this Act shall be applied in respect to the orders issued under the Public Security Act, 1961.

Terrorist and Disruptive Activities Act (Prevention and Punishment), 2058 (2002)

(expired)

The below-mentioned Act enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev is published as information for the general public.

Act No.23 of the year 2058 (2002)

An Act made to provide for the prevention and punishment of terrorist and disruptive acts:

Preamble:

Whereas, it is expedient to make legal provisions on the prevention of terrorist and disruptive acts for the maintenance of peace and public order and for the security of the general public in the Kingdom of Nepal;
Now, therefore, be it enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

1. Short title and commencement:
 - (1) This Act may be cited as the "Terrorist and Disruptive Acts (Prevention and Punishment) Act, 2058 (2002)".
 - (2) This Act shall come into force at once.
 - (3) This Act shall remain in force for two years from the date of its commencement.

2. Definitions: Unless the subject or the context otherwise requires, in this Act;
 - (a) "Arms" means any rifle, gun, cannon, pistol, revolver, machine gun, rocket, rocket launcher or similar means or devices of any kind, or spears, knives, Khukuris or any other dangerous weapon with or without a sharp edge, which is fatal to the human body.
 - (b) "Ammunition" means any fog-signal, fuse, gunpowder, cap, bullet, shot, detonator, cartridge and other ammunition of a similar kind.
 - (c) "Bomb" means any grenade made of any kind of substance or means and which goes off automatically or with the aid of any other means, which is

used by the military or otherwise (non military), land-mines or any other kind of shell filled with explosive substances or any kind of substance causing explosions.

- (d) "Explosive substance" means trinitrotoluene (TNT), amatol, barotol, pentolight, RDX, torpekus, plastic explosives, dynamites, gunpowder, nitroglycerin, gelignite, stemite, selsite, gun-cotton, blasting powder, mercury or other metal flunite that causes loss and damage when exploded and any other substance produced or used with the intent to cause an effect with explosion whether or not such substance is equivalent to those mentioned.
- (e) "Poisonous substance" means any kind of poison, solid or liquid substance with which such poison is mixed and also includes any kind of noxious flame or gas.
- (f) "Security personnel" means the Police or Armed Police or Royal Nepal Army or a person designated by His Majesty's Government in the prevention and control of terrorist and disruptive acts.
- (g) "Terrorist and disruptive act" means the terrorist and disruptive acts as referred to in Section 3.
- (h) "Terrorist" means any person or group involved in terrorist and disruptive act as referred to in Section 3.
- (i) "Accomplice" means any of the following persons:
 - a) Any person who is in contact or involved with any person or group involved in terrorist and disruptive activities,
 - b) Any person who provides any information to any person or group involved in terrorist and disruptive activities or who transmits information of a person or group involved in the terrorist and disruptive acts,
 - c) Any person who knowingly gives financial, physical or any assistance by providing shelter, directly or indirectly, to the person or group involved in terrorist and disruptive acts, except in cases of coercion.
- (j) "Property" means governmental, public or private movable or immovable property situated in or outside the Kingdom of Nepal.
- (k) "Informer" means any person who provides information to, or assists in giving information to security personnel and His Majesty's Government in respect to terrorist and disruptive acts and explosive substances.
- (l) "Security official" means the Chief District Officer or any gazetted officer-level employee of His Majesty's Government as may be specified by His Majesty's Government by notification in the Nepal Gazette.
- (m) "Order" means an order issued by His Majesty's Government or a security

official.

3. Terrorist and disruptive crimes:

If any person commits any of the following acts, such person shall be deemed to have committed a terrorist and disruptive crime:

- (1) Any act to cause loss, damage, or destruction, to the property in any place or to plot any act to cause death and or injury to any person in such place or to set fire to or any act to cause physical, mental damage or harm in any other manner or any act to cause death and or injury to any person by using a poisonous substance in daily consumable goods, or in a public place or any act to terrorize the general public by committing any of the above-mentioned acts-through the use of any kind of arms, bombs, explosive substances or any other devices or articles, with intent to undermine or jeopardize the sovereignty and integrity of the Kingdom of Nepal, security, peace and or order of the Kingdom of Nepal or any part thereof or the security of a Nepalese diplomatic mission or property situated abroad, or,
 - (a) Any act to detain, manhandle or terrorize any person in any place or vehicle, to kidnap any person from such place and or vehicle, or to terrorize by threatening to kill, mutilate, injure any person or cause any other kind of destruction to such person by using, or threatening to use, substances mentioned in clause (a), for the purpose referred to in that clause, or by using, or threatening to use, any substance or device other than such substances, or
 - (b) Any act to produce, distribute, store, transport, export, import, sell, carry or install any kind of arms, bombs, explosive substances or poisonous substances, or to knowingly aid and abet such acts, with the intentions referred to in clause (a) or (b), or
 - (c) Any act to recruit and training persons for the objects referred to in clause (a) or (b), or
 - (d) Any act to forcefully collect cash, goods in-kind, and or loot property for the objects referred to in this subsection.
 - (e) Any person who attempts or conspires to commit a terrorist and disruptive act, or instigates or compels any other person to commit an act or recruits more than one person to commit, or to cause the commission of an act, establishes any gang or group to commit such acts or makes arrangements to commit such acts or takes part in such acts with or without receiving remuneration or publicizes or causes to publicize such act or causes obstruction in the public (governmental) communication system, shall also be deemed to have committed terrorist and disruptive crimes. Provided, however, that any act caused

to be committed under coercion shall not be deemed to be a terrorist and or disruptive act.

- (2) Any person who commits any act referred to in subsection (1) or (2) shall be liable to action and punishment under this Act.
4. Extra-territorial application of the Act: Any person who commits a terrorist and disruptive act targeting the Kingdom of Nepal, a Nepalese citizen or any property belonging to the Kingdom of Nepal from outside the Kingdom of Nepal shall also be subject to legal action and punishment under this Act, as if a crime were committed within the Kingdom of Nepal.
5. Special power to prevent terrorist and disruptive acts: Notwithstanding anything contained in the prevailing law, His Majesty's Government, in any or part of the Kingdom of Nepal, as well as the security official, in his jurisdiction, may, in order to prevent terrorist and disruptive crime, order any or all of the following acts:
- (a) To arrest any person, on adequate and reasonable grounds of suspicion of a person's involvement in terrorist and disruptive acts, providing notice for the reasons of arrest as soon as practicable,
 - (b) In the event of suspicion that any illegal arms, ammunition, bombs or explosive substances are being stored or any suspect related with a terrorist in a safe house, to search any dwelling, shop, warehouse, vehicle or any other place at any time, by giving notice, and if any goods are seized in the course of a search, to give receipt thereof,
 - (c) For the purposes of preventing terrorist and disruptive acts, to search any person, goods or any vehicle used by him at any place, road or junction,
 - (d) If any person objects to or obstructs arrest under clause (a), a search or the performance of other actions under clause (b) or (c) through the use of weapons, necessary force or the use arms [may be used by security personnel to detain a suspect],
 - (e) If it appears that any person who commits or is committing terrorist and disruptive acts will abscond or cannot be arrested, the use of force and arms [may be used by security personnel to detain a suspect],
 - (f) In the course of releasing any place, motor vehicle, aircraft, ship or any other means of transport forcefully detained or possessed by any person committing a terrorist and disruptive act; or releasing any hostages in such vehicles, the use of necessary force and or arms to prevent bodily harm, risks, loss or damage, may be used,
 - (g) In cases where any person or group of persons attacks any security personnel in the course of carrying out their duty, the use necessary force or use arms [is permitted],

- (h) In cases where any person or group of persons with arms makes or attempts to make a threat to any security personnel on duty, in any place, with the intent to cause bodily harm to such personnel, the use of necessary force and or arms [is permitted],
 - (i) In cases where any person or group of persons makes an attack with intent to cause bodily injuries to those persons, the general public, employees on governmental duty, and or governmental property being guarded by security personnel or to security personnel themselves, the use of necessary force and or arms [is permitted],
 - (j) In cases of encounters with any armed person or group, or where any armed or unarmed person or group cause obstruction to security personnel carrying out specific acts, the use of necessary force and or arms [is permitted].
 - (k) Security personnel are to use necessary force and or arms against any person or group of persons carrying arms, in an area where arms are stored or training is performed with the intent to commit terrorist and disruptive acts,
 - (l) Security personnel are to take control of arms from any armed person or group of persons, or to disarm such person or group, as required,
 - (m) To perform surveillance of any suspicious person or place and, if required, arrest such person or blockade such place,
 - (n) To freeze bank accounts or to seize a passport of any suspect, on adequate and reasonable grounds of involvement in terrorist and disruptive acts, for a definite period.
6. Power to usurp property: His Majesty's Government or security personnel may usurp private or governmental vehicles, food or other property as may be required in the course of prevention and control of terrorism and disruption, on the condition that compensation, that is proper and equal to a prevailing rate or the returning of such property is subsequently made.
7. Power to declare a terror affected area:
- (1) His Majesty's Government may declare any area that is or might be affected by terrorist and disruptive activities as a terror affected area.
 - (2) His Majesty's Government may declare any person, organization, association or group involved in a crime punishable under this Act as a terrorist.
 - (3) Notwithstanding anything contained in this Section, in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990), the declaration of a terror affected area shall be deemed to have been made ipso facto.

8. Power to prohibit the carrying of arms and or ammunition:

- (1) Notwithstanding anything contained in the prevailing law, His Majesty's Government may issue an order to prohibit any person from carrying any arms or ammunition licensed under prevailing law in a terror affected area declared under Section 7, or to require persons to stockpile arms or ammunition in a specified place for a specified period of time.
- (2) Arms or ammunition held by a person who violates the order referred to in subsection (1) shall be confiscated.

9. Power to hold in detention: If there is a reasonable ground for believing that any person has to be prohibited from committing any activity that could result in a terrorist and or disruptive act, the security official may issue an order to detain such a person in any inhabitable place for a period not exceeding ninety days.

10. Punishment:

- (1) Whoever commits a terrorist and disruptive acts punishable under this Act or caused commission of or conspired to commit such an offence, the principal who has committed the act, and any person who has ordered to commit such an offence shall be punished with life imprisonment, coupled with the total confiscation of his property, if such acts result in the loss of life.
- (2) If an offence has been committed but has not resulted in the loss of life, the principal who committed the act, or caused commission of, or conspired to commit, such an offence and any person who has ordered to commit such an offence shall be punished with life imprisonment.
- (3) Whoever attempts to commit, induce or compel anyone to commit, or gathers more than one person or establishes a group to commit, an offence under this Act or makes arrangements to commit, causes to commit such acts or is involved in such acts with or without taking remuneration, or produces, distributes, stockpiles, transports, imports, exports or otherwise exchanges arms, bombs, explosive substances or poisonous substances with the intent to commit such acts or publicizes such activities, shall be punished with a term of five to ten years imprisonment, depending on the gravity of the offence.
- (4) Whoever having committed a terrorist and disruptive act has caused loss of, or damage to, any property, such loss or damage shall be recovered from the proceeds of confiscation of the partition share of property that belongs to such person. If the amount of compensation to be paid cannot be fully recovered from his property, the offender shall undergo imprisonment for the period imposed as if the remaining amount were an unrealized fine, in accordance with the prevailing law.
- (5) Any accomplice to an offence punishable under this Act shall be punished with half (50%) of the punishment to be imposed on the principal.

- (6) Whoever knowingly obstructs the conduct of a search under clause (b) or (c) of Section 5, shall be punished with a term of imprisonment not exceeding one month and or with a fine of up to five hundred rupees (Rs.500).
11. To hold in custody for trial: A person accused of committing an offence under this Ordinance shall be remanded in custody for trial, as required by the gravity of the offence.
12. Permission to hold a meeting and conference and to exercise the freedom of opinion and expression: The holding of assemblies peacefully and without arms, the exercise of the freedom of opinion and expression or the moving about in any terror-affected areas in any part of the Kingdom of Nepal declared under Section 7, in a manner not contrary to this Ordinance, shall not be restricted.
13. Monitoring and coordination committee:
- (1) Any person who feels aggrieved by the actions taken or functions performed by a competent authority in the course of conducting investigations of terrorist and disruptive offences, in the exercise of the powers as provided by this Ordinance, may or by a person on his behalf submit a petition to the Monitoring Committee comprising of a chairman and members as follows:
- (a) A person designated by His Majesty's Government from among retired judges of the Supreme Court - Chairman
 - (b) Secretary, Ministry of Defence - Member
 - (c) Secretary, Ministry of Home Affairs - Member
 - (d) Secretary, Ministry of Law, Justice and Parliamentary Affairs - Member
 - (e) Deputy Attorney General, Office of the Attorney General of the Kingdom of Nepal – Member
- (2) The Monitoring Committee shall self determine its procedures.
- (3) If the Monitoring Committee finds, upon hearing a petition lodged under subsection (1), that a petitioner has cause; it may give necessary advice to the relevant agency to provide redress and also offer suggestions to His Majesty's Government on the issue and measures to resolve it.
- (4) Information on the actions being taken by the Monitoring Committee under subsection (3) shall be provided to the Committee on State Affairs, of the House of Representatives.
- (5) There shall be a Coordination Committee comprising the relevant Regional Administrator or Chief District Officer as co-coordinator and chief of the Royal Nepal Army, the Nepal Police, the Armed Police Force, the National Investigation, and other Government bodies as required in order to coordinate the Royal Nepal Army, the Nepal Police, the Armed Police Force and other Government agencies

as required, to prevent or control terrorist and disruptive activities within the areas under their jurisdiction

- (6) The coordination committee referred to in subsection (5) shall set its procedures on its own.

14. Confiscation:

- (1) If any person commits an offence punishable under this Ordinance, and used any property, equipment or vehicle for the commission of such crime, such property, equipment or vehicle shall be confiscated. Provided that such property, equipment or means of transport, if used without the consent of owner, shall not be confiscated.
- (2) The means of communication, weapons, cash money and goods wilfully used in commission of an act deemed to be an offence under Section 3, or for assisting commission of that act shall be confiscated.
- (3) If any person is proved to have committed any act deemed to be an offence under this Ordinance from any place outside the Kingdom of Nepal, his partition share of any property situated in Nepal shall also be confiscated in addition to the imposition of the punishment referred to in Section 10.

15. Adjudicating authority and appeals:

- (1) A court constituted or designated by His Majesty's Government by notification in the Nepal Gazette shall have power to try cases relating to the offences under this Act.
- (2) The court referred to in subsection (1) shall, while trying and disposing of cases under this Act, follow procedures referred to in the Special Court Act, 2031 (1975).
- (3) An appeal against a judgment or a final order made by the court referred to in subsection (1) may be filed in the Supreme Court.

16. State cases: A case under this Act shall be a state case and shall be deemed to be included in Schedule-1 of the State Cases Act, 2049 (1993).

17. Special procedures:

- (1) Notwithstanding anything contained in prevailing law, a 15-day warrant shall be issued, where so far as possible, citing particulars on the identification of a person to be arrested in cases where a person who has committed a terrorist and disruptive offence under this Act could not be arrested and has absconded. The proceeding against such person under this Act shall not otherwise be affected in case this person is not found within the same limitation period.
- (2) Any person, employee or security personnel from a group engaged in terrorist

and disruptive activities may be used as an informant. No such person, employee or security personnel shall be subjected to any punishment under that prevailing law for his involvement in that group.

- (3) The identity of an informant shall be kept confidential.
- (4) Notwithstanding anything contained in prevailing law, if the accused being investigated under this Act convinces His Majesty's Government by revealing any important matter, evidence or directly helps in identifying the principal offender who led the commission of the offence, police personnel or any other official, he may be considered as a Government witness, and shall not be subjected to any punishment under prevailing law. Provided that in case a person provides false information or submits fabricated evidence, or is found to have acted unreasonably out of anger or revenge, and a charge sheet is [wrongly] filed against the accused, the authority hearing the case may impose punishment on the person making the false statement.
- (5) Notwithstanding anything contained in prevailing law, the person accused of an offence under this Act may be held in police custody for a period not exceeding 60 days from the date of arrest for the purpose of investigation as per a judicial authority order.

18. Control over means of communication:

His Majesty's Government may exercise control over such means of communications including correspondence, telephones and faxes that belongs to a person or group involved in terrorist and disruptive activities.

19. Provision relating to medical expenses and compensation:

- (1) If any police or security personnel deployed to control or investigate terrorist and disruptive acts are injured or killed, His Majesty's Government shall provide reasonable medical expenditure and compensation.
- (2) His Majesty's Government shall make arrangements and grant necessary medical treatment for persons affected by or victimized by terrorism and public disorder.
- (3) His Majesty's Government shall provide compensation to family dependants of an innocent civilian killed as a result of the action of a person involved in terrorist, disruptive activities and or public security operations.
- (4) If this Ordinance is proved to have been applied in bad faith, an aggrieved person seeking a judgment shall be provided with due compensation.

20. Saving for an act done in good faith: Any official or person shall not be liable for punishment for any activity carried out or attempted in good faith under this Act or the Rules established under this Act.

21. No statute of limitations for action: No statute of limitations shall be applied to cases filed under this Act.
22. Power to give rewards: His Majesty's Government may provide reasonable rewards to any persons who arrest or assist in arresting a person playing a principal role in the commission of terrorist and disruptive acts.
23. Delegation of powers: His Majesty's Government may, if necessary, delegate some of the powers vested in it under this Act to any authority or withdraw the power so delegated to any authority.
24. Power to establish rules: His Majesty's Government may establish necessary rules pursuant to the objectives of this Act.
25. Saving: The matters contained in this Act shall be governed by this Act, and prevailing law shall determine other matters.
26. Consequence of the ineffectiveness of the Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058(2001):
- (1) After the Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058 (2001) has become ineffective, unless an alternative intention is enacted, ineffectiveness shall not-
- (a) revive anything not in force or existing at the time when the Ordinance became ineffective.
 - (b) affect any matter which came into operation in accordance with the Ordinance or any act duly performed previously or any matter already suffered under the Ordinance.
 - (c) shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under that Ordinance.
 - (d) affect any penalty, punishment or forfeiture made under that Ordinance.
 - (e) affect any activity or remedy carried out in respect of any right, privilege, obligation, liability or punishment mentioned above, and any legal proceeding or remedy may be instituted, continued or enforced as if the Ordinance were in force.

Date of Royal Assent: 2058.12.28(10.04.2002)

By order,

Udaya Nepali Shrestha

Secretary of His Majesty's Government

Terrorist and Disruptive Activities Ordinance (Control and Punishment), 2062 (2006)

(expired)

Ordinance no. 71 of the year 2005/2006

Ordinance designed to provide for control and punishment of terrorist and disruptive activities

Preamble:

Whereas it is expedient to provide for legal arrangements on the immediate prevention of terrorist and disruptive activities for the maintenance of peace and order in the Kingdom of Nepal and for the security of the general public, and at present parliament is not in session;

Be the Ordinance promulgated by His Majesty, the King Gyanendra Bir Bikram Shaha Dev in accordance with Article 72 of the Constitution of the Kingdom of Nepal, 1990.

1. Short title and commencement:

- (1) This Ordinance shall be called the "Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2006".
- (2) This Ordinance shall enter into force at once.

2. Definitions:

In this Ordinance, unless the subject or context otherwise requires:

- (a) "Arms" means any rifle, gun, cannon, pistol, revolver, machine gun, rocket, rocket-launcher or other similar means or machine or spear, knife, khukuri or other dangerous weapons harmful to the human body with or without a sharp edge.
- (b) "Ammunition" includes fog signals, fuses, gunpowder, cap, mortars, shrapnel, detonators, cartridges and other similar ammunitions.
- (c) "Bomb" means a grenade or landmine made of any substance or means to be used for military or non-military purposes which explodes automatically or with the help of other devices, or any other weapon containing explosives or any materials that may explode it or cause explosion.
- (d) "Explosive substance" means trinitrotoluene (TNT), Amatol barotol, Pentolite, RDX, Torpekus, plastic explosives, dynamites, gunpowder, nitroglycerin, gelnite, stemite, sellsite, guncotton, blasting powder, mercury or other metal

flunite that cause damage when exploded and any other substances manufactured or used with the objective of causing an explosion whether or not such substance is as explosive as the abovementioned.

- (e) "Poisonous Substance" means any type of poison or substance in solid or liquid form mixed with such poison and the term also includes poisonous smoke or gas of any type.
- (f) "Security Personnel" means the police or the armed police or the Royal Nepal Army or persons deployed by His Majesty's Government for the prevention and control of terrorist and disruptive activities.
- (g) "Terrorist and Disruptive Activities" means the terrorist and disruptive activities referred to in Section 3.
- (h) "Terrorist" means a person or a group involved in terrorist and disruptive activities referred to in Section 3.
- (i) "Accessory" means the following persons:
 - (I) A person who is in contact with any person or group involved in terrorist and disruptive activities and thereby assists them;
 - (II) A person who supplies information to persons or groups involved in terrorist and disruptive activities or who imparts information from those involved in terrorist and disruptive activities;
 - (III) Except in the case of coercion, a person who intentionally provides, directly or indirectly, financial or material support or shelter to persons or groups involved in terrorist and disruptive activities.
- (j) "Property" means any Governmental or public or private property, movable or immovable, situated within or outside the Kingdom of Nepal.
- (k) "Informant" means a person who supplies or helps supply information to security personnel and His Majesty's Government on terrorist and disruptive activities and explosive substances.
- (l) "Security Official" means the Chief District Officer or any gazetted officer of His Majesty's Government designated by His Majesty's Government as published in the Nepal Gazette.
- (m) "Order" means an order issued by His Majesty's Government or the Security Official.

3. Terrorist and disruptive offences:

- (1) Whoever commits any of the following acts shall be deemed to have committed a terrorist and disruptive offence:
 - (a) Intent to jeopardize or undermine the sovereignty, integrity, security or peace and order of the Kingdom of Nepal or any part thereof, or the safety of the property of Nepal or diplomatic missions located abroad; commits any act which causes damage or destroys property at any place by using

any kind of arms, bombs, explosive substances, other equipment or goods, sets fire to, or makes such plans or activities to cause the loss of lives, mutilation or injury of any person; or activities to cause loss of lives, mutilation or any kind of harm by spreading poisonous substances in consumer goods or public places; or any act of terrorizing ordinary people while in movement or assembly by committing any of the abovementioned activities; or

- (b) With intent as referred to in clause (a) commits any act to coerce any person in any place or in any kind of vehicle, to terrorize them or abduct anyone from such place with or without a vehicle, or an act of terrorizing people by using or threatening to use substances mentioned in the same clause or by using or threatening to use other substances or devices other than such substances, and by threatening to cause the loss of lives, mutilation, injury or any kind of harm; or
 - (c) With intent as referred to in clause (a) or (b), commits acts of producing, distributing, stockpiling, transporting, importing, exporting, selling, carrying or installing any kind of arms, bombs, explosive substances or poisonous substances, and or intentionally abets in committing in such acts; or
 - (d) With intent as referred to in clause (a) or (b), commits acts such as organizing people and providing them with training;
 - (e) With intent as referred to in this subsection, commits acts of extorting money or goods or donations, looting property, forcibly taking another person's property, depriving another person's use of his property, abducting persons, or acts of knowingly, directly or indirectly abetting persons or groups involved in terrorist and disruptive activities by providing financial or material support or shelter;
 - (f) Acts of being an accessory as defined under clause (i) of Section 2.
- (2) Whoever attempts or conspires to commit a terrorist and disruptive act, or induces or compels anyone to commit such acts, or gathers more than one person to commit or cause the commission of such acts, or establishes any gang or group to commit such acts, or makes arrangements to commit such acts or participates in such acts with or without receiving remuneration, or publicizes or causes to publicize such acts or obstructs the Government communication system, shall be deemed to have committed a terrorist and disruptive offence. Notwithstanding, that the aforementioned acts committed under coercion shall not be deemed as a terrorist and disruptive offence.
- (3) Persons who commit any of the acts referred to in subsections (1) or (2) shall be subjected to action and punishment in accordance with this Ordinance.

- (4) The filing of a separate case on the charge of abetting any offences mentioned in subsection (3) or of participation as an accessory shall not be prohibited.

4. Extra-territorial application of an ordinance:

Any person involved in terrorist and disruptive acts who has committed an offence targeting the Kingdom of Nepal or Nepalese citizens or any property in the Kingdom of Nepal even while outside the territory of the Kingdom of Nepal, shall be deemed to have committed an offence and shall be subjected to action and punishment under this Ordinance as if such person committed the offence within the Kingdom of Nepal.

5. Special powers to prevent terrorist and disruptive acts:

Notwithstanding, anything provided by prevailing law, His Majesty's Government, in the Kingdom of Nepal, and the Security Official, in his area of jurisdiction, may, in order to prevent a terrorist and disruptive offence, issue orders for undertaking all or any of the following acts:

- (a) To arrest anyone on the grounds of sufficient and reasonable suspicion of involvement in terrorist and disruptive activities and to furnish information with reasons for arrests without delay.
- (b) To search with notice, at any time, a residence, shop, warehouse, vehicle or any other places suspected of stockpiling illegal arms and ammunition, bombs or explosives or in which any suspicious person affiliated with terrorists is hiding; and to issue a receipt of goods seized, if any, in the course of the search.
- (c) To conduct a body, luggage, and or vehicle search at any place and at any time for the purpose of preventing terrorist and disruptive acts.
- (d) To use force, if necessary, when an arrest in accordance with clause (a) is obstructed or resisted, or conducting a search or the taking of any other actions under clause (b) or (c), or to use armed force if an arrest is obstructed or resisted by weapons (used by the suspect).
- (e) To use force or weapons if necessary on a person committing or who has committed a terrorist and disruptive act, if it appears that he is likely to flee or escape arrest.
- (f) To use force or weapons if necessary in the course of securing the evacuation of any place, vehicle, aircraft, ship or any other means of transport that is forcibly captured by persons involved in terrorist and disruptive acts, or the evacuation of persons held hostage in order to protect them from any harm, risks or other losses likely to be suffered by them.
- (g) To use force or weapons if necessary in case any person or group attacks any

Security Personnel (armed or unarmed) while on duty.

- (h) To use force or arms, if necessary, in case any person or group threatens or seeks to threaten to harm the life and property of Security Personnel working in a specific place by carrying a weapon with intent.
- (i) To use force or arms, if necessary, in case any person or group attacks persons who are to be provided security by Security Personnel or ordinary people for whom the Security Personnel are providing security, employees assigned to governmental duty or governmental goods or to Security Personnel (themselves), with a view to causing physical harm.
- (j) To use force or arms if necessary in the event of an encounter with any armed person or group or in the event of obstruction to Security Personnel while performing the prescribed functions.
- (k) To use force or weapons if necessary by Security Personnel against persons or groups carrying arms or in areas where arms are stored or where training is conducted with the intent to commit terrorist and disruptive activities.
- (l) To take control and possession of, if necessary, weapons of any person or group, or to disarm them by Security Personnel.
- (m) To conduct surveillance of any suspicious person or place, and, if required, arrest such person and or blockade suspicious places.
- (n) To freeze and seize, for a specified period, on sufficient and reasonable grounds, the bank accounts or passports of any persons suspected of terrorist and disruptive acts.

6. Power to usurp property:

His Majesty's Government or the Security Official may take any private or Governmental vehicle, foodstuff or other goods or property as may be required in the course of control and prevention of terrorist and disruptive acts, on the condition of subsequently providing proper compensation or returning such items.

7. Power to declare terror-affected areas and terrorists:

- (1) His Majesty's Government may declare any area affected or likely to be affected by terrorist and disruptive activities as a "terror-affected area".
- (2) His Majesty's Government may declare any person, association, institution, organization or group involved in crimes punishable under this Ordinance as a terrorist.
- (3) Notwithstanding anything provided by this Section, in cases when a state of emergency is declared or ordered under the Constitution of the Kingdom of Nepal 1990, the declaration of terror-affected areas shall be deemed to have been made ipso facto.

8. Power to prohibit the carrying of arms or ammunition:

- (1) Notwithstanding anything contained in the prevailing law, His Majesty's Government may issue an order to prohibit any person from carrying any arms or ammunition licensed under prevailing law in a terror affected area declared under Section 7, or to require persons to stockpile arms or ammunition in a specified place for a specified period of time.
- (2) Arms or ammunition held by a person who violates the order referred to in subsection (1) shall be confiscated.

9. Powers of preventive detention:

- (1) If there are reasonable grounds to believe that any person must be prevented from committing any acts that could result in a terrorist and disruptive act, a Security Official may issue an order to hold such person under preventive detention in a humane place for a period not exceeding 6 months. If there are grounds to believe that the person held under preventive detention must be prevented from committing any terrorist activities for an additional period, the Security Official, having approval of the Ministry of Home Affairs, may, under this Section, issue an order to hold him under preventive detention for a further six months.
- (2) For the purpose of issuing a detention order in accordance with subsection (1), information received from any individual, institution or agency in respect of such person, his activities, acts performed by him in his capacity as a member or official of any terrorist organization or any act as prescribed or ordered by such organization or any responsibility as has been assigned to him or as been accepted by him or any other similar acts that may indicate his involvement in terrorist and disruptive acts shall be considered "reasonable grounds".

10. Punishment:

- (1) Whoever commits a terrorist and disruptive acts punishable under this Ordinance or caused commission of or conspired to commit such an offence, the principal who has committed the act, and any person who has ordered to commit such an offence shall be punished with life imprisonment, coupled with the total confiscation of his property, if such acts resulted in the loss of life of any person.
- (2) If an offence defined in this Ordinance has been committed but has not resulted in the loss of life of any person, the principal who committed the act, or caused commission of, or conspired to commit, such an offence and any person who has ordered to commit such an offence shall be punished with life imprisonment.

- (3) Whoever attempts to commit, induce or compel anyone to commit, or gathers more than one person or establishes a group to commit, an offence under this Ordinance or makes arrangements to commit, causes to commit such acts or is involved in such acts with or without taking remuneration, or produces, distributes, stockpiles, transports, imports, exports or otherwise exchanges arms, bombs, explosive substances or poisonous substances with the intent to commit such acts or publicizes such activities, shall be punished with a term of five to ten years imprisonment, depending on the gravity of the offence.
- (4) Whoever having committed a terrorist and disruptive act has caused loss of, or damage to, any property, such loss or damage shall be recovered from the proceeds of confiscation from the partition share of property of that person. If the amount of compensation to be paid cannot be fully recovered from his property, the offender shall undergo imprisonment for the period imposed as if the remaining amount were an unrealized fine, in accordance with the prevailing law.
- (5) Whoever commits an offence mentioned in clause (e) of subsection (1) of Section 3 shall be punished with five to ten years' imprisonment depending on the gravity of the offence.
- (6) Amongst the accessories to an offence punishable under this Ordinance, the accessories as defined in sub clause (2) or (3) of clause (i) of Section 2 shall be punished with a term of one to three years imprisonment and or a fine of ten thousand to fifty thousand rupees (Rs.10-50,000), and other accessories shall be punished with half (50%) of the punishment that may be imposed on the principal.
- (7) Whoever knowingly obstructs the conduct of a search under clause (b) or (c) of Section 5, shall be punished with a term of imprisonment not exceeding one month and or with a fine of up to five hundred rupees (Rs.500).

11. To hold in custody for trial:

A person accused of committing an offence under this Ordinance shall be remanded in custody for trial, as required by the gravity of the offence.

12. No restriction to hold a meeting and conference and to exercise the freedom of opinion and expression:

The holding of assemblies peacefully and without arms, the exercise of the freedom of opinion and expression or the moving about in any terror-affected areas in any part of the Kingdom of Nepal declared under Section 7, in a manner not contrary to this Ordinance, shall not be restricted.

13. Provision relating to monitoring and coordination:

- (1) Any person who feels aggrieved by the actions taken or functions performed by a competent authority in the course of conducting investigations of terrorist and disruptive offences in the exercise of the powers as provided by this Ordinance, may himself or a person on his behalf submit a petition to the Monitoring Committee comprising of a chairman and members as follows:
 - (a) A person designated by His Majesty's Government from among retired judges of the Supreme Court - Chairman
 - (b) Secretary, Ministry of Defence - Member
 - (c) Secretary, Ministry of Home Affairs - Member
 - (d) Secretary, Ministry of Law, Justice and Parliamentary Affairs - Member
 - (e) Deputy Attorney General, Office of the Attorney General of the Kingdom of Nepal – Member
- (2) The Monitoring Committee shall self determine its procedures.
- (3) If the Monitoring Committee finds, upon hearing a petition lodged under subsection (1), that a petitioner has cause, it may give necessary advice to the relevant agency to provide redress and to offer suggestions to His Majesty's Government on the issue and measures to resolve it.
- (4) Information on the actions being taken by the Monitoring Committee under subsection (3) shall be provided to the Committee on State Affairs, of the House of Representatives.
- (5) There shall be a Coordination Committee comprising the relevant Regional Administrator or Chief District Officer as co-coordinator and chief of the Royal Nepal Army, the Nepal Police, the Armed Police Force, the National Investigation, and other Government bodies as required in order to coordinate the Royal Nepal Army, the Nepal Police, the Armed Police Force and other Government agencies as required, to prevent or control terrorist and disruptive activities within the areas under their jurisdiction.
- (6) The Coordination Committee mentioned in subsection (1) shall self determine its procedures.

14. Confiscation:

- (1) If any person commits an offence punishable under this Ordinance, and used any property, equipment or vehicle for the commission of such crime, such property, equipment or vehicle shall be confiscated. Provided that such property, equipment or means of transport, if used without the consent of owner, shall not be confiscated.
- (2) The means of communication, weapons, cash money and goods wilfully used in commission of an act deemed to be an offence under Section 3, or for assisting commission of that act shall be confiscated.

- (3) If any person is proved to have committed any act deemed to be an offence under this Ordinance from any place outside the Kingdom of Nepal, his partition share of any property situated in Nepal shall also be confiscated in addition to the imposition of the punishment referred to in Section 10.

15. Adjudicating authority and appeals:

- (1) A court constituted or designated by His Majesty's Government by notification in the Nepal Gazette, shall have jurisdiction to hear cases relating to offences under this Ordinance.
- (2) The court mentioned in subsection (1) shall follow the procedures as provided by the Special Court Act, 2002 for the trial and adjudication of cases under this Ordinance.
- (3) An appeal against the decision or the final orders issued by the court referred to in subsection (1) may be submitted to the Supreme Court.
- (4) Cases relating to offences under this Ordinance shall be heard in closed session.
- (5) The relevant legal practitioners, a Government Attorney, the accused, and police personnel permitted by the court as well as court employees can be present at a closed session hearing in accordance with subsection (4). No one except the Government Attorney, the defendant or his legal practitioner shall be allowed to take copies of documents relating to a case being heard in closed session.

16. Government as claimant:

Cases under this Ordinance shall proceed with His Majesty's Government as the claimant (plaintiff), and these cases shall be deemed to have been included in Schedule 1 of the State Cases Act 1992

17. Burden of proof:

If weapons, ammunition, bombs, explosives, toxic materials, documents or items relating to terrorist and disruptive acts are found on the person of the accused, he shall have the burden of proof to refute that any weapon, explosive or item etc mentioned above, were not meant for the purposes of conducting terrorist and disruptive activities. Failure to produce evidence to prove otherwise will be considered as a committed offence under this Ordinance.

18. Special procedures:

- (1) Notwithstanding anything contained in prevailing law, a 15-day warrant shall be issued, where so far as possible, citing particulars on the identification of a person to be arrested in cases where a person who has committed a terrorist and disruptive

offence under this Ordinance could not be arrested and has absconded. The proceeding against such person under this Ordinance shall not otherwise be affected in case this person is not found within the same limitation period.

- (2) Any person, employee or security personnel from a group engaged in terrorist and disruptive activities may be used as an informant. No such person, employee or security personnel shall be subjected to any punishment under that prevailing law for his involvement in that group.
- (3) The identity of an informant shall be kept confidential.
- (4) Notwithstanding anything contained in prevailing law, if the accused being investigated under this Ordinance convinces His Majesty's Government by revealing any important matter, evidence or directly helps in identifying the principal offender who led the commission of the offence, police personnel or any other official, he may be considered as a Government witness, and shall not be subjected to any punishment under prevailing law.
Provided that in case a person provides false information or submits fabricated evidence, or is found to have acted unreasonably out of anger or revenge, and a charge sheet is [wrongly] filed against the accused, the authority hearing the case may impose punishment on the person making the false statement.
- (5) Notwithstanding anything contained in prevailing law, the person accused of an offence under this Ordinance may be held in police custody for a period not exceeding 60 days from the date of arrest for the purpose of investigation as per a judicial authority order.

19. Control over means of communication:

His Majesty's Government may exercise control over such means of communications including correspondence, telephones and faxes that belongs to a person or group involved in terrorist and disruptive activities.

20. Provision relating to medical expenses and compensation:

- (1) If any police or security personnel deployed to control or investigate terrorist and disruptive acts are injured or killed, His Majesty's Government shall provide reasonable medical expenditure and compensation.
- (2) His Majesty's Government shall make arrangements and grant necessary medical treatment for persons affected by or victimized by terrorism and public disorder.
- (3) His Majesty's Government shall provide compensation to family dependants of an innocent civilian killed as a result of the action of a person involved in terrorist, disruptive activities and or public security operations.
- (4) If this Ordinance is proved to have been applied in bad faith, an aggrieved person seeking a judgment shall be provided with due compensation.

21. Case not to be processed:

- (1) Notwithstanding anything contained in this Ordinance, no charge for an offence punishable under this Ordinance shall be filed against a person who has provided financial, material support or shelter to a person or group involved in terrorist and disruptive activities as a result of coercion, or against a person who has surrendered after committing terrorist and disruptive activities.
- (2) If a person who has surrendered in accordance with subsection (1) repeats to commit offences punishable under this Ordinance, he shall be subjected to prosecution for any new offence and the offence previously committed by him.
- (3) No official or any other person shall be punished for any act or work performed or attempted to be performed in good faith under this Ordinance or the Rules established under it.

22. No statute of limitations for action: No statute of limitations shall be applied to cases filed under this Ordinance.

23. Power to give rewards: His Majesty's Government may provide reasonable rewards to any persons who arrest or assist in arresting a person playing a principal role in the commission of terrorist and disruptive acts.

24. Delegation of powers: His Majesty's Government may, if necessary, delegate some of the powers vested in it under this Ordinance to any authority or withdraw the power so delegated to any authority.

25. Power to establish rules: His Majesty's Government may establish necessary rules pursuant to the objectives of this Ordinance.

26. To be in accordance with this Ordinance: All matters covered by the provision of this Ordinance shall be dealt in accordance with this Ordinance and all matters not covered by this Ordinance shall be dealt in accordance with other prevailing laws.

27. Saving: Actions taken in accordance with the Terrorist and Disruptive Activities (Control and Punishment) Ordinance issued on 2 October 2005 (1) shall be considered to have been carried out under this Ordinance.

Date of Royal Seal: 27/03/2006 By Order of,
Dr.Kul Ratna Bhurtel
Secretary of His Majesty's Government

The Essential Goods Control (Empowerment) Act, 2017 (1961)

Date of Royal seal and publication

17 February 1961

Amending Acts

1. An Act to Amend, Repeal and to Reform, 1963	April 12, 1963
2. First Amendment Act on Essential Goods Control (Empowerment) Act, 1974	March 24, 1974

Whereas, it is expedient to empower the Government to regulate facilities available to the general public, by strictly controlling from time to time; food, distribution, selling and the trading of goods that are required for daily public use and business transactions.

Now, therefore, *His Majesty the King*¹ has enacted this Act in accordance with *article 93 of the Constitution of Nepal, 1959*.

1. **Short name, extent and commencement:**
 - (1) The name of this Act shall be the "Essential Goods Control (Empowerment) Act, 1961".
 - (2) This Act shall be enforced throughout Nepal.
 - (3) This Act shall have immediate effect.

2. **Definition:** Unless the subject matter or context otherwise requires, in this Act:
 - A. "Essential goods" refers to any goods or commodities as follows:
 - (1) Paddy rice, maize, wheat, millet, barley and byproduct flours, and all other similar cereals,

¹ Words in italics are not relevant today- as Nepal is now a republic and the previous constitution has been abrogated.

- (2) Pigeon pea, kidney beans, black and brown lentils, pulses, gram (legumes), peas, soybean and byproduct flours
 - (3) Linseed, mustard seed, mum seed and other similar oil-producing seeds, and all other edible oils,
 - (4) Milk and dairy products,
 - (5) Sugarcane and raw cane brown sugar, and other goods,
 - (6) Cotton, cotton wool and woolen clothes,
 - (7) Raw jute and goods manufactured from it,
 - (8) Petroleum products-kerosene, petrol, diesel and all lubricants,
 - (9) Iron and goods manufactured from it,
 - (10) Building materials-cement, brick, zinc-iron sheets etc.
 - (11) Vehicles-motors and vehicular accessories, spare parts such as tyres, parts, tubes etc.
 - (12) Salt,
 - (13) Medicine,
 - (14) And any other materials or commodities prescribed as "essential goods" by order of the Government of Nepal, from time to time.
- B. "Notified order" refers to an order published in the Nepal Gazette by the Government of Nepal.

3. **Power to control production or distribution of essential goods:**

- (1) In order to help distribute, regulate, maintain equitable distribution and reasonable pricing in the market, the Government of Nepal, if deems necessary, may regulate or control the trading of essential goods, to be produced and distributed in the prescribed areas by the issuance of an order.
- (2) Without having an adverse effect on the universality of the power under subsection (1), the notified order may authorize the following:
 - (a) To issue a license in respect to stocks, storage, distribution, transportation, production, trading consumption of essential goods and or to control and regulate them in any way,

- (b) To control over pricing, the selling or buying of essential goods –to prevent the hiking of prevailing prices, without the permission of the prescribed officer as per a notified order,
- (c) Take action against an obdurate trader or seller if he/she refuses to sell essential goods,
- (d) To compel a trader to sell essential goods in total or in part to the Government of Nepal, an authority, person or class in a prescribed area, in a prescribed situation,
- (e) To regulate or prohibit the trading of essential goods, if the Government deems necessary, for the well being of the general public,
- (f) To collect information or data for the purpose of regulating and prohibiting any or all of the provisions mentioned above,
- (g) To oblige distributors, dealers and businessmen of essential goods to update their transaction records for checking or the submission of distribution information,
- (h) To accrue commissions for any license or security money, as referred to, to fulfill the condition of a license; and to confiscate bail or security money in case any conditions of a license are violated; and to specify the authority for this purpose,
- (i) To permit raids in go downs/stores vehicles, boats, ferries, planes for any situation and to confiscate any goods deemed suspicious by the raiding authority, in violation or imminent violation of an order,
- (j) To specify goods to be confiscated as punishment for violating a notified order, and,
- (k) To take measures relating to the provisions of this Section.

4. **Penalty for offences against a notified order:**

- (1) Any offence in contravention of a notified order under Section 3, is punishable by five years imprisonment or a fine of up to Rs.15,000 or equivalent, whichever is the higher weighed against the cost of the goods in question.
However, a notified order under subsection 2(f) and (g) of Section 6 shall not impose a penalty of imprisonment of more than a year or a fine exceeding Rs.3,000 against the accused who has not maintained data or detailed records of essential goods as referred to in an order, or to those who have not submitted details as ordered within the prescribed time.
- (2) If goods relating to a conviction under Section 3 were prescribed for confiscation by order, the goods shall be confiscated.

5. **Attempts and incitement:**

If a person incites another or attempts to defy a notified order under Section 3, the order is deemed to have been violated or defied.

6. **Penalty for fabrication:**

If any person commits the following crimes, he shall be liable for a fine of Rs.10,000, and or imprisonment up to three years:

- (a) In fabricating a false statement or misinformation even if due reason persists, as ordered under Section 3 to provide a statement of information,
- (b) In keeping false registers, books, accounts, bonds, debts, deeds of agreement, records required to be maintained (by traders of essential goods) under a notified order.

6A. **Offence committed by a corporate body or company:**

- (1) If an offender under this Act is connected with a corporate body or company, in the capacity of director, manager, any officer or related person- shall be liable for action, except where it was not acknowledged or proved that he/she had tried to timely prevent the committing of an offence,
- (2) In spite of whatever is contained under subsection (1), the director, manager, officer or any other connected person representing a

corporate body or company shall be liable for actions in accordance to this Act, through the substantiation of negligence or acknowledgements.

7. **Authority to hear a case:**
- (1) The Chief District Officer (CDO) shall have the power to try and adjudicate offences punishable under this Act.
 - (2) In adjudicating cases punishable under this Act, the Chief District Officer (CDO) shall use powers and procedures contained in the Special Court Act, 2002.
- 7A. **The Government of Nepal as Plaintiff:**
The Government of Nepal shall be the plaintiff for cases punishable under this Act.
8. **Delegation of power:**
- (1) The Government of Nepal may delegate a number of or sole powers to any officer by order.
 - (2) Having no adverse effect on the universality of the powers under subsection (1), the Government of Nepal shall delegate the following powers by official order:
 - (a) To raid any house, camp, boat, cart/vehicle or aeroplane;
 - (b) To confiscate, seize as well as to demand the physical declaration of goods, if the prescribed officer deems it reasonable that an offence relating to goods against this Act has been committed;
 - (c) To arrest a suspect, if the prescribed officer deems it reasonable that an offence against this Act has been committed.
9. **Protection of a person against action carried out in good faith:**
Under Section 3 of this Act, no person shall be sued or prosecuted in the courts for any act carried out in good faith.
10. **An informant shall receive a commission:**
If a court convicts a person for an offence in violation of a Government of Nepal order for the purposes of this Act, an informant (if relevant) shall

receive a 25 % percent commission of the seized property or goods or the equivalent from a fine paid by the convicted offender.

11. **If this Act is inconsistent with other Nepal laws:**

The written provisions of this Act shall prevail according to this law and otherwise in accordance with other Nepal laws.

The Essential Services Mobilization Act, 2014 (1957)

Date of Royal seal and publication

Dec.6, 1957

Whereas, it is expedient to regulate mobilization, transfer and adequate management of essential services in the country, for the purposes of harmonizing normal life for the general public,

Now, therefore, *His Majesty the King*¹ has enacted and issued this Act.

1. **Short name, extent and commencement:**

- (1) This Act shall be cited as the "Essential Services Mobilization Act, 1957".
- (2) This Act shall be enforced throughout Nepal.
- (3) This Act shall have immediate effect.

2. **Definition:** Unless the subject matter or context otherwise requires, in this Act:

A. "Essential Services" refers to the following services:

- (1) Postal, wire or telephone [communication] services,
- (2) Transportation services for passengers and goods by water, land and air,
- (3) Services relating to the care of airports, aircraft including maintenance and civil aviation operations,
- (4) Services relating to transporting goods to and from airports, railway stations, public highways, to include stocking, loading and unloading
- (5) Services relating to the government mint and press,
- (6) Services relating to arms, munitions, the production of military logistics, to include the distribution and storing for defense purposes by the Government of Nepal, and
- (7) Any services as prescribed in the Nepal Gazette- as notified by the Government of Nepal.

¹ Translator's Note: Nepal is now a Republic

- B. "Strikes" refers to any obstruction or rejection of work by employees assigned to them collectively or in groups.

3. **Administrative power to ban strikes :**

- (1) If the Government of Nepal deems it necessary, for the sake of public welfare, it may ban strikes on any necessary services as prescribed, through an order placed in the Nepal Gazette.
- (2) Every notified order under subsection (1), shall be valid for six months,
- (3) After the Government of Nepal makes an order pursuant to subsection (1):
 - (a) An employee in services prescribed in the notified order shall not organize, participate in or hold strikes,
 - (b) Declaration of strikes before or after an order notification period shall be considered illegal.

3A. **Machines or materials may be confiscated for the control of the mobilization of essential goods:**

- (1) As provided for by the prevailing law, the Government of Nepal may seize machines, vehicles, machinery, equipment, parts and other materials used for essential goods, in order to mobilize and effect that prescribed by the government, after the issuance of an order.
- (2) In mobilizing essential goods pursuant to subsection (1), the Government of Nepal shall pay a reasonable hire charge to the relevant person in return for the use of their machines, vehicles, machinery, equipment, parts and or other materials.
- (3) Pursuant to subsection (1) of this Act, if a person denies or obstructs the seizing of machines, vehicles, machinery, equipment, parts and or other materials, the Chief District Officer may penalize that person with a fine of up to Rs.1,000 and or imprisonment for six months.
- (4) Trial and adjudication of the offences punishable under this Act shall be governed in accordance with the "Summary Trial Procedure Act, 1971."

4. **Penalty for employees that organize, participate in or hold strikes:**
Under this Act, if any employee organizes, participates in or holds a strike, he shall be imprisoned for six months and or fined Rs.200.
5. **Penalty for incitement:**
Under this Act, any person who induces or incites an employee to organize, participate in or hold a strike during a prohibited period, shall be imprisoned for a year and or fined Rs.1,000.
6. **Penalty for providing cash assistance to banned strikes:**
Under this Act, if any person knowingly provides cash assistance to a banned strike, he will be imprisoned for a year and or fined Rs.1, 000.
7. **If this Act is inconsistent with other Nepal Laws:**
Notwithstanding that contained in any other prevailing Nepal laws, a notified order under this Act shall be governed in accordance with this Act and if not otherwise with other prevailing Nepal laws.

The State Cases Act, 2049 (1992)

Date of *Royal Seal* approval and publication
23.12.1992

Amendment Act
An Act Amending Several Nepal Acts, 1999
21.01.1999
An Act to Amending Several Nepal Acts, 2006
24.09.2006

Act No. 43 of 1992

An Act designated to provide for cases relating to the Government

Preamble:

Whereas, it is expedient to enact legal provisions relating to cases to be prosecuted by the Government of Nepal and for cases to be defended by the Government of Nepal. Be it enacted by the Parliament *in the twenty first year of the reign of His Majesty the King Birendra Bir Bikram Shah Dev.*

1. Short title and commencement:

- (1) This Act shall be known as the "State Cases Act, 1992."
- (2) This act shall come into force immediately.

2. Definitions: Unless the subject matter or context otherwise requires, in this Act:

- (a) "Government Attorney" means the Attorney General, Deputy Attorney General, Joint Attorney General, Vice Attorney General, District Attorney, and Assistant District Attorney, and this word shall also include any employee in charge of a Government Attorney as assigned by the Attorney General.
- (b) "Court" means the bench assumed by a judge, including the authority assigned for judiciary duty relating to any case under existing laws.

- (c) "Office of the Government Attorney" means the Office of the Attorney General, the Office of the Government Appellate Attorney as well as the Office of the Government District Attorney.
- (d) Prescribed" or "as prescribed" means as applicable and established in this Act hereunder.

3. First Information Report:

- (1) Any person, who has knowledge that a crime listed in Schedule 1 has been committed or is, being committed, shall, as soon as possible, supply such information to the nearest police station by lodging a written complaint or by orally providing all relevant evidence to the full extent available.
- (2) Any person lodging a written complaint under subsection (1), shall include as far as possible in the complaint particulars, the following:
 - (a) The date, time and place of a crime committed, in the process of being committed or intended to be committed.
 - (b) The name, address and identification marks of any suspect.
 - (c) Evidence relevant to the crime.
 - (d) Other particulars relating to the crime and the nature of the crime.
- (3) Where a person tenders information orally, the relevant police officer shall replicate his statement in writing as well as complete the requirements as mentioned under subsection (2), read it aloud back to him to ensure he fully understands it, and if so, make him sign the statement.
- (4) The First Information Report (FIR) received in accordance with subsection (1), or through an alternative source shall be registered in the logbook, in the specified format.
- (5) In cases where a police officer refuses to register the FIR in accordance with subsection (4), the complainant shall lodge the FIR with the Chief District Officer or to a police officer of superior rank to the officer who was required to register the FIR. The Chief District Officer or police officer receiving the FIR shall keep a record and send the report off for the necessary action, attaching the required directions in writing to the relevant police station.
- (6) Any FIR received in accordance with subsection (5), must be registered by the relevant police station as per subsection (4).

4. Arrangements to prevent the damage or loss of evidence and to prevent a criminal suspect from flight:

- (1) Police officers who receive information relating to a crime listed in Schedule –1 that has been committed, is being committed or going to be committed, shall, as soon as possible, make arrangements to prevent the committing of a crime, damage or loss of evidence relevant to the crime and to prevent a suspect from escaping. If there is a possibility that a crime may be committed, or evidence may be damaged or lost and that a suspect may escape if no immediate action is taken, the police officer, if necessary, may take requisite action, bypassing other police officers precinct jurisdiction if need be; provided that he notifies the effected precinct police station as soon as possible.
- (2) Any police officer may request the help of any person or agency, to prevent a crime being committed, or damage or loss of any evidence occurring, necessary for holding a suspect under arrest.

5. Notification to the relevant police station where a crime is committed in another police precinct:

If the FIR received at a police station states that a crime listed in Schedule–1 has been committed, is being committed, or going to be committed in another police precinct, the police station receiving the FIR, shall forward the report, as soon as possible to the relevant police precinct and notify the complainant to be present at the same police station.

6. Submission of a Preliminary Report :

- (1) Prior to the investigation to be conducted in accordance with section 7, the investigating officer shall submit a preliminary crime report to the relevant Government Attorney district office, highlighting the points to be investigated.
- (2) After receiving a preliminary report in accordance with subsection (2), the Government Attorney, may, give necessary directions to the police officer assigned to the investigation.

7. Investigation and collection of evidence:

- (1) A police officer, not below the rank of Assistant Police Inspector, receiving information that a crime listed in Schedule–1 has been committed, is being committed or is going to be committed, shall,

as soon as possible, carry out an investigation of this crime and collect evidence.

- (2) The police officer conducting the investigation in accordance with subsection (1), shall prepare a report containing in, as far as possible, particulars as follows:
 - (a) Particulars of the scene;
 - (b) Location of the scene and its link with a crime or criminals;
 - (c) Any remarkable items seen or found in or around the crime scene.
- (3) The investigating officer, in addition to preparing the scene report, must, *interalia*, as far as possible, take photos of the scene, fingerprints or footprints as found at the scene or any other important items.
- (4) The investigating officer shall confiscate documents or goods, relevant to the crime.
- (5) A Government Attorney is obliged to provide an opinion or advice to the investigating officer, if the investigating officer requests an opinion or advice on any matter in the course of the investigation, in accordance with this section.

8. **Provision for witnesses:** While preparing an on-scene report, at any residence or location, carrying out a strip or stop and search of a person, goods, place; or preparing an autopsy, at least two witnesses from among local residents, and one member of the related VDC or Municipality shall attend. If no such members exist, a civil servant as well as the suspect and the complainant of the crime if available, must be present; provided that the absence of the suspect or the complainant as a witness shall not prejudice the proceedings.

9. **Statement and enquiry:**

- (1) The police officer investigating any crime listed in Schedule -1 shall take a statement from the accused, accompanied by a Government Attorney.
- (2) The investigating police officer shall make enquires with the suspect of a crime listed in Schedule -1 believed to have important information, and he shall record any statements if necessary.

10. **Search and seizure:**

- (1) A police officer investigating any crime may search and seize a person or a place, in accordance with procedure as prescribed by

law, if there are reasonable grounds to believe that any person or place contains material evidence relevant to a crime. A female police officer or other designated female shall search a female suspect.

- (2) If a person or place pending search is part of another police station precinct, the investigating police officer may request permission in writing to conduct a search and seizure in another jurisdiction; if this request is received, the police officer at the relevant police station, not below the rank of Assistant Deputy-Inspector, shall conduct a search and seizure of a person or place and prepare a report in accordance with subsection (3), and submit it to the police officer who made the request.

If the investigating police officer believes that evidence may be lost or damaged if he writes to the other police station, he may personally conduct a search and seizure in accordance with this section and send a notification to the other relevant police station.

- (3) The police officer conducting a search and seizure shall prepare two copies of a report on the particular goods found during a search and seizure, the location where the goods were found, and the surrounding circumstances. A copy of the report will given to the suspect and another copy filed. If the police officer conducting the search and seizure wishes to confiscate any goods, he may do so, provided the suspect is given a receipt.

11. Body examination:

- (1) If a police station receives information on homicidal, accidental or suicidal death, death under suspicious circumstances caused by criminal activities committed in its precinct, a police officer not below the rank of Assistant Police Inspector, shall go to the place where the dead body is located and examine the body, prepare a body examination report consisting of, *interalia*, essentials as follows, and as feasible as possible take photos of the dead body and the scene as soon as possible:
- (a) Particulars regarding the identification of the body;
 - (b) Note of the place where the corpse is located;
 - (c) Notes of any wounds injuries, blue or red marks, if seen on the body, particulars, *interalia*, of place, occurrences, length, breadth, depth of every wound, injuries and or blue or red marks;

- (d) The possible cause of death and related symptoms as appears on the body;
 - (e) Any symptoms which may be helpful in determining the cause of death;
 - (f) Any noteworthy observations.
- (2) Notwithstanding anything provided by subsection (1), the examination of a body by an authorized person as per clause 2 of the Chapter on Homicide of the Country Code, shall not be prejudiced.
- (3) If on examination of the body, it appears that the death was caused by criminal acts or under suspicious circumstances, the relevant police shall refer the corpse to the Government doctor for a post-mortem at the expense of the latter.
- (4) If the body is in a problematic condition or is found in a state of decomposition, the relevant police officer shall prepare an examination report mentioning the circumstances; and the processes as stated in subsection (3), are not required.
- (5) After the body is examined or an examination report is prepared under subsection (4), the relevant police officer shall transfer the body to family members, and shall have them sign a receipt. In cases where family member refuse to receive the body or no family member is present, the relevant police officer shall carry out cremation in accordance with the Police Act, at the expense of the State.
12. **Examination of blood and bodily fluids.**: If there are reasonable grounds to believe that evidence relevant to a crime may be found by the examination of blood, semen, or any other bodily organ or fluid, *interalia* of the arrested person, as based on the nature of the crime, the investigating police officer may have blood, semen, or any bodily organ or fluid, *interalia* of the arrested person examined by a Government doctor or in a medical clinic; and that a female doctor so far as available, or a female in support of a male doctor, shall conduct a physical examination of a female.
13. **Expert opinion:** If the investigating police officer thinks fit, he may obtain an expert opinion in any matter relevant to the crime.
14. **Arrest :**
- 1) The police officer conducting an investigation in respect of a crime under this Act, may, if there are reasonable grounds to suspect that a person has been

involved in a crime, arrest a person; no person, however, shall be detained in custody without a detention letter containing reasons for his arrest.

- 2) Any person having witnessed a crime being committed by another may restrain such person and hand him over to the nearest police station. [citizen's arrest].
- 3) While detaining a person under arrest in accordance with subsection (1), an order for him to surrender himself shall be given following an explanation of the reasons for his arrest. The arresting police officer may use force to restrain the person in case he attempts to escape or resist arrest.
- 4) If a female is arrested, she shall be arrested by a female police officer, whenever practicable.
- 5) Any evidence, document, goods, arms or ammunition found during a personal body search, while under arrest for the purposes of this Section, shall be seized by a police officer and a record of the contents shall be made.

15. **Terms of custody during an investigation and related procedures:**

- (1) Unless otherwise required by this Act, no person shall be held in custody for an investigation beyond a term of 24 hours.
Explanation: For the purpose of presenting a person before a court in accordance with subsection (2), the travel time incurred between the district police station and court, shall not be included in the period of custody.
- (2) While held in custody during the course of an enquiry (investigation) of a crime listed in Schedule-1, a detainee shall be presented before a court by the investigating police officer. Judicial remand may be sought and consequently the detainee may be held in judicial custody accordingly, when an investigation is not completed within 24 hours of arrest and the need exists to hold the detainee in custody, pending further investigation. For the purpose of seeking judicial remand (a custodial award) from a court, the application shall include the grounds for the charge against the person in custody, citing the reasons for his detention, pending an investigation and a statement made by him.
- (3) A person presented before a court for judicial remand in accordance with subsection (2), may lodge an application before the court, for a physical examination.
- (4) The court, when deciding an application for judicial remand, shall examine the relevant documents and shall take into account whether or not the investigation is satisfactory. If the court finds the

investigation satisfactory, it may grant judicial custody not exceeding a total of 25 days upon each request for an extension.

16. **Identification:**

- (1) If a suspect needs to be identified, a police officer, not below the rank of Assistant Police Inspector, may have him/her identified in accordance with the procedures established by law.
- (2) The police officer of the rank of Assistant Police Inspector or above may have goods relevant to the case identified, in accordance with the procedures established by law.

17. **Submission of a report with an opinion :**

- (1) The police officer investigating a crime listed in Schedule -1, after completion of an investigation, shall submit the original case file and a copy along with his opinion attaching evidence, to the District Attorney Office, 15 days before the termination of the limitation period under the applicable law if there is no detainee in the case; and, before the period required for making a decision on whether or not the case qualifies for further action and in preparing the charge sheet- and submitting it to the court if the accused has been held in detention during an investigation of the case. If a crime has been committed and the evidence found is sufficient to charge all or some of the accused, facts shall be attached to the case file. If a crime was not committed and the accused was not identified nor that evidence was found in order to make a charge, these facts must attach a case file.
- (2) After the receiving a case file along with an opinion, the government Attorney shall submit the file to the Attorney General for a final decision on whether or not the case [*"mudda"*] qualifies for further action.

A decision made by the Government Attorney in accordance with delegated power shall prevail, under sub article (2) of Article 110 of the Constitution, to the Government Attorney in accordance with Sub-Article (5), if the Attorney General has delegated his power.

If the Government Attorney finds it necessary to collect additional evidence or to enquire of any person, after studying the file in the course of making a decision on whether the case qualifies for further action in accordance with sub-section (2), he/she may give directions to the investigating police officer to collect and provide such evidence or to conduct and provide enquires with such

person; and it shall be the duty of such investigating police officer to abide by this direction.

18. **Submission of charge-sheet :**

- (1) If the government Attorney, after studying the file in the course of making a decision on whether the case should be submitted to court in accordance with subsection (2), finds the cases qualifies for further action, the government Attorney shall prepare a charge-sheet incorporating the particulars as mentioned below, in the form specified and submit it to the relevant District Court within the limitation period for action, attaching all relevant evidence to the crime and the detainee (if applicable) :
 - a) Full name, caste and address of accused;
 - b) Particulars of First Information Report (FIR);
 - c) Particulars of the crime;
 - d) Charge made against the accused and relevant evidence;
 - e) Applicable law;
 - f) Penalties sought against the accused; and
 - g) Amount of compensation (if relevant), to be provided to victim.
- (2) If the crime at issue has a specific name under the existing law, the same name shall be referred to on the charge sheet to be submitted under Subsection (2). If the crime has no specific name under the existing law, the elements of the crime shall be mentioned to ensure that the accused understands the charge made against him.
- (3) If the accused person is a convicted criminal and, therefore, subject to additional penalties, the date of his conviction and the name of the convicting court shall also be included.
- (4) If the charge sheet submitted under subsection (2), requires the approval of the Government of Nepal, an authorized Officer or an Officer specified by law in respect to certain crimes; the same letter of approval shall be attached to the case file with all evidence found by the investigation, and the accused shall be presented to the court if arrested.

19. **Safe guarding:** In case the Government Attorney decides the case does not qualify for further action, the evidence or goods including the file shall be returned to the relevant police station; and the police shall safeguard this evidence and or these goods including the file for a specified period.

20. **Notification to the complainant:** If it is decided that the case made does not qualify for further action, the complainant shall be notified of this decision by the relevant police officer.
21. **Police may release the person held in custody:** If it is unnecessary to continue a period of custody, a person held in custody during the course of investigation as per this Act, may be released (by the police) on remand, subject to prior approval from the Government Attorney, in the manner prescribed or by issuing a letter containing reasons thereof in case such approval is not required by the situation.
22. **Investigation in civil cases and registration :**
- (1) A person who seeks to register a case listed in Schedule-1 and or a civil action to be initiated by the government as claimant, shall submit a written application or verbal submission to an officer specified by the Government of Nepal as per a notification published in the Nepal Gazette in relation to a case, as specified by the existing law, attaching all relevant evidence or knowledge relevant for a pending case. If an officer receives a verbal submission, the relevant officer shall reproduce the submission in a suitable form to be signed by such person.
 - (2) The relevant officer shall examine any map-sketch of disputed lands, *interalia*, if necessary, relevant to the application received in accordance with subsection (2) and shall submit the original file and a copy to the relevant District Government Attorney, for making a decision on whether the case qualifies for further action, 15 days before the termination of the limitation period, attaching evidence and an opinion in this regard.
 - (3) If the relevant officer finds a cause of action without an application for a case, he shall submit the file to the District Government Attorney, collecting the necessary evidence and completing the procedures in accordance with subsection (2).
 - (4) The relevant officer, in the course of submitting a file before the District Government Attorney in accordance with Subsection (2) or (3), shall submit the file, taking into consideration the time necessary to make a decision on whether a case qualifies for further action before the court and the time needed for preparation of a claim-sheet as well as for the submission of the case to the

Government Attorney, who will make a decision on whether the case qualifies for further action.

- (5) The provisions under subsection (2) of Section 17 shall be applied when making a decision on a file as to whether a case qualifies for further action in accordance with subsection (2) or (3).
- (6) If the Government Attorney finds the case qualifies for further action after examining the file in accordance with subsection (2) or (3), in the course of making a decision on whether the case qualifies for further action, he shall prepare a claim-sheet and submit it to the relevant District Court with attaching evidence.
- (7) If the Government Attorney makes a decision against taking further action for a case, the file and the evidence shall be returned to the relevant officer and that officer shall safeguard this file and evidence for a specified period.

23. **The Government of Nepal as claimant** : The cases listed in Schedule-1 or 2 shall proceed with the Government of Nepal as claimant, and the complainant shall stand as a witness in a case.

If an investigation shows that there is no case or situation as listed in the Schedule-1 or 2, the case needs to be submitted by the victim in person, and the Government Attorney shall make a decision and shall inform the police or the relevant officer to notify the claimant. The limitation period for an action in respect of such person shall begin from the date of notification.

24. **To be observed during an appeal or review** :

- (1) If it is necessary to submit an appeal, review or any application in relation to any case listed in Schedule- 1 or 2, and or in a case for which the Government of Nepal, by prevailing law, is required to stand as the claimant, it shall be performed by the relevant Government Attorney.
- (2) Except as provided by subsection (1), when it is necessary to submit an appeal, review or any application in relation to a case for which the Government of Nepal stands as the claimant or defendant, it may be submitted by the relevant officer or the Office Chief; so long as the relevant Government Attorney submits an appeal, review or any application related therein, upon the written request of the relevant officer or Office Chief.
- (3) If it is necessary to submit an appeal, review or application in a case for which a government employee stands as a claimant or defendant in the course of official activities, a case may be

submitted in the name of the member of staff that has succeeded the post, (where the defendant/claimant employee no longer holds his post).

25. **Complaints against the Government of Nepal or government officer and dispatching summons:**

- (1) The Government of Nepal shall be summoned as a party (defendant) for a complaint or report submitted in relation to activities carried out by the Government.
- (2) A summons submitted in accordance with subsection (1), shall be dispatched to the Government of Nepal in the name of the Government Attorney.
- (3) If a case has been submitted against a government employee regarding official activities, the summons or notice may be dispatched to the relevant staff member or the staff officiating on his behalf; indicating the post of the employee and the address of his office on the summons or notice; provided that the provisions in this section shall not apply to the dispatching of a summons or notice in a case submitted against a government employee for governmental or non- Governmental activities carried out in a personal capacity.

26. **Limitation of action:**

- (1) The court shall issue a 70 day notice to appeal for a case listed under Schedule-1 or 2.
- (2) If the relevant person lodges an application to the court indicating reasonable grounds for an extension of the period prescribed by subsection (2), after termination, the court may apply an additional 30 days as prescribed by other prevailing law.
- (3) If it is necessary to submit a complaint on behalf of the Government of Nepal on a civil matter, it may be submitted within the same limitation period as provided by the prevailing law; and within two years of having knowledge of a cause of action, if such limitation is not provided by law. Provided that the clauses "no limitation period provided by existing law" and "a claim may be lodged at any time" shall mean that a complaint may be lodged at any time.

Explanation: "Having known by the relevant officer of the Government of Nepal" shall mean within the knowledge of the Government of Nepal.

27. **Concerned party (an individual):** In any case where the Government of Nepal stands as claimant under this Act is not listed in Schedule-1 or 2, a court shall issue an order to summon the relevant person and shall assign him as the claimant, and subject to his acceptance, shall adjudicate the case based on the same file in accordance with the law.
28. **Remitting penalty for submission of disclosure offence:**
- (1) No penalty shall be imposed for disclosing an offence or filing a complaint in relation to cases listed in Schedule-1 or 2.
 - (2) Notwithstanding anything provided by subsection (1), if the disclosure of an offence or submission of a complaint is made by a witness in person, citing events or giving evidence in a misleading manner through a false or fabricated submission to the Government of Nepal, a police officer or other official, the court shall act as follows:
 - (a) A witness making a false statement or fabricating evidence shall be liable for a fine not exceeding Rs.3000 or imprisonment not exceeding three months.
Provided that the aforementioned penalty does not exceed by half, the penalty being imposed on the accused, if convicted.
 - (b) If the court finds that a the witness making false statements or fabricating evidence, did so, without any reason but for retribution, the court may order the witness to compensate an acquitted defendant with compensation not exceeding Rs. 5000.
29. **Withdrawal of a charge or arbitration:**
- (1) A Government Attorney may undertake arbitration, with the consent of another party for cases where the Government of Nepal is plaintiff according to existing law, or proceeded on behalf of the Government of Nepal, or a case against the Government of Nepal. The Government Attorney may, with the consent of the court, withdraw a case in which the government of Nepal is plaintiff, and the following inferences will be drawn:
 - (a) No fee for arbitration shall be imposed.
 - (b) If the case is withdrawn, the defendant shall be discharged and the Government claim or charge shall terminate.

- (2) Notwithstanding anything provided by subsection (1), if the case affects matters relating to the property of a civilian (non government), it shall not be withdrawn from court in accordance with this Section.

30. **Other responsibilities of the Government Attorney :**

- (1) The Government Attorney shall carry out an examination of a witness and evidence for any case listed under Schedule-1 or 2, as well as for cases relating to the Government of Nepal.
- (2) The police have a duty to make a witness attend court for cases listed in Schedule- 1, on the date set by the court, under the guidance of the Government Attorney, and related expenditure shall be borne by the government.
- (3) The relevant police officer shall have the duty to ensure a witness attends court on the date as set, under the charge of the Government Attorney, for cases listed in Schedule-2, and cases prosecuted or defended by the Government of Nepal.

31. **Other cases, other than those listed in Schedule-1 or 2 :**

- (1) An investigating or prosecuting official as provided by applicable law or as assigned by the Government or the Chief of a relevant Office, shall collect evidence and submit files with an opinion to the Government Attorney before the termination of the limitation period to submit a charge-sheet or claim-sheet, in order to make decision on whether the case qualifies for further action (for cases to be prosecuted by the Government of Nepal, other than those listed in Schedule-1 or 2).
- (2) The provisions under subsection (2) of Section 17 of this Act, shall be applied in the decision process on whether or not the file received in accordance with subsection (2), qualifies.
- (3) A decision must be made on whether or not the file received in accordance with subsection (2), qualifies for further action; if a positive decision is made for further action, the file shall be returned before termination of the limitation period, in order to ascertain the particulars, parties, charges and relevant law the case is to be processed under.
- (4) The person assigned by the existing law shall prepare a charge or claim-sheet, obtain a signature from a designated authority, submit the case to court within the action limitation period with the detainee (if relevant), and shall supply a copy of the file to the

Government Attorney, after receiving a decision permitting further action.

- (5) If the Government Attorney makes a decision against taking any further action, the file shall be held for a specified period.

32. **May be referred to a relevant agency:** Notwithstanding anything provided for by this Act, if the investigation of a case listed in Schedule-1 or 2 is not covered by this Act, it may be referred to a relevant agency.

33. **Pleading presented by a Government Attorney:**

- (1) A Government Attorney shall plead for or defend cases listed in Schedule-1 or 2, as well as for cases provided by any law to be prosecuted by the Government of Nepal or cases submitted by the Government of Nepal, and or cases submitted by the Government of Nepal- if requested by a relevant agency.
- (2) Notwithstanding anything provided by subsection (1), the Attorney General shall assign a government attorney for advocacy or defence, if the relevant official makes a direct request to the Attorney General for a defence that involves the Government of Nepal.

34. **The authority of senior staff:** The duties prescribed by this Act or the Rules established hereunder which "may" or "shall" be performed by the following government attorney or police officer:

- (a) Any police officer, in the relevant territory of a senior rank and or a senior government attorney;
- (b) Any police officer, (equivalent to or senior in rank), as requested made by the police and a senior government attorney from another office.

35. **Cases listed in the Schedule subject to addition or reduction:**

Upon publishing a notice in the Nepal Gazette, The Government of Nepal, may add or eliminate cases listed in Schedule-1 or 2.

36. **Power to establish Rules:**

- (1) The Government of Nepal may establish rules pursuant to the objectives of the Act.
- (2) Without prejudice to the general application of the powers delegated under subsection (1), rules may be established on the following Subjects:

- (a) Specification of function, duties and power;
 - (b) Prosecution and defence for cases relating to the Government of Nepal;
 - (c) Anything, as required, for investigation processes.
37. **Repeal**: The State Cases Act, 1960 has been repealed .

Schedule -1

1. Cases relating to the royal family and the monarchy
2. Cases punishable under Crime against State and Punishment Act 2046.
3. Cases punishable under the chapter on Homicide
4. Cases punishable under the chapter on Rape. Cases punishable under the chapter on Theft (excluding theft related to a spouse – bigamy, polygamy, adultery)
5. Cases punishable under the chapter on Arson.
6. Cases punishable under the chapter on the Killing of a Cow under the Civil Code, Section 8 on the chapter on (Quadruped) Animals.
7. Cases on misusing or creating loss to Government or other Public Property.
8. Cases under the Arms and Ammunition Act.
9. Cases punishable under the chapter on Counterfeit of the Civil Code.
10. Cases punishable under Forgery of the Government Seal AND Forgery of a Government Employee Signature.
11. Cases on the publicity of any religion through the occurrences of religious intolerance. Conversion to a religion or compelled conversion to religion, or related efforts.
12. Cases on gambling.
13. Cases punishable under Chapter on the Trafficking of Human Beings under the Civil Code.
14. Cases punishable under the Post Office Act, 2019.
15. Cases punishable under the Espionage Act, 2018.
16. Cases punishable under the Nepal Citizenship Act, 2020.
17. Cases punishable under the old Heritage Conversation Act, 2013.
18. Cases on forgery or deception, raised through the medium of the Cases from annex-1 and 2 of the same Act.
19. Cases punishable under Public (Offence and Punishment) Act, 2027.
20. Cases punishable under the Narcotic Drugs (Control) Act, 2033
21. Cases punishable under the Essential Services Mobilization Act, 2014.
22. Cases punishable under the Black Marketeering and other Social Crime and Punishment Act, 2032
23. Cases punishable under the Disabled Protection and Welfare Act, 2039
24. Cases punishable under the Confidentiality of Documents Act, 2039
25. Cases punishable under the Citizenship Act, 2024
26. Cases punishable under the chapter on Cheating under the Civil Code
27. Cases punishable under no. 2 of the chapter on Marriage and Conjugal Relations Act under the Civil Code and cases punishable under no 10 of the

same chapter for establishing conjugal relationship of a husband and wife with another women either by taking her as another wife, marrying or by keeping her as a wife.

28. Repealed
29. Except cases punishable under the chapter on Homicide and the chapter on quadruped animals, cases on the killing of humans, cows, bulls and oxen are punishable under existing laws on transportation.
30. Cases punishable under the Trafficking of Human Beings (control) Act 2043.
31. Cases relating to any bank or organization partially or fully owned by The Government of Nepal that has been embezzled by any person, either with or without, the assistance of a member of staff from the affected bank or organization.
32. Cases punishable under forgery and cheating, for submitting forged documents to an organization or bank, fully or partially owned by the Government of Nepal.
33. Pickpocket theft cases.
34. Cases punishable under the Citizenship Act, 2063;
35. Cases written as included by this Schedule in any Act. Cases included under this are:
36. Any other Criminal case that has been determined by the Government of Nepal from time to time, upon the publication of a notice in the Nepal gazette, with the Government of Nepal as a plaintiff.
37. Cases of the Deformed and Wounded due to vehicle accidents.
38. Cases punishable under the Essential Goods Protection Act, 2012.
39. Cases under the Explosives, 2018.
40. Cases under section 9(a) of the Civil Aviation Act, 2015.
41. Cases under the Donation Act, 2030.
42. Cases relating to Deformation under the Chapter of Beating / Thrashing under the Civil Code (*Muluki Ain*).
43. Cases under the Foreign Employment Act, 2042
44. Cases on section 161 and 162 under the Vehicles and Transport Management Act, 2049.
45. Cases relating to offences of certificate as per section 7, and cases of section 14 and 15 under the Press and Publication Act, 2048.
46. Cases under the Lottery Act, 2025.
47. Cases on section 17(1a) and section 17(c2) of the Education Act, 2028.
48. Cases on section 47(5) under the Telecommunication Act, 2053.
49. Cases under the Transplantation of Human Organs (Regulation and Prohibition) Act, 2055.

50. Cases as referred to in section 95 under the Nepal Rastra Bank Act, 2058.
51. Cases on section 27 and 28 under the Copy Right Act, 2059.
52. Cases on section 15 under the Public Certification (Procedure) Act, 2063.
53. Cases on section 42 under the the Notary Public Act, 2063.
54. Cases as referred to in section 70 under the Bank and Financial Act, 2063 (section 72).
55. Cases of section 56 under the Protective Transaction Act, 2063.
56. Cases on section 8 and section 26(2) under the Elder Citizen Act, 2063 (section 29).
57. Cases on section 75 under the Electric Electronic Transaction Act, 2063.

Schedule – 2

1. Cases relating to the Embezzlement of Government Land.
2. Cases on the Misappropriation of Land Revenue.
3. Cases under No. 2 and 3 on the Chapter of Miscellaneous under the Civil Code.
4. Cases under 35 on the Chapter of Civil Transaction under the Civil Code.
5. Cases under No. 12 on the Chapter of Cultivation of Land under the Civil Code.
6. Cases under No. 16 on the Chapter of Land Transfer under the Civil Code.
7. Cases under No. 17 on the Chapter of Inheritance (*Aputali*) under the Civil Code.
8. Cases under No. 1 on the Chapter of Welfare of Found Property under the Civil Code.
9. Cases of Embezzlement of Government property or Establishing the Right of the Government.
10. Under this Act, other Civil Cases as prescribed by the Government of Nepal as a plaintiff, upon publication in the Nepal Gazette, from time to time.

The State Cases Regulation, 2055 (1998)

Date of publication in Nepal Gazette
19/10/1998

The Government of Nepal has enacted the following Rules in exercise of the power delegated under Section 36 of the State Cases Act, 1992.

1. **Short title and commencement :**
 - (1) This Regulation shall be called "The State Cases Regulation, 1998".
 - (2) This Regulation shall enter into force as of the date prescribed by the Government of Nepal upon publishing a notice in the Nepal Gazette.

2. **Definition:** Unless the subject matter or context otherwise requires, in this Regulation:
 - (a) "Act" means the State Cases Act, 1992.
 - (b) "Criminal Cases" means the cases listed in the Schedule 1 of the Act.
 - (c) "Civil Cases" means the cases listed in the Schedule 2 of the Act.

3. **First information report (FIR) and registration :**
 - (1) A FIR to be lodged in accordance with subsection (1) of Section 3 of the Act shall be made in the format as prescribed by Schedule-1.
 - (2) The person submitting the FIR in accordance with sub- rule (1) shall be given a receipt in the format prescribed by Schedule -2.
 - (3) In cases where a person lodges a complaint or FIR in accordance with sub-rule (1), via another person instead of appearing himself at the relevant police station, the police office shall take delivery of the complaint or FIR and shall give a receipt to the person who conveys it in the format prescribed by Schedule -2.
 - (4) A complaint submitted in accordance with sub-rule (3) shall be accepted even if it does not comply with the format prescribed in sub-rule (1) and if the complaint needs to include any required information, the relevant police station shall collate information and

include it therein, either by visiting the relevant person or calling him into the station.

Provided that the police actions requested by the complainant or information lodged through a post office or another person, may be postponed until the text of the complainant or information is confirmed and identified by him.

- (5) A complaint or information received in accordance with sub-rule (1) shall be registered in a crime register (Diary No.10) in the format prescribed by Schedule -3.
- (6) This Rule shall not prejudice the power of a police officer to take action requested by the FIR received through any medium not mentioned in this Rule.

4. **Procedures for investigation:**

- (1) Once a complaint or FIR is registered or received in relation to any crime listed in Schedule -1 of the Act, the relevant police station shall notify a police station of a higher footing as well as the Government Attorney office.
- (2) A police officer, of superior in rank, after having studied the file, may issue directions as required, regarding the subject matter of the investigation to the police officer designated under sub-rule (1). The investigating police officer, depending on the gravity of the crime, may form an investigating team for his assistance, if necessary.
- (3) A police officer shall arrest a suspect for a crime being committed in his presence or at the place where he has been deployed for gathering information, after receiving a report or information that a crime has been committed, is being committed or is going to be committed. If the suspect could not be arrested, the police officer shall seize material evidence, any item or object admissible as evidence relevant to the crime if found in the presence of persons witnessing the committing of a crime. He shall give receipt of the evidence, and preserve the crime scene until completion of the investigation.

If material evidence and any other item or good admissible as evidence is not in a condition to be immediately processed or seized, the relevant police officer shall request the local Village Development Committee or Municipality to safeguard the evidence, and the local Village Development Committee or Municipality shall process these items if a request is made and give receipt for the evidence.

- (4) The police officer deployed for gathering information in accordance with sub-rule (3) shall inform his police station as soon as possible, that will immediately register such information in the crime register as prescribed by Schedule-3, and shall designate a police officer for the investigation process.
- (5) The police officer designated for investigation in accordance with sub-rules (1) and (4), shall visit the crime scene as soon as possible.
- (6) The police officer designated for investigation in accordance with this Rule, shall enquire of information relating to the incidents as witnessed, acknowledged or understood by a witness, and shall record these observations as soon as possible, in the format prescribed by Schedule -4.

5. **Search:**

A search report shall be issued in the format prescribed by Schedule 5 or 6 as required, in case it is necessary to conduct a property or body search with regard to the case in accordance with Section 10 of the Act.

6. **Body examination and autopsy :**

- (1) The investigating police officer, in order to perform a body examination in accordance with Section 11 of the Act, shall make a report in the format prescribed in Schedule -7 or Schedule -8 as required.
- (2) After completion of a body examination in accordance with sub-rule (1), if it appears that a death was not caused by criminal activity nor that the death was caused under suspicious circumstances, and the investigating police officer decides that an autopsy is not required, the police officer shall prepare a report with conclusions, witnessed in the presence of local residents.

7. **Examination report to be submitted:**

- (1) The relevant government doctor shall submit an autopsy report in the format established in Schedule -9 to the relevant police station within 24 hours of completion in accordance with Subsection (3) of Section 11 of the Act, excluding the any travel time.
- (2) It shall be the duty of the relevant hospital or health post to provide a wound examination report as requested by the police in the format prescribed in Schedule-10 or any information on the condition of person who is to be examined during the course of an investigation, within 24 hours of a request, excluding travel time.

8. **Expenses related to an autopsy:**

While referring a body to the governmental doctor conducting an autopsy; the relevant police station shall provide money to the relevant person as determined for reasonable expenses for transporting the body, taking into account the physical condition of the body, the distance from the crime scene etc, and must also provide money to the police officer assigned for arranging the required autopsy.

9. **During an arrest or detention of the accused :**

- (1) The police shall, in the course of investigating a crime, search and endeavour to arrest the person suspected of committing a crime listed in Schedule -1 of the Act and shall provide an arrest letter in the format prescribed by Schedule -11 to those arrested.
- (2) Notwithstanding anything provided by sub-rule (1), the investigation shall be carried out without an arrest if there is no reasonable ground to make one.
- (3) If it is necessary to hold a suspect in police custody, arrested in accordance with sub-rule (1), he shall be held in police custody in accordance with the procedures established by Section 15 of the Act, and a detention letter as prescribed by Schedule-12, shall be provided to him.
- (4) A suspect, (held in police custody in accordance with sub-rule 3), investigation file shall be submitted to the Government Attorney Office, three days before the examination of a period of custody, taking into consideration the period required for making a decision on whether the case qualifies for prosecution, preparing the charge sheet and submitting it to court.
- (5) A person who is arrested at any time for a crime listed in Schedule 1 of the Act, which has already been committed, shall be presented before court by the police, represented by a government attorney, as soon as possible, within 24 hours of arrest excluding travel time. It is not a requirement for the police station to take a statement from the accused.

10. **Identification of materials, items or goods :**

If deemed necessary, materials, items or goods relevant to any case under subsection (2) of Section 16 of the Act, shall be catalogued by a designated person.

11. **Detainee may be released by the police :**

- (1) If the detention of a person in police custody during the course of an investigation in accordance with Section 21 of the Act, is deemed unnecessary, a notification for his remand with reasons thereof shall be

made, and a letter attaching his file shall be sent to a government attorney for approval.

- (2) If a government attorney receives a letter requesting approval, he may approve remand, if after having examined the documents included in the file, decides that a detention is unnecessary.
- (3) If the situation appears impossible in obtaining immediate approval from a government attorney, the investigating police officer may make a decision mentioning the grounds thereof, expediting a notification to be sent to a government attorney without delay.

12. **Materials, evidence and the accused to be held:**

- (1) If a government attorney decides to proceed with a case on the basis of the investigating police file, in accordance with Section 17 of the Act, all relevant materials, evidence as well as the accused shall be returned to the police station to be held therein, on the condition to produce them to court at the time of submitting the charge sheet.
- (2) The designated police officer shall have the duty to have any material, evidence and the suspected returned in accordance with subsection (1) of Section 17 of the Act.

13. **Registration of criminal cases :**

- (1) A government attorney shall prepare a charge sheet as prescribed by Schedule -13, mentioning the particulars as required by subsection (1) of Section 18 of the Act, and shall submit the original file to court within the statutory limitation prescribed by the Act, along with the accused if detained. A copy of the registered charge sheet shall be provided to the investigating police officer.
- (2) For those cases filed in accordance with sub-rule (1), the police officer or the government attorney are not required to be present like the accused on the follow up date in the court. A copy of the registered charge sheet shall be provided to the investigating police officer, provided that the Government Attorney's office is notified of the dates of hearing as prescribed by the court and or the orders of the bench or with a copy of the judgment.

14. **Producing evidence found after the submission of a charge sheet:**

In case the police or any other person finds goods, items or documents admissible as evidence in a case, he shall hand them over to the Government Attorney office and the government attorney shall submit these items or documents to the court.

15. **Producing a witness for the Government :**

- (1) The court shall notify the relevant police station with the date for producing witnesses appearing for the Government, and it shall be the duty of the police to present the witness to court, once notified. If a witness must go travel abroad on the date prescribed for a testimony or is not in a position to appear in court on the hearing date, (and whose testimony is extremely important for the case), the court may hear him immediately, if he is produced for testimony.
- (2) In case the police fail to bring the witnesses appearing for the Government on the date prescribed for testimony, he shall make a report in the format prescribed by Schedule -14 describing the reasons thereof and submit it to the Government Attorney Office. In case the government attorney requests the court to re-schedule the date for examining the witness, the court may give an order to re-schedule the date for examining the witness.
- (3) The expenses required for presenting a witness hereunder shall be borne by the relevant police station. Every witness present in court shall be provided with daily allowances (including travel), equal to those provided to a government employee holding rank of a non-gazette third class. If a government employee is to appear as a witness in a case, his Office, in accordance with the existing Financial Act and Rules, will provide an allowance.

16. **Registration of a civil case:**

If a civil case needs to be registered, in accordance with Section 22 of the Act, a police officer will have the duty to collect relevant evidence and documents as well as to present witnesses when called by court.

17. **Exemption from fees & fines:**

If the Government is the plaintiff or defendant, costs relating to the filing and processing of a case in court, shall be waived.

18. **Arrangements for maintenance:**

If final judgment in a case for which the Government appears as claimant, is delivered, ordering the Government to pay for restitution, execute entitlement or to take action for a non Government associated person; the time limitation to pay for this restitution, execute an entitlement or to take action shall begin seven days from the date of expiration of the statute of limitations to appeal. If an appeal has not been filed against the judgment

from the date on which the final judgment of the appellate court is notified by the District Court, if an appeal has been filed against the judgment and the notification thereof has been dispatched to the relevant person.

19. **Calculation of a statute of limitation:**
For cases listed in Schedule 1 and 2, the statute of limitations for the submission of an appeal, application, petition for review or a petition for rehearing shall be calculated by the relevant Government Attorney Office, from the date of notification received by the relevant department or governmental office in relation to a case in which the Government is prescribed as the claimant, or the notification received by the relevant office or authority in other initiated cases where the Government is the claimant or respondent.
20. **Provisions on copying :**
The court shall allow the Government Attorney office to copy judgments or orders of the court in respect to a case which is initiated by the Government of Nepal as a claimant or respondent or where the Government of Nepal has an interested concern. If it is necessary for a police station or other offices to copy these documents, they shall take copies from the Government Attorney office.
21. **To archive:**
It shall be the duty of the relevant office to archive, until the expiry of the statute of limitations for a case, the file, materials and evidence for a case which is returned by the Government Attorney office, after making a decision not to proceed with a case in accordance with Section 19, subsection (7) of Section 22 and subsection (5) of Section 31, and the items shall be auctioned after expiration of such date; if they are arms or weapons, they shall be handed over to the authority that issues licenses for using arms and weapons, in accordance with prevailing law.
22. **Co-ordination committee:**
 - (1) A co-ordination committee shall be constituted as follows for the purpose of co-coordinating the agencies involved in investigation, inquiry and prosecution:
 - a) Attorney General - President
 - b) Secretary, Ministry for Law and Justice -Member
 - c) Secretary, Ministry for Home Affairs -Member
 - d) Inspector General of Police -Member

- e) Senior Government Attorney as chosen by the Attorney General - Member-Secretary.
- (2) Committee procedures shall be auto determined.
- (3) The committee may, as necessary, invite the Heads of different agencies relating to investigation and proceedings to meetings.

23. **Alteration, reduction and or addition to a Schedule:**

The Government of Nepal may, upon publishing a notice in the Nepal Gazette, amend, add or redact Schedules.

24. **Repeal and Saving:**

- (1) The State Cases Regulation, 1961 has been repealed.
- (2) Any activities conducted under the State Cases Regulation 1961, shall be deemed to have been conducted in accordance with this Regulation.

Schedule-1, (relating to sub-rule (1) of Rule No. 3), Format of First Information Report

Schedule -2, (relating to sub- rule (2) of Rule 3), Receipt of complaint or First Information Report

Schedule -3, (relating to sub-rule (5) of Rule 3)

Schedule -4, (relating to sub-rule (6) of Rule 4), Format of document about facts of incident

Schedule -5, (relating to Rule 5), Seizure / Search Report Format

Schedule -6, (relating to Rule 5), Search Report Format

Schedule -7, (relating to Rule 6), Crime Scene / body examination reporting format

Schedule -8, (relating to Rule 6), Crime scene report format

Schedule -9 - Autopsy report, (relating to sub-rule (1) of Rule 7), Autopsy Report

Schedule-10-Wound examination report, (relating to sub-rule (2) of Rule 7), Form for wound examination report

Schedule -11, (relating to sub-rule (1) of Rule 9), Format of Arrest Letter

Schedule -12, (relating to sub-rule (3) of Rule 9), Format of Detention Letter

Schedule -13, (relating to sub-rule (1) of Rule 13), Format of Charge-Sheet

Schedule -14, (relating to sub-rule (2) of Rule 15), Format of a statement for failing to produce a witness

Some Public (Offences and Penalties) Act, 2027 (1970)

Date of Royal Seal and Publication:
2027.06.18 (04.10.1970)

Amendment Acts

1. Some Public (Offences and Penalties) (First Amendment) Act, 1974:
06.10.1974
2. Some Nepal Act (Amendment) Act, 1982: 21.11.1982
3. Judicial Administration Act, 1991: 30.05.1991
4. Some Public (Offences and Penalties) (Second Amendment) Act, 1992:
02.11.1992

Act no. 12 of the year 1970

"An Act designed to provide for the control of some public offences and penalties thereof"

Preamble: Whereas it is desirable to control some public offences and enact penalties thereof for the maintenance of peace and order in the Kingdom of Nepal and for ensuring the welfare, righteous conduct and morality of the general public,
Be it enacted by His Majesty the King, Mahendra Bir Bikram Shah Dev upon advice and consent of the *Rastriya Panchayat*.

1. Short title, extent and commencement:
 - (1) This Act shall be called the "Some Public (Offences and Penalties) Act, 1970".
 - (2) This Act shall be applicable throughout the Kingdom of Nepal.
 - (3) This Act shall enter into force immediately.
2. Some public offences are prohibited: No person shall commit any of the following acts:
 - (a) Causing obstruction to any civil servant in the discharge of his official duties by committing battery, hooliganism or any other [negative] conduct;

- (b) Disturbing public peace by committing battery and hooliganism;
- (c) Using obscene words, speeches or signs in disturbing the peace, or thereby engaging in obscene acts in a public place;
Printing or publishing any obscene materials using obscene language, through words or pictures, or exhibiting, selling or distributing such obscene publications, except for the purpose of public health or medical science;
- (d) Improperly obstructing the regular operation of essential social services such as the post, communication, transportation and electricity supply;
- (e) Trespassing on governmental or non-governmental offices or private dwellings and land in committing hooliganism or remaining without permission;
- (f) Damaging public or private property by committing vandalism, or pelting stones or by any other method;
- (g) Sexually molesting females and thereby insulting them in a public place;
- (h) Behaving irresponsibly in a public place; harassing pedestrians, or those travelling in vehicles, by any means or obstructing their way, by committing hooliganism, sexual molestation, assault, misconduct, rioting, appropriation or damage to property or transportation, with the intent to cause a nuisance or harassment;
- (i) Intimidating, abusing or teasing any person, or committing any improper acts through telephone, letters or any other medium, with the intent to terrorize, intimidate, disrespect, insult or harass;
- (j) Spreading terror or intimidation; wielding weapons in such a manner to disturb the peace either by entering or not entering a mass meeting or procession.

3. Power to arrest:

- (1) If a police officer finds any person, on the spot, committing any offences defined under Section 2, he may arrest such person without a warrant.
- (2) A local police station or police personnel from a police post, (not below the rank of sub-inspector), may issue a warrant for arrest, if

he believes that a person has committed an offence, as a result of an investigation carried out on the basis of a complaint, reliable information or upon his own reasonable suspicion that a person has committed an offence defined under Section 2.

Provided, that an arrested person shall be produced before a case hearing authority within twenty-four hours, excluding travel time, and such person shall not be held in detention beyond this period without an order from the relevant case hearing authority.

4. Statute of limitations for filing a case:

- (1) Cases under this Act shall be filed within seven days from the commission date of the offence.
- (2) Notwithstanding, anything provided by subsection (1), an aggrieved person may file a complaint under this Act, to a police station within seven days of the commission of the offence, excluding travel time. In such cases, the statute of limitations prescribed in subsection (1) shall be effective from the date the complaint is lodged.

Provided, that if the case hearing authority finds reasonable cause for failure to file a case within seven days of the commission of the offence, he may extend the statute of limitations up to thirty-five days after the commission of the offence.

5. Case hearing authority and procedures:

- (1) The Chief District Officer shall have original jurisdiction to try and hear cases established by this Act.
- (2) The Chief District Officer shall apply the procedures provided by the Nepal Special Court Act, 1974 in order to proceed with cases in accordance with this Act.
- (3) The appellate court shall have jurisdiction to hear an appeal against a judgment made by the Chief District Officer in accordance with subsection (1).

6. Penalties:

- (1) In cases processed in accordance with this Act, the Chief District Officer may, depending on the gravity of a case, impose a fine of up to ten thousand rupees (Rs.10,000) and order an offender to provide compensation to the victim equal to the amount lost. If the Chief District Officer finds, in the course of the investigation,

reasonable grounds, he will issue reasons thereof to hold the offender in detention, and the offender may be held in detention for a period not exceeding thirty-five days. These cases shall be decided within three months.

Provided, that if deemed that the imposition of a fine is not exclusively sufficient and that imprisonment is additionally necessary, a recommendation shall be submitted before the appellate court in order to render imprisonment not exceeding two years. The decision of an appellate court shall prevail.

- (2) In cases where an offence is committed by a first time offender, the judicial authority may, depending on the gravity of the case, not impose punishment contained in subsection (1) and may release an offender upon him signing a document promising not repeat such offences from that date onwards.

7. His Majesty's Government as claimant: Cases under this Act shall be filed by the Government as claimant.
8. Case may be initiated under other prevailing laws: Any cases involving offences that are punishable under this Act may be filed in accordance with other prevailing Nepal laws. Provided, that no one shall be tried and punished in accordance with other prevailing laws for an offence he has already been tried and punished for under this Act. [no double jeopardy].

Part IV

The Legislative Framework for Law Enforcement and Detention

Prison Act, 2019 (1963)

Including Second Amendment of the Prison Act, 2064

Preamble

Whereas it is expedient to amend and consolidate Nepal laws relating to prison for the maintenance of law and order, His Majesty the King Mahendra Bir Bikram Sahdev has enacted this Act in accordance with the Article 93 of the Constitution of Nepal.

1. Short name, scope and commencement

- (1) The name of this Act shall be cited as "Prison Act 2019(1963)".
- (2) This Act shall be extended to, across the country.
- (3) This Act shall commence from on the date of publication in the Gadgets of the Government of Nepal.

2. Definitions

- a. 'Court' shall mean commission, tribunal, or office empowered to perform a judicial act equivalent to court.
- b. 'Prisoner' ['kaidi'] shall mean a person on whom a penalty has been imposed by the judgment of a court.
- c. 'Detainee' ['tinuhar'] shall mean a person detained for an investigation, enquiry into an offence, or one who is kept in the custody of a court, the police, or any other officer for trial, or a person kept in detention under the Public Security Act.
- d. "Prison" shall mean house, room, or any other place created to detain or imprison a detainee or prisoner and the land covered by such house, room or place.
- e. "Designated" or "as designated" interchangeably shall mean a rule established under this Act.
- f. "Jailor" shall mean a person who is appointed or designated to perform the task of a prison warden according to this Act.[prison warden]
- g. "Prison office" shall mean the office of a prison warden.
- h. "Hospital" shall mean a government hospital, dispensary or '*ausadhalaya*'
- i. "Community service" shall mean service done in schools, hospitals, local bodies, shrines, retirement homes, destitute homes, and service in other similar bodies and social organizations.

- j. "Open prison' shall mean any place designated by the Government of Nepal to keep prisoners on the condition for him to go outside the place where he is kept and do perform work at a designated time."

3. Detention or imprisonment letter:

- (1) If the detention of any person is required, pending an investigation, enquiry or trial, he must be given a detention letter pursuant to law; if he is required to be kept in prison under another officer's control, the relevant prison must be informed.
- (2) When the detention of any person is required according to the judgment of any court, he must be sent to the prison with an imprisonment letter stating the penalty imposed on him, what offences he has committed and under which law and from what duration he shall be detained for according to a judgment. This letter will be addressed to the prison containing all those abovementioned details along with the detainee's address, age, colour and description.
- (3) If the person to be detained refuses to receive a letter given pursuant to subsection 1 & 2, the statement of his refusal must be noted and officially recorded and signed by the Chief of the Office.

4. Receiving the detainee:

5. Search of detainee or prisoner

- (1) When admitting any detainee or prisoner inside prison, he must be searched and if any arms or contraband goods are found on him, they must be seized.
- (2) The extra amount, more than that required for daily use, of the goods which a detainee or prisoner is entitled to take inside a prison according to existing Nepalese law; or the goods which can be sent to prison must be kept in possession of the jailor on the condition it will be given to the detainee whenever required.

6. Provision relating to keeping the detainees

7. Handcuffs and shackles are not to be used

No detainee shall be handcuffed or shackled inside prison except where the detainee is one who has been arrested after having escaped from prison or one who attempts to escape or behaves according section 22(2).

8. Care for a juvenile in prison

- (1) If a woman detainee gives birth to a child in prison or if she has a child under 2 years old, (if she so wishes), may take care of her child by keeping him [in prison] even if there is next of kin who can take care of the child. Except otherwise required, a child must be given to the next of kin after attaining two years of age.
- (2) If any detainee has a child that he/she has to take care of and there is no one to take care of the child; the entire care and education for that child shall be provided for at the expense of the designated government body. [during the entire sentence of the prisoner-parent]
- (3) If a child who has not reached the age of 12, is detained or imprisoned, even if his/her father mother or other relatives desire to live in prison to take care of him, shall not be permitted.

9. Provision relating to stipends and clothes for detainees or prisoners

Stipend and clothes shall be given to a detainee or prisoner in prison and to their children mentioned in section 8(1) and (2) as designated. Provided that:

- (a) Clothes shall be given to a detainee (detained for up to one year or more), without being prison-term designated.
- (b) If a detainee or prisoner desires to make arrangements for a stipend [food rations] or clothing at his own expense, he shall be permitted to do so as requested.

10. Employing detainees

- A. Can be sent for community service:
 - (1) Notwithstanding anything written in this Act or in Nepalese law, the adjudicating officer may send a convict sentenced with up to three years imprisonment for community service. Provided that other adjudicating officers formed according to existing Nepalese law, except court, must get permission of the appropriate district court while sending the convict for community service pursuant to subsection (1).
 - (2) The convict sent for community service shall not get any remuneration and facilities for doing such service.
 - (3) If the convict who is on community service does not do the work set for him, he may be sent back to prison for the rest of his sentence, with the sanction of the appropriate district court.

- (4) Other provisions relating to community service shall be as designated.
- B. Can be kept in an open prison
- (1) Notwithstanding anything written in this Act or in existing Nepalese law, the designated officer may permit a prisoner on whom more than three years imprisonment has been imposed and has served at least one-third of the sentence to live in an open prison.
- (2) The period that a prisoner lives in an open prison pursuant to subsection (1), shall be deemed equivalent to serving imprisonment.
- (3) A prisoner who lives in an open prison pursuant to subsection (1) shall not be entitled to a stipend, clothes and or medical expense according to this Act.
- (4) Other provisions relating to an open prison shall be as designated.
- C. [Convicts] not to be sent for community service or open prison on certain conditions.

Notwithstanding that stated in 10A or 10B, a convict imprisoned for the following crimes shall not be eligible for community service or an open prison:

- Human trafficking and transport
- Rape
- Escape and causing to escape from prison
- Export/import by deceiving customs
- Drug trafficking
- Corruption
- Espionage
- Case relating to protected wildlife
- Case relating to archaeological goods.

11. Health and treatment

12. If a detainee women is pregnant

13. If a detainee dies

14. Visitation and correspondence

15. Producing a detainee or prisoner to an office or court

- (1) If it is necessary to produce a detainee or prisoner to any office or court for examination of evidence or any necessary matter in relation to a case, the court or the office must do as follows:
 - a. A court must send letter directly to the prison office where the prisoner is imprisoned or detainee is being detained.
 - b. Other offices must send a letter to the office or court through which the detainee or prisoner was detained or imprisoned.
- (2) Having received a letter according to subsection (1)(b), the office or court which imprisoned or designated imprisonment, must write to the relevant prison office in order to produce a detainee or prisoner to the requesting office.
- (3) Having received a letter pursuant to subsection (1)(a) or subsection (2), the jailor must produce a detainee or prisoner as designated.

16. Provisions relating to prison administration

17. Duty of a jailor and other officials

18. Not to be detained for longer than designated

- (1) A jailor must release a detainee within 24 hours after the designated period of his detention expires, (if he is detained for designated period), and within 24 hours according to an order, and or on receiving a release order from a legally authorised officer.
- (2) In relation to a detainee, detained, for further trial, if no prison term is designated or release order is received for six months from the time he is detained in prison, the jailor must submit a report mentioning all details to the office hearing the appeal, (which initially issued the detention order), within 3 days from expiry of a 6 month period.
- (3) If a decision has been issued or ordered for the release of any detainee, the notice must be sent to the relevant prison without delay.
- (4) The Chief Justice or an appellate court judge must annually inspect a prison in an appellate court territorial jurisdiction at least once a year. The aforementioned [inspection] judges may order the immediate release of any person detained for more than the designated period or legally permissible period. It shall be obligatory for the concerned jailor to abide by such order. If the Chief Justice or a judge that order the immediate release of a detainee, find during an inspection, that something has been neglected according to this Act; they must send an investigation report to the Supreme Court and Ministry of Home Affairs.

19. Inspection of a prison

20. The processes to be taken after a prison inspection

21. Procedure for detainees to make applications or requests for pardon
[‘*bintipatra*’]

- (1) If any detainee submits any complaint, answer, appeal, pardon application, to the prison where he is detained, for which he has to submit to any office or court in relation to any case, the prison office must forward it to the office or court with a cover letter, receiving the required fees as per law; signed by the applicant, acknowledging that the application has been made within the required limitation period.
- (2) The relevant office or court must act according to existing Nepalese law on receiving documents with a prison cover letter pursuant to subsection (1).
- (3) If a detainee submits the document mentioned in subsection (1) and the fees to the prison where he is detained within the statutory limitation period, the limitation shall not expire.

22. Offences relating to prison

23. Transportation of a detainee

24. Penalty imposed on a detainee who escapes or attempts to escape

25. Penalty for prison officials who do not fulfil their duties

26. Power to initiate and hear a case under this Act

27. Power to make rules

28. Abrogation

Second Amendment Act, 2064 (1963)

Prison Regulations, 2020 (1963)

Tenth Amendment, 2061

Chapter - 1 Preliminary

1. Short name and commencement

2. Definitions

Act

Investigation [*Anusandhan*]

Enquiry [*chhanbin*]

Chapter - 2

Detaining and releasing a detainee or prisoner

3. Provision

[A prison may be established wherever the Government requires one.]

4. Prison Office to receive

5. Detaining in solitary confinement [*golghar*]

6. Notification is required if a prisoner is imprisoned in solitary confinement for misconduct

7. Detainee or prisoner records are to be kept

8. Detainee to be mentioned in a bail book

If a detainee is presented without a penalty having been imposed on him, the person transporting the detainee must sign the bail book created in the format prescribed by Schedule-2.

9. Acknowledgment

10. Taking attendance

11. Record of days served in custody are to be submitted

12. Requirement of witness for release

[There must be a witness present to acknowledge that a person was released.]

13. Notification to be given

[The prison authority must notify the local police, if there is a likelihood that a person will re-offend upon release]

14. Travel allowance for released

[If a person lives far from prison and has no funds, he must be given a travel allowance.]

15. Release after a designated period is over

If a prisoner or detainee is not released and is detained for more than 24 hours after he/she serves imprisonment, the responsible party must act according to the existing law.

16. Release on payment [of a fine]

- (1) The prison office must maintain a record if a court has imprisoned a person for a fine, and this must be transferred to the relevant government office.
- (2) If a person serving imprisonment for failing to pay fine wishes to be released by paying the amount owed, this person must be released from imprisonment once the fine is paid, and a record [of settlement] must be kept according to law.

Chapter - 2A

Provision regarding community service and an open prison

16A. Provision of community service

- (3) A person likely to be imprisoned for up to 3 years imprisonment, who wishes to perform community service, must apply to the officer hearing the case in the format pursuant to schedule 2A.
- (4) Having received an application according to sub-rule 1, the officer hearing the case may, if he deems it reasonable, send a convict for community service as requested in an application, instead of [usual] imprisonment after considering the following:-

- (i) The offence-and the reasons and circumstances surrounding the crime,
 - (ii) Prior conduct,
 - (iii) Age,
 - (iv) The confession and apology made regarding the offence,
 - (v) The nature of community service requested.
- (5) Notwithstanding anything written in sub-rule 2, all other officers, (except a court formed and constituted according to law), who hear a case must seek permission from the relevant district court, citing grounds and reasons for community service, and if the district court finds these notions acceptable, it may grant a community service order in favour of a convict.
- (6) An officer who hears a case pursuant to sub-rule (2), when transferring a convict to community service, must state how long the convict must perform community service, with a ratio deduction of one day of imprisonment being deducted for every 2 hours of work he does in the community.
- (7) Once the officer hearing the case pursuant to sub-rule (2), decides to send a convict for community service, the Department of Prison Management in the Kathmandu Valley and the relevant prison office outside Kathmandu must send the convict to an institution or organization according to a written agreement with a school, hospital, local body, shrine, nursing home that is willing for a convict to get involved in their social work, and any other body or social organization. The convict must sign a document promising to abide by the required terms. The Department of Prison Management must consult with the Central Committee of Community Services, the Open Prison Management and the Prison Office from the District Committee of Community Service before agreeing this.
- (8) A convict selected for community service pursuant to sub-rule (5) must perform community service at least 2 hours a day at the designated body or organization, and he may work as a self-employed person for the rest of the period.
- (9) The Department of Prison Management or Prison Office must write to the relevant district court for permission, if deemed necessary to recall a convict from community service pursuant to sub-Rule (5), under the following conditions:-
- A. If he acts against the law,

- B. If he does not do the work assigned to him according to the agreement with the designated body or organization,
 - C. If he acts against his signed promise during community service.
- (10) The district court shall grant permission to recall a convict from community service if such permission is sought in writing pursuant to sub-rule (7) and if the court deems it reasonable to do so.
 - (11) If the Department of Prison Management or Prison Office receives permission to recall a convict from community service, it shall pursuant to sub-rule (8).
 - (12) A convict who is called back from community service must serve the remaining period of imprisonment in prison and he shall not have another opportunity for community service during the same imprisonment period.

16B. Provisions regarding an open prison

- 1. The Government of Nepal may designate as required, any building or place in Nepal as an open prison.
- 2. If a prisoner, is sentenced to more than three years imprisonment and has served at least one third of his sentence, wishes to stay in an open prison designated pursuant to sub-rule (1), he must submit an application in the format designated in schedule 2B for permission, from The Department of Prison Management via the relevant Prison Office.
- 3. Having examined an application made pursuant to sub-rule (2), The Department of Prison Management shall forward the application to the Central Committee of Community Services and the Open Prison Management; and this committee shall recommend to the Department of Prison Management with grounds and reasons whether or not a prisoner can be allowed to live in an open prison, taking into consideration the following matters,.
 - a. The details on the cause and condition of the crime
 - b. mentioned in the judgment,
 - c. His conduct in the prison as certified by a jailor,
 - d. Age,
 - e. The nature of the self-employment the prisoner wishes to pursue and the employment terms and conditions as designated by the employer.
- 4. If the Central Committee of Community Services and the Open Prison Management recommends the Department of Prison Management pursuant to sub-rule (3), to permit a prisoner to live in an open prison,

the Department of Prison Management may, upon making an agreement with an employer and to make the prisoner sign a promissory to abide by the required terms (if he is to work for an employer), or if the prisoner is to be self-employed, to permit him to live in an open prison.

5. Notwithstanding anything written in sub-rule (3) and (4), the following prisoner shall not be permitted to live in an open prison. A prisoner who has escaped from the prison A prisoner with a poor conduct record, a prisoner certified by a doctor as having a mental disorder.
6. A prisoner who receives permission pursuant to sub-rule (4) to live in an open prison must abide by the following terms:-
 - a. Only permissible works are to be performed while living in open prison,
 - b. Goods possessed by a prisoner are to be checked while entering and exiting an open prison and the people who accompany him must be noted,
 - c. A prisoner may enter or leave an open prison only during designated times, prisoner must live in the place designated in his promissory,
 - d. No other persons except for a prisoner's family members are to live permanently in an open prison,
 - e. Instruction given by an open prison officer from time to time must be abided.
 - f. If any prisoner is found not to be abiding by the terms mentioned in sub-rule (6), the Department of Prison Management shall recall a prisoner from open prison.

16C. Provisions for a Community or Open Prison Management Committee

- (1) There shall be a Central Committee for Community Service and Open Prison Management constituted as below, to give orders to the department regarding the placement of a convict in community service and or an open prison and to provide an opinion to the Department of Prison Management on the running and management of community service and or an open prison.
 - (a) Director of Department of Prison Management - President
 - (b) Representative (Senior Police Superintendent), Police Headquarters - Member
 - (c) Legal Officer, Ministry of Home Affairs- Member
 - (d) Representative (Joint Secretary), Ministry of Law, Justice and Parliamentary Affairs - Member

- (e) Two representatives designated by the director of Department of Prison Management from amongst non-governmental organizations (NGOs) working in the field of prison reform and community service - Member.
 - (f) Director, Department of Prison Management – Member/Secretary
- (2) There shall be a District Committee of Community Service and an open prison in each district constituted as below to afford advice to the prison office regarding the running and management of community service and or an open prison at district level.
- (a) Jailer, Prison Office - President
 - (b) Representative, District Police Office- Member
 - (c) Representative, District Administration Office - Member
 - (d) Representative, Office of District Government Attorney - Member
 - (e) One representative as designated by the jailor from amongst NGOs working in the field of prison reform and community service - Member
- (3) Pursuant to sub-rule (1) and (2), the committee may invite any expert to the meeting as an observer.
- (4) The committee constituted pursuant to sub-rule (1) and (2) may self determine procedures.
- (5) The function, duties and powers of the committee constituted pursuant to sub rule (1) and (2), shall be as designated by the Department of Prison Management.

16D. Designating community service officers or open prison officers

The Ministry of Home Affairs may designate any officer working with the department of prison management or under it as a community service officer and or open prison officer, to submit a report to the Department of Prison Management or prison office by monitoring and inspecting the conduct and work of a convict involved in community service and of a prisoner living in an open prison; These officers must compile records of prisoners willing to go to an open prison, as well as to make contact with the body or organization willing to benefit from community service; and help formulate a program for community service and open prisons.

16E. A period to remain in a Child Reform Home may be extended

Even if a juvenile in residence at a Child Reform Home, attains the age of 16, a jailor may increase the time for the juvenile to stay in the Child Reform

Home, if the relevant home recommends it is appropriate to keep him in the Child Reform Home, even if his behaviour has notably improved.

Chapter - 3
Sentry and prison guarding

R (Repealed)

- 17.r
- 18.r
- 19.r
- 20. r

Chapter - 4
Division of Class, stipend and facilities

- 21. REPEALED
- 22. Provision regarding clothing
- 23. Provision on stipend
The stipend to be given to a prisoner or detainee and their dependent children per day shall be as established in Schedule 3.
- 24. Additional stipend for a nursing mother
- 24A. Appointment and number of guards, inmate trustees [*'chaukidar'* and *'naike'*] and assistant [assistant *'naike'*]
- 25. Provision on additional facility for a *chaukidar*

25A. No stipend or facility :

Notwithstanding anything written in this Chapter, a convict or prisoner who is on community service or in an open prison, shall not receive a stipend or facility for that period as per this Chapter.

Chapter - 5
Visitation and Correspondence

26. Visitation and Correspondence Facility

Chapter - 6
Maintaining prisoner and detainee records of conduct

- 27. Maintaining prisoner conduct records
- 28. Abrogated

29. Shortening terms of imprisonment for good conduct

1. A maximum of up to 50% of a designated imprisonment sentence may be shortened for a prisoner with good conduct.

(1 A) Notwithstanding anything written in sub-rule (1), imprisonment imposed on convict for the following cases shall not be shortened:-

- i. Human Trafficking,
- ii. Rape,
- iii. Escape and attempted escape from prison,
- iv. Evading customs tariffs,
- v. Drug Trafficking,
- vi. Corruption,
- vii. Espionage.

NOTE: This does not include murder, armed robbery, and so forth; nor does it attempts thereof.

2. *Chaukidars*, *naikes*, assistant *naikes*, teachers and workers who obediently serve time in prison, may be entitled to a reduction for good work, at a rate of 2 months per year for a *chaukidar*, 1 month and 15 days for a *naike*, one month for an assistant *naike*, and five days a month for others who work well according to a jailer's report or in the case of a teacher or worker, a factory or school report.

(2A) Notwithstanding anything written in sub-rule (1) and (1A), up to 75% of a prison term may be shortened for prisoners with good conduct who are above the age of 70, or the remaining period of imprisonment may be shortened for a person who is blind in both eyes or paralyzed from the waist down, or for a prisoner who is certified by a government doctor as one who suffers from an incurable illness or disease.

- 3 In order to reduce a term of imprisonment pursuant to sub-rule (1), (2) and (2A), a jailor must submit an opinion to Chief District Officer (CDO), and the CDO must submit his report to the Department of Prison Management through the Regional Administration Office, as well as to the Ministry of Home Affairs for a decision. If a decision to shorten a term imprisonment is acknowledged by the Ministry of Home Affairs, the jailor must release a prisoner and maintain a record thereof.

30. Imprisonment period

A prisoner sentenced to life imprisonment shall be imprisoned for 20 years according to existing law.

A recommendation may be forwarded to his Majesty pursuant to Rule 29 for commutation of imprisonment for those prisoners whose conduct is very good during a period of imprisonment under sub-rule (1).

- 31. Managing schools
- 32. Remuneration of an instructor
- 33. Library and radio centre
- 34. Rule 34: Small skills centre [knitting, etc.]
- 34A. Training on skill development as well as health and education
- 35. Factory employment
- 36. Existing law applies if theft committed
- 37. Cash deposit and acknowledgement
- 38. Health care
- 39. Examination by doctor
- 40. Dispensary to be kept open
- 41. Family religious practice permitted

Chapter - 7

Use of arms in apprehension of an absconder and during a search for an absconder

- 42. r

Chapter - 8

Provision for the entry and exit of goods from prison and procedures for the transportation of a detainee or prisoner

- 43. r
- 44. r
- 45. r
- 46. r
- 47. r
- 48. r
- 49. r

Chapter - 9

Miscellaneous

- 50. Funeral rites
- 51. Procedures for deceased prisoners or detainees
- 52. Personal belongings of a deceased/runaway detainee or prisoner
- 53. Appointment of a *chaukidar*, *naike* and or assistant *naike*
- 54. Repair

[A jailor may permit the opening up of a shop inside a prison-and the person appointed to run the said shop must supply fresh and good items, and if he fails to do so, will be reprimanded.]

55. Repair
[If any prisoner or detainee damages a cell wall, the jailer must, according to prevailing law, repair it.]
56. The purchase and sale of goods
57. Cell opening times
58. Light arrangements
59. Food stuff and other goods to be checked
60. Treatment of patients of formidable diseases
61. Medical treatment at own expense
62. Attendance before courts and offices
If a letter pursuant to Section 15 of the Act is received, ordering the attendance of a prisoner at court and or any office, the prison must present a prisoner or detainee to a court and or office on the designated day and specified time with the assistance of the police and necessary security arrangements. The relevant police officer must return the prisoner or detainee to prison after court matters are complete.
An official designated by the bench of the court shall be in charge of the detainee or prisoner inside a courtroom.
If a detainee or prisoner is to be sent out of prison, the *naike* or *assistant naike* must be put in charge of the detainees private goods if relevant.
63. Performance of a task
64. To be done according to this Regulation
65. Amendment, addition, or deletion in a Schedule

SCHEDULE 1

SCHEDULE 2 (relating to Rule 8)

SCHEDULE 2A (relating to Rule 16A)

Application for Community Service Format

SCHEDULE 2B (relating to Rule 16B)

Application for Living in an Open Prison Format

SCHEDULE 3 (relating to Rule 23)

Forest Act, 2049 (1993)

Chapter 1 Preliminary

1. Short title and Commencement

- (1) This Law may be called the Forest Act, 1993.
- (2) It shall come into force on such date as may be prescribed by His Majesty's Government by notification in the *Nepal Rajapatra*.

2. Definitions

Unless otherwise meant with reference to the subject or context, in this Act:

- (a) *Forest* means an area fully or partly covered by trees.
- (b) *Forest boundary marker* means a pillar or signboard made of timber, stone, cement, or any other material installed with the objective of demarcating national forest boundaries; the term includes forest boundary signs indicated on maps prepared in accordance with the current law after surveying lands.
- (c) *Forest Products* means the following products contained or found in forests or brought from forests:
 - (i) timber, firewood, charcoal, catechu, resin, wood-oil, bark, lac, *pipila pipili* (*piper longum*), or
 - (ii) trees, leaves, fruits, flowers, *mahuwa* (*bassia longifolia*), *chiraito* (*swertiachiretta*), *kutki* (*picorhiza kurroa*), and all kinds of wild medicinal herbs and drugs, vegetation, and different parts or organs thereof, or
 - (iii) boulders, soil, stones, pebbles, sand, or
 - (iv) birds and wild animals, and taxidermy trophies thereof.
- (d) *Operational plan* means an operational plan [interchangeably work plan] relating to forests prepared with the objectives of developing and conserving, using, selling and distributing their products while maintaining an environmental balance, as approved under this Act.
- (e) *National forests* means all forests, excluding private forests, within the Kingdom of Nepal, whether marked or unmarked with forest boundary markers; the term includes waste or uncultivated lands or unregistered lands surrounded by or adjoining forests, as well as paths, ponds, lakes, rivers or streams and riverine lands within forests.
- (f) *Government-managed forest* means a national forest managed by His Majesty's Government under Chapter 3.

- (g) *Protected forest* means a national forest declared by His Majesty's Government as a protected forest under this Act, considering it to be of special environmental, scientific or cultural significance.
- (h) *Community forest* means a national forest handed over to a users' group under section 25 for its development, conservation and utilization for collective benefit.
- (i) *Leasehold forest* means a national forest handed over as a leasehold forest under section 32 to any institution established under current law, industry based on forest products or community for purposes mentioned in section 31.
- (j) *Religious forest* means a national forest handed over to any religious body, group or community under section 35 for its development, conservation and utilization.
- (k) *Private forest* means a forest planted, nurtured or conserved in any private land owned by an individual under current law.
- (l) *Ministry* means the Ministry of Forests and Soil Conservation of His Majesty's Government.
- (m) *Department* means the Forest Department of His Majesty's Government.
- (n) *District Forest Officer* means the Head of a District Forest Office.
- (o) *Forest Officer* includes Gazetted technical employees of all classes deputed to the Department or its subordinate offices.
- (p) *Forest Assistant* includes Non-Gazetted technical employees of all classes deputed to the Department or its subordinate offices.
- (q) *Committee* means the Committee formed under section 9.
- (r) *Users' Group* means a users' group registered under section 42 for the management and utilization of a community forest.
- (s) *Forest Lease* means a lease granted under section 32.
- (t) *Leaseholder* means any person who has obtained a forest lease under section 32.
- (u) *Tools* means all categories of agricultural tools used for reclaiming or plowing forest areas, as well as *khukuris*, axes, saws, and machines used for cutting or peeling trees and plants.
- (v) *Carrier* means carts, trucks, lorries, motor-cars, tractors, boats, or similar other means or animals used for the transportation of forest products.
- (w) *Animal* means any domesticated four-footed animal of any category.
- (x) *Marking* means any seal, sign or symbol to be affixed on any timer or standing tree.
- (y) *Prescribed or as prescribed* means prescribed or in the manner prescribed in the rules framed under this Act.

Chapter 2

Demarcation of boundaries of National Forests and Other Provisions

3. Forest Boundaries

Subject to the provisions of this Chapter, the District Forest Officer may demarcate the boundaries of the national forests in the concerned district and install forest boundary markers.

4. Notice of Land Acquisition

- (1) While demarcating the boundaries of any national forest under section 3, in case any public land or private land belonging to any person and any house or but constructed on such land within or adjoining a national forest have to be incorporated within the forest boundaries for the protection of the forest or its boundaries, the District Forest Officer must affix a public notice explaining the reasons for taking such action and informing about the acquisition of such land at the residence of the concerned person as well as at conspicuous places at the office of the local Village Development Committee or Municipality, the Revenue or Land Tax Office, and the place where the land is located.
- (2) The notice mentioned in subsection (1) must also indicate the following particulars also:
 - (a) area of the land or house to be acquired, and boundaries and category of the land;
 - (b) a notice informing the concerned persons who have any claim to such land or are using such land that they may file a claim for compensation along with evidence of their title to the District Forest Officer within 70 days after the affixture of the notice, or after they get information thereof, excluding the time required for the journey, and that no complaint shall be entertained if they do not file an application within such time-limit.

5. Complaints Against House and Land Acquisition

- (1) If a notice regarding house and land acquisition under subsection (1) of section 4 has been affixed, any concerned person who is not satisfied with such notice may submit a complaint to the committee within 35 days after the notice is affixed, excluding the time required for the journey.
- (2) The Committee shall conduct necessary investigations into the complaint filed under subsection (1), and take a decision.
- (3) Any person who is not satisfied with the decision taken by the Committee under subsection (2) may appeal to the appellate court within 35 days from the date when he received information thereof.

6. Amount of Compensation

- (1) The Committee shall take the following matters into consideration while determining the amount of compensation for houses and lands to be acquired under this Chapter:
 - (a) Value of the house and land at the rate current in the Village or Town on the date when a notice is issued under subsection (1) of section 4.
 - (b) In case standing crops and trees on such lands are also to be acquired, the losses which the concerned person will suffer.
 - (c) In case the concerned person is compelled to quit the place of his residence or concern and shift elsewhere, reasonable expenses to be incurred while doing so.
- (2) After the amount of compensation is determined under subsection (1), the District Forest Officer shall send a notice to the concerned person directing him to claim such amount.
- (3) Any person who is not satisfied with the amount of compensation may file an appeal to the Ministry within 35 days after receiving a notice under subsection (2). The decision taken by the Ministry on such appeal shall be final.
- (4) In case the concerned person does not claim the amount of compensation within five years from the date when he receives a notice under subsection (2) or when a decision is taken under subsection (3), the amount shall be credited to the Consolidated Fund.

7. Amount of Compensation

The District Forest Officer must make a payment for an amount of compensation determined under subsection (1) of section 6 to the concerned person from the Government Fund.

8. Possession of Land

After a notice is issued to the effect that the amount of compensation has been determined under subsection (2) of section 6, the District Forest Officer may take possession of such houses and lands, and with effect from such date, such houses and lands shall belong to His Majesty's Government.

9. Formation of a Committee

For the purpose of this Chapter, a Committee shall be formed as follows in each district:

- (a) Chief District Officer as Chairman
- (b) A member designated by the District Development Committee as Member
- (c) Chairman of the concerned Village Development Committee or Municipality
- (d) Land Tax Officer

- (e) District Attorney
- (f) Chief of Maintenance Survey Branch in the district
- (g) District Forest Officer or a Forest Officer designated by him Secretary

10. Local Enquiry

If necessary, the District Forest Officer may conduct a local enquiry regarding the co-partner of persons who have title to houses or land that are to be acquired contractors, mortgages, persons cultivators, and the rents, taxes or profits such lands yielded for the previous three years.

11. Prohibition to Include Private Land within the Boundaries of National Forests or Acquire Such Lands

Notwithstanding anything contained elsewhere in this Chapter, private lands or houses may be included within the boundaries of national forests, or such lands or houses acquired, subject to the following provisions:

- (a) Private lands outside the national forests which have been reclaimed and registered according to the land law shall not be acquired, except when it is essential to do so for the protection of the national forest or the boundaries thereof.

In cases where land include houses to be acquired in the manner mentioned above, land in excess of two *bighas* in the *Tarai* and four *ropanis* in the valley and the hill region shall not be acquired from the same person without prior approval of His Majesty's Government.

Lands in excess of five *bighas* in the *Tarai* and ten *ropanis* in the valley and the hill region shall in no circumstances be acquired unless landowner has given his consent.

- (b) Land and houses which are registered in the name of any person, which are surrounded all sides by a national forest or situated within a national forest may be acquired and included within the boundaries of the national forest.

12. Acquisition of Entire Land and House

While taking action to acquire some parts of a house or land under this Chapter, in case the owner of such house or land requests that the entire house or land be acquired by His Majesty's Government, and in case the applicant has only two or less *bighas* of land, action shall not be taken to acquire some parts thereof. The entire house and land must be acquired according to this Chapter.

13. District Forest Officer and Committee to Exercise the Powers of a Court

For the purpose of taking decisions on any matter presented to him under this Chapter, the District Forest Officer and Committee shall both exercise the powers of a court under current law in respect to summoning the concerned persons and their witnesses, consulting evidence, prescribing time-limits as well as dates for appearance, and recording statements.

14. Removal of Entries of Private Lands from the Records

- (1) In case private land of any person are acquired under this Chapter that is included within a national forest, the District Forest Officer shall send information to the local Revenue or Land Tax Office mentioning full particulars of such acquired private land, including the area, boundaries and location (*mouja*) etc., and the Land Tax Office, shall, take action to remove entries of land or other taxes on such land from public records and inform the Land Tax Department of His Majesty's Government accordingly.
- (2) The owner of any land whose entry is removed from records under subsection (1) above need not pay land or any other tax on such lands with effect from the date the land is included within a national forest.

15. Force May be Used

In case any person opposes or causes any obstruction to the District Forest Officer while carrying out any action under this Chapter, or while taking possession of any house or land, the District Forest Officer may carry out such action and take possession of such house or land by using necessary force.

16. Prohibition to Register Lands

- (1) No person shall register lands within national forests, or induce others to do so.
- (2) Even in case the lands mentioned in subsection (1) have been registered, such lands may not be claimed simply by virtue of registration, which shall be *ipso facto* invalid.
- (3) In case any person has registered his name in any part of a national forest, illegally and without the permission of His Majesty's Government before the commencement of this Act, such registration shall be *ipso facto* invalid after the commencement of this Act and the entry shall be removed from the records.

17. **No Rights to Accrue to Any Person in National Forests**
Except when any right or facility has been obtained through a permit or a license, or in any other way, from His Majesty's Government or the authority empowered by His Majesty's Government, no person shall be entitled to any right or facility of any type in national forests.
18. **Prohibition to Sell or Transfer Rights in a National Forest**
No person shall sell, mortgage, gift, donate, exchange or otherwise alienate the right or facility that he has obtained in national forests to any other person, except according to that ordered by His Majesty's Government.
19. **Power to Close Tracks and Streams in National Forests**
For the purpose of developing and conserving forests, His Majesty's Government, or the authority empowered by His Majesty's Government, may close any private or public road or stream within the national forest.
Provided that before taking such action, alternative paths or streams which are equally convenient as far as possible shall be made available.

Chapter 3

Provisions Relating to Government-Managed Forests

20. **Operational Plan**
 - (1) The Department shall prepare an operational plan in the prescribed manner for the management of the Government-managed forests, and submit it to the Ministry for approval.
 - (2) In case it is deemed necessary to make any alterations in the operational plan submitted under subsection (1), the Ministry may send it back to the Department and approve it after it is received from the Department with necessary alterations.
 - (3) The operational plan approved under subsection (2) shall be implemented by the District Forest Officers in their respective districts.
21. **Prohibition to Take Other Actions in Government-Managed Forests**
No action shall be taken in Government-managed forests except those prescribed in the operational plans, and forest development operations.
22. **Ownership of Forest Products within Government-Managed Forests, Sale and Distribution**
 - (1) Ownership of forest products within the Government-managed forests shall be vested in His Majesty's Government.

- (2) The prescribed authority may grant licenses in the prescribed manner for the use, removal or sale and distribution, export or transportation of the forest products mentioned in subsection (1).
- (3) The fees or charges for the forest products to be made available under license under subsection (2) shall be as prescribed.

Chapter 4

Provisions Relating to Protected Forests

23. Protected Forests

- (1) In case His Majesty's Government considers any part of a national forest as of special environmental, scientific or cultural importance, or of any other special importance, it may declare such part of the national forest as a protected forest.
- (2) After His Majesty's Government has declared any part of a national forest as a protected forest under subsection (1), it shall publish a notification to that effect in the Nepal Gazette.

24. Forest Management Plan within Protected Forests

- (1) The Department shall prepare an operational plan in the prescribed manner for the management of functions relating to forests to be undertaken in a protected forest, and submit the equivalent plan to the Ministry for approval.
- (2) In case it is deemed necessary to make any alterations in an operational plan submitted under subsection (1), the Minister may send it back to the Department and approve it after it is received with necessary alterations.
- (3) The District Forest Officer shall implement the operational plan approved under subsection (2).
- (4) The District Forest Officer shall have the power to issue prescribed permits required for the implementation of the operational plans approved under subsection (2), as well as to issue notices of any type necessary for the effective implementation of such operational plan.

Chapter 5

Provisions Relating to Community Forests

25. Hand Over of Community Forests

- (1) The District Forest Officer may hand over any part of a national forest to a users' group in the form of a community forest in the prescribed manner entitling it to develop, conserve use and manage such forest, and sell and distribute the forest products by independently fixing their prices, according

to an operational plan. While so handing over a community forest, the District Forest Officer shall issue a certificate thereof.

- (2) For the purpose of subsection (1), the District Forest Officer may mobilize users and form users' groups in the prescribed manner, and provide technical and other assistance to formulate an Operational Plan.

26. **Amendment to an Operational Plan**

- (1) The users' group may make timely amendments according to need in the operational plan relating to the management of community forests, and must inform the District Forest Officer accordingly.
- (2) In case any amendment made in the operational plan by the users' group under subsection (1) is considered likely to adversely and significantly affect the environment, the District Forest Officer may direct the users' group not to implement an amendment within 30 days from the date he receives such information. It shall be the duty of the users' group to comply with such directives.

27. **Resumption of Community Forests**

- (1) In case a users' group is unable to work according to the operational plan in any community forest submitted under section 25 or takes any action which affects the environment significantly or fails to comply with the conditions to be complied with under this Act or the rules established hereunder, the District Forest Officer may cancel the registration of a users' group and decide to resume a community forest in the prescribed manner.
Provided that before taking a decision to cancel the registration of a users' group and resume the community forest in this manner, such users' group shall be given an opportunity to state its case.
- (2) Any users' group which is not satisfied with the decision taken by the District Forest Officer under subsection (1) may complain to the Regional Forest Director in the prescribed manner. The decision taken by the Regional Forest Director on such complaints shall be final.

28. **Community Forests may be returned**

In case a decision in respect to any community forest which has been resumed under subsection (1) of section 27 is rescinded under subsection (2), the District Forest Officer must return the "forest" back to the concerned users' group. In case the decision is endorsed, the District Forest Officer must fulfil the procedure mentioned in section 25 and form another users' group to hand back the community forest.

29. Punishment of Persons Working Contrary to an Operational Plan

In case any user does anything opposed to the operational plan for a community forest, the concerned users' group may inflict appropriate punishment on him, and, in case there has been any loss or damage, may also recover the amount of such loss or damage from him.

30. Priority of Community Forests

Notwithstanding anything contained elsewhere in this Act, no part of any national forest which is suitable for being handed over to a users' group in the form of a community forest shall be returned in the form of a leasehold forest.

Chapter 6**Provisions Relating to Leasehold Forests****31. Grant of Leasehold Forest**

His Majesty's Government may grant any part of a national forest as a leasehold forest for the following purposes:

- (a) To produce raw materials required by industries based on forest products.
- (b) To plant trees and increase the production of forest products for sale or distribution, or for use.
- (c) To operate the tourism industry in a manner conducive to the conservation and development of forests.
- (d) To operate agro-forestry in a manner conducive to the conservation and development of forest.
- (e) To operate farms for insects, butterflies, and wildlife in a manner conducive to the conservation and development of forests.

32. Leasehold Forests

- (1) Any corporate body, industry or community established under current Act which desires to take up a leasehold forest for the purposes mentioned in section 31 must submit an application to the Regional Forest Director along with the particulars of the area and boundaries of the forest sought to be taken up as a leasehold forest and the programs planned for fulfilling the objectives, as well as other prescribed particulars, including an economic feasibility report.
- (2) In case an application is received under subsection (1), the Regional Forest Director must conduct necessary investigations, and, in case he considers it appropriate to grant a leasehold forest as demanded by an

applicant or with alterations therein, he must refer the matter in writing, along with his recommendations, to the Ministry for its approval through the Department. While doing so, he must obtain the consent of the applicant in case any alterations have been made to the latter's demands.

- (3) After a letter is received for approval under subsection (2), the Ministry shall decide whether or not to grant an approval within a period of 30 days after receiving the letter, and inform the Regional Forest Director accordingly through the Department.
- (4) After receiving information under subsection (3) the Regional Forest Director must prepare the forest lease in the prescribed manner, collect the prescribed fees and grant the leasehold forest to the applicant along with the lease within 30 days after receiving information in case the Ministry if permission is granted. In case the Ministry has decided not to grant approval, the Regional Forest Director must inform the applicant accordingly within three days.

33. Resumption of Leasehold Forests

- (1) In case the leaseholder to whom a leasehold forest has been granted under section 32 fails to work according to such lease or takes any action which adversely affects the environment or does not comply with the conditions to be complied with under this Act and the rules framed hereunder, the Regional Forest Director may decide to cancel the lease and resume the leasehold forest in the prescribed manner.
Provided that before taking a decision to cancel the lease and resume the leasehold forest, the concerned leaseholder shall be given an opportunity to state his case.
- (2) Any leaseholder who is not satisfied with the decision taken by the Regional Forest Director under subsection (1) may appeal to an Appellate Court within 35 days from the date he receives the notice of such decision.

34. Power to Close Tracks and Streams in Leasehold Forests

In case it becomes necessary to close any private or public path or stream within a leasehold forest, the concerned leaseholder must make available alternative paths or streams which are equally convenient as far as possible before taking such action.

Chapter 7
Provision Relating to Religious Forests

35. Religious Forests

- (1) Any religious body, group, or community that desires to develop, conserve, and use a national forest or any adjoining national forest for any religious site must submit an application to the District Forest Officer mentioning the area and boundaries of such forest, the work to be done, and other prescribed particulars.
- (2) In case an application is received under subsection (1), the District Forest Officer shall conduct necessary investigations, and may hand over a religious forest to such religious body, group, or community, according to the demand made by the applicant or with alterations therein. While handing over a forest, arrangements must be made to ensure that this does not affect the rights and interests of its traditional users.

36. Operation of Forest-Related Activities in Religious Forests

The concerned religious body, group or community may use the forest products contained in the religious forest for any religious activity, other than commercial purpose.

Provided that trees shall not be cut in such a manner as to have a significant adverse impact on the environment, or loss or damage to the public, or in a manner likely to cause erosion in a watershed area.

37. Resumption of Religious Forests

- (1) In case the concerned religious body, group or community acts in contravention of section 36 in a religious forest handed over to it under section 35 or is unable to perform the functions which it must perform or fails to comply with the conditions to be complied with under this Act or the rules framed hereunder, the District Forest Officer may decide to take back such religious forests.
Provided that before taking a decision to take up a religious forest, the concerned religious body, group or community shall be given an opportunity to state its case.
- (2) Any religious body, group or community that is not satisfied with the decision taken by the District Forest Officer under subsection (1) may submit a complaint to the Regional Forest Director in the prescribed manner. The decision taken by the Regional Forest Director on such complaints shall be final.

Chapter 8
Provision Relating to Private Forests

38. Provisions Relating to private Forests

The owner of a private forest may develop, conserve and manage it or use or sell and distribute its products by fixing prices, as he desires.

39. Certificate of Private Forest

- (1) Any individual or institution desirous of having a private forest registered may apply to the District Forest Office for such registration.
- (2) The District Forest Officer shall issue a certificate as prescribed after preparing necessary records of an application received under subsection (1).
- (3) The District Forest Office may make available necessary technical assistance to the owners of private forests who have obtained certificates under subsection (2).

40. Ownership of His Majesty's Government

- (1) Trees standing on settled land settled or resettled at the time of their allotment for a purpose shall remain under the ownership of His Majesty's Government. His Majesty's Government must remove such trees as soon as possible.
- (2) Action shall be taken for offences in national forests against any person who removes trees mentioned in subsection (1) without permission.

Chapter 9
Provision Relating to Formation of Users' Groups

41. Formation of Users' Groups

The concerned users of a forest desirous of developing and conserving it and using the forest products for collective benefit may form a users' group in the prescribed manner.

42. Registration of Users' Group

- (1) For the registration of a users' group formed under section 41, an application must be submitted to the District Forest Officer in the prescribed form along with its constitution.
- (2) In case an application is received under subsection (1), the District Forest Officer shall conduct necessary investigations, register such users' group in the prescribed manner, and issue a certificate of registration in the prescribed form.

- (3) The users' group managing community forests in accordance with operational plans under the 1961 Forest Act must also apply for registration under subsection (1) within one year from the date of commencement of this action.
- (4) The District Forest Officer may provide necessary assistance for the purpose of subsection (3).

43. Users' Group to be a Corporate Body

- (1) A users' group formed under section 41 shall be an autonomous and corporate body with perpetual succession.
- (2) A users' group shall have its own seal
- (3) A users' group may acquire, use, sell or transfer, or otherwise dispose of movable and immovable property like an individual.
- (4) A users' group may sue or be sued in its own name like an individual.

44. Fund of Users' Group

- (1) A users' group must submit annual reports of its activities to the District Forest Office within one month after the expiry of each fiscal year in the prescribed manner, explicitly mentioning the financial particulars and the condition of the community forest.
- (2) On the basis of the annual reports received under subsection (1), the District Forest Officer may provide necessary suggestions to the concerned users' group.

45. Fund of Users' Group

- (1) The users' group shall have a separate fund of its own.
- (2) The fund shall comprise the following amounts:
 - (a) Grants received from His Majesty's Government.
 - (b) Grants, donation, or assistance received from any individual or institution.
 - (c) Amounts received from the sale and distribution of forest products.
 - (d) Amounts collected through fines.
 - (e) Amounts received from any other sources.
- (3) The expenses to be incurred on behalf of the users' group shall be met from the fund mentioned in subsection (1).
- (4) The users' group may spend for other public welfare activities the balance less the fund after making disbursements for the development of community forests.
- (5) The fund shall be operated in the prescribed manner.

Chapter 10

Provisions Relating to Unclaimed Timber and Drift Wood**46. Timber to be Regarded as Property of His Majesty's Government Unless Ownership is Substantiated**

- (1) Unless any person furnishes sufficient evidence of his ownership, all drift wood (*dariya burdi*), or timber on which the markings are or not intact, or have been erased, altered, faded, or otherwise removed, as well as timber not bearing any markings, shall be considered to be the property of His Majesty's Government.
- (2) The Forest Officer may collect the timber mentioned in subsection (1) at any depot prescribed for the purpose of storage of unclaimed timber and drift wood.
- (3) His Majesty's Government may exempt any type or category of timber from the provisions of subsection (1) and (2) by notification in the Nepal Gazette.

47. Notice of Unclaimed Timber and Drift Wood

After unclaimed timber and drift wood are collected according to subsection (2) of section 46, a notice containing full particulars and inventories of such timber shall be affixed by the concerned District Forest Officer at the concerned Forest Office. Any person who wishes to claim ownership over such timber shall submit an application along with evidence thereof to such Forest Office within 15 days.

48. Action on Claims

- (1) In case an application is received under section 47, the concerned Forest Officer shall conduct, or make arrangements for conducting, necessary investigations, and decide whether or not the applicant's claim is true, and inform him accordingly. In case ownership of any person to such timber is proved, the Forest Officer shall hand it over to him after realizing the costs involved for transferring and collecting the timber to the depot.
- (2) Any person who is not satisfied with the decision of the Forest Officer according to subsection (1), that the timber is not owned by anyone may submit a complaint to the concerned Regional Forest Director within 15 days after receiving notice thereof.
- (3) No claim for compensation may be made against His Majesty's Government or the Forest Officer for any loss that may have been caused through the rejection of a claim for on any timber, or delay or loss incurred.

- (4) The District Forest Officer may sell or distribute in the prescribed manner, any unclaimed timber or drift wood whose ownership is not sufficiently substantiated.

Chapter 11 Offenses and Penalties

49. **Actions Which Are Prohibited in National Forests**

Except otherwise provided for in this Act or the rules framed hereunder, the following actions shall not be taken, caused to be taken, or attempted to be taken, or such attempts instigated, in national forests. In case any such action is taken, it shall be regarded as an offence:

- (a) Clear, plough, dig, reclaim lands in the forest area, or build houses and huts on such lands.
- (b) Burn, or do anything that may cause a fire related incident
- (c) Take animals into the prescribed forest area or to graze them there.
- (d) Remove forest products from the forest area, transport them, or sell and distribute them.
- (e) Cut trees or plants, trim branches, extract bark or resin, or otherwise damage them.
- (f) Damage any other forest product through negligence while cutting, felling, dragging, or taking out trees from the forest area under license.
- (g) Extract boulders, pebbles, sand or soil, burn charcoal or lime, or manufacture finished products from these materials, or collect such materials.
- (h) Where a permit for forest product has been issued, damage forest products in contravention of the conditions stipulated in such permits.
- (i) Export of forest products to foreign countries forest whose export has been banned.
- (j) Demolish, shift, change, erase, or damage forest boundary markers.
- (k) Cut, break, uproot, or otherwise damage plants kept in nurseries or those which have been planted.
- (l) Pilfer or damage pillars, wire-fences, or other property in nurseries or in tree-plantation areas.
- (m) Forge markings or signs, change, damage, or erase Government markings or standing trees and timber.
- (n) Hunt.
- (o) Commit any other offence in contravention of this Act and the rules formed hereunder.

50. Penalties

- (1) Any person who commits the following offence shall be punished as follows:
 - (a) In case any person commits an offence under clause (a) of section 49, the land shall be incorporate into the national fo-rest, and he shall be punished with a fine of not more than Rs. 10 000, and or with imprisonment for a term not exceeding one year, and the house or hut constructed on such land shall also be confiscated. If, in the course of committing such offence, forest products have been removed or damaged, punishment due for offences shall be inflicted on him in consideration thereof.
 - (b) Any person who commits an offence under clause (b) of section 49 shall be punished with a fine of not more than Rs. 10 000, and or with imprisonment for a term not exceeding one year, and the amount involved shall also be realized from him.
 - (c) Any person who commits any offence under clause (c) of section 49 shall be fined with the following amounts for each animal:
 - (1) Rs. 5 to 50 if the animal is a sheep or goat.
 - (2) Rs. 500 to Rs. 1 000 if the animal is an elephant.
 - (3) Rs. 10 to Rs. 100 in the case of other animals.
 - (d) In case any person commits any offence under clauses (d), (e), (f), (g), and (h) of section 49, the forest products connected with the offence shall be confiscated, and he shall be punished as follows:
 - (1) If the amount involved does not exceed Rs. 100, a fine of an equal amount shall be imposed.
 - (2) If the amount involved ranges between Rs. 100 and Rs. 1 000 a fine of an equal amount shall be imposed.
 - (3) In case the amount involved ranges between Rs. 1 000 and Rs. 5 000, a fine of an equal amount, and or imprisonment for a term not exceeding six-months,
 - (4) In case the amount exceeds Rs. 5 000 a fine of a double the amount, and or an imprisonment for a term not exceeding one year,
 - (e) In case any person commits any offence under clause (i) of section 49, the forest products connected with such offence shall be confiscated, and he shall be punished with a fine amounting to the value thereof, and or with imprisonment for a term not exceeding five years.
 - (f) In case any person commits any offence under clauses (j) and (m) of section 49, he shall be punished with a fine ranging between Rs. 500 and Rs. 10 000, and or with imprisonment for a term not exceeding one year.

- (g) In case any person commits any offence under clause (k) of section 49, he shall be punished with a fine of not more than Rs. 100 for each plant, according to the degree of the offence in case such person repeats the offence, an additional fine of not more than Rs. 1 000 shall be imposed according to the degree of the offence.
 - (h) In case any person commits any offence under clause (l) of section 49, the amount involved for the offence shall be realized from him and he shall be punished with a fine of not more than Rs. 5 000, and or with imprisonment for a term not exceeding six months.
 - (i) In case any person commits any offence under clause (n) of section 49, he shall be punished as provided for in the current law.
 - (j) In case any person commits any offence under clause (o) of section 49, the amount involved in the offence, if any, shall be realized from him, and he shall be punished with a fine of not more than Rs. 1 000.
- (2) In case any individual or government employee commits an offence under subsection (1) of section 16, he shall be punished with a fine of not more than Rs. 10 000, and or with imprisonment for a term not exceeding two years.

51. Punishment of Person Who Arrests People or Impounds

Goods with the Intention to Harass

- (1) In case any forest employee or police employee engaged in any work relating to impounding any goods, arrests any person without proper grounds or out of malice, ill-will, or the intention to harass, such employee shall be punished with a fine of not more than Rs. 1 000.
- (2) The burden of proof that an employee mentioned in subsection (1) had such intention, shall lie on the complainant.

52. In Case of Obstruction in the Course of Fulfilment of Duty

In case any person raises any difficulty or obstacle while a government employee is discharging the duties of his post under this Act, he shall be punished with a fine of not more than Rs. 1 000, and or with imprisonment for a term not exceeding six months.

53. Punishment for Abetting Escape of Offender

Any person who abets in the escape of an offender under this Act shall be punished in the same manner as the offender.

54. Punishment for Instigation

Any person who instigates or concludes with another person to commit an offence under this Act shall be punished in the same manner as the offender.

Chapter 12

Investigation of Offences, and Working Procedures

55. Necessary Action to be Taken to Check Offences

In case it is suspected that any person is about to commit an offence which is punishable under this Act, or is caught in the act, the employee performing functions relating to forest or a police employee must make arrangements to verify such offence. For this purpose, he may take necessary action by using necessary force.

56. Special Powers

- (1) An employee deputed to the protection of a forest (who feels his life is in danger in the course of apprehending an offender), may shoot an offender (below the knee), who is involved in offences under this Act, or who obstructs arrest, or any person who assists an offender assisting escape (even after his arrest).
- (2) Even if a person has reclaimed land within a national forest, or has constructed houses or huts on such land, the District Forest Officer or a Forest Officer or Forest Assistant designated by him may remove such cultivation or demolish such houses or huts and confiscate crops.
- (3) Notwithstanding anything contained in subsection (2), the provisions of this subsection shall not prejudice additional punishment due under this Act.

57. Power to Search

- (1) In case there are reasonable grounds to believe that an offence which is punishable under this Act has been committed, a forest employee of the rank of Forest Assistant (as a minimum) or a police employee of the rank of Assistant Inspector (minimum rank) may search any place.
- (2) The person who conducts a search under subsection (1) shall indicate the reasons for the search and give advance notice to the owner of the place which is to be searched, or to the person who is using such place at the time, before entering such place.

- (3) The search mentioned in subsection (1) shall be conducted in the presence of least two witnesses.
- (4) In case it is required to search any inhabited house, a notice and opportunity shall be given to the female occupants, if any, of such house to vacate it.
- (5) Nothing contained in this section shall empower the employee who conducts the search to enter into an inhabited house between the hours of sunset and sunrise.

Explanation: For the purpose of this section, the term "place" includes a tent, a boat as well as vehicles of different categories.

58. Power to Impound Forest Products or Related Materials

- (1) In case there is a reliable ground to believe that the provisions of this Act have been contravened in relation to any forest product, the employee who performs functions relating to forests or the police employee may impound such forest products, as well as weapons, boats, vehicles, and animals connected with the offence.
- (2) The employee who impounds goods under subsection (1) must issue to the person connected with the offence a receipt containing particulars of such impounded goods, put special markings on such goods, weigh or measure them, and submit a report as soon as possible to the Area Forest Office or District Forest Office.
- (3) The tools, weapons, boats, vehicles, animals, etc., other than forest products impounded under subsection (1) may be handed over by an employee of at least the rank of Non-Gazetted Second Class Forest Assistant to the owner or a member of the concerned Village Development Committee or Municipality or to a local respectable person against a bond on the condition that it will be produced on the prescribed day at the prescribed place.

59. Power to Arrest Without a Warrant

- (1) In case any forest employee or police employee feels that any person has committed an offence which is punishable under this Act or is about to do so, and that he may escape if he is not arrested, he may arrest such person without any warrant.
- (2) The person who is arrested under subsection (1) must be produced before the Adjudicating Authority within 24 hours, excluding the time required for the journey, by the employee who makes the arrest.

60. Investigation and Filing of Cases

- (1) Cases relating to offences which are punishable under this Act shall be investigated by an employee of at least the rank of Non-Gazetted Second

Class Forest Assistant. The case shall be filed with the Adjudicating Authority in the name of the concerned Forest Officer.

- (2) The Government Attorney shall be consulted when filing cases according to subsection (1).

61. His Majesty's Government to be Plaintiff

His Majesty's Government shall be the plaintiff in all cases under this Act.

62. Action to be Taken in the Event of a Failure to Locate the Owner of Impounded Forest Products, Tools, Weapons, Boats, Vehicles, and Animals

In case the owner of goods connected with offences which are punishable under this Act is not located, an employee who conducts the investigation must affix a notice with a time-limit of seven days directing any person who may have a claim over the impounded goods, to file a claim. In case any such claim is filed, it shall be referred to the Adjudicating Authority for a decision. In case no claim is filed, or in case the Adjudicating Authority rules that no claim can be entertained, such property shall accrue to His Majesty's Government.

63. Perishable Goods and Animals May be Auctioned

Perishable goods or goods which are in a condition that they cannot be kept safely, and animals, which are impounded in connection with any offence punishable under this Act, may be taken to the nearest Forest Office or a safe place, and sold by auction by the District Forest Office. The proceeds of an auction shall be credited as a deposit subject to the action to be subsequently decided upon.

64. Provisions Relating to Hearing

- (1) In case there is *prima facie* evidence to show that any person arrested under this Act is guilty of any offence on a charge relating to a forest which is punishable with imprisonment for one year or more, or in case there seems to be a reasonable ground to believe from the evidence that he is guilty, the accused person shall be kept in detention for the purpose of hearing and action.
- (2) The case of offenders other than those mentioned in subsection (1), they may be released on a money bail or the surety of assets worth the maximum limit of imprisonment or fine that may be imposed on them, and in case they are unable to furnish such bail or surety, they shall be placed in detention for the purpose of hearing.

Provided that a person who has committed an offence repeatedly shall not be released on bail.

- (3) While taking action under subsection (1) or subsection (2) for the purpose of hearing, the period of detention shall be included in the period of imprisonment and a period of detention shall not exceed the maximum term of imprisonment that could be inflicted on an offender.

65. Adjudicating Authority

- (1) The District Forest Officer shall hear and dispose of cases under this Act which are punishable with a fine of not more than Rs. 10 000 and or with imprisonment for a term not exceeding one year.
- (2) The District Forest Officer shall hear and dispose of cases under subsection (1) by following the procedures and exercising the powers mentioned in the 1974 Special Court Act.
- (3) Any party which is not satisfied with the decision taken by the District Forest Officer under subsection (1) may file and appeal to the Appellate Court within 35 days after receiving notice of such decision.

66. Impounded Goods to be seized

In case any person is convicted of an offence which is punishable under this Act, all carriers, tools, animals and other implements which have been impounded in connection with the offence shall be seized.

Provided that vehicles such as tractors, trucks, lorries, and motor-cars transporting forest products of a value of less than Rs. 10 000 shall not be confiscated, but a fine of not more than Rs. 10 000 shall be imposed in addition to the penalty due to such offenders under other sections of this Act.

Chapter 13
Miscellaneous

67. Ownership to be vested in His Majesty's Government

Community forests, leasehold forests, and religious forests under this Act shall remain under the ownership of His Majesty's Government.

68. Power to Use Forests

- (1) Notwithstanding anything contained elsewhere in this Act, in case there is no alternative but to use a forest area to implement a plan which has been assigned national priority, and in case the implementation of such plan is not likely to adversely affect the environment, His Majesty's Government may permit the use of any part of a Government-Managed Forest, Protected Forest, Community Forest, Leasehold Forest or Religious Forest for the implementation of such plan.
- (2) In case any person or community is likely to suffer any loss or harm as a result of the permit granted to use a forest area under subsection (1), His Majesty's Government must make appropriate arrangements in that connection.

69. Technical Assistance to be provided

In case any users' group, leaseholder, religious body, group or community, or the owner of a private forest requests a community forest, leasehold forest, religious forest or private forest, the concerned District Forest Officer may provide such technical assistance.

70. Prohibition to Enter Into Forest Areas

- (1) In case it is so considered necessary from the view point of forest protection, the prescribed authority may prohibit entry into the whole or any part of a national forest or a protected forest for a specified period by notification.
Provided that this shall not be regarded to have prohibited traffic through paths prescribed by the prescribed authority.
- (2) In case any person enters into the areas prohibited under subsection (1) in violation of a prohibition order, he shall be punished with a fine of not more than Rs. 500, or with imprisonment for a term not exceeding one month, or with both.

71. Immunity for Actions Taken in Good Faith

Any government employee who has exercised in good faith the power conferred on him by this Act shall not be held personally liable.

72. Powers to Frame Rules

His Majesty's Government may frame necessary rules for fulfilling the objectives mentioned in the different Chapters of this Act.

73. Action to be taken in the Event of Conflict

Action in matters provided for in this Act or the rules framed hereunder shall be taken accordingly, and in other matters, the provisions of current law shall be applicable.

74. Repeal and Saving

- (1) The following laws have been repealed:
 - (a) Forest Act, 1961.
 - (b) Forest Protection (Special Arrangements) Act, 1967.
- (2) Action taken under the 1961 Forest Act and the 1967 Forest Protection (Special Arrangements) Act and the rules formed or orders issued there under before the commencement of this Act shall be deemed to have been taken under this Act

Forest Regulation, 2051 (1995)

In exercise of the power conferred by Section 72 of the Forest Act, 2049 (1993), His Majesty's Government has made the following Rules.

Chapter-1 **Preliminary**

1. Short title and commencement:

- (1) These Rules may be called the "Forest Regulation, 2051" (1995).710
- (2) It shall come into force at once.

2. Definitions:

In this Regulation, unless the subject or context otherwise requires,-

- (a) "Act" means the Forest Act, 2049 (1993).
- (b) "Director General" means the Director General of the Department of the Forest.
- (c) "Director" means the Regional Forest Director of the Regional Forest Office.
- (d) "Authorized Officer" means the District Forest Officer and in case such officer has not been appointed an officer designated by His Majesty's Government.
- (e) "Firewood" means wood other than that of Acacia Catechu of less than two feet in length and one foot and six inches in girth which cannot be used as beams and poles or sawn Timber.
- (f) "Agency" means an agency authorised by His Majesty's Government to manage the task of collecting, cutting, sorting out, transporting and stacking at depots and selling and distributing of Timber and Firewood.
- (g) "Constitution" means the Constitution of a Users' Group.

Chapter-2 **Government Managed Forest**

3. Work Plan [Operational Plan] to be Prepared:

- (1) For the purpose of management of Government Managed Forest, the Department shall have to prepare a Forest Management Work Plan for one

or more districts according to the topography and natural boundaries, explicitly mentioning the following matters:-

- (a) All areas covered by forests, shrubs, bushes, grass and uncultivated areas,
 - (b) Situation of Forest Boundaries,
 - (c) A Forest map prepared in such a way as to clearly show the details of land use and trees species,
 - (d) Details relating to population and density of population and the use of forest Products,
 - (e) Details relating to Forest Products.
 - (f) Programmes and techniques of developing and protecting the Forest.
 - (g) Annual details relating to the collection, use and sale of Forest Products.
 - (h) Forest Products required by the local people.
 - (i) Estimates of annual revenue from Forest Products during the entire period of the Work Plan.
 - (j) Details of manpower and expenses required to implement the Work Plan.
 - (k) Programmes relating to soil-conservation, tourism development, protection of environment and the historical heritage.
 - (1) Other details appropriate for the management of the Forest.
- (2) The Work Plan approved prior to commencement of this Regulation shall be considered to have been prepared according to this Regulation.

4. Implementation and Evaluation:

The Director shall submit a report to the Ministry after monitoring and evaluating the implementation of the Work plan in his region and send a copy of the report to the Department for information purposes.

5. Amendments to a Work Plan:

- (1) The District Forest Officer may send a report along with his opinion to the Department if he deems appropriate to amend in the Work Plan.
- (2) The Department shall send a report along with its opinion to the Ministry if it deems appropriate to amend in the Work Plan as per the report received pursuant to sub-rule (1).

6. Prohibition on Collection, Sale and Distribution:

- (1) Forest Products shall not be collected, sold and distributed exceeding the quantity of collection, sale and distribution specified in a Work Plan for the whole year.
- (2) Notwithstanding anything contained in sub-rule (1) the limitation of quantity specified in the Work Plan shall not be considered to obstruct the collection, sale and distribution of Forest products from a Forest Area in circumstances when any Forest Product is likely to decompose, damage and or be destroyed due to natural calamities such as floods, landslides, snowfall and fire.

7. Licence to be Obtained and Markings to be Affixed:

- (1) No one shall obtain, collect, takeout, sale and distribute, export or transport any Forest Products or enter into a Forest Area with these intentions, without obtaining a Licence from the Authorized Officer pursuant to this Regulation.
- (2) Any individual or Agency which has obtained a Licence pursuant to subsection (2) of Section 22 of the Act shall comply with the conditions mentioned in the Licence as well as the conditions specified by His Majesty's Government on a compulsory basis while cutting, (chopping into pieces), or exporting any timber or firewood from a Forest.
- (3) The markings specified by the Department shall be affixed when cutting, using, selling, distributing, transporting or exporting timber and firewood from a Forest.
- (4) Forest Products other than timber and firewood shall be cut, made into pieces, used, taken out, sold, distributed, transported or exported subject to the procedures prescribed by His Majesty's Government.

8. Application to be Submitted to Obtain Forest Products:

- (1) Any person, District Forest Product Supply Committee or Agency desirous of obtaining Forest Products shall submit an application to the Authorized Officer mentioning the following details:
 - (a) Name of the Forest Product,
 - (b) Name of the area from where the Forest Product desired to be obtained.
 - (c) Category and quantity of the Forest Product.
 - (d) Purpose for which the Forest Product is to be obtained, and
 - (e) Place where the Forest Product is to be used.

- (2) In case an application is received pursuant to sub-rule (1), the Authorized Officer by conducting necessary enquiries and keeping in view the quantity specified for sale and distribution in the Work Plan, may issue a Licence in the format as prescribed in Annex-1.
- (3) The Authorized Officer shall issue a Licence only after collecting the price, fee or charge payable for the relevant Forest Product pursuant to this Regulation from the applicant individual, District Forest Product Supply Committee or Agency in advance.

9. Provisions Relating to the Sale and Distribution of Timber and Firewood:

- (1) His Majesty's Government by notification in the Nepal Gazette, may constitute a District Forest Product Supply Committee comprising of the following chairman and members in a specified district in order to sell and distribute the Forest Products pursuant to sub-rule (2), keeping the convenience of general public in mind:-
 - (a) Chief District Officer as Chairman
 - (b) District level representatives of all political parties that are recognised at national level as Members
 - (c) Funds and Accounts Controller as Member
 - (d) District Forest Officer as Member-Secretary
- (2) The committee constituted in a district pursuant to sub-rule (1) shall obtain a Licence from the Authorized Officer pursuant to Rule 8 and make arrangements for the sale and distribution of timber and firewood for the following purposes:
 - (a) For the domestic use of rural people,
 - (b) For low cost development and construction works to be undertaken through public participation,
 - (c) For relief from natural calamities and for agricultural tools.
- (3) The Committee constituted pursuant to sub-rule (1) shall comply with the directives issued by His Majesty's Government from time to time, in addition to the provisions contained in this Regulation.
- (4) In each district where a committee pursuant to sub-rule (1) has been constituted, the Authorized Officer may, subject to the quantities specified for sale and distribution in the Work Plan, make available to the Committee a single or various lots of timber and firewood for sale and distribution; and a Committee shall obtain a Licence pursuant to Rule 8, affix markings, cut, saw and transport timber and firewood at its own cost.
- (5) In the case of a district where the timber and firewood are not available according to a Work Plan, His Majesty's Government may make arrangements for the sale and distribution by bringing wood from another district.

- (6) Timber and firewood sold and distributed for the purposes mentioned in sub-rule (2) may not be used for any other purpose or transported outside of the specific district.
- (7) The Authorized Officer may sell and distribute by auction, all firewood and timber for that left in the stock after sale or distribution, with the current market price as the basis and at a rate not lower than the rate as prescribed in Annex-2.
- (8) The quantities and procedures of timber and firewood to be sold and distributed shall be as specified by the Work Plan.
- (9) Provided that, in circumstances when the Work Plan has not been prepared, action shall be taken as decided and prescribed by His Majesty's Government.
- (10) The Authorized Officer shall sell and distribute timber and firewood only after collecting prices as prescribed in Annex-2.
- (11) Provided that this Rule shall not be deemed to have obstructed the power of the Authorized Officer to provide timber and firewood to the District Forest Product Supply Committee, with a provision to pay their prices only after the Committee sells and distributes them.

10. Sale and Distribution of Acacia Catechu Wood (Including Roots):

Notwithstanding anything contained in Rule 9, the Authorized Officer shall sell and distribute *Acacia Catechu* wood (including roots) through an auction according to weight and current market prices as the basis for a rate not lower than the as prescribed in Annex-2.

11. Collection, Sale and Distribution of Herbs:

- (1) Any one desirous of collecting herbs as prescribed in Annex-3 from any Forest Area shall submit an application to the Authorized Officer, explicitly mentioning the type of herbs, the area of collection, the quantity and the purpose of collection
- (2) In case it is found through enquiries into the application filed pursuant to sub-rule (1) that no ban has been imposed on the collection of the herbs for which the request has been made, the Authorized Officer may issue a Licence to collect herbs in the format prescribed in Annex-4.
- (3) The Authorized Officer shall tally the herbs collected according to the Licence issued for their collection pursuant to sub-rule (2) with the Licence, check quantities, collect fees as prescribed in Annex-3 and issue a release order in the format as prescribed in Annex-5.

- (4) Notwithstanding anything contained in sub-rule (3), the Licence to collect, sell and distribute a variety of the herbs specified by His Majesty's Government may be issued to the person who offers the highest bid in an auction.
- (5) For the purpose of identifying, selling and distributing herbs not mentioned in Annex-3 and which have yet to be identified, the Authorized Officer shall submit the matter to His Majesty's Government and take action as sanctioned by His Majesty's Government.

12. Power to Ban on Collection, Sale and Distribution:

His Majesty's Government by notification in the Nepal Gazette may impose a ban on the collection, use, sale, distribution and transportation of any specified category of Forest Products.

13. Provisions Relating to Export of Forest Products:

- (1) In case any person submits an application to export any of the Forest Products collected or obtained pursuant to this Regulation to a foreign country, other than those foreign countries banned pursuant to sub-rule (2), the Authorized Officer may recommend the Customs Office to grant permission to export to a foreign country
- (2) His Majesty's Government by notification in the Nepal Gazette may ban the export of any specified categories of Forest Products to foreign countries.
- (3) In case any person, organisation, association or industry submits an application along with a customs declaration form and authentic evidence from an applicant foreign country, for the permission to import from a foreign country and to sell, distribute or re-export (to a third party country) any Forest Products other than those whose collection, use, sale and distribution, transportation and export have been banned, the Authorized Officer may grant permission to import such Forest Products from that foreign country in order sell, distribute or re-export to a foreign country (third party country)

14. Sale and Distribution of Other Forest Products:

- (1) Any person desirous of using any Forest Products other than timber, firewood, acacia catechu and herbs as prescribed in Annex-1 shall have to submit an application to the Authorized Officer.
- (2) In case an application for any Forest Product other than timber, firewood, acacia catechu and herbs is filed pursuant to sub-rule (1), the Authorized Officer may sell and distribute such Forest Products by collecting the fee as prescribed in Annex-6.

- (3) Notwithstanding anything contained in sub-rule (2), His Majesty's Government may sell and distribute Forest Products other than timber, firewood, acacia catechu and herbs to the person who offers the highest bid in an auction.

15. Power to Supply Timber and Firewood Free of Cost for Religious Purposes:

Notwithstanding anything contained elsewhere in this Regulation, in case any request for the timber and firewood is received for the purpose of carrying out traditional religious functions other than construction works, the Authorized Officer may supply timber and firewood free of charge as ascertained by His Majesty's Government subject to the annual quantities specified by a Work Plan.

16. Time Limit for Collection and Removal of Forest Products:

Timber and firewood may be collected and taken out from the Forest area during the period between *Kartik* (October 17) to *Jestha* (June 14), in a district specified by His Majesty's Government by notification in the Nepal Gazette. In the case a Forest Area in another District, the District Forest Officer shall, in consultation with the District Development Committee, fix a period for use not more than eight months a year-and timber and firewood shall be collected and taken out from that Forest Area within that time limit. Provided, that this Rule shall not be deemed to have obstructed the power to collect timber from a Forest Area at any time for sale and distribution to victims of natural calamities.

17. Procedure for Marking Trees, Measuring Timber and Firewood and Calculating Volume:

- (1) Trees shall be marked subject to the terms of sale ascertained by His Majesty's Government.
- (2) The procedure of calculating the volume of trees and timber shall be as prescribed in Annex-7.

18. Determination of Value:

- (1) In case a Forest is damaged, so that no timber can be found, the value thereof shall be determined by multiplying the volume of the tree stumps calculated as prescribed in Annex-7 by the price as prescribed in Annex-2.
- (2) In case timber is found and a stump is not traced, three blocks from a tree shall be considered to be a tree and the value thereof shall be determined by calculating the volume with the largest end of the largest block at the base of the stump and multiplying it by the price as prescribed in Annex-2.

- (3) In case some timber is located and stumps also exists, the value thereof shall be determined by calculating the volume at the basis of the stump and then multiplying it by the price as prescribed in Annex-2.

19. Licence for Grazing Animals:

The Authorized Officer may issue a Licence in the format as prescribed in Annex-9 to any person to graze his animals in any area other than those areas not covered by a Work Plan or those where grazing has been prohibited by the Authorized Officer, by collecting the specified fee as prescribed in Annex-8.

20. Power to Make Forest Areas Available:

- (1) His Majesty's Government may avail through an auction a prescribed Forest Area for a period and on conditions to any national or international government or non-governmental Organisation for carrying out activities prescribed by a Work Plan or for Forest development activities.
- (2) Forest Products contained in the Forest Area made available pursuant to sub-rule(1) shall be used in the manner mentioned in this chapter.

21. Transportation of Timber:

- (1) The Authorized Officer shall issue a release order for the transportation from a ferry-post of round logs collected within a National Forest area after affixing markings on them.
- (2) After sawing round logs for which a release order issued pursuant to sub-rule (1), the concerned saw mill or furniture company shall transport the logs as products with markings registered at the District Forest Office. While transporting timber, the District Forest Office shall be informed in advance and this should be endorsed at each check post en route.
- (3) The Authorized Officer may inspect saw mills and furniture industries at any time on the basis of suspicion.

22. Provisions Relating to Forest Development:

- (1) Development activities (establishment of nurseries, production of saplings, plantation, weeding, thinning pruning harvesting, felling etc.) specified by the Work Plan or approved by his Majesty's Government shall be initiated by an employee of at least the rank of non-gazetted class I Forest Assistant only after preparing cost estimates and having them approved by the Authorized Officer, subject to the directives issued by the Department.
- (2) The District Forest Office may use Timber and Firewood needed for carrying out forest development and protection activities included in the approved

programme and for the construction, repair and maintenance of Forest office, after keeping records thereof.

- (3) From among the activities pursuant to sub-rule (2), activities such as construction, repair and maintenance etc. of buildings, houses, huts, forest paths and bridges may be executed after preparing their cost estimates and having them approved by the immediate superior officer by an employee of the Forest Assistant of non-gazetted class I Level, if they are worth up to Two Hundred Thousands Rupees, by the Assistant Forest Officer if they are worth up to One million Rupees and by the District Forest Officer if they are worth more than that amount.
- (4) The Officer designated by the Authorized Officer shall have the power to inspect and approve development activities.
Provided that, the power to approve shall be exercised only by a technical employee of one level higher than the employee who completes the activities.

23. Power to Specify Areas:

The Authorized Officer may specify any area of a National Forest as seed production, research or training operation area.

Chapter-3
Protected Forest

24. Work Plan of Protected Forest:

For the management of forest related activities to be undertaken in a protected Forest, the Department shall prepare a Work Plan including the following matters:-

- (a) Boundaries and area of a Forest,
- (b) Techniques to be adopted for the protection of a Forest,
- (c) Arrangements relating to the use of Forest Products,
- (d) Techniques relating to the Forest management.

25. Licence to be Issued:

- (1) The Authorized Officer may issue a Licence to take Forest Products from a protected Forest according to the procedures and in quantities specified by the Work Plan.
- (2) The format of the Licence to be issued pursuant to sub-rule (1) shall be as prescribed in Annex-10 and the charges for the Forest Products shall be as prescribed in Annex-2, Annex-3 and Annex-6.

Chapter-4 **Community Forest**

26. Determination of a Community Forest:

- (1) The District Forest Officer shall have to take into account the distance between the Forest and a village and the wishes as well as the management capacity of the local users who have to manage the Forest, while designating any part of a National Forest to a Users' Group as a Community Forest.
- (2) In case the local users or others have planted and protected trees on any public land outside National Forest area or in case the local users desire to plant trees on such land after constituting a Users' Group and obtaining the approval of the agency owning the land on the condition that the concerned agency itself retains the ownership of the land, the District Forest Officer may grant recognition to such Forest Area as a Community Forest.

27. Constitution and Registration of The Users' Group:

- (1) Users who desires to manage a Forest as a Community Forest shall have to submit an application in a written form to the District Forest Officer either directly or through the concerned Area Forest Office.
- (2) In case an application pursuant to sub-rule (1) is received, the District Forest Officer shall depute as soon as possible a technical employee to the concerned area for the purpose of providing technical and other cooperation.
- (3) With the cooperation of the local body, the employee deputed pursuant to sub-rule (2) shall have to help the Users' Group preparation its constitution. The constitution of a Users' Group shall contain provisions in respect to matters mentioned in Annex-11, in addition to other matters.
- (4) While preparing a constitution pursuant to sub-rule (3) and constituting a Users' Group, action shall have to be taken on the basis of a consensus so that the boundaries of wards, villages, towns and districts shall have no effect on them.
- (5) The Users identified pursuant to sub-rule (3) shall have to compose a Users' Group comprising all users in the manner mentioned in the constitution prepared pursuant to sub-rule (4) and for the purpose of registration of Users' Group, submit an application to the District Forest Officer, either directly or through the relevant Area Forest Office in the format prescribed in Annex-12 along with the constitution of the Users' Group.

- (6) In case a Users' Group has submitted an application pursuant to sub-rule (5) is found to have been formed in accordance with its constitution, the District Forest Officer shall have to register it and issue a certificate in the format as prescribed in Annex-13 after having a bond to comply with the Act, this Regulation and the conditions prescribed by His Majesty's Government.

28. Work Plan of the Community Forest:

- (1) The Users' Group shall have to prepare a Work Plan of Community Forest including the following matters:
 - (a) Details of the Forest- name, boundaries, areas, condition of the Forest and types of Forest,
 - (b) Map of the Forest,
 - (c) Block division and details- name, boundaries, areas, aspects, slope, soil, type of the Forest, main species, useful species, age and situation in respect to natural regeneration,
 - (d) Objectives of Forest management,
 - (e) Methods of Forest protection,
 - (f) Forest promotion activities- thinning, pruning, cleaning and other Forest promotion activities,
 - (g) Nursery, tree plantation, income generating programme and time Schedule,
 - (h) Details of areas suitable for cultivation of herbs, cultivation programmes and time schedules,
 - (i) Provisions relating to the use of income accruing from the sale of Forest Products and other sources,
 - (j) Provisions made for penalties which may be inflicted on users pursuant to Section 29 of the Act,
 - (k) Provisions relating to the protection of wildlife,
 - (l) Other matters prescribed by the Department.
- (2) In case the Users' Group desires to plant any cash crops which yields products (long term) other than food crops in the Community Forest without adversely affecting the crown cover and production of the main Forest Product, it shall stated in the Work Plan.
- (3) The District Forest Officer shall have to provide technical and other cooperation required by the concerned Users' Group to prepare a Work Plan pursuant to this Rule.

29. Procedure of Handing Over the Community Forest:

- (1) In case a Users' Group desires to take over any part of a National Forest as a Community Forest, it shall have to submit an application to the District Forest Officer in the format as prescribed in Annex-14.

- (2) The District Forest Officer shall conduct necessary investigations into an application submitted pursuant to sub-rule(1) and the Work Plan submitted by the Users' Group for approval and in case deemed necessary, make any alterations in the Work Plan, with the consent of the Users' Group and approve the Work Plan accordingly. He shall then hand over the Forest area under the approved Work Plan to the Users' Group as a Community Forest after having a bond to the effect that it will comply with the conditions prescribed by His Majesty's Government. When handing over a Community Forest, the concerned Users' Group shall also be issued a certificate in the format as prescribed in Annex-15.
- (3) While handing over a Forest area as a Community Forest, the boundaries of villages, towns, and districts shall have no effect.
- (4) In case any Forest area which is to be handed over as a Community Forest lies within two or more districts, the District Forest Officer of the district where the application has been submitted may hand over the Forest area as a Community Forest with the consent of the other District Forest Officers.
- (5) The District Forest Officer of the concerned district shall have to monitor and evaluate the Community Forest handed over pursuant to sub-rule (2) and (4).

30. Maintenance of Records of Community Forest:

After handing over a Community Forest to a Users' Group pursuant to Rule 29, the District Forest Officer shall maintain records thereof at his office and also forward one copy of each to the Department and the concerned Regional Forest Office.

31. Prohibited Functions in the Community Forest:

- (1) The Users' Group shall not commit any of the following functions in a Community Forest, including those works which are prohibited by the Work Plan:-
 - (a) To destroy a Forest, mortgage or otherwise transfer the ownership of land covered by a Community Forest,
 - (b) To clear Forest areas for agricultural purposes,
 - (c) To build huts and houses,
 - (d) To take any action that may cause soil erosion,
 - (e) To capture or kill wildlife in violation of prevailing laws,
 - (f) To extract or transport rocks, soil, boulders, pebbles, sand etc.
- (2) Notwithstanding anything contained in clause (a) and (c) of sub-rule (1), loans may be obtained from financial institutions by pledging the Forest Products of the Community Forest as collateral for the purpose of developing Community Forest houses or huts (needed for security), that may be built with the approval of the District Forest Officer.

32. Collection, Sale and Distribution of the Forest Products:

- (1) A Users' Group shall collect, sell and distribute only Forest products which are available pursuant to the Work Plan.
- (2) After collecting timber, firewood and other Forest Products pursuant to sub-rule (1), the Users' Group shall have make arrangements for reforestation or rehabilitation in the concerned Forest Area as soon as possible.
- (3) The Users' Group shall inform the concerned District Forest Office on the sale rate of Forest Products.
- (4) In case the Users' Group is capable of running an industry based on Forest Products according to the Work Plan, it may run such industry outside the area of the Community Forest after obtaining approval from the relevant agency on the recommendation of the District Forest Officer.

33. Receipts and Records of Forest Products:

- (1) In case any Forest Products available in accordance with the Work Plan are to be consumed by the Users' Group themselves, the Users' Group may distribute the same products by issuing permits in the format as prescribed in Annex- 16 -keeping a record of such Forest Products.
- (2) While selling Forest Products, Users' Group shall prepare a receipt in triplicate in the format prescribed in Annex- 17 and shall hand over a copy to the buyer and the other copy to the concerned Area Forest Office, and shall retain the third copy.
- (3) Users' Group shall maintain accurate records of Forest Products sold from the Community Forest as well as accounts of income and expenditure.

34. Stamp (Seal) to be Registered:

- (1) The Users' Group shall prepare an iron seal for the purpose of transporting timber from the Community Forest and submit an application to the District Forest Office for its registration.
- (2) On the receipt of an application submitted pursuant to sub-rule(1), the District Forest Officer shall register the stamp free of charge, ensuring that the name of the stamp is not be duplicated.

35. Transportation of Forest Products:

- (1) For the purpose of transporting timber sold by the Users' Group outside their area, a person or committee designated by the Users' Group shall mark the timber with a stamp pursuant to Rule 34 and issue a permit in the format as prescribed in Annex-16.

- (2) Timber shall be transported pursuant to sub-rule (1) only after informing the relevant Forest Office in advance and having the matter endorsed by check posts located en route.
- (3) Forest Products other than timber may be transported after informing the District Forest Office in advance and obtaining a permit from the person or Committee designated by the users' Group.

36. Operation of Users' Group's Fund:

- (1) The fund and account of the Users' Group shall be operated through joint signatures of two officials from the Group designated by the members.
- (2) Annual accounts of income and expenditure shall be audited by the person or institution designated by the Users' Group.
- (3) The Users' Group shall submit a copy of the audit report pursuant to sub-rule (2) to the relevant District Forest Office.
- (4) The Authorized Officer may inspect the accounts of income and expenditure maintained by the Users' Group from time to time.

37. Continuance of a Community Forest:

- 1) In case a Users' Group has been unable to work according to a Work Plan or has done anything that has a substantial and adverse effect on the environment or has not complied with the Act, this Regulation and the conditions prescribed by His Majesty's Government, the District Forest Officer shall depute an employee as soon as possible for an on spot inspection and take action as follows on the basis of a report thereof:
 - (a) If a report shows that the Users' Group has been unable to work according to the Work Plan or has done anything that has a substantial and adverse effect on the environment or has not complied with the Act, this Regulation and the conditions prescribed by His Majesty's Government, an explanation shall be demanded from the Users' Group, within 15 days.
 - (b) In case an explanation submitted by the Users' Group is not satisfactory or in case a spot inspection report holds the continuance of the Community Forest as appropriate, the District Forest Officer may retake such Forest and cancel the Users' Group registration.
 - (c) The concerned Users' Group shall be informed on a cancellation of its registration within Fifteen days of such action.
- (2) Any Users' Group dissatisfied with the decision to retake a Community Forest and cancel its registration pursuant to sub-rule(1) may file a complaint with the concerned Director within thirty-five days from the date of receipt of the notice of such decision.

- (3) Decisions on a complaint filed pursuant to sub-rule (2) shall be given within Ninety days from the filing date.

38. Assistance May be Obtained:

For the purpose of discharging functions mentioned in this chapter, the Department and the Users' Group may obtain necessary assistance from national and international governmental and non-governmental agencies.

Chapter -5
Leasehold Forest

39. Procedure for granting a Leasehold Forest:

- (1) Any corporate body, industry or community desirous of taking up a Leasehold Forest shall have to submit an application in the format as prescribed in Annex-18 to the Director either directly or through the District Forest Office, explicitly mentioning the following details, in addition to the matters mentioned in the Act and along with an economic feasibility report.
 - (a) Term of Leasehold Forest,
 - (b) General evaluation of the possible impact on the environment,
 - (c) Details of Forest Products and other natural resources located within the Forest Area,
 - (d) Details of paths, canals, dams, mines, etc. locate inside the Forest area.
 - (e) Other necessary details.
- (2) In case the Forest Area demanded in the application pursuant to sub-rule (1) is found to be suitable to hand over as a Leasehold Forest, the Director shall instruct the District Forest Office to publish a notice at the concerned Village Development Committee or Municipality and other public places calling the users living around the concerned Forest area to declare within Thirty-Five days whether or they wish to take up the concerned Forest area as a Community Forest.
- (3) In case users living around the concerned Forest area express their desire to take up the designated Forest area as a Community Forest within the time limit mentioned in the notice published pursuant to sub-rule (2), the Director shall keep the application filed for taking up the concerned Forest as a Leasehold Forest pending and instruct the District Forest Office to constitute a Users' Group within Three months.
- (4) In case no application is filed within the time limit pursuant to sub-rule (2), or in case a Users' Group is not constituted within the time limit pursuant to sub-rule (3), the Director shall, if he finds appropriate hand over the Forest area as

- a Leasehold Forest, demanding the following additional details from the applicants:-
- (a) Detailed Work Plan,
 - (b) Details relating to the species of trees available in the concerned area along with their size and quantity,
 - (c) Plans for clearing trees, if necessary,
 - (d) Condition of the Forest at the end of the term of the Leasehold Forest,
 - (e) Other necessary technical matters.
- (5) In case the applicant requests for the data relating to the concerned Forest Area in the course of preparing a detailed Work Plan pursuant to sub-rule (4), the District Forest Officer or the Director shall supply all available data to the applicant without charging fees.
- (6) In case several corporate bodies, industries or communities apply for taking up the same Forest area as a Leasehold Forest, the Community which comprising of a majority of people living below the poverty line shall be given first priority, while a Forest based industry producing Forest Products by planting trees shall be given second precedence.
- (7) In case any technical assistance is needed when handing over a Leasehold Forest to any Community, the District Forest Office shall provide assistance.

40. Special Provision for Handing Over Leasehold Forests:

- (1) His Majesty's Government may prepare project relating to the Leasehold Forest for the Communities living below the poverty line and hand over Leasehold Forest to the beneficiaries of a project.
- (2) Before handing over a Leasehold Forest pursuant to sub-rule (1), the project relating to the Leasehold Forest shall ask the concerned Community to prepare the Work Plan and submit it to the Ministry for approval.
- (3) Forest Products located within the Leasehold Forest handed over pursuant to sub-rule (1) shall be used and protected in the manner as specified in the Work Plan.

41. Lease and Fees for Leasehold Forests:

In case the Ministry grants its approval to hand over a Leasehold Forest pursuant to subsection (4) of Section 32 of the Act, the Director shall prepare a Forest Lease for the Forest in the format prescribed in Annex- 19, collect the annual fee mentioned in Annex-20 and hand over the Leasehold Forest to the applicant along with a Forest Lease as prescribed in Annex-21.

42. Records of Leasehold forest:

After handing over a Leasehold Forest, records thereof shall be kept at the Regional Forest Office and information thereof shall be forwarded to the District Forest Office.

43. Provision Relating to Extension of Term of Lease Agreement:

In case the Leaseholder is unable to work in accordance with the Work Plan within the time limit specified in the Forest Lease and in case he submits an application showing appropriate reasons thereof, His Majesty's Government may, if it so deems appropriate extend the term of the Forest Lease by not more than Six months. In case the Leaseholder persists in failing to work after that time limit, the Forest Lease of such Leasehold Forest shall be cancelled.

44. Protection of a Leasehold Forest:

- (1) The Leaseholder himself shall have to make arrangements for the protection of a Leasehold Forest.
- (2) In case the Leaseholder requests any assistance in the task of protecting the Leasehold Forest, the District Forest Officer shall have to provide suitable assistance and make recommendations to other agencies to provide assistance for that purpose.

45. Functions Prohibited in the Leasehold Forest:

- (1) The following functions shall not be operated or attempted in a Leasehold Forest:
 - (a) To sell, mortgage or otherwise transfer the title to land covered by a Leasehold Forest,
 - (b) To operate anything other than that specified by the Work Plan.
- (2) Notwithstanding anything contained in clause (a) of sub-rule (1), this Rule shall not be deemed to have obstructed the right to obtain loans from financial institutions by pledging the Forest Products planted and grown by him as collateral [*crop lien*] for the development of a Leasehold Forest.

46. Title may be Sold or Transferred:

- (1) Notwithstanding anything mentioned elsewhere in this Regulation any leaseholder who has done satisfactory work in a Forest by the end of 33% of the term of Leasehold agreement may sell or transfer his right to any other corporate body, industry or community. The leaseholder shall obtain prior approval from the Ministry for selling or transferring his title.
- (2) In case an application for the approval to sell or transfer the title is filed pursuant to sub-rule (1), the Ministry may if desires purchase Forest

Products planted or grown by the leaseholder on behalf of His Majesty's Government by making payments for them at the price of the Forest Products as prescribed in Annex-2.

- (3) In case any corporate body, industry or community buys a Leasehold Forest sold or transferred pursuant to sub-rule (1), the lease agreement signed by the existing leaseholder with His Majesty's Government shall be deemed to have been transferred to the buyer.
- (4) The Director shall record the sale or transfer in a Forest Lease of a Leasehold Forest which has been sold or transferred pursuant to sub-rule (1) and update his records accordingly.

47. Production and Consumption of Forest Products:

- (1) Forest Products from a Leasehold Forest may be consumed or sold and distributed in quantities specified by the Work Plan.
- (2) The Leaseholder shall inform the District Forest Office annually on the species and quantities of Forest products planted by him in a Leasehold Forest.
- (3) The Leaseholder shall submit an application to register a seal with the District Forest Office. On receipt of such application, the District Forest Officer shall register the stamp ensuring the name on the stamp is not duplicated.
- (4) Forest Products from a Leasehold Forest shall be transported by marking them with the stamp mentioned in sub-rule (3), informing the District Forest Office in advance and having the matter endorsed by check posts located en route.

48. Ownership of Trees Existing at the Time of the Handing over of a Leasehold Forest:

- (1) The ownership of the trees existing in a Leasehold Forest at the time of hand over shall vest in His Majesty's Government. The Leaseholder shall have to mention the provisions for the management and protection of such trees in the Work Plan and take them under his custody.
- (2) While handing over a Leasehold Forest for the purposes mentioned in clause (a) and (b) of Section 31 of the Act, the trees located therein shall be evaluated and a bank guarantee of not more than ten percent of the total value thereof may be obtained from the Leaseholder of the concerned Leasehold Forest, while protecting the conservation of the forest by all accounts.
Provided, that no such deposit shall be obtained while handing over a Leasehold Forest to any community comprising of people living below the poverty line.

- (3) At the time of felling trees pursuant to sub-rule (1), in case a Leaseholder agrees to fell trees under the supervision of the District Forest Office and purchase the Forest Products obtained therein, according to the Work Plan, they shall be sold collecting a price prescribed in Annex-2 for the first five years.

Provided that, in case a Leaseholder does not agree to purchase the product, the relevant Forest Product shall be sold and distributed according to the provisions made in respect to a Government Managed Forest.

49. Fee for Leasehold Forests:

- (1) A Leaseholder shall have to pay the District Forest Office an annual fee as prescribed in Annex-20 before the end of *Asadh* (July 15) of each fiscal year.
- (2) In case any Leaseholder fails to pay the fee within the time limit pursuant to sub-rule (1), it shall be realised from him along with a fine of ten percent (10%) until the end of *Pousha* (January 14), Fifty percent (50%) until the end of *Chaitra* (April 13), and hundred percent (100%) up to the end of the next *Asadh* (July 15).
- (3) The Leaseholder who fails to pay a fee even within the time limit pursuant to sub-rule (2), shall have his lease cancelled.

Provided, that in case the Leaseholder submits an application to His Majesty's Government explicitly mentioning reasons for the failure to pay the fee and in case His Majesty's Government considers the reasons appropriate, he may retain the Forest Lease for one year more, subject to a penalty charge including the amount of fine payable pursuant to sub-rule(2).

50. Term of Leasehold Forest:

- (1) A Leasehold Forest may be handed over for a term not exceeding Forty Years.
- (2) The term of a Leasehold Forest pursuant to sub-Rule (1) shall be determined on the basis of the categories of Forest Products to be planted according to a Work Plan and Programme to be launched in the area.
- (3) In case a Leaseholder is found to be satisfactorily managing a Leasehold Forest according to the Work Plan and the Forest Lease and in case the Leaseholder so desires, the concerned Forest area be handed back to him for further term of Forty years.

51. Copies of the Forest Lease May be Given:

- (1) In case the Forest Lease of the Leasehold Forest is lost, torn or destroyed or otherwise rendered useless, thereby making it necessary to obtain a duplicate copy thereof, the Leaseholder may submit an application to the Director.

- (2) In case an application filed pursuant to sub-rule(1) is received, the Director shall issue a duplicate copy of the Forest Lease of the Leasehold Forest.

52. Evaluation:

- (1) A Leaseholder must submit an annual report to the Director within two months of the expiry of a fiscal year.
- (2) The Director or an Officer designated by him shall annually monitor as to whether work is being done in the Leasehold Forest according to the Work Plan, in the presence of Leaseholder or his representative and submit a report thereof to the Ministry and the Department.
- (3) In case the report submitted pursuant to sub-rule (2) shows that the Leaseholder has operated any prohibited functions, the Director may issue an order prohibiting the consumption or collection of Forest Products or the operation of any function according to the Work Plan until the matter is investigated.

53. Power to Cancel Forest Lease:

- (1) In case a complaint is filed to the effect that the Leaseholder has been unable to work according to the Work Plan or has done anything that has a substantial adverse effect on the environment or has not complied with the Act or this Regulation or in case it is learnt through any other source that the Leaseholder has engaged in any prohibited functions or acted contrary to the Work Plan, the Director shall depute a technical employee to conduct a spot inspection in the presence of the Leaseholder or his representative and to submit a report thereof.
- (2) In case a spot inspection report submitted pursuant to sub-rule (1) or an evaluation report submitted pursuant to sub-rule (2) of Rule 52 shows that the Leaseholder has engaged in any prohibited functions, the Director shall provide the Leaseholder with an opportunity to submit his explanation within not more than Thirty Five days.
- (3) In case the explanation submitted by the Leaseholder pursuant to sub-rule (2) is unsatisfactory, the Director may cancel the Licence and take back the Leasehold Forest within thirty five days from the date of the submission of such explanation.
- (4) In case of Forest Products planted and grown by the Leaseholder in the Leasehold Forest in respect to a decision taken to cancel the Forest Lease pursuant to sub-rule (3), the Director shall ask the District Forest Office to make an evaluation of such Forest Products and pay compensation to the Leaseholder as prescribed in Annex-2.

- (5) In case the Leaseholder does not agree to the evaluation of Forest Products made pursuant to sub-rule (4), the dispute shall be resolved by the Arbitration Act, 1981.
- (6) While paying the amount of compensation to the Leaseholder as determined pursuant to sub-rule (4) or (5), the amount involved for loss or damage resulting from the action taken by the Leaseholder contrary to the conditions mentioned in the Forest Lease, shall be deducted and the balance shall be paid.

54. Amendments to a Work Plan:

In case a Work Plan for a Leasehold Forest has to be amended, prior approval of the Ministry shall be obtained.

Chapter-6
Religious Forest

55. Application For a Religious Forest:

- (1) In case any religious body, group or community registered pursuant to prevailing laws desires to manage in a planned manner to any Forest being used by it for any religious purpose which has continued on a traditional basis or since ancient times, it shall submit an application in the format prescribed in Annex-22 to the District Forest Officer along with a Work Plan, explicitly mentioning the following details, in addition to the matters mentioned in Section 35 of the Act:-
 - (a) Name of the Religious Forest,
 - (b) Management technique to be adopted for the protection of the Religious Forest,
 - (c) Procedure for collecting Forest Products in a Religious Forest,
 - (d) Techniques relating to tree plantation and Forest improvements,
 - (e) Other details required for a Religious Forest.
- (2) The District Forest Officer may conduct necessary enquiries into an application filed pursuant to sub-rule (1) and handover a Religious Forest to the religious body, group or community along with a certificate thereof as prescribed in Annex-23.

56. Records of a Religious Forest to be Maintained:

The District Forest Officer shall maintain records of a Religious Forest handed over pursuant to sub-rule (2) of Rule 55, and a copy will be supplied thereof, for the Director and the Department.

57. Implementation of Work Plan:

The concerned religious body, group or community shall have to start work according to a Work Plan handed over to it, within three months.

58. Monitoring of Religious Forest:

The District Forest Officer or an employee designated by him shall monitor whether or not work has been done in the Religious Forest according to the Work Plan.

59. Utilization of Forest Products of Religious Forest:

The Forest Products of a Religious Forest may be utilized by the concerned religious body, group of community for religious purpose only.

Provided that, this Rule shall not be deemed to have obstruct the right to sell the Forest Products available in the Religious Forest areas other than timber and firewood and to utilize the proceeds for religious purposes.

60. Religious Forest May be taken back:

- (1) In case any religious body, group or community operates any functions which is contrary to the Act, this Regulation and the Work Plan, the District Forest Officer may resume control of the concerned Religious Forest.
- (2) Before deciding to take back control a Religious Forest pursuant to sub-rule (1), the District Forest Officer shall provide an opportunity to the concerned religious body, group, or community to submit its explanation within a period not exceeding thirty- five days.
- (3) Any one who is not dissatisfied with the decision taken by the District Forest Officer to take back a Religious Forest pursuant to sub-rule (1) may file a complaint to the Director within thirty-five days from the date of receipt of notice of such decision and the decision of the Director shall be final.
- (4) In case the District Forest Officer decides to take back a Religious Forest pursuant to this Rule, he shall manage the concerned Forest as a Religious Forest.

Chapter-7
Private Forest

61. Application for the Registration of a Private Forest:

- (1) Any person or institution desirous of having a registration of the private Forest, shall submit an application in the format as prescribed in Annex-24 to the concerned District Forest Office along with evidence to prove ownership over the land.

- (2) In case an application is submitted pursuant to sub-rule (1), the District Forest Officer shall make necessary enquiries into an application and where proved that the land mentioned in the application is owned and occupied by the applicant, he may register the concerned land as a Private Forest by explicitly mentioning the species and numbers of trees located on the land and issue a certificate thereof in the format as prescribed in Annex-25.
- (3) In case the owner of a Private Forest registered pursuant to sub-rule (2) plants new trees on such land, he shall inform the District Forest Office (in writing) expressly mentioning species and the numbers of Forest Products.

62. Transportation of Timber:

- (1) In case the owner of a Private Forest wants to use the Forest Products of the Private Forest for his own purposes, he may do so after notifying the District forest Office in writing either directly or through the concerned Area Forest Office at least twenty-four hours before such use, along with a recommendation of a member of the concerned Village Development Committee or Municipality explicitly mentioning the categories and quantities of Forest Products.
- (2) The owner of a Private Forest registered under this chapter may transport Forest Products by providing a written notice thereof to the concerned District Forest Office least twenty-four hours before such use, along with a recommendation of a member of the concerned Village Development Committee or Municipality explicitly mentioning the categories and quantities of Forest Products and having the matter endorsed by Forest check posts located en route.
- (3) The owner of a Private Forest not registered under this Chapter shall submit an application to the District forest Office either directly or through the Area Forest Office to cut trees on his Private Forest. The District Forest Officer may conduct necessary enquiries into the application and grant permission to cut the trees.
- (4) Timber from a Private Forest mentioned in sub-rule (3) may be transported only after obtaining a release order from the concerned District Forest Office and having the matter endorsed by check posts located en route.
- (5) For the purpose of transporting timber collected from trees cut in a Private Forest before the commencement of this Regulation, an application shall be submitted to the Officer or Committee specified by His Majesty's Government by notification in the Nepal Gazette. The timber shall be transported according to the decision taken by the Officer or Committee, specified after conducting the necessary enquiries into such application.

63. Duplicate Copy of the Certificate May be Given:

In case the certificate of a Private Forest is lost, torn out or destroyed or otherwise rendered useless and in case the owner of the concerned Private Forest submitted an application for its duplicate copy, the District Forest Officer shall issue a duplicate copy accordingly.

64. Records of the Private Forest to be Cancelled:

- (1) In case the owner of a Private Forest registered pursuant to Rule 62 desires to clear his Private Forest, he shall have to notify the District Forest Office accordingly.
- (2) On the receipt of a notice pursuant to sub-rule (1), the District Forest Office shall cancel records of such Private Forest.

Chapter-8
Miscellaneous

65. Operations of the Priority Projects:

- (1) In case the execution of any project having national priority any Forest Area causes any loss or harm to any local individual or community the operators of the concerned project itself shall bear the amount of compensation to be paid in consideration thereof.
- (2) The entire expenses required for the cutting, making into pieces and transporting the Forest Products in a Forest Area to be used by the approved project shall be borne by the operators of the project.

66. Provisions Relating to Auction Sale:

The power to sell any Forest Products through an auction shall lie with the Director General and in case the value of the Forest Product does not exceed Two Million Five Hundred Thousands Rupees (Rs.2,500,000) and with the District Forest Officer if the value of the Forest Products does not exceed Five Hundred Thousands Rupees. (Rs.500,000)

67. Power to Frame Manuals:

The Ministry may, for the purpose of fulfilling the objectives of this Regulation, establish and issue manuals and it shall be the duty of all concerned to comply with these guidelines.

68. Power to Make Changes or Alterations in Annex:

His Majesty's Government may make necessary changes or alterations in the Annexes by notification in the Nepal Gazette.

69. Repeal:

The following Regulations have been repealed:

- (a) Forest Product Sale and Distribution Regulation, 1970.
- (b) Forest Protection (Special Arrangements) Regulation, 1970.
- (c) Panchayat Protected Forest Regulation, 1978.
- (d) Leasehold Forest Regulation, 1978.
- (e) Panchayati Forest Regulation, 1978.
- (f) Private Forest Regulation, 1984.

(Schedules, 1-25)

National Parks and Wildlife Conservation Act, 2029 (1973)

Date of Royal Seal and Publication:
2029.10.28 (...)

Preamble: Whereas it is expedient to make arrangements for the management of national parks, the conservation of wildlife and their habitats, to regulate hunting and to conserve, promote, develop, and make appropriate arrangements for and the use of places which are of special importance from the point of view of natural beauty and to maintain civic pride and good welfare for the general public, His Majesty King Birendra Bir Bikram Shah Dev enacted this Act on the advice and consent of the National *Panchayat*.

1. Short title, extent and commencement:

- (1) This Act may be called the “National Parks and Wildlife Conservation Act 1973”.
- (2) This Act shall be applicable throughout the Kingdom of Nepal.
- (3) This Act shall come into force a date as prescribed by His Majesty’s Government publishing a notice in the Nepal Gazette.

2. Definitions:

Unless the subject or context requires, in this Act:

- (a) “National Park” means an area set aside for the conservation, management and utilization of flora, fauna and scenery as well as the natural environment.
- (b) “Strict Nature Reserve” means an area of ecological importance or otherwise, set aside for scientific studies.
- (c) “Wildlife Reserve” means an area set aside for the conservation and management of wildlife resources and their habitats.
- (d) “Hunting Reserve” means an area set aside for the management of wildlife for hunting.

- (e) “Reserve” means a strict nature reserve, wildlife reserve and or hunting reserve.
 - (e1) “Conservation Area” means an area to be managed according to an integrated plan for the conservation of the natural environment and balanced utilization of natural resources.
 - (e2) “Buffer Zone” means a peripheral area of a national park or reserve prescribed under the section 3a in order to provide facilities to use forest resources on a regular and beneficial basis for the local people.
 - (f) “Wildlife” means mammals, birds, reptiles, fish, amphibians and insects of any kind other than those domesticated, though the term includes the eggs of oviparous creatures.
 - (g) “Arms” means any type of gun, pistol or similar firearms, bow, arrow, spear, trap, snare, booby-trap, catapult or any other weapons that may cause injury.
 - (h) “Hunting” means the act of chasing, capturing, and torturing or the killing of any wildlife by any means or attempt to do so, or extracting any part of its body, eliminating, removing or destroying its eggs or taking, destroying or disturbing a nest.
 - (i) “Trophy” means the living or dead body of any wildlife or any such part thereof, which can be identified.
 - (j) “Authorized Officer” means an officer prescribed by His Majesty’s Government by notice in the Nepal Gazette.
 - (j1) “Warden” means a person appointed by His Majesty’s Government for the conservation and management of a national park, reserve, conservation area or buffer zone.
 - (k) “Prescribed” or “as prescribed” means prescribed or in the manner prescribed in the rules established under this Act.
3. His Majesty’s Government may declare a national park, reserve or conservation area:

- (1) His Majesty's Government may, if it deems necessary, declare an area as a national park, reserve or conservation area by publishing a notice in the Nepal Gazette, indicating the boundary thereof.
 - (2) His Majesty's Government may abandon or transfer the ownership or alter the boundaries of an area, which was once been declared as a national park, reserve or conservation area by publishing a notification in the Nepal Gazette.
- 3a. Buffer zone may be declared:
- (1) His Majesty's Government may declare any peripheral area of a national park or reserve as a buffer zone by publishing a notification in the Nepal Gazette and indicating the boundaries thereof.
 - (2) His Majesty's Government may, abandon or transfer the ownership, or alter the boundaries of a buffer zone prescribed under the subsection (1) by publishing a notification in the Nepal Gazette.
- 3b. Management and conservation of a buffer zone:- A Warden shall carry out works relating to the management and conservation of a buffer zone. Provided, that local land ownership is not affected while managing and conserving the area.
- 3c. Compensation:- In case any house or land of a local resident located inside a buffer zone falls within the existing natural boundary of a national park or reserve as a result of a flood or landslide, and if such inhabitant's house is destroyed, the concerned national park or reserve, on the recommendation of the user Committee formed under section 16c, shall pay a reasonable compensation to him from an amount allocated for community development under section 25a.
4. Restriction on entry into a national park:-
- (1) No person shall be allowed to enter a national park or reserve without obtaining an entry permit as prescribed or written permission from the authorized official. Provided, that this subsection shall not be applied to government employees who are on deputation or to persons who have the privilege of a right-of-way inside a national park or reserve.
 - (2) The design, type, fee and other conditions of an entry permit mentioned in the subsection (1) shall be as prescribed.

5. Prohibited actions within a national park or reserve- No person shall carry out the following actions within a national park or reserve without obtaining written permission from the authorized official:
- (a) To hunt wildlife,
 - (b) To construct or possess a house, hut, shelter, or any other material structure,
 - (c) To occupy, clear, reclaim or cultivate any part, to grow or harvest any crop,
 - (d) To graze any domestic animal or bird, or to feed water to it,
 - (e) To cut, clear, fell, remove or block trees, plants, bushes or any other forest resources, or do anything to cause any forest resources to dry, or set on fire, or otherwise harm or damage it,
 - (f) To dig mines, stones or remove any mineral, stone, boulder, earth or any other similar material,
 - (g) To cause damage to forest resources or wildlife, birds or any land,
 - (h) To carry arms, ammunition or poison, and or to use them,
 - (i) To take any domestic or any other kind of animal or trophy by persons other than government employees on deputation or visitors of the public paths within the national park or reserve, and
 - (j) To block, divert any river or stream flowing through a national park or reserve, or any other water source, or use any harmful or explosive materials therein.
6. Operation of services within a national park or reserve:
- (1) His Majesty's Government may, in the utmost interest of a national park, reserve or conservation area, make arrangements for operating hotels, lodges, public transport services and or similar services or facilities, either performed by HMG or through other entities entering into a contract, following a prescribed procedure.
 - (2) No person shall operate services or facilities of any kind within a national park, reserve or conservation area without entering into a contract under as per subsection (1).

7. Repealed
8. Repealed
9. Personal liability to enter into a national park or reserve:
 - (1) Entering into a national park or reserve shall be at one's own liability.
 - (2) If any person dies or sustains any injury, loss or damage within a national park or reserve, His Majesty's Government shall not be liable to pay any compensation for such death, injury, loss or damage.
10. Protected wildlife: The wildlife mentioned in Schedule-1 of this Act shall be considered as protected wildlife and their hunting is prohibited.
Notwithstanding that:
 - (a) A rogue wild elephant, a man-eating tiger and wildlife that suffers from disease or pest, shall be killed or captured on the order of the prescribed officer.
 - (b)
In case it is deemed necessary to kill wildlife, which strays out of a forested area and causes considerable loss to human life or to domestic birds and animals, they may be killed, captured or chased out, by order of the prescribed officer.
11. Prohibition to hunt without a license:
 - (1) No person shall be permitted to hunt wildlife without obtaining a license.
Provided that there is no need to obtain a license for hunting the prescribed wildlife.
 - (2) Any person who wants to obtain a license under the subsection (1) shall submit an application form to the prescribed office and, if such an application is received, the prescribed officer shall, after collecting the prescribed fees, issue a license under the prescribed model and type to hunt wildlife.
 - (3) A person who obtains license under subsection (2) shall hunt in accordance with the prescribed terms and conditions.
 - (4) An authorised officer may refuse to issue a license under subsection (2) without providing any reason thereof.
12. Fixed annual quotas for hunting: The prescribed officer shall determine the annual quota of wildlife that may be hunted inside a hunting reserve for the year on the basis of wildlife censuses conducted from time to time.

13. His Majesty's Government may cancel a license: His Majesty's Government may, if it deems necessary, cancel a license issued under section 11 at any time with or without providing any reason.
14. Prohibited period for hunting: His Majesty's Government may prescribe a prohibition on a hunting period in a given area, by publishing a notice in the Nepal Gazette.
15. Obtaining a license for the collection of specimens:
- (1) No person shall be allowed to collect any specimen from any national park, reserve or any other wildlife habitat for scientific research without obtaining a license.
 - (2) Any person wishing to obtain a license under subsection (1) shall have to submit an application to an authorised officer in an agreed form.
 - (3) If an application is received in accordance with the subsection (2), the authorised officer may issue a license to the applicant by collecting the prescribed fee, to hunt any wildlife other than those mentioned in Schedule-1 or to collect any insect, bacteria, fish or any natural product subject to the fulfilment of established conditions.
16. Management of National Park and Reserve: A prescribed officer may, if he deems necessary for the proper management of a national park or reserve, hunt, remove any natural resources or perform any other necessary activities inside a national park or reserve.
- 16a. Forest products and other services could be provided: A prescribed officer may provide forest products or other services by collecting fees inside a national park or reserve.
- 16b. Management of a conservation area: His Majesty's Government may, by publishing a notification in the Nepal Gazette, entrust the management of any conservation area declared under subsection (1) of Section 3 to any institution established with the objective of conserving nature and natural resources for an agreed period stated in a notification.
- 16c. User Committee:
- (1) The warden, in coordination with local authorities, may form a User Committee for the management of felled trees, dry wood, firewood and grass in a national park, reserve, conservation area or buffer zone.
 - (2) Other rights, duties and responsibilities of the User Committee formed under subsection (1) shall be as agreed.

17. A trophy will have to be produced before a licensing authority
- (1) Any person who secures a trophy under the license obtained by him shall have to produce it before the licensing authority or the officer designated by him within 24 hours excluding travelling time.
 - (2) The licensing authority shall maintain records of the trophies produced before him under subsection (1) and hand over the whole body or part of such wildlife to the applicant along with a certificate, if the authority is satisfied that the trophy has been secured in accordance with the license.
Notwithstanding, that if the license has been issued on the condition that His Majesty's Government should own the whole or part of the carcass, the condition shall apply accordingly.
18. Prohibition to possess trophies without a certificate:
- (1) Any person, who has secured trophies prior to the implementation of this Act, shall produce such trophies before the prescribed officer within the prescribed time limit and obtain a certificate in the prescribed form.
 - (2) His Majesty's Government may seize any trophy that is possessed without obtaining a certificate under subsection (1) or subsection (2) of Section 17.
19. Prohibition to sell, supply or conduct trade in trophies without license:
- (1) No person shall be permitted to sell or supply trophies, or hand to pass his title in any manner or conduct trade in trophies without obtaining a license from the prescribed authority.
 - (2) Any person who has acquired title to any trophy through a purchase or transfer from a person who has obtained a license according to section (1) shall register the trophy with the authorised authority within the prescribed time limit and obtain a certificate of ownership for the trophy.
20. Recommendation to be obtained for export or import of trophies: Any person wishing to export any [taxidermy]trophy from the Kingdom of Nepal or import in accordance with prevailing Nepalese law, shall obtain a written recommendation of His Majesty's Government, Ministry of Forests and Soil Conservation for such export or import.
21. Essential action can be treated as self-defence:
- (1) To save one's life or any other person or domestic animal from the actual and sudden attack of any wildlife, and where one is left with no option but to use arms or take any other measures against such

wildlife, he may do so. If any wildlife is killed or wounded in such action, it is not considered a crime committed under this Act.

- (2) In case any wildlife is killed or wounded in accordance with subsection (1), a notice will have to be given to the authorised officer within 24 hours of such action excluding travel time.
- (3) The privilege mentioned in subsection (1) shall not be available to persons, acting in contravention of this act or the rules established under the Act.

22. Prohibition to damage boundary markers: No person shall destroy, dismantle, disfigure, remove or otherwise obstruct the boundaries, enclosures, walls, signboards or notices of a national park, reserve, conservation area or buffer zone.

23. Power to inspect and search: An authorised officer may, after securing a warrant enter into and search a house, compound, land or all types of vehicle belonging to a person at any time or to arrest him if there are reasonable grounds to believe that the person has committed acts in contravention of this Act, and it becomes necessary to collect evidence or proof of such actions.

Provided that there is a possibility that it may take some time to obtain a warrant to enter and search a house, compound, land or vehicle, and that the offender is likely to abscond or suppress evidence of his offence during the time, the authorised officer may enter and search such house, compound, land or vehicle at any time after duly preparing written records of the matter.

Explanation:

Officers below the rank specified in section 30, shall not enter and search a house, compound, land or vehicle without a warrant under this section. In circumstances when the offender is not arrested or evidence is not recovered in the course of an entry or search without a warrant, the officer making such an entry or conducting a search shall issue a certificate of the entry or search to the relevant person, and also forward a written notice to the authorised officer within 15 days of entry and search, indicting the reasons for having done so.

24. Powers of arrest without a warrant:

- (1) In case there are reasonable grounds to believe that an offender under this Act is likely to flee, the authorized officer may arrest him without a warrant. The arrested person shall be produced before an adjudicating legal authority within 24 hours excluding any required travel time.

- (2) In case an offender, or any accomplices resort to violence in an attempt to free him, resist arrest or struggles after his arrest by an authorized officer under the subsection (1), or if circumstance arises where the offender tries to escape or his accomplices try to free him or in case the life of the person making the arrest appears to be in danger, or where the arresting officer has no alternative but to resort to the use of arms, he may open fire aiming, as far as possible, below the knee, and if any person dies as a result of a shooting, it shall not be deemed to be an offence.
- (3) While an authorised officer is arresting or detaining an offender for the purposes of subsection (1), if any offender or his accomplices resorts to violence in an attempt to free himself or to obstruct the arrest or where circumstance arise when the offender is about to escape or to be freed by his accomplices, or in case the life of the person making the arrest appears to be in danger, or where the arresting officer has no alternative but to resort to the use of arms, he may open fire aiming, as far as possible, below the knee, and if any person dies as a result of a shooting, it shall not be deemed to be an offence.

25. Reward:

- (1) Any person who provides information that leads to the arrest of a poacher who has killed or injured rhinoceros, tigers, elephants, musk deer, clouded leopards, snow leopards or bison, may be rewarded with an amount of up to fifty thousand rupees (Rs 50,000). Any person who provides information on a poacher who has killed or injured any other protected animals, other than the wildlife mentioned above, that leads to his arrest may be rewarded with an amount of up to twenty five thousand rupees (Rs 20,000).
- (2) Any person who provides information on a person who is in unlawful possession of trophies and if the information leads to the arrest of the illegal holder, or who captures such person, may be rewarded fifty percent of the amount collected from the auction of the trophies, if such trophies are auctioned. In case the trophies cannot be sold by auction for wildlife conservation, an amount of up to ten thousand rupees (Rs 10,000) could be rewarded, considering the condition, importance and quantity of such trophies.
- (3) Any person who provides information on an offence under this Act, other than those mentioned in subsection (1) and (2), which leads

to the arrest of the accused may be rewarded with up to one thousand rupees (Rs 1,000).

25a. May be expended for community development: Up to thirty to fifty percent of the funds earned by a national park, reserve or conservation area may be expended, in co-ordination with local authorities for the community development of local people.

26. Punishment:

- (1) Any person who illegally kills, injures, sells, purchases, transfers or obtains rhinoceros, tigers, elephants, musk deer, clouded leopards, snow leopards or bison; or keeps, purchases or sells rhinoceros horn or musk-pods, snow leopard fur as well as trophies of any other protected wildlife, shall be punished with a fine ranging from fifty to one hundred thousand rupees (Rs 50,000 to 100,000), and or imprisonment ranging from five years to fifteen years.
- (2) Any person who kills or injures any other protected wildlife other than those mentioned in subsection (1) shall be punished with a fine ranging from forty to seventy five thousand rupees (Rs 40,000 to 70,000), and or face imprisonment ranging from one year to ten years.
- (3) Any person who hunts, kills or injures wildlife other than birds and fish inside a national park, strict nature reserve or wildlife reserve without obtaining a license shall be punished with a fine ranging from one thousand rupees to ten thousand rupees (Rs 1,000 to 10,000) and or face imprisonment ranging from six months to two years.
- (4) Any person who hunts, kills or injures protected birds shall be punished with a fine ranging from five hundred rupees to ten thousand rupees (Rs 500 to 10,000) and or face imprisonment ranging from three months to two years.
- (5) Any person who hunts, kills or injures birds other than protected birds inside a national park, strict nature reserve or wildlife reserve without obtaining a license shall be punished with a fine ranging from two hundred rupees and ten thousand rupees (Rs 200 to 10,000) and or face imprisonment ranging between three months and two years.
- (6) Any person who commits an offence other than those mentioned in subsection (1), (2), (3), (4) and (5), in contravention of this Act or the rules established under the Act, shall be punished with a fine of up to ten thousand rupees and or two years imprisonment, depending on the nature of the case.

27. Punishment for accomplices: Any person who knowingly helps another in committing any offence punishable under this Act, shall be punished with half the sentence given to the actual offender.
A person who assists the committing of any offence relating to rhinoceros, tigers, musk deer or elephants shall be punished with a criminal penalty.
28. Power to confiscate: Any person accused of violating this Act or the rules there under if convicted, the adjudicating authority may confiscate trophies, weapons, means of transport and any other materials connected with the offence.
A seized hunting dog may be destroyed on the order of an adjudicating official before the case is disposed of.
29. His Majesty's Government as plaintiff: His Majesty's Government shall be the plaintiff in cases under this Act.
30. Investigation and filing of cases:
- (1) All investigations of offenses under this Act shall be conducted by a ranger or an employee up to the rank of *Subedar*, who is connected with forest and wildlife management or by an employee at least of the rank of a Non-Gazetted Class First officer or by an employee at least with the rank of a Sub-Inspector in the police force. Upon completion of investigations, he shall file the case before an adjudicating official in the name of the national park, reserve, wildlife conservation, forest office or any other office discharging functions relating to forests.
 - (2) When filing a case before the adjudicating authority under the subsection (1), the applicant officer may consult a Government lawyer.
31. Power to hear cases:
- (1) An authorised court or official shall have the power to hear and dispose of cases under this Act.
 - (2) While disposing of cases under subsection (1), the court or official shall follow the same procedures adopted by the court with original jurisdiction.
 - (3) An appeal may be filed before an Appellate Court against a decision made or ordered, issued by the court or authorised official as per subsection (1) within 35 days after a decision is made or an order is issued.
32. Power of His Majesty's Government to amend Schedules: His Majesty's Government may, by publishing a notification in the Nepal Gazette make amendments to the Schedules of this Act.
33. Power to establish rules: His Majesty's Government may establish rules to fulfil the objectives of this Act.

34. Repeal and excpetions:

- (1) The Wildlife Conservation Act, 1976 has been repealed.
- (2) In all matters written in this Act or the Rules established hereunder, actions shall be taken accordingly, and in other matters, actions shall be taken in accordance with the prevailing laws of Nepal.

Schedule-1

(Relating to Section 10)

Protected Wildlife**Mammals**

Assamese Monkey *Macaca assamensis*
 Pangolin *Manis crassicaudata* and *Manis pentadactyla*
 Hispid Hare *Caprolagus hispidus*
 Gangetic Dolphin *Platanista gangetica*
 Grey Wolf *Canis lupus*
 Himalayan Brown Bear *Ursus arctos*
 Red Panda *Ailurus fulgens*
 Spotted Lingsang *Prionodon pardicolor*
 Striped Hyena *Hyaena hyaena*
 Leopard Cat *Felis (Prionailurus) bengalensis*
 Lynx *Lynx lynx*
 Clouded Leopard *Neofelis nebulosa*
 Tiger *Panthera tigris tigris*
 Snow Leopard *Uncia uncia*
 Wild Elephant *Elephas maximus*
 One-horned Rhinoceros *Rhinoceros unicornis*
 Pygmy Hog *Sus salvanius*
 Musk Deer *Moschus chrysogaster*
 Swamp Deer *Cervus duvaucelii*
 Gaur *Bos gaurus*
 Wild Yak *Bos grunniens (mutus)*
 Wild Buffalo *Bubalus arnee*
 Great Tibetan Sheep *Ovis ammon hodgsonii*
 Tibetan Antelope *Pantholops hodgsonii*
 Black buck *Antilope cervicapra*
 Four-horned Antelope *Tetracerus quadricornis*

Birds

Black Stork *Ciconia nigra*

White Stork *Ciconia ciconia*

Sarus Crane *Grus antigone*

Cheer Pheasant *Catreus wallichii*

Impeyon Pheasant *Lophophorus impejanus*

Crimson-horned Pheasant *Tragopan satyra*

Bengal Florican *Houbaropsis bengalensis*

Lesser Florican *Eupodotis indica*

Giant Hornbill *Buceros bicornis*

Reptiles

Python *Python molurus*

Gharial Crocodile *Gavialis gangeticus*

Golden Monitor Lizard *Varanus flavescens*

Schedule- 2

(Repealed by second amendment)

Part V:

The Legislative Framework for Review and Complaint Procedures

Court Martial Regulation, 2064 (2007)

Gazette publish date:
2051.12.20 (03.04.1995)

In exercise of the power conferred by Section 143 of the Army Act, 2063 (2006), the Government of Nepal has established the following Rules.

Chapter-1 Preliminary

1. Short title and commencement:

These Rules may be called the " Army Court Regulation, 2064 " (2007).
This Regulation shall come into force at once.

2. Definitions:

In this Act, unless subject matter or context requires otherwise shall mean:

"Act" means the Army Act, 2063 (2006).

"Court of Enquiry" means the Court of Enquiry established pursuant to Rule 4.

"*Prad Viwak* office " shall mean the office of military headquarters where the Chief of the *Prad Viwak* is based, and the term shall also indicate the battalion *Prad Viwak* branch and Brigade *Prad Viwak* branch.

"Committee" shall mean a committee for the purposes of subsection (2) of the Section 64 of the Act.

"Registrar" shall mean the *Prad Viwak* officer assigned for tasks in a Special Court Martial under Rule 37.

Chapter-2

Establishment of a court of enquiry:- investigations and enquiry, and case filing

3. To provide information of an offence:

1. Any person who is aware that an offence has taken place, is taking place or will take place, shall provide proper and specific evidence, where possible, in the form of written and or oral information to the nearest Nepal Army Unit:
 - a. The date, time, place of where an offence took place, is taking place or will probably take place;

- b. Name, address, unit, computer no. and distinguishing features of an offender;
 - c. Evidence related to the offence; and
 - d. Other descriptions related to the offence.
2. If information of the offence is given orally, the notified unit shall keep records of all information including matters prescribed under the sub-rule (1), in written form, and a statement signed by the informant after having being read back out aloud to him.
 3. The application in accordance with the sub-rule (1) or information in accordance with sub-rule (2) shall be registered in the register book and its and an acknowledgement receipt shall be provided to the informant.
 4. The concerned unit shall pass on the information of an offence, in accordance with the sub-rule (3), to the nearest *Prad Viwak* office.
 5. If by content of the information [received by the unit] of the offence or person involved, appears to fall under another unit's area, the unit that received the information shall immediately send on the information to the more apposite area.
 6. Upon receipt of information under this Rule, the person in-charge of the apposite unit shall conduct the initial investigation and enquiry of the offence. In case such investigation and enquiry is to be conducted at a higher level, the information will be passed on accordingly.
 7. Notwithstanding anything provided in sub-rule (5) and (6), if the content of information shows that the offence is related to Section 62 of the Act, the unit that received the information shall immediately send the information to the *Prad Viwak* office.

4. Establishment of a court of enquiry:

1. If the *Prad Viwak* office received information in accordance with Rule 3, or by any other means- it came under notice that an offence had been committed by someone who falls under its jurisdiction, the *Prad Viwak* shall recommend the Chief of the Army Staff to establish a Court of Enquiry.
2. Upon receipt of this recommendation under sub-rule (1), the Chief of the Army Staff may establish or delegate power to the Battalion Commander or Brigade Commander or to the unit in-charge, to establish a Court of Enquiry.
3. In establishing a Court of Enquiry pursuant to the sub-rule (2), the chairperson or members shall never be lower than the rank of the accused.

5. Procedure of a Court of Enquiry:

1. Upon establishment of a Court of Enquiry, information available for an offence pursuant to sub-rule (4) of Rule 3 to the *Prad Viwak* , or the report of an

- investigation and enquiry conducted pursuant to the sub-rule (6) of the same Rule shall be produced before a Court of Enquiry, by the person in charge.
2. Upon receipt of information for an offence under sub-rule (1), the Court of Enquiry shall act so an offence is prevented from taking place, or the relevant evidence is protected from being lost, and that no accused person could abscond or escape.
 3. After receiving information that an offence has taken place or has been taking place, if at time when the Court of Enquiry is undergoing the process of an investigation and enquiry, or in its very presence, witnessed that an offence has just been committed, the accused person must be arrested immediately.
 4. The Court of Enquiry must record a statement from the accused or arrested person in accordance with the sub-rule (3). Before recording a statement, the accused must swear a religious oath.
 5. If any person whom the Court of Enquiry suspects or has reasonable ground to believe that this person might have crucial information in relation to the offence, it may make an enquiry or if necessary make written statements based upon inferences drawn.
 6. If information received states that an offence has been taking place or is imminent, the Court of Enquiry shall as a matter of urgency conduct an investigation and enquiry, so to obtain evidence. In the course of an investigation and enquiry, the Court of Enquiry shall seize documents as well as other evidence relevant to the offence.
 7. While undergoing an investigation and enquiry relating to an offence, the Court of Enquiry shall exercise the same power as a police officer has during an investigation and enquiry in relation to the cases annexed in Schedule - 1 of the State Cases Act, 2049. (1992)
 8. A witness statement, collected evidence, material evidence and file received during an investigation and enquiry process in accordance with this Rule, shall be kept on record.

6. Detention procedure:

1. In the course of an investigation and enquiry, if a person is required to be kept in detention for more than 24 hours, pursuant to subsection (3) of the Act, the commanding officer, shall when sending a report clearly include the accusations, grounds and reasons why a person is required to be held in detention while conducting an investigation and enquiry, and that the content of a statement has been recorded.
2. Upon receipt of a report in accordance with the sub-rule (1), the Chief of the Army Staff, after checking the relevant documents in order to ascertain whether an investigation and enquiry is being processed satisfactorily, justifying custody,

and if he accepts so, may give permission to hold the accused in detention while the investigation and enquiry is being carried out.

7. Submitting a report:

1. Upon completion of an investigation and enquiry by a Court of Enquiry, a report with advice, clearly containing the following matters shall be submitted to the *Prad Viwak* office:
 - a. Full name, home address, computer no., rank, unit (of the accused);
 - b. Offence details;
 - c. Contents of a statement made by accused person;
 - d. Contents of a statement made by the informant or victim;
 - e. Accusations and charges being brought against the accused and relevant evidence;
 - f. Relevant laws;
 - g. Reasons to detain or not to use detention while proceeding;
 - h. Compensation assessment liability (both actual and potential) for offences that inflict damages;
 - i. Filed opinions; and
 - j. Other relevant matters regarding the case.
2. After receiving a report and opinion from the Court of Enquiry in accordance with the sub-rule (1), the *Prad Viwak* office shall review the report, and transfer the file and opinion to the Chief of the Army Staff, regardless of whether or not an action shall be brought against the accused. After receiving this file, the Chief of the Army Staff shall make a final decision as to whether or not an action shall be brought against the accused.
3. Notwithstanding anything provided in the sub-rule (2), as per clause (c) of Section 68 of the Act, a Summery Court Martial has the power of try and to adjudicate a case, and the *Prad Viwak* office shall make a final decision as to whether the case is actionable.
4. The *Prad Viwak* pursuant to sub-rule (3), shall delegate power to the Court of Enquiry as necessary.

8. Instruction to collect additional evidence:

1. The *Prad Viwak*, in the course of an examination of a file, may deem it necessary to collect additional evidence or to enquire of any person, may give the Court of Enquiry an instruction to collect additional evidence or make such an enquiry, in order to assist the case process.
2. If an instruction pursuant to sub-rule (1) is rendered, it shall be the duty of the Court of Enquiry to fulfil it.

9. Informant shall be notified:

An informant shall be notified by the office of *Prad Viwak*, after a decision is made, on whether or not an action on an offence may be filed.

10. Recommendation for the establishment of a court martial:

1. If a decision to file a case against the accused is made, the office of *Prad Viwak* shall make a recommendation to establish a court martial, before the Chief of the Army Staff, within seven days from such decision as per this Regulation,
2. While making a recommendation under sub-rule (1), the charge sheet filed against the accused shall also be attached.

11. Filing a case:

If under sub-rule (3) or (4) of Rule 7, the decision is that an action can be brought, the investigation and prosecutor branch or the *Prad* officer assigned by this branch shall, using the format provided for in Schedule - 2 containing the following matters, preparing a charge-sheet along with material evidence and crime related matters or objects, and if available the detainee, must be produced in front of the relevant Court Martial:

- a. Full name, home address, computer no., rank, unit (of the accused);
- b. Offence details;
- c. Contents of a statement made by accused person;
- d. Contents of a statement made by the informant or victim;
- e. Accusations and charges being brought against the accused and relevant evidence;
- f. Relevant laws;
- g. Compensation assessment liability for offences that inflicted damages;
- h. Details of previous convictions and punishment experienced by the accused, including the date(s) on which previous punishment was received and the institution imposing the punishment; and
- i. Other essential matters concerning the case.

12. Submitting material evidence:

1. If any army personnel or any person finds any material object, document, or any other evidence relating to the case being heard by a court martial, they should present it to the *Prad Viwak* office.
2. Any object, manuscript and other material presented under sub-rule (1), shall be immediately produced by the *Prad Viwak* before a court martial.

13. No obstruction for filing an additional charge sheet:

1. Notwithstanding anything provided in any other part of this Regulation, if a case filed against the accused for an offence in accordance with this Regulation is adjudicated in a court martial, and any additional material evidence is received thereafter, that requires an additional claim or the necessity to take action against others, there shall be no obstruction in obtaining consent from a court martial, to make an additional claim against those additionally accused, and to file an action against the new defendants with supplementary charge sheets.
2. If under sub-rule (1) a supplementary charge sheet is filed, this additional charge sheet will be regarded as an integral part of the original charge sheet.
3. If under sub-rule (1) an additional claim against the accused is made, the accused, if discontented, may file an appeal to the court, to quash the additional accusation.
4. If an additional charge made under this Rule, is brought with negligence and in *mala fide*, a court martial shall take departmental action against the person who made an additional charge with negligence and in bad faith.

14. Accused shall be handed over:

If army personnel in accordance with the Section 66 of the Act commit an offence that falls under the jurisdiction of other courts, this person shall be handed over to the relevant institution.

Chapter - 3
Court Martial procedure

15. Assignment of a court martial chief, member and Prad officer:

1. The Chief of the Army Staff or the officer authorized by him shall submit a request to assign an officer under the subsection (1) of Section 67, or the *Prad Viwak* or *Prad* officer under subsection (1) of Section 81 of the Act, to the Department of the Army Secretary.
2. If a request under sub-rule (1) is received, the Department of the Army Secretary shall, on that date, time and duty station, assign the *Prad Viwak* or *Prad* officer.
3. A court martial is established if the chairperson, members of the court, and the *Prad Viwak* or *Prad* officer are in attendance to take an oath.

16. Functions, duties and powers of the Prad Viwak or Prad Officer:

1. The *Prad Viwak* or *Prad* officer assigned pursuant to Rule 15 shall, in respect of law and justice, impart their knowledge to the chairperson and the members of the court martial.
2. The *Prad Viwak* or *Prad* officer assigned pursuant to Rule 15 shall, also be an administrative officer of the court.

17. Enquiry for any objection:

1. In the presence of the chairperson, members of the court martial, the *Prad Viwak* or *Prad* officer (at the duty station); the *Prad Viwak* or the *Prad* officer shall ask whether the accused has any objection to the chairperson and members, and if no objection is noted, the case file shall be kept in accordance with the format provided for in Schedule – 3, signed by the accused.
2. If the accused has an objection over the chairperson or any member of the court martial, the procedure set forth in the Section 82 of the Act shall be applied to continue the function of the court.

18. Taking of an oath

1. The chairperson and members of the court martial shall, before the accused, take an oath in accordance with the format provided for in Schedule - 4.
2. In a court martial, the *Prad Viwak* and *Prad* officer shall, before the accused, take oath in accordance with the format provided for in Schedule - 5.
3. In a court martial, all persons who attend in the capacity of a witness shall, before recording their testimony, be asked to take an oath in accordance with the format provided for in Schedule - 6.

19. Dress code:

The chairperson and members of a court martial and the *Prad Viwak* and *Prad* officer shall present at a court martial in a tunic, *farez* cap, officer boots with a black belt, as well as decorative medals if any, and their sword.

20. Court Martial bench:

The bench of a court martial shall sit on the date, time and place designated by the chairperson.

21. Defence provisions:

1. Any accused person under trial for an offence may request his defence to be performed by a *Prad* Officer, in accordance with the subsection (2) of Section 81 of the Act, submitting a request to the Defence Section of the *Prad Viwak* . If

the *Prad Viwak* receives an application, it shall arrange for a *Prad Officer* to defend the accused.

2. The *Prad Officer* assigned in accordance with sub-rule (1), shall be present before a court martial in a defensive role, presenting pleadings on the accused person's behalf.
3. The *Prad Officer* who defends the accused shall not produce any evidence in any way prejudicial to the latter, before a court martial. No one shall be compelled to raise a question or express matters in front of a court martial, concerning conversations between the accused and the *Prad Officer* who defends him.
4. The chairperson and members of a court martial must not negatively influence the *Prad Officer* who defends the accused person and no negative comments shall be made on the matters raised in the course of a defence.

22. Statement of the accused:

During a court martial, after reading out the charge sheet to the accused or the *Prad Officer* representing him, shall take a signed written statement from the accused. The chairperson and members of the court martial shall append their signature at the top and bottom of the pages of the statement.

23. Initial hearing provisions:

1. After a statement is recorded upon the registration of a charge sheet, the court martial shall conduct an initial hearing and in the course of this hearing it may, in accordance with the format provided in Schedule - 7, issue any of the following orders by giving due account to the intensity of the offence and the situation in which the offence was committed:
 - a. Conduct a trial while keeping the accused in detention;
 - b. Conduct a trial without detaining the accused, contingent upon a summons to order his presence when specified;
 - c. Arranging bail;
 - d. If the prevailing situation indicates the possibility of flight by the accused or that evidences may disappear or that the accused is a habitual offender, the trial will continue while keeping the accused under detention.
 - e. The order issued by the court martial pursuant to sub-rule (1) shall be read out to the accused, and the evidence of acknowledgment from the accused should be retained.

24. Injured party statement:

The court martial shall take a signed statement from an injured party in the presence of the accused. The signatures of the chairperson and members

of the court martial shall be appended at the top and bottom of the injured party's statement.

25. Maintenance of records:

The *Prad Viwak* office shall safely maintain records of the decisions rendered by a court martial.

26. Provisions on a closed bench:

1. Pursuant to the subsection (2) of Section 79 of the Act, when a hearing is conducted in closed session, in situations to protect national security, public order and the rights of victims, no person except the *Prad Viwak* officer defending the accused, the accused, the victim and or his guardian, and others authorized by the Court martial, shall attend the hearing.
2. The subject matter, pursuant to sub-rule (1) tried by a closed bench shall by no means be publicized before any decision takes place.

Chapter - 4

Special provisions relating to the registration of cases of corruption, theft, torture and disappearance

27. Providing information:

1. After receiving information relating to an offence under Rule 3, the *Prad Viwak* shall write to the Ministry of Defence for an investigation and query into an offence, who shall inform the Chief of the Army Staff in this regard.
2. The Ministry of Defence, after receiving a request for an investigation and query into an offence under sub-rule 3, shall present the matter to the Committee.
3. The Committee, after receiving written notification under sub-rule (2), shall start an investigation and query by establishing a duty station at a site deemed suitable.

28. Filing a case:

1. If, after the completion of the investigation and query by the Committee, the evidence available appears to be sufficient enough to file a case, a charge sheet in accordance with the format provided for in Schedule - 2 containing matters as set forth in Rule 11, shall be prepared.
2. The charge sheet prepared under sub-rule (1), the original file, as well as the accused (if available), shall be produced before a Special Court Martial by the *Prad Viwak*.

Chapter - 5
Provisions in respect to a Special Court Martial procedure

29. Procedure for the formation of a Special Court Martial:

1. The Ministry of Defence shall, in accordance with the Section 119 of the Act, take necessary action for the designation of a chief of a Special Court Martial.
2. The designation of a chief of the Special Court Martial shall be published in the Nepal Gazette.

30. Authority shall be exercised collectively:

1. All three members shall collectively exercise the jurisdiction of a Special Court Martial and a majority opinion shall be deemed as the decision of the court.
2. Notwithstanding anything provided in the sub-rule (1), the proceedings of the case may be continued and settled if the chairperson and member are present. In the presence of two members excluding the chairperson, other proceedings may be continued except a final decision and order for the case.
3. If, in continuing the proceedings and the settling of a case in the presence of two members in accordance with sub-rule (2)- no consensus is reached between the two present members, in the case of proceedings according to the opinion of the chairperson, and in the case of a decision and final order, the opinion supported by the member who did not originally attend, after producing the debate before him, shall be deemed as the decision of a Special Court Martial.
4. If, in accordance with the sub-rule (3), a majority is not maintained, the submission for a decision shall be referred to the Supreme Court of Nepal.

31. File may be demanded:

A Special Court Martial may ask for a file and documents of any case adjudicated under any court martial.

32. Appointment of a legal professional for defence:

Notwithstanding anything provided in this Regulation, the defendant in a court martial case may appoint a separate legal professional for his defence.

33. Authority and procedure of a court martial:

1. A court martial shall have the following authority:
 - a. Acknowledge any person and evidence related to a case other than the witnesses provided by the plaintiff and defendant;

- b. Record a statement, after the arrest of a defendant who does not appear on the given date; or to take a testimony from a witness;
 - c. Adjudicate by giving any party to a case a date of presentation or summoning;
 - d. If the immediate evidence shows that the accused is not required to be kept in detention while conducting trial, a bond or bail shall be required, taking into account the damage caused or amount unlawfully collected by the accused, or the prison term or penalty likely to be imposed upon him;
 - e. If the immediate evidence shows that there are reasonable grounds that the accused is required to be detained during trial, he may ordered to do so,
 - f. To take into consideration the gravity of the alleged accusation, the situation of the accused, the degree and nature of the offence, may issue an order to the relevant authority not to issue, or if already issued, to cancel the validity of a passport.
2. In conducting the initial proceedings and trial, the matters laid down in this chapter shall be followed accordingly, and for other matters, the court martial shall follow the same authority and procedure as exercised by the District Court under the prevailing law.
 3. For the proceedings and adjudication of an appeal brought against a decision and final order rendered by a General Court Martial and or a Summary General Court Martial, in accordance with the clause (a) of the Section 68 of the Act, a Special Court Martial shall proceed using the following powers and procedures:
 - a. Confirm, quash or partly reject the decision of a General Court Martial and or a Summary General Court martial;
 - b. Render a similar level decision which a General Court Martial and a Summary General Court Martial have the authority to render;
 - c. If a General Court martial and a Summary General Court Martial has separated the evidence relevant to the fact to which the judgments should be given, acknowledge the evidence in isolation and or send the files to those courts for the collection of the same evidence by still retaining the case on the list;
 - d. If a General Court Martial and or a Summary General Court Martial have rendered a decision by only partially deciding on the question of fact, providing for a reasonable timeframe, a case-file can be transferred to the same court again for further decision; and
 - e. In order to summon a party and witnesses, to record a statement and testimony, acknowledge evidence and to ask over for documents, as well as imposing punishment and penalty, use the same authority as exercised by courts under prevailing laws.

4. The Special Court Martial, in processing and deciding the cases filed and the appeals tendered, shall self determine the required procedures, except those provided for in the Act and in this Regulation.

34. Procedures to be followed by an Appellate Committee:

1. In processing and adjudicating an appeal brought against a decision or final order rendered, exercising the jurisdiction laid down in the clause (b) and (c) of Section 68 of the Act by a court martial, the Appellate Committee established pursuant to the subsection (7) of Section 119 of the Act shall exercise the authority and procedure laid down in the sub-rule (3) of Rule 33.
2. Other procedures shall be determined by the Appellate Committee established pursuant to subsection (7) of Section 119 of the Act itself.

35. Contents to be presented in an appeal:

1. The following contents shall be presented in an appeal brought in accordance with the subsection (2) or (6) of the Act:
 - a. The name of the court martial that rendered the decision to which the accused is dissatisfied;
 - b. The original trial plaintiff and defendant;
 - c. Case name;
 - d. Date of decision;
 - e. The punishment, damages and penalty sought at first instance, and the actual punishment, damages and penalty imposed;
 - f. *Ratio-decidenti*;
 - g. The disputed part of the decision, its legal grounds, and reasons and claims for appeal;
 - h. The date of imprisoned or detention if an appellant is under imprisonment or detention;
 - i. Evidence relating to any payments for damages or penalty, including any settlement, (date, place and amounts paid);
 - j. Matters relating to any limitation.
2. If, the appeal submitted under sub-rule (1), appears to be as follows, it shall be registered and a receipt of acknowledgment shall be provided:
 - a. The penalty and indemnity are paid up as required;
 - b. A bond is provided in line with legal provisions;
 - c. Limitation period is valid, and;
 - d. A clear and duly copied decision of the first instance trial is produced.
3. An appeal against the first instance trial phase decision rendered by a General Court Martial and a Summary General Court Martial established outside Army

Headquarters, shall be brought through the relevant Divisional *Prad Viwak* or Brigade *Prad Viwak*, to a Special Court Martial.

4. If, in accordance with sub-rule (3) an appeal is brought before the Divisional *Prad Viwak* section or Brigade *Prad Viwak* section, the section shall upon acknowledgment of the appeal, transfer the appeal to a Special Court Martial as soon as practicable.
5. If, in accordance with sub-rule (4), an appeal is submitted before the Divisional *Prad Viwak* section or Brigade *Prad Viwak* section, the date of such submission shall be regarded as the date of appeal.
6. The format for an appeal shall be presented as per Schedule - 8.

36. Appellate fee:

In submitting an appeal under the sub-rule (1) of Rule 35, Rs. 100 shall be paid as an appeal fee.

37. Provision in respect of a registrar:

In a Special Court Martial, the Chief of the Army Staff shall designate a first class officer of the *Prad Viwak* to take responsibility as registrar.

38. Functions, duties, and powers of a registrar:

The functions, duties and powers of a registrar shall be as follows:

- a. After examining the charge sheet, appeal and case related application submitted in accordance with the law, shall register the documents, and if deemed unsuitable for registration, endorse the documents with reasons for rejection;
- b. Determine the hearing of a case;
- c. Examine the written elements of evidence produced in a case;
- d. Dispatch summons, due dates or notifications to the parties and witnesses, and to check whether summons, due dates or notices so executed are accomplished under due process, and if not executed under due process, reject and re-execute with due process;
- e. Order to fix a hearing date by taking into account the work pressure of the Special Court Martial;
- f. Establish a written register (diary) of due date attendances attaching the required contents available;
- g. To check whether documents which were acknowledged as evidence in the court martial, still attach a case-file, and if not request evidence from the relevant court martial to compile a file accordingly;
- h. Acquire or have obtained bail, bond, collateral or other charges due in accordance with law;

- i. Send the Supreme Court the related case-files which are subject to appeal in the Supreme Court;
- j. Observe any file or document which has retained by official branches;
- k. Provide copies of the documents;
- l. Execute orders rendered by the Special Court Martial as soon as possible;
- m. Assign a *Prad* officer to take responsibility as bench officer if required;
- n. Update all the records in a Special Court Martial; and
- o. If appeal has not been transferred to the Supreme Court or the limitation period has expired, communicate in writing to the relevant institution for the execution of an order rendered by the Special Court Martial.

Chapter - 6

Provisions in respect to a judgment

39. Decision making procedure:

1. After acknowledging the evidence in a case, the court martial or Special Court Martial on the day specified for discussion, shall record their verdict in an "opinion book", and the chairperson and members will append their signatures to it.
2. A judgment rendered pursuant to this Regulation shall contain the following matters:
 - a. Contents of the case in brief;
 - b. The questions of contention and questions of fact to be decided;
 - c. Contention from a defendant and details of defences;
 - d. Evidence produced by the parties;
 - e. Question on the jurisdiction of the court;
 - f. Reasons and basis for judgment;
 - g. The punishment to be imposed in proven claims;
 - h. Matters that provide whether an leave to appeal can be lodged, and if so, to which court; and
 - i. Other relevant matters.
3. The format of a judgment shall be in accordance with Schedule – 9.

40. Judgments shall be read out:

After a judgment rendered pursuant to the Rule 39 is handed down, the judgment shall be read out to the defendant and a statement shall be made to confirm this.

41. Despatching a judgment:

The case file with a judgment rendered by a court martial or Special Court Martial shall be transferred in its original form to the *Prad Viwak* office.

42. Execution of the judgment:

After the confirmation of a case in accordance with Chapter 12 of the Act, the *Prad Viwak* office shall, if an appeal on the case is brought after its conclusion, (or within 15 days after the expiration of leave to appeal), take necessary action for the execution of a judgment.

Chapter – 7
Miscellaneous

43. Provisions in respect to facilities:

The Facilities for the chairperson, member, chairperson of the Committee, member and any other staff shall be designated by the Government of Nepal.

44. Copies may be requested:

Among the documents relating to the Court martial, the defendant or his beneficiaries may obtain a copy of the document of the cases that have been tried in a closed court. All other documents (from open courts) may be obtained by the defendant and any other person who has interest.

45. Application for a copy:

1. If any concerned person wishes to take a copy of any document compiled in the case file, subject to the provision laid down in Rule 44, he may submit an application in accordance with the format provided for in Schedule – 10 to the *Prad Viwak* office.
2. The *Prad Viwak* office on examining an application pursuant to sub-rule (1), will decide whether it meets the requirements, and that the person who wishes to obtain such a copy has concern, shall provide a copy in an attested form.

46. Copy charge:

The charge for a copy of each page shall be five rupees. (Rs.5)

Nepal Army and Human Rights

I. Previous Directives Instruction on International Human Rights Law and International Humanitarian Law (Compiled by the Directorate of Human Rights)

Introduction

The Nepalese Army is fully committed to respect and support the promotion and protection of International Human Rights Law (IHRL) and International Humanitarian Law (IHL). Various directives instructions regarding IHRL and IHL were issued to the Nepalese Army immediately after its mobilisation on BS 2058-8-11.

Previous Directives Instructions on IHRL and IHL

The previously issued Directives Instructions are illustrated as under:-

- a. Legal Directives issued by the Judge Advocate General dated BS 2058-8-28 to include:
 - I. Legal rights for the security forces during a state of Emergency;
 - II. Legal rights for the security forces during peace time;
 - III. Instructions to protect and promote IHRL and IHL;
 - IV. Instructions regarding the compensation and reparation of victims of the conflict; and
 - V. Do's and Don'ts IHRL and IHL:
- b. Instructions issued by the Judge Advocate General dated BS 2059-3-13 regarding legal procedure for dealing with arrested detainees;
- c. Instructions issued by the Judge Advocate General dated BS 2060-6-13 regarding the implementation of the provisions set forth in the Geneva Convention -1949 and its protocols;
- d. Instruction issued by the Judge Adjutant General dated BS 2060-9-15 regarding arrest procedures, search procedures, check point duties and SOPs, use of weapons, security of detainees, evacuation, treatment of detainees, rationing, clothing and medical assistance to detainees, working with the ICRC and human rights organizations;
- e. Instructions issued by the Judge Adjutant General dated BS 2060-12-12 regarding the strict implementation of IHRL and IHL in the Nepalese Army;
- f. Instruction issued by the Judge Adjutant General dated BS 2061-6-21 regarding the implementation of the 25 Government commitment points for the protection and promotion of IHRL and IHL;

- g. Instruction issued by the Chief of the Army Staff dated BS 2061-9-26 to prevent extra judicial killing, disappearance, torture, illegal detention and other inhumane treatment in the Nepalese Army;
- h. Instruction issued by the Chief of the Army Staff dated BS 2062-1-18 to convene a High Level Special Task Force to sensitize field commanders, civil administration, the police force and government attorneys on IHRL and IHL; and
- i. Human Rights Action Plan issued by the Chief of the Army staff dated BS 2062-1-21.

Current Directives, Instructions and Orders

In order that the IHRL and IHL are fully understood, disseminated, implemented and practiced at all levels of the Nepalese Army:

- a) The Chief of the Army Staff has issued various directives, instructions and orders via The Chief of the Army Staff Directives No.02-060;
- b) The Chief of the Army Staff Directives No.01-061;
- c) The Chief of the Army Staff Special Instructions Dated BS 2063-5-29; and
- d) The Chief of the Army Staff IHL and IHRL Integration Order Dated BS 2064-11-10.

II. Chief of the Army Staff Human Rights Directives No.02-060

Introduction

1. Ex-Chief of the Army Staff, General Pyar Jung Thapa issued these Directives to all Branches, Directorates, Formations and Services of the Nepalese Army in BS 2060-11-29 (12th March 2004).

Key Features of the Directive

2. This Directive has given clear instructions regarding the Human Rights and the International Humanitarian Law (IHL) code of conduct during security operations.

Key features include:-

- a) Arrest procedures and basic considerations.
- b) Search procedures.
- c) Communicated operating procedures at Check Point duties.
- d) Status of arrested persons.
- e) Procedures to be followed after the arrest of persons.
- f) Security and maintenance of the arrested detainees.
- g) Evacuation of detainees.
- h) Treatment of detainees.

- i) The use of fire arms weapons.
 - j) Rationing, clothing, medical and other facilities to be provided to detainees.
 - k) Joint works with the ICRC.
 - l) Humane treatment relating to detainees.
3. This Directive further emphasizes the following issues:
- (a) Commanders at all levels are responsible and accountable for strictly implementing the Human Rights and HL directives instructions in their respective commands;
 - (b) Provide adequate briefing to troops on Human Rights and IHL prior to operations. Also discuss these issues after the completion of the operations;
 - (c) The verdict of the cases relating to the violation of Human Rights and IHL is to be intimated to the concerned Formation Units by the Judge Advocate General Branch;
 - (d) Concerned commanders will sensitize their troops on Human Rights and IHL on regular basis; and
 - (e) Establishment of Human Rights Cells at the Division and Brigade HQ.

Conclusion

4. The Human Rights performance of the Nepalese Army has greatly improved by the issuance of such directives. The Nepalese Army has been able to strictly implement a zero tolerance policy against all kinds of Human Rights and IHL violations. With the strict adherence to this policy, no state of impunity exists in this institution.

III. Chief of The Army Staff Human Rights Directive No.01-061

Introduction

1. Then Chief of the Army Staff, General Pyar Jung Thapa issued this Directive to all Branches, Directorates and Services of the Nepalese Army on BS 2061-9-26 (10th jan 2005).

Key Features of the Directive

2. This Directive has given clear instruction regarding the judicial proceedings on the issues of Human Rights and International Humanitarian Law (IHL) during security operations. Key features include:

- a) To present an arrested person to security officials within 24 hours of arrest. This duration does no include travel time from the point of arrest to a district security office (i.e. police station);
- b) Provide necessary arrest documents to the arrested person by the District Attorney;
- c) Take necessary statements of the arrested person during his arrest. If possible take a witness statement of the arrest;
- d) Clearly mention the reasons for arrest in the arrest document. Mention if the arrested person possessed any combat materials with him during arrest;
- e) Never keep the detainees in an army barracks unless there is a clear written request and detention document from the Chief District Officer;
- f) Keep an up to date record of the arrested \ detained persons;
- g) Forward a verified offender to the courts through the police;
- h) Keep the belongings of detainees as a justification and proof of arrest in the future;
- i) While carrying out search operations and producing the necessary legal documents, always use the assistance of the police forces. If possible, do not carry out search operations during the night;
- j) Perform check point duties in a professional manner. Respect civilians;
- k) Complete all legal documents before handing over a corpse (if relevant) to the police, local administration and or local residents;
- l) Present all belongings and documents of a detainee (or those killed in security operations) to the district security committee after the completion of operations;
- m) Prepare necessary documents of the soldiers killed in security operations from post mortem reports;
- n) Carry out prompt and detailed investigations of cases relating to human rights violations;

- o) Carry out the necessary assessment of the destruction of personal military property, by the committee under the Chief District officer. Forward this assessment to the Ministry of Home Affairs for necessary compensation; and
- p) Initiate necessary procedures under the chairmanship of the Chief District officer to compensate the families for accidental death \ injury of innocent civilians in security operations. Forward this request to the Ministry of Home Affairs and report to the Human Rights Directorate.

Conclusion

3. This directive has clearly instructed the Nepalese Army of legal proceedings during security operations. This directive has greatly helped reduce the existing confusion on legal matters for field commanders.

4. By the strict adherence to this directive, the Nepalese Army is confident in conducting security operations in a counter insurgency environment within legal perspectives. This directive has helped us implement a zero tolerance policy against all kinds of human rights and IHL violations in the Army.

IV. Chief Of The Army Staff Special Instructions on International Human Rights Law and International Humanitarian Law

Introduction

The Chief of the Army Staff, General Rookmangud Katawal issued this instruction to all branches, Directorates and Services in direct command of the Nepalese Army in BS 2063-5-29 (14th Sept 2006).

Key Features

The key features of this instruction are that :-

The Nepalese Army is fully committed to respect and support the protection and promotion of human rights and International Humanitarian Law (IHL).

The cases of human Rights and IHL violations in this institution are not policy driven.

This institution strictly observes a zero tolerance policy against all kinds of human rights and IHL violations to ensure that no state of impunity exists.

The Nepalese Army has a culture of transparency and integrity. Therefore, it is necessary to carrying out a detailed, prompt and timely investigation of allegations of human rights and IHL violations against the Nepalese Army.

We are fully committed to establishing the Nepalese Army as an institution of zero allegations on the violations of human rights and IHL.

Therefore, all commanders in various capacities will ensure that this instruction (including previous directives and instructions) are strictly implemented and practiced by all ranks of the Nepalese Army.

Conclusion

The Nepalese Army is fully committed to the protection and promotion of human rights and IHL. In this context, the Nepalese Army had zero allegations before its mobilisations in Nov 2001 and after April 2006. During a period of counter insurgency operations (between Nov 2001 to April 2006), some violations on human rights and IHL did occur on the part of the Nepalese Army, but they were both unintentional and undesired. Therefore, Human rights violations in the past were unintentional;
Human rights violations are not policy driven;
The institution has a zero tolerance policy; and
No state of impunity exists in this institution.

V. IHL and IHRL Integration Order for the Nepalese Army

Army Headquarters, Kathmandu, Nepal

File Ref: 14644-9-A-064-65-22-874

22 Feb 2008

IHL and IHRL Integration Order for the Nepalese Army

- Ref:
1. Chief of the Army Staff Directive No. 02\ 060
 2. Chief of the Army Staff Directive No. 01\ 061
 3. Chief of the Army Staff Special Instruction dated 2063-5-29.

Since the time of its inception, the Nepalese Army, despite facing various challenges, has been instrumental in protecting the nation's independence, unity, sovereignty, and territorial integrity. The Nepalese Army is an institution that has always been serving the interests, wishes, and desires of citizens. We are all aware that this institution has been fulfilling its obligations as desired by the state, adhering to the principles of civil supremacy, multiparty democracy, human rights, and international humanitarian law. While performing its duties, it has displayed discipline, morale of the highest order, perseverance, and adhered to internationally practiced norms and values that have contributed immensely to raise the pride, image, and well being of the nation at both nationally and internationally. The Nepalese Army respecting the diverse nature of its people, belonging to various races, religions, cultures, and ethnicity, has been transparent and inclusive by providing equal opportunity to everyone, without any bias or prejudice.

The preamble of the Interim Constitution of Nepal 2063 clearly shows the commitment of the state to preserve and protect basis fundamental and human rights of the people. Any human rights offence committed by individuals is punishable by law. We have ensured that adequate measures have been put into our system to address impunity and new laws are being formulated to strengthen the existing system. We always follow a policy of zero tolerance against perpetrators of human rights and international humanitarian law.

The Nepalese Army has issued various human rights directives to its troops to abide by while conducting security operations in accordance to IHL and IHRL. At the same time it has issued special human rights directives while conducting counter insurgency operations in the past. Furthermore, human rights focused instructions have been included in various Operational Directives.

Since Nepal has ratified the Geneva Convention of 1949, its is our obligation that during peace time or armed conflict, the provisions of the convention be

disseminated in military education and training, that the awareness of military personnel be raised, and commanders are to ensure that their subordinates are versed in this field.

Article 33 (m) under the Interim Constitution defines the obligation on the part of the signatory state to regulate the provisions of the treaty as would be applicable in domestic law. Subsequently, article 144 (4) under the interim Constitution states that members of the Nepalese Army will be trained and educated in IHL and IHRL. In compliance with the aforementioned legal stipulation, article 20(1) under the Military Act 2006, sets down the mandatory legal provisions to impart education and training to all military personnel in the field of IHRL and IHL.

In accordance with the Geneva Convention, that Nepal has ratified and the subsequent legal provisions of the Interim Constitution, the Nepalese Army will integrate IHL and IHRL in the following areas:

- Doctrine;
- Education;
- Training: Career development training as per Appendix "A";
- Equipment; and
- Sanction systems

All relevant Branches, Directorates, and Formations will ensure the full compliance and implementation of this directive based on effective coordination, timely action, and a regular reporting system. Commanders at all levels will ensure that all personnel under their respective command adhere to the provisions of these directives. In case of any ambiguity, all concerned are hereby advised to consult the Human Rights Directorate, the Human Rights Division, or the Human Rights Cell as deemed necessary.

Rookmangud Katawal
General Chief of the Army Staff

The Torture Compensation Act, 2052 (1996)

Royal Seal and Date of entry into force:
25 January 1996
Ministry of Law and Justice
Nepal Gazette, Vol. 46, No. 49 (E), December 18, 1996

A Law enacted to provide for the payment of compensation to the victims of torture during detention

Preamble: Whereas, it is expedient to make arrangements for the payment of compensation to any person who is subjected to physical or mental torture, to cruel, inhumane, or insulting treatment, while being detained in the course of an inquiry, investigation or hearing, or for any other reason, Now therefore, *Parliament* has enacted this law in the 25th year of the reign of *His Majesty King Birendra Bir Bikram Shah Dev.*

1. **Short title and commencement:**

- (1) This law may be called "The Torture Compensation Act, 1996".
- (2) This Act shall come into force immediately.

2. **Definitions:** Unless the subject matter or context otherwise requires, in this Act:

- (a) "Torture" means physical or mental torture of any person in detention, in the course of an inquiry, investigation or hearing, or for any other reason. The term includes cruel, inhumane, or insulting treatment of a person.
- (b) "Victim" means a victim of torture.

3. **Ban on torture:**

- (1) No person who is in detention during the course of an inquiry, investigation or hearing, or for any other reason, shall be tortured.

Explanation:

For the purpose of this subsection, a person in detention also includes a person who is in custody according to current law.

- (2) When placing any person into or releasing from detention, his physical condition shall be examined by a government physician where practicable, or by an official when the prescribed physician is unavailable, and a record shall be prepared and maintained.

Explanation:

For the purpose of this subsection, a physician means a doctor, a *Kabiraj*, a health assistant, an auxiliary health worker, or a *Vaidya* who is under government service.

- (3) An examination report of the physical and or mental condition of the detainee as mentioned in subsection (2) shall be sent to the appropriate district court.

4. **Payment of compensation:**

If proven, that any Government of Nepal employee has inflicted torture on any person, compensation shall be paid out to the victim according to this Act.

5. **Complaints may be filed:**

- (1) A victim of torture may file a complaint at the district court where he was placed in detention, demanding compensation within 35 days after the torture date or when released from detention.
- (2) Notwithstanding anything contained in subsection (1), where a victim is deceased, or is unable for any other reason to file a complaint, any adult member of his family, and or his legal representative, may file a complaint mentioned in subsection (1), stating grounds.
- (3) In cases where any adult member from a detainees family or his legal representative, consider that the detainee has been tortured, they may file a petition to the appropriate district court. Once a petition is received, the court may issue an order for a physical and or mental examination of the detainee within three days, to ascertain his condition. If, in the course of such examination, treatment is deemed necessary, the Government shall make such treatment available.
- (4) Complaints filed under subsection (1) or subsection (2) must contain the following particulars as far as possible:
- (a) Reasons for detention, and the period of time spent in detention.
 - (b) Particulars of torture inflicted while in detention.
 - (c) Particulars of losses caused by such torture.
 - (d) Amount of compensation claimed.
 - (e) Any other particulars, which will help prove the case.

6. **Complaints and compensation action:**

- (1) With respect to complaints filed under Section 5, the district court shall follow the procedures mentioned in the Summary Trial

Procedure Act, 1971, and in case the particulars of the complaint are found to be true, compensation not exceeding Rs 100,000, is to be paid by the Government of Nepal to the victim.

- (2) While an action is being considered according to subsection (1), if complainant motives are proved to have been filed in bad faith, the district court may impose a fine not exceeding Rs. 5,000 on the complainant.

7. **Action against a person involved in torture:**

If a case proves that torture was inflicted in the manner stated by this law, the district court shall order the appropriate agency to take departmental action, according to current law, against the government employee who inflicted the torture.

8. **Determination compensation awards:**

For the purposes of subsection (1) of Section (6), the following matters shall be taken into consideration when determining the amount of compensation:

- (a) The physical, mental pain or hardship caused to the victim, and the gravity of that suffering.
- (b) The decline in the income-earning capacity of a victim, resulting from physical or mental harm.
- (c) The age of the victim and his family responsibilities, in cases where physical or mental damage endured cannot be treated.
- (d) In circumstances when the torture damage can be treated, the estimated expenses involved for such treatment.
- (e) In cases of deceased victims of torture, the number of family dependent on his income balanced against the minimum amount necessary for their livelihood shall be calculated.
- (f) Any other relevant and appropriate matters contained in a victim's complaint file.

9. **Execution of a decision:**

- (1) After a final decision is taken in respect to a payment of compensation to a victim, the victim himself, or in cases where the victim is deceased, his next of kin, must submit a petition to the Chief District Officer where the victim is or was in detention, making a claim of compensation within a year after a decision notice is received along with a copy of the district court decision.

- (2) The Chief District Officer must pay out compensation to the petitioner within 35 days after a petition is received under subsection (1).
- (3) If no petition is submitted within the time-bar specified in subsection (1), no compensation shall be paid out.

10. **Public Prosecutors may defend cases:**

In cases where the appropriate Office Chief makes a request in connection with any complaint filed according to Section 5, a government attorney may defend the case before a court on behalf of an employee.

11. **Torture not admissible:**

Notwithstanding anything contained elsewhere in this law, any hardship naturally resulting to a person who has been placed in detention according to current law, shall not be regarded as torture for the purpose of this Act.

12. **No obstruction to initiate action according to current law:**

There shall be no obstruction in initiating separate actions in matters considered cognizable according to current law, solely because an action has been initiated for compensation according to this law in consideration of torture, or because compensation has already been paid out.

13. **Rules may be established:**

The Government of Nepal may establish necessary Rules in order to accomplish the objectives of this Act.

The Human Rights Commission Act, 2053 (1997)

Date of Authentication and publication
8 January, 1997

Amendment

1. The Act Amending Some Nepal laws, 2007

Jan.18, 2007

Act No.19 of year 1997

Preamble: Whereas, it is expedient to establish an independent and autonomous National Human Rights Commission for the effective enforcement, protection and promotion of human rights conferred by the Constitution and other laws;

Be it enacted by Parliament in the twenty-fifth year of the reign of *His Majesty the King Birendra Bir Bikram Shah Dev.*

Chapter 1 Preliminary

1. **Short title and commencement:**

(1) This Act may be called "The Human Rights Commission Act, 1997".

(2) This Act shall come into force immediately.

2. **Definitions:** Unless the subject matter or context otherwise requires, in this Act:

(a) "Commission" means the National Human Rights Commission constituted under Section 3.

(b) "Constitution" means the *Constitution of the Kingdom of Nepal, 1990. (subject to the Interim Constitution of Nepal, 2007).*

(c) "Chairperson" means the Chairperson of the Commission and this term also includes a Member of the Commission who acts as Acting Chairperson pursuant to Section 20.

(d) "Member" means a Member of the Commission and this term also includes the Chairperson.

(e) "Secretary" means the Secretary of the Commission.

- (f) "Human Rights" means the rights relating to life, liberty, equality and dignity of an individual guaranteed by the Constitution, other laws and other rights as embodied in international treaties relating to human rights to which Nepal is a party to.
- (g) "Prescribed" or "as prescribed" means as applicable and established in this Act hereunder.

Chapter 2

Provisions relating to the constitution of the Commission and terms of service by Members

3. Establishment and constitution of the Commission:

- (1) The National Human Rights Commission shall comprise of a Chairperson and Members, who shall be established and constituted from:
 - (a) One person from among retired Chief Justices or Judges of the Supreme Court - Chairperson
 - (b) Nine members including two women, one member each from the *Dalits*, and *Adibasi Janajati* indigenous peoples, persons who have made an outstanding contribution in the field of law, human rights, social work, communications and or journalism, ensuring a wide representation to the greatest extent possible - Members
 - (c) One person who has served in any office of a constitutional body or who has served in the capacity of a special class officer in the Government of Nepal - Member
- (2) In addition to the qualification referred to in subsection (1), a person eligible for appointment as Chairperson or a Member must possess the following qualifications:
 - (a) A citizen of Nepal,
 - (b) Attained forty years of age,
 - (c) Not convicted by a court for any criminal offence involving moral turpitude.
- (3) A person, once appointed as a Member of the Commission shall not be eligible for any other government service appointment.
- (4) The Chairperson or Member of the Commission shall not be entitled to carry on a professional business so long as he holds office at the Commission.
- (5) The Commission shall be a body with perpetual succession.

- (6) The Commission shall have its own seal.
- (7) The Commission may, like an individual, acquire, use, sell, dispose of or otherwise deal with movable and immovable property.
- (8) The Commission may, like an individual, sue and be sued in its own name.

4. Appointment of Chairperson and Member:

- (1) The Government of Nepal (Council of Ministers) shall, upon the proposal of the Recommendation Committee constituted pursuant to subsection (2), appoint a Chairperson and Members of the Commission.
- (2) For the purpose of recommending Commission Member appointments, there shall be a Recommendation Committee consisting of the following persons in office:
 - (a) The Prime Minister- Chairperson,
 - (b) The Chief Justice –Member,
 - (c) The Speaker of the House of Representatives.
- (3) The Committee constituted pursuant to subsection (2), may regulate its own working procedures.
- (4) It shall be the Government Chief Secretary's responsibility to make the necessary arrangements for holding Committee meetings, mentioned in subsection (2).

5. Tenure of office for Members:

Members shall have tenure of five years from the date of appointment. They shall be eligible for reappointment.

6. Vacancy of office: A Member's office shall become vacant in the following circumstances:-

- (a) Death,
- (b) Resignation,
- (c) Completion of a term of office as per Section 5,
- (d) If the Human Rights Committee at the House of Representatives, by a two thirds majority of a meeting attended by at least two-thirds of its total members, adopts a resolution that a Member of the Commission is unfit to hold office for reasons of incompetence or misbehavior, and the resolution [is deemed] adopted as approved by the House of Representatives.

Provided, that a Member so charged, shall be given a reasonable opportunity to defend himself at the Human Rights Committee at the House of Representatives.

7. **Conditions of service of Members:** The remuneration, facilities and other conditions of service of the Chairperson and Members of the Commission shall be as arranged.

Provided, that such remuneration and facilities shall not be less than the remuneration and facilities to which Judges of the Supreme Court are entitled to.

8. **Commission meetings:**

- (1) Commission meetings shall be held on a date and place as the Chairperson decides.
- (2) The Commission shall usually meet twice a month.
- (3) If three Members are present at a Commission meeting, it shall be deemed to constitute the quorum for the meeting.
- (4) Commission meetings shall be chaired by the Chairperson and in his absence; the most senior Member shall chair the meeting.
- (5) Commission decisions shall be made by a majority of the Members. In the event of a deadlock, the Chairperson shall exercise a casting vote.
- (6) No Commission act or proceeding shall be deemed invalid merely on the grounds of a Member vacancy.
- (7) The Commission may self determine other procedures relating to its meetings.

Chapter- 3

Provisions relating to the functions and procedures of the Commission

9. **Functions and duties of the Commission:**

- (1) The primary responsibility of the Commission is to protect and promote human rights.
- (2) In order to perform its responsibility established in subsection (1), the Commission may carry out the following functions:
 - (a) Conduct enquiries and investigations into the following matters, upon receiving a petition or complaint presented to the Commission by a victim in person or by another on

their behalf, or upon information received from any source, or through its own initiative:-

- (1) Violation of human rights and abetment thereof,
 - (2) Reckless or negligent in the prevention of human rights violations committed by any person, organization or authority.
- (b) Enquiries or investigations into matters mentioned in clause (a), conducted by the Commission, or conducted through any person, authority or employee of the Government of Nepal in accordance with the directions of the Commission, with the submission of a report to the Commission,
 - (c) Ordering a petition or complaint to be filed if the Commission finds such a petition, complaint or information has no basis or is of a nature that cannot be enforced by the courts of Nepal,
 - (d) Enquire into a matter with the permission of a court in respect to any claim of violations of human rights which is *sub judice*,
 - (e) Visit, inspect and observe any authority, jail or any other organization under the control of the Government of Nepal and to submit the necessary recommendations to the Government of Nepal on reform to be made in the functions, procedures and physical facilities which may be necessary for such an organization to ensure the protection of human rights,
 - (f) Review the safeguard provisions provided by the Constitution and other prevailing law for the enforcement of human rights and submit the necessary recommendations for the effective implementation of such provisions,
 - (g) Study international treaties and instruments on human rights and to submit the necessary and appropriate recommendations to the Government of Nepal for effective implementation of the related provisions,
 - (h) Undertake or embark to undertake research in the field of human rights,
 - (i) Publicize and propagate human rights education within society, through seminars, symposia, conferences and to build up a consciousness and awareness of the

- guarantees provided by law for the protection of human rights,
- (j) To encourage the functioning and efforts of institutions working in the non-governmental sector,
 - (k) To evaluate the existing human rights situation in Nepal,
 - (l) To make the necessary recommendations to the Government of Nepal in reference to reports that are to be submitted pursuant to the provisions of international treaties on human rights, and ,
 - (m) To perform activities, as deemed necessary and appropriate for the enforcement, promotion and protection of human rights.
- (3) Nepal's obligation to furnish reports under international treaties on human rights shall be produced by the Government based upon the opinions given by the Commission.

10. Matters not subject to the jurisdiction of the Commission:

The Commission shall have no power to inquire into or institute any other proceeding over the following matters pursuant to this Act:-

- (a) Any matter within the jurisdiction of the Military Act, Provided that nothing will bar the Commission from carrying out their functions mentioned in this Act on a matter in respect of which the court may exercise its jurisdiction pursuant to the Constitution and the prevailing law.
- (b) Any matter certified by the Government Chief Secretary that may adversely effect a treaty concluded between the Government of Nepal and any foreign government, international and or inter-governmental organization, or the national security of Nepal.
- (c) Any matter certified by the Attorney General that may have an adverse effect on the conduct of an enquiry and investigation being carried out in accordance with the law for the purpose of identifying the crime or the criminal.

11. Powers of the Commission relating to enquiries:-

(1) The Commission shall, while enquiring into the petitions, complaints or reports within its jurisdiction, have the same powers as a court under the prevailing laws of Nepal with respect to the following matters:-

- (a) To require any person to appear before the Commission to make a statement and declare information within his knowledge,
 - (b) To Summon and examine witnesses,
 - (c) To order the delivery of any document,
 - (d) To request any document or copy thereof, from any governmental/public office or court,
 - (e) To examine evidence,
 - (f) To perform spot inspections, and to order the delivery of any physical evidence.
- (2) The Commission may prescribe a time limitation as it may think fit, for a person to attend, produce a document or evidence pursuant to subsection (1).
- (3) When the Commission has reasonable grounds to believe that any item or document relating to the subject matter of an inquiry or investigation, is in the possession of any person or at a certain place, it may, pursuant to the existing law of Nepal, stop and search a person, and or enter a place to seize any such material or collect extracts, copies or duplicates of any such document.
- (4) The Commission may, if it thinks necessary, conduct a public hearing during its inquiry about any incident.
- (5) The Commission may send a request to the Government of Nepal or authorized body with special considerations, to take action against a person who fails to send necessary documents or evidence required by the Commission in connection with an inquiry; or who does not cooperate in performing the Commission's orders or a person who fails to appear before the Commission on being summoned.
- (6) The Commission may, as necessary, constitute committees or subcommittees to perform its functions as per this Act, and the functions, duties and powers of these committees or subcommittees, as well as allowances and facilities receivable by its members shall be arranged by the Commission.
- (7) The Commission may, as required, avail itself to the services of experts or specialized agencies for a specific subject matter. The service, conditions and facilities to be provided to experts shall be prescribed by the Commission.

- 12. Complaints and proceedings relating to the violation of human rights:**
The filing procedure for human rights violations and related matters shall be as approved.
- 13. Process implementing Commission decisions:**
- (1) If the accused is found guilty by the Commission for a complaint and or petition filed within its jurisdiction pursuant to Section 11, it shall write to the relevant organization or authority to take the necessary action against the guilty party.
 - (2) If the Commission sees fit to provide the victims with compensation, it shall recommend the form of compensation within the same written document mentioned above in subsection (1),
 - (3) The basis and procedure for awarding compensation will be pursuant to subsection (2) as prescribed.
 - (4) The relevant organization or authority shall take action as referred to in subsection (1) and (2), as recommended by the Commission; and if action is not taken action within three months, a report shall be sent to the to Commission stating the reasons for noncompliance.
- 14. To submit reports:**
- (1) The Commission shall prepare an annual report on its activities and submit it to the President; the President shall then arrange for this report to be sent to Parliament via the Prime Minister.
 - (2) The Commission shall annually publish a report, at a time it sees fit, detailing its activities performed, for the purpose of public information.
- 15. Financial management:**
- (1) The Commission may obtain funding from agencies, by way of grants, as required for the performance of its functions.
 - (2) The Commission may receive financial assistance with a view to support itself to carry out the functions mentioned in Section 9.
 - (3) The amount of financial assistance received pursuant to subsection (2) shall be expended in accordance with the agreed terms between a donor agency and the Commission.
 - (4) The Commission shall maintain accounts of its income and expenditure as well as other relevant records in accordance with the prevailing law.
 - (5) Commission accounts shall be audited by the Auditor General.

- (6) Other Commission financial management matters shall be dealt with as arranged.

Chapter 4 Miscellaneous

16. **Commission Office:**
The Commission Central Office shall be located in the Kathmandu Valley. The Commission may set up branches in other parts of Nepal, if required.
17. **Secretary:**
(1) A Secretary to the Commission shall be appointed.
(2) By recommendation of the Commission, the Government of Nepal will appoint a Secretary. The Secretary's terms of office, service, conditions and other benefits shall be equal to that of the Secretary of State of the Government of Nepal.
18. **Commission employees:**
(1) The Commission may appoint employees as required, to carry out its functions, and employee terms of service and benefits shall be as arranged.
(2) Notwithstanding anything contained in subsection (1), the Commission may request the Government of Nepal to provide employees, as required. The Government of Nepal has a duty to provide the Commission with employees, if requested.
(3) Upon Commission requests for assistance in the performance of its functions, the requested Government office must afford the required assistance.
19. **Delegation of powers:**
The Commission may delegate any of the powers conferred on it under this Act, to the Chairperson, any Member, and Commission employee, an officer of the Government of Nepal, committee, and sub-committee or to any person that may be constituted under this Act.
20. **To perform as Acting Chairperson:**
In the event of a vacancy for Chairperson, the most senior Member of the Commission will become Acting Chairperson from the date of departure of the vacating Chairperson up until the time of appointment. The remuneration and benefits for the Acting Chairperson shall be equal to that of a Chairperson, for the duration of his tenure.

21. Oath:

The Chairperson and Members in current employment, before the commencement of this Act, or a Chairperson and Member appointed after the commencement of this Act, shall take an oath of office as prescribed by the Special Committee of the House of Representatives.

22. Communication with the Government of Nepal:

All Commission communications to the Government of Nepal shall be channeled through the Secretariat of the Council of Ministries.

23. Establishing Rules:

In order to carry out the objectives of this Act, the Commission may establish necessary Rules and may consult with the Government of Nepal during the process.

When Rules relating to remuneration and benefits are formulated, the Government of Nepal shall, as a requirement, be consulted.

24. Saving:

No legal proceeding shall be instituted against the Commission, its Chairperson, Members, employees or any other person designated by the Commission, in respect of any act completed or intended in good faith, pursuant to this Act or Rules there under.

Note:

Currently, the *Interim Constitution of Nepal, 2007* applies.

Several phrases have been changed by several Nepal Amending Acts of Law, 2007 to include Republican notions:-

"*His majesty's Government*" now reads as the "Government of Nepal".

Schedule

(Relating to Section 21)

Oath

I, swear in the name of God and solemnly affirm that I will bear loyalty to the *Constitution of the Kingdom of Nepal, 1990* and faithfully discharge the responsibility and duty of the office of Chairperson/Member assumed by me, without fear, favor, partiality, ill-will or self gain, and that I will not communicate or divulge any matter which becomes known to me in the course of the discharge of my duties in any circumstance whether I shall be holding office or not, except in pursuance of the prevailing law.

Part VI

The Legislative Framework for Migration

The Extradition Act, 2055 (1989)

Date of Royal seal and publication:

31.09.1989

A Law Enacted to Provide for Extradition of the Criminally Accused

Preamble: Whereas, it is expedient to make legal provisions regarding extradition encompassing the SAARC Regional Convention on the Suppression of Terrorism, as passed by the South Asian Nations third summit conference as well in regard to the extradition of accused persons or criminals in order to maintain law and order, now therefore, *His Majesty King Birendra Bir Bikram Shal Dev* has enacted this law on the advice and approval of the *National Panchayat*.

1. **Short title and commencement:**

- (1) This law shall be known as the Extradition Act, 1998.
- (2) This Act shall come into force immediately.

2. **Definitions:**

Unless the subject matter or context otherwise requires, in this Act,

- (1) "Court" means the court established by the Government of Nepal by notification in the Nepal Gazette.
- (2) "Crime" means a crime mentioned in the extradition treaty signed with a foreign country, providing for the extradition of accused persons or criminals and this term includes crimes mentioned in the convention, of which Nepal is a member, providing for the extradition of accused persons or criminals.
- (3) "Foreign Country" means a country which has concluded an extradition treaty with the Government of Nepal in connection with the extradition of accused persons or criminals connected with any crime, or a member-country of the convention on extradition, of which Nepal is a member.
- (4) "Convention" means a convention providing for the extradition of accused persons or criminals connected with any crime, of which Nepal is a member.
- (5) "Extradition Treaty" means a treaty concluded between the Government of Nepal and any foreign country in regard to the extradition of accused persons or criminals connected with any crime.

3. **Foreign Nations to Demand Extradition or Punishment:**

- (1) A foreign country demanding the extradition or punishment of an accused person or criminal who is a fugitive in Nepal after committing a crime in his territory, may do so in writing to the Government of Nepal through its diplomatic mission in Kathmandu, or through the Nepal diplomatic mission in its territory. In circumstances considered to be impossible or inappropriate to put in writing, in the above-mentioned manner through a diplomatic mission or through a Nepali diplomatic mission, the applicant foreign nation must write directly to the Government of Nepal.
- (2) When demanding the extradition or punishment of an accused person or criminal under subsection 3(1), the applicant country shall enclose relevant evidence as well as any particulars in relation to the accused or criminal, as to his citizenship, personal description and as far as possible, the area or place where the accused person or criminal is residing in Nepal.

4. **Power to issue an Order to conduct investigations:**

In reply to an applicant country's written demand for the extradition or punishment of any accused person or criminal under Section 3, the Government of Nepal, may, if it sees fit, conduct an investigation and issue the necessary court Order.

5. **Issue of warrant:**

- (1) After receiving orders issued by the Government of Nepal under Section 4, the court shall issue a warrant for the arrest of the accused person or criminal.
- (2) If the accused or criminal cannot be arrested under a warrant issued under subsection 5(1), a court shall notify the Government of Nepal accordingly within 15 days in cases where the accused person or criminal is subsequently located, and the court shall notify the Government of Nepal accordingly, within three days.

6. **Investigation and action:**

- (1) Once the accused person or criminal is arrested and presented before court, the court shall compile the evidence received from the applicant nation, as well as the evidence presented by the accused person or criminal [in defence], and then conduct investigations to ascertain whether or not the crime committed is

one for which he may be extradited under an Extradition Treaty or Convention, and whether or not the crime is of a political nature.

- (2) If investigations conducted under subsection 6 reveal inadequate grounds for extradition or punishment of the accused or criminal, the court may release him.

7. **Report to be submitted:**

- (1) If the court, after conducting investigations under Section 6, finds no the basis on the compiled evidence that adequate grounds exist to extradite or punish the accused or criminal as requested by the applicant nation, it shall issue an order for the determination of the relevant person until further orders of the Government of Nepal are made, and meanwhile present a report to the Government of Nepal along with all the evidence received in the context of the investigation.
- (2) While presenting reports under subsection 7(1), the court shall also enclose any application, document, evidence and particulars presented by the accused or criminal.

8. **Power to extradite or punish the accused or criminal:**

- (1) If the Government of Nepal deems it appropriate to extradite any accused person or criminal on the basis of the report presented by the court under Section 7, it may issue orders for detention for the purpose of extradition, establishing the place of extradition and the name of the person in receipt of the extradition. If the accused person or criminal is a Nepali national, the Government of Nepal may order the court to initiate action relating to punishment without extradition.
- (2) During an extradition, cash and goods recovered from any accused person or criminal under Subsection 8.1, shall also be handed over to the person taking responsibility for the accused person or criminal, if no other person has any claim or title therein.
- (3) If the Government of Nepal deems it appropriate to punish, rather than extradite, any accused person or criminal on the basis of the report presented by the court under Section 7, it may order a court to initiate action relating to punishment.

9. **Action to be taken under current Nepal Law:**

- (1) While taking action relating to the punishment of any accused person or criminal without extradition under Section 8, the court shall do so

under current Nepal law by considering the crime committed by the accused or criminal as one committed inside Nepal.

- (2) An appeal may be filed against the decision made by a court under subsection 9.1, according to current Nepal law.

10. **Release from detention:**

In case any accused person or criminal detained under subsection 8(2), for the purpose of extradition to a foreign country under this Act, is not extradited from Nepal within a period of 60 days from the date of detention, the Supreme Court may, if it deems appropriate on the basis of an application filed by or on behalf of the accused person or criminal, issue an order, for his release.

11. **Demand for extradition made by more than one applicant country:**

When more than one country demand the extradition of the same accused person or criminal, the Government of Nepal may extradite him to the foreign country deemed more apposite, in relation to the crime committed.

12. **Restrictions on extradition:**

In the following circumstances, the Government of Nepal shall not extradite an accused person or criminal whose extradition has been demanded:

- (1) Where the concerned accused person or criminal is a political dissident, or the crime committed is considered a political crime or it appears that demand for extradition has been made in order to punish him in connection with a political crime; ascertained on the basis of the evidence received from the applicant country demanding his extradition, or on the basis of the evidence presented by him in the course of investigations conducted by the court.
- (2) When the demand for an extradition of the accused person or criminal has been made by the applicant country after the expiry of a time limit established for taking out legal action under the laws of the relevant foreign country,
- (3) When the accused person or criminal has been undergoing punishment or trial under current Nepal law for having committed a crime inside Nepal, until the completion of such punishment or trial.

13. **Power to issue warrants for arrest under certain circumstances:**

- (1) When information or evidence on the entry or residence of any foreign national accused or criminal who may be extradited or

punished under this law, under the jurisdiction of any District Court is received; and when deemed necessary to arrest him on the basis of this information or evidence, the concerned District may issue a warrant for his arrest.

- (2) The District Court must submit a report to the Government of Nepal relating to the issue of a warrant for the arrest of an accused person or criminal under subsection 13(1), with the relevant information and evidence, or copies thereof, within a period of three days.
- (3) When the person arrested or detained, under a warrant issued as per subsection 13(1), shall not be kept in detention for a period exceeding three months, except by order of the Government of Nepal.
- (4) In case a report is submitted by a District Court in regard to any accused person or criminal under subsection 13(2), and the Government of Nepal issues an order to initiate action in regard to the extradition or punishment of the accused person or criminal, the relevant District Court shall take action according to this Act.

14. **Crimes not considered political:**

Notwithstanding anything contained elsewhere in this Act, for the purpose of extradition, the crimes mentioned in the SAARC Regional Convention on Suppression of Terrorism shall not apply to political crimes or crimes connected with political crimes, nor to crimes motivated by political objectives.

15. **Special powers of the Government of Nepal:**

Notwithstanding anything contained elsewhere in this Act, if it is deemed inappropriate to extradite or take any action against an accused person or criminal whose extradition has been demanded, owing to the ordinary nature of the crime or the defense presented by the accused person or criminal for not extraditing him, or in the cause of justice, political reasons, or for any other reason deemed satisfactory by the Government of Nepal, the Government of Nepal may cancel all the action taken, warrants or orders issued against the person, and issue an order for release from detention if the person is under detention, at any time.

16. **Special arrangements:**
Notwithstanding anything contained in current Nepal law, the court may accept any evidence and document received from a foreign country in connection with a case conducted under this law.
17. **Power to demand extradition or punishment from a foreign country:**
- (1) Where a person has escaped and taken shelter in any place under the jurisdiction of any foreign country after having committed a crime in Nepal, the Government of Nepal must write to the government of that foreign country demanding the extradition or punishment of the accused or criminal.
 - (2) While demanding the extradition or punishment of an accused person or criminal under subsection 17(1), the Government of Nepal shall enclose evidence, in relation to the nationality, personal description as well as the place or area in the foreign country where the accused or criminal has taken shelter (as far as practicable).
18. **Inapplicable provisions of this Act:**
Any nation with whom Nepal has concluded an extradition treaty, or any member-nation of a Convention of which Nepal is a member, must enact legal provisions to comply with such extradition treaty or convention, and in case the applicant nation has not made the necessary legal arrangements for this purpose, the provisions of this Act shall not be applicable in respect to an applicant country, notwithstanding anything contained elsewhere in this Act.
19. **Power to establish Rules:**
The Government of Nepal may establish rules in order to fulfill the objectives of this Act.
20. **Repeal:**
The Extradition Act, 1963 has been repealed.

The Immigration Act, 2049 (1992)

Date of Royal Seal and Publication

2 November 1992

Amending Acts

- | | |
|--|--------------|
| 1. The Immigration (First Amendment) Act, 1993 | Oct.13, 1993 |
| 2. The Act Amending Several Nepal Acts, 1996 | Nov.27, 1996 |

Act No. 30 of the year 1992

An Act Established to Provide for Immigration

Preamble: Whereas, it is expedient to regulate and control the entry of foreign nationals in Nepal, their stay therein and their departure from, and to manage the arrival and departure of the citizens of Nepal;

Now, therefore be it enacted by Parliament in the 21st year of the reign of *His Majesty the King Birendra Bir Bikram Shah Dev.*

1. **Short title and commencement:**

- (1) This Act may be called "The Immigration Act, 1992."
- (2) This Act shall come into force immediately.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act: -

- (a) "Immigration" means the entry process of foreign nationals in Nepal, the duration of their stay and departure from Nepal.
- (b) "Foreign national" means any person who is not a citizen of Nepal.
- (c) "Passport" means a passport, travel document or visitor permit, issued by the government of any country for visiting a foreign country, and this term also includes the *laissez passé* issued by the United Nations Organization.
- (d) "Visa" means a permit issued by the Government of Nepal to a foreign national for entering and remaining in Nepal.
- (e) "Department" means the Immigration Department established by the Government of Nepal to regulate the entry, stay and departure of foreign nationals into Nepal, and to manage the arrival and departure of the citizens of Nepal.
- (f) "Office" means the Immigration Office that is a body of the "Department".

- (g) "Director General" means the Head of "Department".
- (h) "Immigration Officer" means an Officer in the service of the Department and Office, also including the person in charge of the Office.
- (i) "Trekking" means a journey to be made by a foreign national on foot with an overnight stop, and it also includes a journey on foot by a foreign national up to the base camp of the Himalayan mountain range.
- (j) "Prescribed" or "as prescribed" means as applicable and established in this Act or Rules hereunder.

3. Provisions relating to entry, stay and departure:

- (1) No foreign national shall be entitled to enter and stay in Nepal without holding a passport and a visa.
- (2) The category, fees and other provisions relating to visas shall be as prescribed.
- (3) A foreign national intending to trek in a prescribed area of Nepal must obtain a special permit, in addition to a visa.
- (4) Fees for trekking and other provisions relating thereto shall be as prescribed.
- (5) The points of entry and departure for foreign nationals in Nepal shall be as prescribed.
- (6) The provisions relating to departure from or entry into Nepal by a Nepali citizen shall be as prescribed.

4. Conditions to be followed by a foreign national:

- (1) The terms to be followed by a foreign national staying in Nepal shall be as prescribed.
- (2) The conditions to be followed by an agency providing visa and trekking services to a foreign national shall be as prescribed.

5. Prohibition on the use of a fake passport or visa:

- (1) No one shall falsify their name, age, nationality or any other detail, nor make a false statement nor use a fake passport or visa.
- (2) No one shall enter, stay in and or depart from Nepal by presenting a fake passport or visa.
- (3) No one shall assist a foreign national who does not hold a passport and visa issued by the government of a foreign country or an official authority, to enter or depart from Nepal.

6. Power to examine and confiscate documents:

An Immigration Officer or any employee designated by the Director General may, at any time and place, examine the documents relating to the entry, stay and departure of a foreign national and may confiscate these credentials.

7. Function, duties and powers of the Director General:

The function, duties and powers of the Director General shall be as follows:

- (a) To regulate, manage and control the entry and departure of foreign nationals,
- (b) To provide a permit to foreign nationals for trekking,
- (c) To issue a visa or extend validity as prescribed,
- (c1) To cancel a trekking permit issued under clause (b) or a visa granted or extended under clause (c) in the prescribed circumstances,
- (d) To manage the arrival and departure of Nepali citizens,
- (e) To perform other functions in accordance with directions of the Government of Nepal from time to time.

8. Investigation of crimes relating to immigration:

- (1) In cases where the Department or Office is notified either directly or indirectly that a crime has been committed or is likely to be committed contrary to this Act or the Rules established hereunder, the Immigration Officer designated by the Director General shall conduct an investigation and initiate proceedings as prescribed.
- (2) While investigating a crime referred to in subsection (1), or when collecting evidence or proof, the Immigration Officer shall have all police powers, as conferred on the police under the prevailing law, including powers to arrest a person involved in a crime, to search any place relating to a crime, to confiscate documents or other materials, and to prepare a deed of public inquiry (*Sarjamin*). During the course of an investigation, an Immigration Officer may take a statement from the accused, release him/her on account of bail or security on reasonable grounds, or detain him/her for a term not exceeding twenty-five days, upon obtaining permission from a court. An Immigration Officer shall immediately inform the Director General, as he starts a crime investigation.
- (2a) In cases where the accused fails to provide bail or a guarantee under subsection (2), he may be detained.
- (3) While conducting an investigation pursuant to subsection (2), an Immigration Officer, may, if necessary, consult with a Government Attorney.

9. Power to expel:

- (1) The Director General, on the basis of a report received from an Immigration Officer having completed an investigation of a crime pursuant to this Act, may (in the case of a foreign national) and upon regulating the matters required as prescribed, and with the approval of the Government of Nepal, expel such a foreign national from Nepal, by disqualifying the foreign national from re-entering Nepal, within a specified or unspecified period of time.
- (1a) The Director General may, upon obtaining the approval of the Government of Nepal, issue an order requiring the expulsion of a foreign national who has undergone punishment for committing acts contrary to this Act or the Rules established hereunder or prevailing laws, within a specified or unspecified period of time.
- (2) A foreign national expelled under subsections (1) and (1a) shall not be entitled to re-enter Nepal during a period of expulsion.
- (3) Other provisions relating to expulsion shall be as prescribed.

10. Punishment:

- (1) Any person who commits, or attempts to commit a crime referred to in Section-5, shall be punished with a fine not exceeding fifty thousand rupees and or imprisonment for a term not exceeding five years.
- (2) Any person who violates, or attempts a violation of subsection (2) of Section 9 shall, for the first instance, be punished with a fine not exceeding twenty five thousand rupees or imprisonment for a period not exceeding two years, or in cases where such person repeats violations thereof, he shall be punished with a fine of up to fifty thousand rupees and or with imprisonment for a term not exceeding five years, for each violation.
- (3) An accomplice to a crime will be punishment as stated in subsection (1) or (2), with half the punishment of that imposed on the main offender.
- (4) Except for that established in the subsections above, a person who commits any act in contravention of this Act or the Rules may be charged with a fine of up to fifty thousand rupees, and the amount payable shall be realized from that person.

11. Appeal:

A party unsatisfied with the punishment imposed pursuant to subsection (4) of Section 10 may file an appeal in the appellate courts within 35 days.

12. **Government of Nepal to be plaintiff:**
In cases filed under this Act, the Government of Nepal shall be the plaintiff.
13. **Exemption from visa fees:**
Any foreign national, who has been detained in the course of an investigation performed under this Act or prevailing laws, shall be exempt for visa fees for the period of his detention. Any foreign national with a pending case shall be exempt for visa fees for a period commencing from the filing date up to the date of judgment. If he is sentenced to imprisonment, the exemption applies up to the completion date of imprisonment; and if the judgment only applies a fine, the exemption applies up to the day of the payment of the fine.
14. **Powers of the Government of Nepal:**
 - (1) The Government of Nepal may exempt a foreign national of any class, tribe, caste or nationality from the application of all or any of the provisions of this Act or the Rules established hereunder, or for the application of prescribed terms only, to a foreign national.
 - (2) If deemed appropriate, the Government of Nepal may prohibit the entry, stay or departure of a foreign national detrimental to the national interest of Nepal.
15. **Powers may be delegated:**
The Director General may delegate any or all of the powers conferred on him under this Act to other officers or staff under him.
16. **Instigating proceedings under other prevailing laws is not prohibited:**
No substance in this Act shall be deemed to bar the instigation of a case against any person in a court under other prevailing laws.
17. **Protection of acts in good faith:**
No claim, prosecution or any other legal proceedings shall be made against any staff for anything performed or planned in good faith under this Act.
18. **Power to establish Rules:**
The Government of Nepal may determine Rules to accomplish the objectives of this Act.
19. **Repeal:**
 - (1) The Foreign Nationals Act, 1958 is hereby repealed.

- (2) The acts performed under the Foreign Nationals Act, 1958 and the Rules established therein, shall be deemed to have been made under this Act.

Immigration Regulation, 2051 (1994)

(Including the 5th Amendment, 2007)

Date of Publication in the Nepal Gazette :

6 June 1994

Amendment

Immigration (First Amendment) Regulation, 2001

Jun.4, 2001

Amendment in Schedule

Oct.14, 1996

Immigration (Second Amendment) Regulation, 2002

Jun.17, 2002

Amendment in Schedule by notice

Jun.17, 2002

Immigration (Third Amendment) Regulation, 2002

Oct.7, 2002

Immigration (Fourth Amendment) Regulation, 2003

Aug.4, 2003

Immigration (Fifth Amendment) Regulation, 2007

Jun.16, 2007

In exercise of the powers conferred by Section 18 of the Immigration Act, 1992 *His Majesty's Government* has established the following rules:

Chapter 1 Preliminary

1. **Short title and commencement:**
 - (1) This Regulation may be cited as the "Immigration Regulation, 1994."
 - (2) This Regulation shall come into force from the prescribed date upon publication of a notice in the Nepal Gazette by the Government of Nepal.
2. **Definitions:** Unless the subject matter or context otherwise requires, in this Act:
 - (a) "Act" means the Immigration Act, 1992.

- (b) "Tourist" means a foreign national who spends at least one night or twenty-four hours in Nepal.
- (c) "Family" means husband, wife, father, mother, and dependent child.
- (d) "Trekking area" means the area specified by the Government of Nepal where permission is required to "trek".
- (e) "Mission" means any Nepalese Embassy, the Nepalese Consulate General and the Nepalese Consulate in any foreign country, and including any organization or authority temporarily or permanently representing the Government of Nepal in any foreign country.
- (f) "Agency" means a person or an organization licensed by the Government of Nepal who provides a service to foreign nationals from arrival until their departure, and an association organizing the movement of foreign nationals.
- (g) "Visa year", for the purpose of this Regulation, means a period from 1st January to 31st December in a given year.

Chapter - 2

Provisions Relating to Visa

3. Visa powers of the Government of Nepal:

- (1) All powers to grant or refuse a visa to a foreign national shall be vested in the Government of Nepal.
- (2) The Government of Nepal may allow visa free entry into Nepal for citizens of an affable country on the basis of reciprocity.

4. Diplomatic Visas:

- (1) Only the Government of Nepal may issue a visa to a person holding a diplomatic passport issued by any country and on the recommendation from the related diplomatic mission, to a person and their family members considered fit to be granted diplomatic privileges by the Government of Nepal.
- (2) A diplomatic visa shall be issued on the basis of reciprocity; the term may be extended at intervals based upon assignment in Nepal.
- (3) An application for a diplomatic visa must be made in the format referred to in Schedule 1.
An application as referred to in Schedule 1, however, is not required if a request or recommendation, accompanied by details, is made by a foreign diplomatic mission or an authorized body.

5. Official visa:

- (1) Official visas shall be granted to persons considered fit by the Government of Nepal, or to the following foreign nationals and their family upon the recommendation of a relevant foreign diplomatic mission:
 - (a) Administrative, technical and non diplomatic officials serving in a residential or non-residential diplomatic mission, Consulates for Nepal and incumbent Nepalese Honorary Consul Generals, Consuls and their family who visit Nepal from a foreign country,
 - (b) Consultant experts who stay in Nepal under an agreement with the Government of Nepal,
 - (c) Employees serving in Nepal based offices of the United Nations or its agencies and persons holding a *laissez passez* granted by the United Nations,
 - (d) Employees serving in international organizations or regional organizations located in Nepal,
 - (e) Persons participating in an assembly, conference, training or meeting organized by the Government of Nepal or a Government of Nepal auspice agency or United Nations Organizations or Regional Organizations or auspice agencies there under.
- (2) An official visa application must be submitted in the format referred to in Schedule 1, except in cases where a request or recommendation is made by a foreign diplomatic mission or an authorised body, accompanied with details.

6. Tourist visa

- (1) A tourist visiting Nepal shall be granted a tourist visa.
- (2) A tourist visa shall be granted for a maximum period of 150 days in a visa year.
- (3) A tourist who departs before the expiry of a specified visa period shall not be allowed to utilize a visa by adding the residual period to another visa year.
- (4) Any foreign national who has entered Nepal at the end of a visa year and desires to spend the remaining period of the visa year, he/she may utilize such visa in the next tourist visa year. Provided, however, that the computation of the fees for such period shall be made on the basis of the total period of his stay.

- (5) An application for a tourist visa must be submitted in a format referred to in Schedule 1.

7. Student visa:

- (1) A student visa shall be granted to foreign nationals and their family who, having obtained the approval of the Government of Nepal, come to study, teach or conduct research in any educational institute of Nepal.
- (2) Except for foreign nationals who visit Nepal under a Government of Nepal scholarship or an accepted program of study, students or researcher under an agreement within the two universities or students of SARAC member countries or students studying up to secondary level; other foreign nationals intending to study and conduct research by their own means, shall be granted a student visa solely on the basis of a guaranteed source, to cover living expenses of at least three thousand U.S. Dollars (USD\$3,000) gross per annum (divided into monthly installments), and in cases where a student has an accompanying family, a further two thousand U.S. Dollars (USD\$2,000-minimum) per annum is required for their duration of stay in Nepal, or evidenced on the basis of a certificate of foreign currency exchange for the equivalent funds thereto.
- (3) A study visa shall be granted for one year at a time. In cases where the visa must be granted for a period in excess thereof, the term of the visa may be extended by taking into consideration a study (activities and other related matters performed by the student) and research progress report on the applicant. Researchers and or students will only be granted an extension of a term equivalent to the period of research or educational degree under study.
- (3A) Notwithstanding anything contained in clause (3), a study visa may be granted to a student studying a technical subject, for the total educational tenure of study.
- (4) A recommendation from the relevant body/agency must be submitted for a student visa.
- (5) Applications for a student visa must be submitted in the format referred to in Schedule -2.

8. Non-tourist visa:

- (1) The following foreign nationals and their family members shall be granted a non-tourist visa.

- (a) Foreign nationals involved in social and economic development works approved by the Government of Nepal whose expenses are paid by foreign governmental institutions;
- (b) Foreign nationals having obtained a recommendation from the Ministry of Foreign Affairs to work in the institutions run by foreign missions located in Nepal,
- (c) Foreign representatives having obtained a recommendation from the Ministry of Information and Communications to work in foreign newspapers and news agencies,
- (d) Foreign nationals having obtained a recommendation from the relevant Ministry, to aid other foreign nationals, who have obtained diplomatic or official visas,
- (e) Foreign nationals having obtained an approval from the Government of Nepal to work on a remunerated basis in any firm, company, association, industry or enterprise within Nepal,
- (f) Foreign nationals having obtained a recommendation from the relevant Ministry, to work for any international airline located in Nepal,
- (g) Foreign importers visiting Nepal from a third party country on the recommendation of a foreign governmental agency or Federation of Industries or an international Chamber of Commerce,
- (h) Foreign nationals who have marital relations with citizens of Nepal evidenced by a marriage registration certificate, Children of Nepali origin, paternity or maternity, who hold foreign passports, visiting relatives in Nepal,
Explanation: For the purpose of this clause, "relatives" mean persons of up to three generations on both sides of their parentage.
- (i). Foreign nationals who come to Nepal to work, on the recommendation of a relevant Ministry, pursuant to an agreement or understanding at governmental or non-governmental level,
- (j). Foreign nationals having obtained a recommendation from the relevant Ministry, to conduct an industrial or commercial feasibility study for a period not exceeding six months,

Foreign nationals under this clause should submit documents relating to their investment sources, the capability and experience of their investor, in support of their visa application.

- (k). Foreign tour group leaders must submit a recommendation from the relevant Ministry when lodging an application for tour groups in Nepal, Foreign nationals having obtained a recommendation from the relevant Ministry, who have to come to work in a non-governmental organization as per an agreement concluded with the Social Welfare Council or respective Ministry.
- (l) Any foreign national as the Government of Nepal deems fit.
- (2) A non-tourist visa shall be issued for a period not exceeding one year at a time, and its term may be extended as necessary.
- (3) -Repealed by amendment.
- (4) An application must be submitted in the format referred to in Schedule 2, in order to obtain a non-tourist visa, except foreign nationals referred to in clause (h) of sub- Rule (1), who are required to submit an application in the format referred to in Schedule 2 (a).

9. Business visa:

- (1) A business visa shall be granted to the following foreign nationals and their family on the recommendation of a relevant agency:
 - (a) Foreign nationals having obtained a license to invest in any business or industrial enterprise within Nepal, or authorized representatives of such business or industrial enterprise.
 - (b) Foreign nationals having obtained a license to invest in the export of trade from Nepal.
 - (c) Foreign nationals visiting Nepal from a third party country that re-exports goods manufactured in Nepal.
- (2) Except for as otherwise provided in this Regulation, a business visa shall be issued for a period not exceeding five years at a time; and its term may be extended as necessary.
- (2a) Notwithstanding anything contained in sub-rule (2), a multiple business visa of five years shall be issued for 90 days at a time (per entry) pursuant to clause (c) of sub-rule (1) for stays in Nepal.

- (2b) If an application is submitted by the bearer of a visa enclosing reasons and supporting evidence of the non-completion of a business transaction within the validity of the current visa period issued under sub-rule (2a), the visa may be renewed on the basis of work efficiency relating to the pending transaction, as referred to in sub-rule 2a.
- (3) Applications for a business visa must be submitted in the format referred to in Schedule 2.

10. Transit visa:

- (1) Foreign nationals who enter Nepal for a single night, use Nepal's airport in transit while holding an onward ticket to visit another country, or in an emergency landing shall be issued a transit visa for 24 hours.
- (2) An application for a transit visa must be submitted using the format referred to in Schedule 3.

10 (A) Non-residential Nepalese Visa :

- (a) Any foreign national of Nepalese origin, residing abroad, who wishes to reside, conduct a business or profession, be a student and or teacher of any subject in Nepal, may be issued a non-residential Nepalese visa for him and his family.
- (b) An application may be submitted using the format under Schedule 3a through a Nepalese mission located internationally or directly to the Department for a visa pursuant to sub-rule (1).
- (c) A visa pursuant to sub-rule (1) may be issued for up to 10 years at a time, and the visa may be extended as necessary.
- (d) Non-residential Nepalese visas shall be issued according to Schedule 3b.

11. Residential visa:

- (1) The following foreign nationals and their family intending to indefinitely live in Nepal shall be granted a residential visa:
 - (a) Persons with an international reputation,
 - (b) Persons capable of rendering an outstanding contribution to the economic, social and cultural growth of Nepal,
 - (c) Persons, who have invested an initial minimum of one hundred thousand US dollars (USD\$100,000) or equivalent convertible foreign currency in an industrial enterprise in Nepal,

- (d) Any foreign national intending to indefinitely reside in Nepal, without carrying out any commercial business.
- (2) The mission recommending a residential visa to a foreign national, except a foreign national as mentioned in clause (d) of sub-rule (1), as mentioned in other clauses, shall send a recommendation with an application to the Department via the Ministry of Foreign Affairs, completed by the foreign national.
- (3) Any foreign national intending to obtain a residential visa under clause (e) of sub-rule (1) must submit a certificate showing he will spend or has spent at least twenty thousand US Dollars (USD\$20,000) at single or several intervals per year.
- (4) Any foreign national intending on applying for a residential visa must submit an application according to Schedule 4 to the Department or the relevant mission.
- (5) A residential visa shall be granted with reference to Schedule 4 (a).

12. Visa issuing and renewing authority

- (1). The following visas shall be issued and granted by the following authority as per category:

Category of Visa	Visa issuing and renewing authority
a. Diplomatic Visa	The Ministry of Foreign Affairs, A mission or Immigration Office at a boarder point may issue a diplomatic visa (as an entry visa) for a period of up to 30 days.
b. Official Visa	The Ministry of Foreign Affairs, A mission or Immigration Office at a boarder point may issue a diplomatic visa (as an entry visa) for a period of up to 30 days.
c. Tourist Visa	(1) Mission or Immigration Officers at boarder points may issue a visa of fifteen (15), thirty (30) and or ninety days (90), as a first entry visa within a visa year. (2) The Director General for renewals and validity for tourists that have already entered

Category of Visa	Visa issuing and renewing authority
	<p>into Nepal with an entry visa. Provided that a scheduled departure is within 150 days, Immigration Officers may validate a renewal for a further 15 days.</p>
d. Study Visa	The Director General,
e. Non- tourist Visas	<ol style="list-style-type: none"> 1) In cases of foreign nationals pursuant to clause (g) of Rule 8, the Nepalese Embassy or Permanent Diplomatic Mission located internationally or the Director General, 2) In cases of foreign nationals pursuant to clause (1) of Rule 8, the Director General with the approval of the Government of Nepal. 3) In cases of foreign nationals pursuant to other clauses of Rule 8, the Director General.
f. Business Visa	The Director General,
g. Transit Visa	Immigration Officer,
h. Residential Visa	<p>For an initial 12 months, the Department, obtaining approval of the Ministry of Home Affairs and the Department for renewals. The Department shall issue a visa on the recommendation of the Department of Industry to a foreign investor as per clause (1) of sub-rule (1) of Rule 11 and their family (dependents).</p>
i. Non-Residential Nepalese visa	<p>For an initial application, the Mission or Director General, with the approval of the Ministry of Home Affairs and the Director General for renewals.</p>

- (2) The Ministry of Foreign Affairs shall, on a monthly basis, furnish the Department with details setting out the name, nationality, passport number and visa period of all persons to whom visas have been issued under clauses (a) and (b) of sub-rule (1).
- (3) The Ministry of Foreign Affairs shall, on a monthly basis, furnish the Department with details of revenue collected from the issuing of visas by the missions under these clauses, other than clauses (a) and (b) of sub-rule (1).
- (4) If a visa recommendation has been made by a relevant agency, a visa-issuing officer shall make a decision within seven days from the date of registration of a recommendation.

13. Power to refuse the issue of a visa or to grant permission to enter Nepal :

Notwithstanding anything contained elsewhere in this Regulation, an Immigration Officer may, at any border point, refuse to issue a visa and or grant permission to enter Nepal, to the following foreign nationals:

- (a) With passports and visas found to be suspect,
- (b) That has been expelled for committing any acts contrary to this Act or Regulations, or who has been prohibited from entering Nepal,
- (c) That has already expended a period of stay according to this Regulation.
- (d) With unconvincing travel documentation.

14. Power to prohibit departure from Nepal:

The Department or Immigration Office may prohibit the following persons from departing Nepal:

- (a) Those without a valid passport and visa to enter a country, which they intend to enter,
- (b) Those with related authorized official information prohibiting their departure from Nepal.

15. Points of entry or exit:

The points of entry and exit for the purpose of a foreign national entering or departing from Nepal by a visa, shall regulated by Schedule 5.

16. Arrival and departure forms:

- (1) Every foreign national entering or departing from Nepal must fill out a disembarkation or embarkation form, as the case may be, as referred to in Schedules 6 and 6(a), respectively, and submit this form to the Immigration Office.
- (1a). Every Nepali citizen entering or departing from Nepal must fill out a disembarkation or embarkation form, as referred to in Schedules 6(b) and 6(c).

- (2) The Immigration Office shall, on a daily basis, prepare, on the basis of the forms received under sub-rule (1), a record of the foreign nationals' that arrive in Nepal, using the format as referred to in Schedule 7; and a record of in the format referred to in Schedule 7(a), and these records must be sent to the Department.

17. Certification of arrival and departure:

Every person entering or departing from Nepal shall have his entry and or departure certified at an entry or departure point. In case a person has failed to be registered upon arrival or departure, an application, along with supporting reasons submitted to the Department, may result in the former being certified, if deemed reasonable after an investigation by the Department.

18. Documents to be produced:

In cases officials from the Department or Offices under their command, authorized Officers of a District Administration Office (when personnel are unavailable)-police and border administration officials, upon request may require any foreign national to disclose his passport, visa, trekking permit and documents relating thereto, and any foreign national asked to do so, must do so without delay.

19. Notice of a change of Address and the registration of residency:

- (1) Any foreign national, (except those holding a tourist visa), permitted to stay in Nepal for more than six months must submit a form to register their whereabouts, as referred to in Schedule 7(b), and must furnish the Department or the Office as specified by the Department; in order to maintain records as referred to Schedule 7(c), and the Department or the office as specified by the Department shall provide a "certificate of residence" as referred to in Schedule 7(d). In the case of extension of visa, Presence-record -certificate as well should be renewed.
- (2) If a foreign national changes his residential address in Nepal, as declared in his application for the issue of a visa or extension, he must inform the Department, Registration Office or local police station with a notice containing his/her name, passport number and new address.
- (3) If a foreign national having stayed in Nepal for more than 120 days goes to any other place in Nepal for more than three days, he must register with the local police station in such place declaring his detail his name, passport number and usual address.

20. Work restrictions:

- (1) A foreign national or a related family member, having obtained a visa as a tourist pursuant to this Regulation, shall not be allowed to work, neither paid nor

voluntary, in any industry, business, enterprise or organization during their stay in Nepal.

(2) A foreign national having obtained a visa pursuant to this Regulation shall not be allowed to carry out any work other than the purpose for which he obtained the visa.

21. Notice of cancellation for a visa:

In cases where a foreign national having obtained a visa of another category (except a tourist visa), becomes unable to spend the term of the visa granted to him for any reason, the foreign national or the person in charge of his employment must notify the visa issuing authority within 7 days for a cancellation of the said visa.

22. Validity of a Detainees visa :

In cases where a foreign national is detained in the course of proceedings under the prevailing law or for any legal action initiated against him, the visa obtained by this foreign national shall be valid during the period he is detained or until the conclusion of legal proceedings by the Department, if his presence is required. Such a foreign national may be deported from Nepal within 7 days or after his release from detention or conclusion of legal proceedings.

23. Change of visa category :

In case a foreign national having entered Nepal on a visa of any category submits, (after the discharge of the function for which he has obtained such a visa), an application for another visa type, the referred authority as per Rule 12 may, subject to the Act and this Regulation, grant a visa for another category to the foreign national.

24. Provisional recommendation for the issuance of a visa:

(1) In cases where time is required in order to make recommendations for a study, non-tourist and or business visa, the relevant Ministry may, make a recommendation for the provisional study, non-tourist and business visa for a period not exceeding three months.

(2) In cases where it takes time for a foreign national referred to in sub-rule (1) (h) of Rule 8 to submit a marriage registration certificate, the Department may, on the basis of a recommendation of the authority or the Embassy of the requested country, issue a non-tourist visa for a period not exceeding three months.

25. Issuance of a travel permit :

The Department may issue a travel permit to foreign nationals who are unable to obtain new passports due to the loss, deface or expiry of a term thereof or for any other reasons, in order to enable them to leave Nepal.

The Ministry of Foreign Affairs shall issue a permit for a person holding a Diplomatic and or Official passport.

26. Transfer of visa : In case a foreign national has obtained a travel permit under Rule 25 or a new passport due to the loss or expiry of an old passport, the Ministry of Foreign Affairs in cases relating to Diplomatic or Formal Visas, and the Department for other visas may transfer a visa to a travel permit or to a passport.

27. Application for an extension of a visa term: An application must be submitted using the format referred to in Schedule 8 for the extension of a visa term, except for a diplomatic and official visa.

28. Circumstances under which a visa may be cancelled :

- (1) The Department may cancel a foreign national's visa under the following circumstances:
 - (a) If he fails to produce an international health certificate as and when required.
 - (b) If he becomes mentally ill.
 - (c) If he absconds after committing any serious criminal offence.
 - (d) If he is found to be suffering from any contagious or communicable disease.
 - (e) If his presence seems to cause a detrimental effect upon the peace and security of Nepal or in the mutual fraternity of the people of Nepal.
 - (f) If his conduct is found to be suspicious or if he carries out, or causes to be carried out, any undesirable activities.
 - (g) If his presence seems to result in the adverse impact on the social and culture environment of Nepal.
 - (h) If he violates, or causes to violate, the Act, this Regulation and other prevailing law.
 - (i) If he carries out any other acts not in consonance with the purpose for which a visa has been issued or the purpose for which the visa was issued ends before the provided visa period.
 - (j) If he applies to replace a current visa with another, or by recommendation of the concerned office.

- (2). Fees paid subject to visa cancellations pursuant to sub-rule (1), are not refundable.

29. Fees :

- (1) Fees charged for visa issue, extensions, or regulation for a foreign national who has over-stayed, for travel permits or the transference of a visa shall be as prescribed in Schedule-9, though children under the age of ten, shall be exempt from visa fees.
- (2) Visa fees chargeable to citizens of countries that charge fees higher or lower than the fees prescribed under sub-rule (1), shall be based on reciprocity.

30. Provisions relating to single or multiple entry :

- (1) When issuing visas under this Regulation, the facility of single entry and multiple entries may also be granted.
- (2) A facility granted under sub-rule (1) shall remain valid until the entrance validity period of a visa, for visas issued by a mission, and until the validity period of a visa, for visas issued by the Official or Department.
However, the total period of stay of a foreign national having obtained such facility shall not, except in cases where other facility or terms have been extended, exceed the period of stay in Nepal mentioned at the time of issue of the facility.

31. Exemption from visa fees:

The following persons for entry into Nepal or extending a term for a visa may be exempt or remitted from visa fees under the following circumstances:

- (a) Foreign nationals with diplomatic or official visas.
- (b) Foreign nationals participating in a conference, assembly, training session or meeting organized by the Government of Nepal, or a body owned by the Government of Nepal, United Nations Organization, regional organizations or any other International Association or organization, or related auspices bodies.
- (c) Prominent figures from a country having diplomatic relations with Nepal.
- (d) Citizens of any country on the basis of reciprocity.
- (e) Descendants of Nepalese parentage, up to the age of 16 years holding foreign passports, or either of whose parents are Nepalese citizens.
- (f) Citizens of Nepali origin, after having obtained passports for the first time from a Nepal foreign mission, until the period of departure to a foreign country.
- (g) Persons granted scholarships provided by the Government of Nepal or participating in programs approved by the Government of Nepal, or due to agreed exemptions with the Government of Nepal.

- (h) For a person unable to depart from Nepal due to the cancellation of a flight, for a stay until he departs on another flight.
- (i) In cases where a foreign national is to stay over the prescribed period of a visa due to circumstances beyond his control, or in cases regulated under sub-rule (1) of Rule 29.

31 A. Authority to exempt visa fees:

The following authority may exempt or rebate a visa fee under the following conditions:

- (a) On the condition as referred to in clause (a) (b) and (c) of Rule 31 → Ministry of Foreign Affairs, foreign Nepalese missions or immigration officers issuing diplomatic or formal visas for entry.
- (b) On the condition as referred to in clause (e) and (f) of Rule 31 → the Director General.
- (c) On the condition of clauses (d) and (g) of Rule → 31 the Director General on the recommendation of the relevant Ministry.
- (e) On the condition of clause (b) of Rule 31- Immigration Officer.
- (f) On the condition of clause (i) of Rule 31
 - (1) For 7 days- Director General or Immigration Officer
 - (2) For a period exceeding 7 days - Ministry of Home Affairs.

Chapter - 3 Trekking

32. An application for a trekking permit : Foreign nationals wishing to trek in any trekking region that requires a permit shall submit an application in the format referred to in Schedule 10 and in case of a group, the trekking operating agency shall submit an application to the Department in the format referred to in Schedule 10(a).

33. Trekking permit issue: After receiving an application referred to in Rule 32, the Department may issue a trekking permit in the format referred to in Schedule 11, not exceeding the validity of a foreign national's visa period.

34. Determination of the maximum number of trekkers :

- (1) The number of foreign nationals trekking in Nepal shall be determined annually by the Government of Nepal.
- (2) The Department shall not issue trekking permits exceeding fixed quotas under sub-rule (1).

- (3) The Government of Nepal may maintain records of trekkers desiring to trek in a prohibited trekking region.

35. Trekking along prescribed routes : No foreign national shall trek along any route other than the route prescribed in a permit issued under Rule 33 or enter into any prohibited area. Agencies guiding foreign nationals shall not make foreign nationals trek along routes other than those prescribed in a permit.

36. Trekking region may be changed:

Trekkers in possession of a permit, may have their permits changed to another region for the same visa year by the Director General, if trekking is impossible in the originally prescribed area due to a natural disaster or uncharacteristic extenuating circumstances.

37. Circumstances under which a permit may be cancelled :

- (1) The Department may cancel a trekking permit issued to any foreign national under the following circumstances:
- (a) If his visa is cancelled under Rule 28.
 - (b) If he treks along routes or in an area other than those prescribed in the trekking permit.
 - (c) If he fails to fulfill the conduct and terms as set forth in Rule 41.
 - (e) If he fails to uphold other terms as set forth in a trekking permit.
 - (f) If he contravenes the provisions of the Act and this Regulation.
- (2) The fees paid up for a trekking permit cancelled under sub-rule (1), shall not be refunded.

38. Facility accorded to a Citizen of Nepal accompanying a Trekker :

- (1) A tourist trekker, Agency or group must take out accident insurance as prescribed by the Government of Nepal, for a Nepalese citizen accompanying foreign nationals, and the Department must be notified, before any trekking commences.
- (2) The tourist trekker or group must provide the accompanying Nepalese citizen with a daily allowance, necessary clothes and equipment, not less than the amount fixed by the Government of Nepal.
- (3) If a person whose insurance is to be made under sub-rule (1) sustains injury because of his involvement in trekking, loses organ function, or dies due to an accident before the taking out insurance coverage, his next of kin shall be provided by the trekking tourist or Agency or group with compensation for a sum equivalent to the amount payable to him if he were insured against personal injury.

39. Fees for trekking permit : The fees for a trekking permit shall be prescribed in Schedule 12. The Department may exempt the following foreign nationals from trekking permit fees: -

- (a) A foreign national holding a diplomatic passport.
- (b) A foreign national affiliated with an agreement entered into with the Government of Nepal, which exempts any fees, and the request of trekking permits for access to areas related to his undertakings.
- (c) A foreign national affiliated with a Government of Nepal plan or program and whose work place is within a trekking area.
- (d) A child under the age of ten, trekking with his father or mother.
- (e) Foreign nationals with fee exemptions granted by the Ministry of Home Affairs.

Chapter - 4

Conduct and Terms to be Upheld at the Time of Arrival and Departure

40. Stamp to be affixed to a passport at arrival and departure point :

Every Nepalese citizen who departs from and enters Nepal with a passport shall have his passport endorsed by the Immigration Office at departure and entry points.

41. Conduct and terms to be upheld by foreign nationals :

Every foreign national entering, present, trekking in or departing from Nepal shall, in addition to the provisions laid down in the Act and this Regulation, uphold the following conduct and terms:

- (a) Not to enter any trekking area without a permit;
- (b) Not to take part in political activity;
- (c) Not to keep or use articles or commit acts that are prohibited under prevailing laws;
- (d) Not to carry out or cause any activity contrary to local customs or practices;
- (e) To observe directions given by a competent authority in a trekking area;
- (f) To provide identity, photographs, thumbprints, and documents relating to entry, presence and or departure, as requested by an authority.

42. Conduct and terms to be upheld by an Agency :

An Agency shall uphold the following conduct and terms, in addition to other provisions and terms established in the Act and this Regulation:

- (a) Each Nepalese, foreign company, association, driver, pilot, operator or handler of an aeroplane, motor vehicle or similar vehicle transporting passengers to and from Nepal shall, on entry and or departure, submit to the Office, a passenger manifest of Nepalese or foreign passengers being carried into or taken from Nepal by their respective vehicle, including crew and assistants.
- (b) An Agency shall not carry foreign nationals who do not hold valid passports, or those who have been expelled or prohibited from entry.
- (c) If a prohibited person as established by this Regulation is carried in, liability shall fall upon the party transporting them, to take them back at a time directed by the Department or Office.
- (d) An Agency shall not assist a foreign national without a passport, visa, permit, hotel reservation, or rental accommodation nor provide him with any services.
- (e) An Agency must submit a monthly list to the Department, of foreign nationals living with them or to whom a service is being provided, within the first week of the proximate month.
- (f) An Agency must hand over a person to the Immigration Office with related documents, of those who have been deported from or refused entry by another country.

Chapter 5 Miscellaneous

43. Special provisions relating to mountaineers :

- (1) If foreign nationals who have obtained an expedition permit, transit through a trekking region on their way to or back from a permitted snow peak, a trekking permit shall also be obtained, though no fee shall be applicable for this supplementary permit.
- (2) Foreign nationals on mountaineering expeditions have to pay visa fees for the period of mountaineering, though the period of mountaineering shall not be counted in the term of a tourist visa.

44. To stay at a place specified by the Department :

- (1) A foreign national to whom an order of expulsion has been issued under the Act or this Regulation must stay at the place specified by the Department until departing Nepal and must personally bear the expenses needed for his departure from Nepal.
- (2) The expulsion order shall be established as per Schedule 13.

44A. Establishing manual :

The Ministry of Home Affairs may establish a manual of rules in order to fulfill the purposes of this Act and Regulations under it, by making provisions on immigration more effective and transparent.

45. Language:

Forms prescribed under this Regulation may additionally, as necessary, be printed and used in the English language.

46. Power to make an alteration or an amendment to a Schedule :

The Government of Nepal may, by notification in the Nepal Gazette, make necessary alterations or amendments to the Schedules.

47. Repeal and Preservation :

- (1) The Foreign Nationals Rules 1976 are hereby repealed.
- (2) Notwithstanding anything contained in the Trekking and Rafting Rules, 1981, this Regulation shall govern trekking.
- (3) The matters set forth in this Regulation shall be governed by this Regulation, and other matters not provided herein shall be governed by prevailing law.

**Schedule – 1 , (Relating to Rule 4(3), 5(2) and 6(5)),
Application Form for Diplomatic/Official/Tourist Visa**

To,
The Excellency Ambassador/Consul/Consul General/Director General/
Immigration Officer.
As I have to visit or would like to visit Nepal, I request the issuance of a diplomatic / official /
tourist / entry visa.
My details are as follows:
1. Name, Surname :
2. Nationality:
3. Place of birth:
4. Date of birth:
5. Permanent address:
6. Temporary address in Nepal:
7. Occupation:
8. Passport No:
9. Date of issue of passport:
10. Date of expiry of passport:
11. Purpose of visit to Nepal:
12. Length of stay in Nepal: days/ week/ month
13. Country of departure:
14. Source of expenditure while staying in Nepal (state amount in foreign currency): 15.
Previous visits to Nepal:
16. Date (month/year) of last visit and period of stay in Nepal:
17. Passport No. and country of issue (if you hold a passport of any other country issued in
your name):
Date:
Signature of Applicant:-

For official use only

1. Type of visa:
2. Reasons for fee exemption, if any:
3. Entry visa No.:
4. Date of visa validity:
5. Visa issued on:
6. Visa sticker No:
7. Visa issuing officer signature.....
Code No (required):-
If issued at an entry point

Schedule – 2, (Relating to Rules 7(5), 8(4) and 9(3))
Application form for a student / non-tourist / business visa

To,
The Director General,
Department of Immigration.

As I require a student / non-tourist / business visa, I request that the visa as requested be issued to me. My details are as follows:

1. Name, Surname : ...
2. Nationality:
3. Place of birth:, 4. Date of birth:,
5. Permanent address:, 6. Temporary address in Nepal:
7. Occupation:
8. (a) Passport No.(b) Entry Point:(c) Validity of passport:.....
9. (a) Date of entry into Nepal:(b) Entry Point:,
10. Total period of stay in Nepal: 11. Last visa No.:
12. (a) Valid date of last visa:(b) Type of visa:.....
13. Current reason for requesting for a visa:
14. If a requested visa, intended length of stay in Nepal
15. The body / field to be involved in while staying in Nepal
- (a) Are you liable to pay local tax?.....yes/no.....(b) If yes to above, please attach supporting tax document evidence.....
16. Number of family dependents
17. If the requested visa is issued, what is the source of your expenditure while staying in Nepal?:
18. What are your grounds for the requested visa:
19. Other details, if relevant:
20. Attached documents:
(a) Recommendation of the authorising body :
(b) Work permit
(c) Others
Date :

Signature of Applicant:.....

For official use only

1. Date of decision to issue the visa:
2. File No :
3. Visa sticker No.:
4. Type of visa:
5. Visa fee:
6. Bill No.:
7. Date of issuance of visa :
8. Date of validity of visa :
9. Others, if any :

Date
Immigration Officer
Code No:

**Schedule - 2 (a), (Relating to the provision of Rule 8 (4),
Application form for a Marriage visa**

To,
The Director General,
Immigration Department

As I married, a Nepalese citizen, holding a required marriage certificate, I hereby apply for a non-tourist visa to which I am entitled as per the Rules; and my details are as set out below:

1. Name :2. Nationality:3. Date of birth:
4. Address:5. Passport No.: 6. Passport validity date: ...
7. Occupation: 8. Entry date in Nepal:9. Entry visa number:
10. Validity period of visa:
11. (a) Name of Nepalese citizen spouse:(b) Address: ...(c) Citizenship certificate No.:
12. The District where the marriage registration certificate was obtained, and the date of issue:
13. Visa period requested for:
14. Attached documents:.....
- Date:Signature of Applicant

The Nepalese party signing this covenant, hereby declares that the above details are true and correct, that he/she is my husband/wife and that I shall liable according to Nepal law if the details herein are held to be false.

Date :Name :

Signature of Applicant

**Schedule – 3, (Relating to Rule 10 (3),
Application form for a transit visa**

To his Excellency Ambassador / The Consul General / The Consul / The Director General/The Immigration Officer.....As I require a transit visa, I request the issue of a transit visa by paying the required fees. My details are as follows:

1. Name, Surname:2. Nationality: ... 3. Place of birth:
4. Date of birth:
5. Permanent address:
6. Occupation:
7. Passport No. :
8. Date of passport issue:
9. Date of passport expiry:
10. Reasons for making a request for a transit visa:
11. Name of country being visited (final destination) via Nepal:
12. Address in Nepal during transit duration:
13. Attached documents (if any):

14. Duration of transit visa requested (date) from: to (.....days)
Date :Signature of Applicant

For official use only

1. Granted period of transit visa:.....
2. Visa No. :
3. Visa sticker No:
4. Non-gratis / gratis (fee exemptions):
5. Reasons for fee exemption:
6. Visa issued on:.....
- Visa issuing officer.....
- Code No. (relevant).....
- If issued at an entry point.....

Schedule - 3(a), (Relating to Sub-Rule 2 of Rule 10(a))
Application form for a Non-Residential Nepalese Visa

To, His Excellency, The Ambassador,
Consul General,
Consul,
Director General,

I request a Non-Residential Nepalese visa to be issued to me. My details are as follows:

1. Name, Surname :
2. Nationality :
3. Place of birth :
4. Permanent address :
5. Address in Nepal :
6. Occupation :
7. (a) Passport No. (b) Date of issue:
8. Valid Date of last visa (if in Nepal) :
9. (a) Total period of previous stay(s) in Nepal :
- (b) Area involved in while staying in Nepal :
10. Grounds for requesting NRN visa and basis thereof:
11. Number of family dependents:
12. Other matters, if any, to be set out:
13. Documents attached :
- (a).....
- (b).....
- (c).....

Date :Signature of applicant

**Schedule 3 (b), (Relating to Sub-Rule 4 of Rule 10(a),
The Government of Nepal, Ministry of Home Affairs, Department of
Immigration
Non Residential Nepalese Visa**

1. Name, surname: 2. Nationality : 3. Place of birth : 4. Permanent address : 5. Address in Nepal : 6. Occupation : 7. Passport No. : 8. Date of decision of issuance of a Non-Residential Nepalese visa 9. Date of issuance of a Non-Residential Nepalese visa : 10. Date of Validity of a Non-Residential Nepalese visa: Date : Immigration Officer Code No. :
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Renewal of Visas

S.N.	Validity Period of visa	Date of renewal	Signature and Code No. of Immigration Officer
	From	To	

Schedule – 4, (Relating to Rule 11 (4))
Application form for a residential visa

His Excellency, The Ambassador,
Consul General,
Consul,
Director General,

As I wish to reside in Nepal, I hereby apply for the issue of a residential visa. My details are as follows:

1. Name, Surname:
 2. Nationality :
 3. Place of birth :
 4. Permanent address :
 5. Address in Nepal :
 6. Occupation :
 7. (a) Passport No. (b) Date of issue:
 8. Date of expiry of last visa (if already in Nepal) :
 9. (a) Total period of previous stay(s) in Nepal :
(b) Area involved in while staying in Nepal :
 10. Basis for requesting for a residential visa:
(a) Personal Honours/Decorations:
(b) To what field do you intend to render contribution to in Nepal :
(c) Whether investment of more than one million American Dollars has been made at one time .
(In Section 11 of the Immigration Regulation, 1994, (Including the 5TH Amendment 2007), the investment is stated as USD\$100,000(US\$ one hundred thousand) but here in the Schedule-4, it is written one million US dollars in the Nepali version)
 - Others :
 11. Number of family dependents:
 12. Other matters, if any, to be set out:
 13. Documents attached:
- Date :Signature of Applicant

Schedule 4 (a), (Relating to Rule 11 (5))
The Government of Nepal, Ministry of Home Affairs, Department of
Immigration
Application for Residential Visa

1. Name, Surname:
 2. Nationality:
 3. Place of birth:
 4. Permanent address:
 5. Address in Nepal:
 6. Occupation:
 7. Passport No.:
 8. Date of decision to issue residential visa:
 9. Validity period of residential visa:
 Date :Immigration Officer Code No. :

Renewal of Visa

S.N.	Validity Period of visa	Date of renewal	Signature and Code No. of Immigration Officer
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Schedule 5, (Relating to Rule 15)
Points of entry or exit

The points of entry and exit for foreign nationals requiring visas shall be as follows:

- (a) Kakadvitta, Jhapa
- (b) Tribhuvan International Airport, Kathmandu
- (c) Kodari, Sindupalchok
- (d) Birgunj, Parsa
- (e) Belahiya, (Sunauli) Rupendehi
- (f) Jamunaha, Nepalgunj, Banke
- (g) Mohana, Dhangadhi, Kailali
- (h) Gadda Chauki, Mahendranagar, Kanchanpur

Schedule -6, (Related to Rule 16(1))
Arrival Form for foreign nationals

1.	Name, Surname:
2.	Nationality:
3.	Gender: Male/Female
4.	Date of Birth:
5.	Passport No.:
6.	(a)Entry visa (b) Date of validity of visa:
7.	Occupation:
8.	Mode of arrival: Air/land
9.	Flight No.:
10.	Departure point:
11.	Country of origin:
12.	City/ State
13.	Whether first visit? Yes/No
14.	Single/Group:
15.	The address, place of stay and telephone contact.:
16.	Number of days and months for stay:
17.	Purpose of visit: (Official/ Business/ Trekking/ Expedition/ Traveling/ Rafting /Meeting/ Study/ Research/ Employment/ Others)
18.	Date of Entry: Signature of Applicant

Schedule -6(a), (Related to Rule 16(1))
Departure Form for foreign nationals

Name, Surname:	
1.	Date of Birth:
2.	Sex: Male/Female
4.	Nationality:
5.	Passport No.:
6.	(a) Entry visa:- (b) Date of validity of visa:
7.	Mode of Departure: Air/land
8.	Flight No.:
9.	Final Destination:
10.	Length of stay in Nepal: Days/Months:
11.	Date of departure:
Signature of Applicant	

Schedule -6(b), (Related to Rule 16(1))
Departure Form for Nepalese Citizens

Name, Surname:				
Date of Birth:	Day	Month	Year	Gender:: Male Female
Passport No.:	Date of issue:		Place:	
Validity of passport:				
Address in Nepal:				
Purpose of visit				
Official	Medical		Study/Training	
Sports	Business		Assembly/Seminar	
Religious	Entertainment		Others	
Flight no.:	Country of destination:		City:-	
Length of stay abroad:		Day	Month	Year
Date of departure :		Day	Month	Year
Signature of Applicant				

Schedule -6(c), (Related to Rule 16(1a))

Arrival Form for Nepalese Citizens

Name, Surname:			
Date of Birth: Day	Month	Year	Gender: Male- Female-
Passport No.:	Date of issue:	Place:	
Validity of passport:			
Address in Nepal:			
Flight no.:	Country visited:	Last city visited:	
Length of visit abroad:			
Date of arrival:	Day	Month	Year
Signature of Applicant			

Schedule -7, (Related to Rule 16(2))

Arrivals Records

Office
Date of Arrival
Flight No.
S.No.
Passport No.:
Nationality :
Sex:
Name:
Surname:
Address in Nepal:
Category of visa:
Visa No.
Duration of visa:
Remarks:
Prepared by:
Certified by:
Immigration Code No.:
Date:

Schedule -7(a), (Related to Rule 16(2))
Departures Records

Office	
Date of Arrival	
Flight No.	
S. No.:	
Visiting country:	
Nationality:	
Passport no.:	
Sex :	
Name:	
Surname:	
Address in Nepal:	
Entry Visa No.:	
Last visa validity:	
Date of Arrival:	
Remarks	
Prepared by :	Certified by:
Immigration Code No.:	Immigration Code No.:
Date:	Date:

Schedule -7(b) see rule, (Related to Rule 19(1))
Registration Records of location

Office: .
1. Serial No.:
2. Name, Surname:
3. Nationality:
4. Passport no. and duration:
5. Age:
6. Category of visa issued in Nepal:
7. Validity of visa:
8. Institution/office:
9. Location of the institution /office: District , Municipality/VDC , Ward No., Street, Phone No.
10. Position/occupation/type:
11. Address in Nepal: District, Municipality/VDC, Ward No., Street, Phone No.
12. Details of accompanying family members and dependents:

Serial No.	Name, Surname	Age	Passport No. and duration	Validity of visa	Relationship

Schedule -7(c), Related to Rule 19(1)
Record of Registered Location [Residency]Office:

1. Serial No.: 2. Name, Surname: 3. Nationality: 4. Passport no. and period of validity: 5. Category and validity of visa: 6. Number of family members: 7. Applicable amendments to the Registration Records of Location as declared by: 8. Period of validity: 9. Renewal of details:
--

Previous validity	Renewal date	Additional duration valid for	Signature of the assigning personnel

Schedule -7(d), (Related to Rule 19(1))
Registration Certificate of Location

<p><u>Regd.No.</u></p> 1. Name, Surname: 2. Nationality: 3. Passport No. and duration of validity: 4. Category of visa: 5. Validity of visa: 6. Name of agency/ institution: 7. Numbers of family members staying in Nepal: Certified by: Renewal details:

Validity	Certified by (signature)

Schedule – 8, (Relating to Rule 27)
Application form for extending the validity of a visa

To,
The Director General,
Immigration Department,
The Chief of Protocol, Ministry of Foreign Affairs

I hereby request that the term of my visa be extended free of charge or by collecting the required visa fees. My details are as follows.

1. Name, surname:
2. Nationality:
3. Place of Birth:
4. Date of Birth:
5. Permanent address:
6. Temporary address in Nepal:
7. Occupation:
8. (a) Passport No. :
- (b) Date of Issue:
- (c) Date of expiry:
- (d) Passport number and country -if holding a passport of any other country in your name:
.....
9. a) Place of issue of entry visa : b) Date :
10. a) Validity of last visa:
- b) Visa sticker No. : c) Entry visa No.:
11. Total period of stay in Nepal this year:
12. Types of visa requested:
13. Duration of visa requested (Date):Fromtodays)
14. Please mention if single/double/multiple entry visa has been requested for:
.....
15. Reasons for extending the validity of a visa
16. Amount set aside for stay in Nepal (state amount in foreign currency):
17. Date of departure from Nepal:
18. Exit point:
19. Next port of call:
20. Whether return air/bus ticket is confirmed:
21. Attached documents:

Date:
Signature of Applicant:

Schedule - 9*(Relating to Rule 29)
Visa Fees

1. Fees to be levied when issuing a tourist visa by a Mission and or entry point:

- Foreign nationals requesting to visit Nepal for the first time in visa year:-
- a. USD\$25 or other equivalent convertible foreign currency for a 15 day multiple entry visa.
 - b. USD\$40 or other equivalent convertible foreign currency for a 30 day multiple entry visa.
 - c. USD\$100 or other equivalent convertible foreign currency for a 90 day multiple entry visa.
 - d. Notwithstanding anything written in clause (a) and (b), no visa fee shall be applicable to a passport holder from a member country of the South Asian Association for Regional Cooperation (SAARC) for stays up to 30 days.

2. Fees to be levied for renewal or regularization of a tourist visa

- a. Nepalese currency equivalent to USD\$2 per day is payable to renew the validity of a tourist visa.
- b. In case a request has also been made for a multiple entry facility, valid only for the renewal period, an additional amount in Nepalese currency equivalent to USD\$20 is payable as referred to in clause (a).
- c. In regularizing a visa for any foreign national who has remained in Nepal without renewing a tourist visa, Nepalese currency equivalent to USD\$3 per day shall be levied in addition to the normal amount to be paid for a visa renewal as per this Regulation.
- d. Foreign nationals, who have already overstayed more than 150 days without renewing a tourist visa shall be levied fees referred to in clause 2(c) and additionally charged with a penalty referred to in section 10(4) of Immigration Act.
- e. Notwithstanding anything contained in clause 2(a), the period of visa fee shall be levied, for the purpose to renew a tourist visa for 15 days as referred to in clause 2(a).

3. Fees chargeable for the issue or extension of a student visa:

- a. A student visa must be issued at the time of entry for 30 days, at the cost of USD\$30 or for the equivalent convertible foreign currency.
- b. The issuing or extending of a student visa to a student studying a degree program and to their dependants, is chargeable in Nepalese currency

equivalent to USD\$20 per month, and at USD\$50 per month to a student studying a non-degree program and their dependants.

- c. For students from Bangladesh and their dependants a fee of Nepalese currency equivalent to USD\$15 per annum with a multiple facility is payable, on the basis of reciprocity.
- d. For students from the Maldives and their dependants, a fee of Nepalese currency equivalent to USD\$ 25 per annum is payable, on the basis of reciprocity.
- e. For students from Bhutan and their dependants, a fee of Nepalese currency equivalent to USD\$10 per month, is payable.
- f. Notwithstanding anything contained in clause 3(b), students from Sri Lanka and Pakistan should be provided a study visa without a fee on the basis of reciprocity. However, the dependants of these students shall be levied for a visa fee of Nepalese currency equivalent to USD\$10 per month.
- g. For dependants of foreign nationals, permitted to obtain a study visa gratis in Nepal on a teachers exchange program with Nepal based Universities and foreign Universities shall be levied with a fee of Nepalese currency equivalent to USD\$10 per month.
- h. Foreign nationals who come to teach and to do research with their dependants shall be levied with a fee of Nepalese currency equivalent to USD\$40 per month.

4. **Fees chargeable while issuing or extending the validity of a non-tourist visa:**

- a. If a 30 day non-tourist visa must be issued at the time of entry, a fee of USD\$30 American or equivalent convertible foreign currency is payable.
- b. Nepalese currency equivalent to USD\$5 per month is payable by a foreign national of Nepalese origin and the child of Nepalese parenthood, holding a foreign passport.
- c. Licensed journalists are to pay USD\$10 per month.
- d. Foreign nationals who serve in an office or project of the Nepal Government (directly involved in such office or project) must pay a levy of USD\$20 per month.
- e. In issuing a non-tourist visa to a foreign national who gets married to a Nepalese citizen, a fee of Nepalese currency equivalent to USD\$10 per month is payable.
- f. In cases where a foreign national father, mother, brother, sister or other relatives get married to a Nepali citizen, a fee of Nepalese currency equivalent to USD\$15 per month, is payable.
- g. Foreign nationals with work permits for any contract based on a Government of Nepal project or any public enterprise supported by the government, or any

citizen of the Peoples Republic of China working and residing in Nepal from before 1989, are to pay a fee of USD\$20 per month.

- h. Foreign nationals and their dependent family involved in Non-Governmental Organizations conducted under direct investment of a donor country, and as per an agreement reached between the Government of Nepal and the donor country, are to pay a fee of USD\$30 per month.
- i. All other foreign nationals are to pay a fee of USD\$60 per month.
- j. Notwithstanding anything mentioned in Serial No 4(e), a foreign woman married to a Nepali male citizen who already obtained a free visa as per the Regulation relating to Foreign Nationals, 1976 before the implementation of the Immigration Regulation 1994, shall be exempted from paying fees.

5. Fees to be paid for the issue or renewal of a business visa:

- a) The issue or renewal of a business visa for a multiple entry facility, for foreign nationals who enter Nepal for personal investment amounting to more than Rs.10 million and his/her dependent family or for the authorized representative of the entity, are to pay a fee of USD\$10 per month if the visa is to be issued for less than 12 months, or USD\$100 for a visa of 12 months, or USD\$300 if the visa required is for five years.
- b) The issue or renewal of a business visa under a multiple entry facility, for foreign nationals who enter Nepal with their dependent family or authorized representative of the entity, for personal investment amounting to less than Rs.10 million, are to pay a fee of USD\$30 per month if the visa is to be issued for less than 12 months, or USD\$300 for visa of 12 months, or USD\$1,000 if the required visa is for five years.
- c) Fee referred to in clause (a) of Serial No. 5 shall be levied for foreign traders who deal in exporting commodities produced in Nepal or purchase orders for their export.
- d) Notwithstanding anything contained in clause (a) and (b) of Serial No 5, under a multiple entry visa facility, foreign nationals who come to Nepal for personal investment amounting to more than Rs.100 million with their family or authorized representatives shall be exempt form paying fees.
- e) For foreign consultants [experts] and their dependent family, who come to Nepal for transferring technology, a fee shall be levied as referred to in clause (b) of Serial No.5.

6. Fees chargeable for the issue of a transit visa:

USD\$5-(or the equivalent convertible foreign currency).

7. Fees payable for a non-resident Nepalese visa:

USD\$100 or equivalent convertible foreign currency for 12 months, but at a discount rate 50% (percent) for students.

8. Fee to be paid for the issue or renewal of residential visas with a multiple entry facility: -

- a) Foreign nationals, will be charged a fee of USD\$200 for initial applications, and USD\$100 per annum for renewals thereafter.
- b) Foreign nationals referred to in clause (e) of sub-rule (1) of Rule 11, will be charged a fee of USD\$700 for initial applications, and USD\$1,200 per annum for renewals thereafter.
- c) Notwithstanding that contained in clause (b) of Serial No.8, foreign nationals residing in Nepal before the First Amendment, 2001 for Immigration Regulations, 1994 having obtained a visa in accordance with clause (e) of sub-rule (1) of Rule 11 of that Regulation, will be levied with a fee of USD\$100.

9. While regularizing visas for foreign nationals who have remained in Nepal, without obtaining the extended validity of business, student and or non-tourist visas:

- a) In cases where those who have remained in Nepal without getting the validity extended for a business, student and or non-tourist visa; upon receiving a re-recommendation form the relevant office for the same type of visa, an additional percentage of fees is chargeable pursuant to this Regulation for the visas used for the period; however, if the former visa is a tourist visa of 150 days, a fee shall be charged as referred to in Serial No. 2.
- b) If the re-recommendation of the visa is not produced under clause (a) of Serial No.9 and or within 150 days, a fee equivalent to the fee for regularizing or renewing a tourist visa as referred to in Serial No. 2 shall be charged; and if it exceeded a period of days, a fine pursuant to Section 10(4) of the Act shall also be charged.

10. If a single and or multiple entry facility must be obtained until another visas is valid (except a tourist visa) :

A fee of USD\$20 for a single entry and USD\$60 for a multiple entry is payable.

11. Other fees:

- (a) If a tourist visa or other visa must be issued to a foreign national who enters Nepal without obtaining a visa from an entry point, a fee chargeable pursuant to this Regulation plus an additional 50% (percent) levy is payable.
- (b) USD\$20 is payable for the issuing of travel documents.

- (c) USD\$2 is chargeable for the certification of an arrival, departure or transferring visa.
- (d) Notwithstanding anything contained in clause (a) of Serial No.11, when a Department issuing an entry visa to a foreign nationals exempt from paying fees as per these Regulations, enters Nepal without a visa from an entry point, the Nepali currency or equivalent fee as referred to in clause (a) or (b) or (c) of Serial No.1, except for minors below the of 10 year of age; as well as in regularizing visas for foreign nationals, to whom visa fee exemptions apply, if they have remained in Nepal without renewing a visa , (the guardian in the case of the children of below 16) and the passport holder in the case of others having attained 16 years of age; may be charged a fine in accordance with sub-rule (4) of Rule 10 of this Act.

12. Calculating visa fees:

Fees shall be calculated in computing the period required for the visa, so that fees can be charged for up to 15 days if a visa is for less than 15 days and for a month if the visa is for a period exceeding 15 days, but less than a month.

13. Fees to be paid by foreign nationals remaining without renewing a residential visa:

On renewal of a residential visa, foreign nationals who have remained in Nepal without applying for a renewal, shall be levied an additional fee of USD \$30 per month, further to what is payable as per this Regulation.

14. Fees to be paid by foreign nationals remaining without renewing a non-residential visa:

On renewal of a non-residential visa, foreign nationals who have remained in Nepal without applying for a renewal, shall be levied an additional fee of USD \$10 per month, further to what is payable as per this Regulation.

Schedule 10
(Related to rule 32)
Application Form for a Trekking Permit

To,
The Director General,
Immigration Department.

As I request to trek in the following area of Nepal, I hereby make my application setting out the following details. I hereby request that if the permit is granted to me to trek in the aforementioned area, I shall trek, subject to Immigration Regulations 1994 and prevailing Nepal laws.

1. Particular Tourist:-
Name, Surname:-
Nationality:-
Date of Birth :-
Permanent address :-
Temporary address :-
Occupation :-
Passport No. :-
Date of Issue of Passport :-
Place of Issue of entry visa :-
Date of visa expiry :-

2. Object of trekking:
3. Place of trekking:
4. Route of trekking:
5. Duration of trekking:- From To (.....days).
6. Place at where trekking begins: ...
7. Place at where trekking ends:..

8. Approximate expenditure for trekking:- (in equivalent convertible foreign currency)
Date :-

Signature of Applicant

NB:- If the route to the above-mentioned place is required, it must be submitted with your application.

Schedule -10(a), (Relating to Rule 32)
Application form for a trekking permit through an Agency
Subject:-Request for a trekking permit

To,
 The Director General,
 Immigration Department, Kathmandu.

As the following tourists desire to trek through our licensed trekking agency, I hereby request that a trekking permit be issued to them. A sum of Rs. is accompanied herewith for the permit fee. We have charged / will charge a total of Rs. for service fees (in equivalent convertible foreign currency). We shall oblige our clients to trek specifically in the permitted area and only along a specified route, observing all terms established by the Act and this Regulation.

The details of the tourists are as follows:

S.N.	Name, Surname	Nationality	Passport No. Date of expiry	Place and date of issue of entry visa	Place of arrival and date	Date of expiry of visa	Area and period of trekking from-to (days)	Place of start and end of trekking	Trekking route
1.									
2.									
3.									
4.									

Copy to:

The Tax Office, District of the authorized official of the

The Nepal Rastra Bank, licensed agency:

Foreign Exchange Division :

Name:

Surname:

The Tourism Department:

Signature

Tripureshwor, Kathmandu: Date :

N.B. : Original copies of the Tax Office and Nepal Rastra Bank documentation have to be submitted to the Immigration Department.

Schedule 11, (Relating to Rule 33)
The Government of Nepal, Ministry of Home Affairs, Immigration Department

TREKKING PERMIT

In accordance with Rule 33 of the Immigration Regulation, 1994 a permit is hereby issued to the following tourist to trek in the following area (except in the restricted areas within that zone) from (date).....to(date).....

1. Name, Surname :
2. Nationality :
3. Permanent address :
4. Temporary address in Nepal :
5. Passport No :
6. Validity of Nepalese visa : Date :
7. The area permitted for trekking :
8. The route specified for trekking :
9. Starting point for trekking :
10. Finish point for trekking:
11. Name of the trekking agency, if trekking is made through the agency:
12. Trekking permit No.:

Date :
 Immigration Officer
 Code No.

N.B. 1. Trekking in any area or along any route except for the specified area of a route shall be deemed to be a violation of law. A Trekking permit should be kept with the trekker while trekking. A Trekking permit must be shown to an immigration employee or the police whenever required.

Schedule 12, (Relating to Rule 39)
Trekking Permit Fees

1. For the Upper Mustang Area and Upper Dolpa Area: USD\$500 or other equivalent convertible foreign currency per person for the first 10 days, and USD\$50 for each person thereafter.
2. For Manaslu Area:
 - a) USD\$70 or other equivalent convertible foreign currency per person per week between September and November, and USD\$10 per day, for each person thereafter.
 - b) USD\$50 or other equivalent convertible foreign currency per person per week between December and August, and USD\$7 per day, for each person thereafter.

3. For the Area including the way to Tibet via Simikot, Yari in the Humla District:
USD\$50 or other equivalent convertible foreign currency per person per week, and USD\$7 for each person per day thereafter.
4. For Kanchanjunga and Lower Dolpa Area:
USD\$10 American per person per week.
5. For Gaurishankar and Lamabagar Areas:
USD\$10 American per person per week.
6. For Area of Chhekampar and Chunchet: For Chhekampar Chunchet VDC(Sirdibash-Lokpa-Chumling-Nile-Chhule) of Gorkha District:
USD\$35 per person for the first eight days from September to November, and USD\$25 per person from December to August.
7. In other trekking regions:
For other trekking regions, except the regions mentioned above, fee (in Nepalese currency or equivalent) as prescribed by the Government of Nepal in a notification published in the Nepal Gazette.
8. Fee cans be paid in Nepalese currency:
Notwithstanding anything contained in serial numbers 1, 2, 3,4,5,6 and 7 an Indian national can pay fees in Nepalese currency (equivalent to US Dollars) as mentioned above for the same serial numbers.

**Schedule -13, (Relating to Rule 44 (2))
Expulsion Order**

In relation to the acts committed by you, Mr. ... aged citizen of ... holding Passport No.issued on have violated the Immigration Act, Immigration Regulation and the prevailing Nepal law, this notice is hereby issued, by virtue of the decision of, that under Rule 44(2) of the Immigration Regulation, 1994, to have you been expelled from Nepal disqualifying you from entering into Nepalfromto

Acts committed
.....
Immigration Officer

The Passport Act, 2024 (1967)

Date of Royal seal and publication
September 27, 1967

Preamble: Whereas, it is expedient to issue a passport to Nepali nationals for visiting abroad.

Be it enacted by *His Majesty the King Mahendra Bir Bikram Shahdev* with the advice and consent of *the Rastriya Panchayat*.

1. **Short title, extent and commencement:**

- (1) This Act may be called "The Passport Act, 1967".
- (2) This Act shall be applicable to the entire country as well as to Nepali nationals irrespective of their place of residence.
- (3) This Act shall come into force immediately.

2. **Definitions:**

Under this Act "Passport" means the document issued by the Government of Nepal to Nepali nationals as a permit to visit listed foreign countries, for fixed durations, stated below.

3. **Acquiring a passport:**

A Nepali national must acquire a valid passport issued in his/her name before visiting a foreign country.

Exceptions apply in cases where provisions are afforded to a Nepali national who does not have to take a passport for a foreign visit, if a special Treaty or Agreement reached between the Government of Nepal and the Government of that foreign country exists.

4. **Power to issue a passport:**

The Government of Nepal as well as authorized Foreign Missions or Embassies of Nepal may issue a passport.

Provided that:

- (1) The passport issuing authority may refuse to issue a passport to a person with or without providing reasons.¹

¹ The Supreme Court of Nepal has issued an Order to the government of Nepal as of August 19th, 2009 to repeal this subsection, as it undermines the "Freedom of Movement" of a Nepali citizen.

- (2) The Government of Nepal may withdraw or cancel an issued passport at any time, with or without providing reasons², and,
 - (3) Nepali nationals visiting a foreign country, holding a passport, are obliged to observe the Orders or Directives relating to a Government of Nepal passport, irrespective of their residence.
5. **Penalty:** If a person acquires or attempts to acquire a passport using a false statement and or description, visits or attempts to visit a foreign country contrary to the provisions referred to in Section 3, or defies a Government of Nepal Order or Directive, or fails to use a passport in the prescribed way as per issue, or lends the passport to another, or uses another's passport, or commits any other offences contrary to this Act and the Regulations established under it, shall be sentenced to a years imprisonment and or fined up to Rs.500.
6. **The Government of Nepal as Plaintiff:**
 - (1) The Government of Nepal shall be the plaintiff for cases relating to the penalties mentioned in Section 5 and an official holding the rank of Inspector of Police or higher shall file a claim.
 - (2) If a person commits a crime under Section 5, or there are sufficient grounds to suspect that he has attempted to do so, any police personnel may arrest the accused with or without a warrant and present them to a police officer not below the rank of Inspector, for commencing legal proceedings.
7. **Establishing Rules:**
 - (1) The Government of Nepal may establish Rules for the proper execution of the objectives of this Act.
 - (2) Having no adverse effect on the universality of the authority referred to in subsection (1), the Government of Nepal may mainly deliberate on the following subjects when establishing Rules:
 - a) Passport categories and conditions,
 - b) Passports fees,
 - c) Passport renewals and related fees,
 - d) Other matters as required

² ibid

The Passport Regulations, 2059 (2003)

Date of publication in the Nepal Gazette
Jan.16, 2003

The Government of Nepal has established the following Rules in the exercise of the power delegated under Section 7 of the Passport Act, 2003.

1. **Short name, extent and commencement:**
 - (1) The name of this Regulation may be called "The Passport Regulation, 2003."
 - (2) This Regulation shall commence immediately.

2. **Definitions:** Unless the subject or context otherwise requires, in these Regulations:
 - (a) "Travel Documents" means the Travel Documents issued in accordance with Rule 8.
 - (b) "Family" means husband, wife, father, mother, son and or the single (unmarried) daughter of a passport holder,
 - (c) "Dependent" means the passport holder's husband, wife, son, daughter, and daughter in law, single (unmarried) daughter, father, mother, unmarried sisters as well as next of kin brothers including grandfather(s) and grandmother(s), in case of a man; and father in law and mother in law in the case of woman,
 - (d) "Ministry" means the Ministry of Foreign Affairs of the Government of Nepal,
 - (e) "Mission" means an Embassy of Nepal, Consulate General Office, Permanent Mission or Special Mission stationed in a foreign country.

3. **Passport category:** The following passport category may be issued or provided to a Nepali national for visits abroad:
 - (a) Diplomatic Passport,
 - (b) Official Passport, and
 - (c) Ordinary Passport

4. **Application and issuing of a Passport:**
 - (1) A Nepali national should apply for a passport from the Offices as mentioned in Schedule -1, with a copy of a Nepali Citizenship

Certificate and a Minor Identity Card (in the case of minors), and a certified copy of a Relationship Certificate and two passport sized photos attached, in the format referred to in Schedule- 2,

Original certificates should be produced to the responsible authority at the time of application.

- (2) In the cases of minors, having attained five years of age, his/her father, mother, or guardian shall apply in accordance with Schedule -1,
- (3) After an application is examined pursuant to sub-rule (1) or (2), if the Passport Issuing Office deems fit, it shall issue a passport in the format prescribed by the Ministry and the applicant shall be notified.
- (4) Notwithstanding that contained in this Rule, those applying for a Diplomatic or an Official passport may not have to attach a Citizenship certificate for the passport application process.

5. Diplomatic passport:

- (1) The Ministry or Missions shall, issue a diplomatic passport to the following without fees for the purposes of visits abroad:
 - (a) *Her Majesty the Queen, His Highness the Crown Prince, Her Highness the Crown Princess, the New Crown Prince, Her Highness Princess including other Members of the Royal Family,*
 - (b) *Traveling Team –Members for a foreign delegation made up of His Majesty the King, Her Majesty the Queen, the Crown Prince, the Crown Princess and the New Crown Prince,*
 - (c) Prime Minister, Chief Justice, Speaker of the House of Representatives, Chairperson of the National Council, President of the Standing Committee in the *Royal Council*, Deputy Prime Minister, Ministers, Leader of the Opposition Party in the House of Representatives, Deputy Speaker in the House of Representatives, Deputy Chairperson of the National Council, State Minister, Member of the Standing Committee in the Royal Council, Vice-Chairperson of the National Planning Commission, Justice of the Supreme Court, Assistant Minister, Member of the House of Representatives and the National Council , Chief of the Army Staff, Member of the National Planning Commission, Chief Commissioner of

- the Commission for Investigation for the Abuse of Authority(CIAA), Auditor General, Chairperson of the Public Service Commission, Chief Commissioner of the Election Commission, Attorney General, *Badda Gurujyu*, Governor of the Nepal Rastra Bank, Commissioner of CIAA, Commissioner of the Public Service Commission, Commissioner of the Election Commission;
- (d) Officers of Special Class in the services of the *Royal Palace*, Civil Service, Nepal Army, Nepal Police and Armed Police Forces,
 - (e) Gazetted Officers of the Nepal Administration Service diplomatic team,
 - (f) Traveling team-member with the Prime Minister on a formal foreign visit,
 - (g) Traveling member representing the Government of Nepal at the UN General Assembly, Special Assembly and General Assembly of any UN specialized Agency, General Assembly of Asian Development Bank, Summit –Conferences of South Asian Association of Regional Cooperation (SAARC) and Ministerial meetings as well as international and regional summits –conferences;
 - (h) The Nepalese Ambassador, Permanent Representative of Nepal at the United Nations, Chief of Mission and members of his/her family and the personnel deputed for the Mission and members their family,
 - (i) Any person deputed to the Special Mission representing the Government of Nepal, and
 - (j) Any specified person as decided by the Government of Nepal for a diplomatic passport for any particular purpose.
- (2) If a diplomatic passport holder discharging duty in a foreign country is accompanied by a spouse, a diplomatic passport may be issued to him/her.

6. Official passport:

- (1) The Ministry or Missions, shall issue an official passport (fees exempt) to a person visiting abroad for discharging his/her duty:
 - (a) Other officers of the *Royal Service*, Civil Service, Nepal Army, Nepal Police and Armed Police, other than the personalities holding a diplomatic passport as referred to

- in Section 5,
- (b) President of the District Development Committee and Mayor of the Municipality,
 - (c) Vice Chancellor of the University as established by the Government of Nepal, Vice Chancellor of Nepal Intellectual Academy, Vice Chancellor of Nepalese Academy and Science, and
 - (d) Any specified person as selected by the Government of Nepal for a diplomatic passport for any particular purpose.
- (2) Notwithstanding whatever contained in sub-rule (1), an official passport may be issued to a person nominated by the Government for study abroad for a scholarship or to officers of the *Royal Palace*, Civil Service, Nepal Army, Nepal Police and Armed Police Force for a study visit.

7. Ordinary passport:

- (1) An ordinary passport may be issued to a Nepali national and to his dependant minors who have attained five years' of age.
- (2) An ordinary passport shall be issued by the Ministry or Mission or from the District Administration Office as prescribed by the Government of Nepal.
- (3) The concerned District Administration Office may issue an Ordinary Passport to the following persons:
 - a) Any Nepali national living in any district having obtained a citizenship certificate,
 - b) Any incumbent personnel and his/her dependents - serving in the *Royal Service*, Civil Service, Nepal Army, Nepal Police, Armed Police or Public Enterprises upon the recommendation of the relevant district, without the requirement of a citizenship certificate.
- (4) The Ministry may issue an ordinary passport to the following persons:
 - a) To a Nepali national other than a person who permanently resides in the Kathmandu Valley - serving as local personnel for a foreign diplomatic Mission stationed in the Kathmandu Valley upon the recommendation of the relevant Mission, that he/she must immediately visit abroad for Mission's tasks;
 - b) To a Nepali national requiring medical treatment in a foreign country - upon the recommendation of the Nepal Medical

Board or from the patient's doctor, with sufficient reasons to believe that it is impracticable to apply for a passport from the District Administration Office (DAO) - wherefrom the patient had earlier obtained a citizenship certificate,

- c) To a Nepali national who urgently requires a passport, with sufficient reasons to believe that it was impracticable to obtain a passport from the District Administration Office –wherefrom he/she had obtained a citizenship certificate due to time constraints.
- (5) Notwithstanding that contained in this Rule, the relevant Mission shall issue an ordinary passport to a Nepali national residing in a foreign land.

8. Travel documents:

- (1) Travel documents will be issued under the following circumstances:
 - (a) Any stranded Nepali national residing in a foreign land duly applying with documents as required to acquire an ordinary passport from the relevant Mission or nearest Mission, stating the inability to return home, due to his/her passport either being lost or expired,
When there is not an established Nepalese Mission in that country and the family members of such Nepali national duly applied to the Ministry with all the necessary documents to acquire an ordinary passport - including recommendations from the Village Development Committee or the Municipality or Ministry of Labor, travel documents may be issued to him/her .
 - (b) Any refugee residing in Nepal who intends to visit a specified country for a particular purpose, may apply to the Ministry with a recommendation from the Ministry of Home Affairs, or an stateless (alien having no Mission of his/her country in Nepal), applies with the necessary documents including a police report to the Ministry, stating their inability to return home due to the loss or expiry of their passport,
 - (c) Foreign nationals (stateless or denied travel documents to visit the country of their foster parents by a respective foreign Mission in Nepal) who have adopted Nepali children, may apply for a recommendation from the Ministry for Women, Children and Social Welfare,

- (2) After applications pursuant to sub-rule (1) are examined, if the Ministry or Mission, deems fit, it may issue travel documents to an applicant, as prescribed by the Ministry.
- (3) The validity of travel documents pursuant to sub-rule (1), shall be prescribed by the Passport Issuing Authority. In cases where the duration is not fixed, the validity of such travel documents shall generally be for 12 months.

9. Fees relating to passports and travel documents:

- (1) The fees for an ordinary passport and travel documents shall be paid in accordance with Schedule 3(a) from the prescribed date by notice in the Nepal Gazette.
- (2) Until the publication of a Gazette notice pursuant to sub-rule (1), the fees for an ordinary passport and travel documents shall be customary to that in existence at the time of commencement of this Rule.

10. Validity of a passport:

- (1) A diplomatic passport shall be issued to *Her Majesty the Queen, His Highness the Crown Prince, Her Highness the Crown Princess, and His Highness the New Crown Prince for life, and other members of the Royal Family* for up to five years at a time,
- (2) Except as referred to in sub-rule (1), a diplomatic or official passport issued to other officials or persons shall be generally valid for 12 months, subject to the Passport Issuing Authority regulations.
- (3) After the termination of the validity of a passport pursuant to sub-rule (1) or (2), the Passport Issuing Authority may, as necessary extend a term in the same passport booklet.
- (4) The validity of an ordinary passport shall be mentioned in the passport. After the termination of these periods, a passport shall not be renewed in the same booklet.

11. New passport to be issued:

- (1) Once a category of passport has been issued to a person, a passport of the same category shall not be issued during the validity of the former.
However, a new passport shall be issued under the following circumstances:
 - a) If a passport becomes old, illegible or damaged through

- wear and tear,
 - b) If all pages in a passport are full and no space exists to affix a visa or apply an endorsement,
 - c) In cases of lost passports, the applicant should include a police report from a local police post, attaching proof of an advertised explanation regarding the loss, officially published in a national newspaper,
 - d) If the validity of a passport is expired, and
 - e) If an applicant submitted travel documents obtained in accordance with Rule 8 (1) clause (a),
- (2) In issuing a new passport pursuant to sub-rule (1), all the process should be duly completed as referred to in Rule 4.

12. **Cancellation notification for a lost passport:**

- (1) When issuing a new passport pursuant to sub-rule (1) Clause (c) of Rule 11, the Ministry shall have to notify a cancellation of a lost passport to the relevant office and to the foreign Missions stationed in Nepal –mentioning the holders name and passport number. In cases of passport losses in a foreign country, and where a relevant Mission issues a new passport to a stranded Nepali national, the Mission shall notify the cancellation of the lost passport to the Immigration Office and to all foreign Missions citing bearer details of the lost passport.
- (2) While issuing a new passport pursuant to sub-rule (1) clause (a),(b) and (c) of Rule 11, the Ministry must mention details as established in the new passport.

13. **Passport and travel document records must be maintained:**

- (1) Under these Regulations, the Passport Issuing Authority shall maintain records of passports and travel documents issued, as referred to in Schedule -4,
- (2) The Ministry shall maintain records of passports and travel documents issued by the Ministry and Missions,
- (3) The Ministry of Home Affairs shall maintain records of passports and travel documents issued by the District Administration Office (DAO),
- (4) Passport and travel documents issued by the Ministry of Home Affairs and the Missions, should be submitted on a quarterly basis to the Ministry, in aggregate.

14. **Endorsement of a name and photo of a mentally handicapped person and minors (under 5 years of age):**

- (1) In cases where any person is to be accompanied by a mentally handicapped person and a minor below the age of five years, he/she should notify the Passport Issuing Authority with details thereof,
- (2) After examining applications pursuant to sub-rule (1), if the Passport Issuing Authority deems fit, the name and photos of the mentally handicapped person and or of the minor below than five years of age will be endorsed in the passport, subject to the prescribed format for fees as referred to in clause (b) of Schedule 3.

15. **Amendments to a passport and travel document:**

- (1) Under this Regulation, if any provisions are to be amended as mentioned in a passport and or travel document, the passport holder may apply to the Passport Issuing Authority,
- (2) After examining an application pursuant to sub-rule (1), the Passport Issuing Authority, if it deems fit, may amend or add any provisions in the passport and or travel document in a prescribed format with fees as referred to in Schedule 3.

16. **No passport shall be used for any other purpose:**

- (1) Except members of the *Royal Family*, officials shall use a passport as issued under Rule 5 or 6, only for the objective it was issued for.
- (2) After completion of the objective of a passport pursuant to sub-rule (1), the passport holder or his next of kin, shall submit a passport as issued under Rule 5 or 6 to the Ministry or Mission.
- (3) If any passport holder wishes to retain a passport as issued under Rule 5 or 6 for memorabilia, the Ministry or the Mission shall cancel such passport and return it to the holder.

17. **Inspection and Supervision:**

- (1) The Ministry, through an officer, may inspect and supervise the District Administration Office (DAO) at least once a year, in relation to passport distribution and management. The assigned officer, shall submit a report thereof to the Ministry in a prescribed format as referred to in Schedule 5,
- (2) The Ministry and Missions shall update a copy each of the passport and the travel documents, as well as the name and

signature of the Passport Issuing Officer, and shall send this information to the Ministry and the Immigration Department.

18. **Power to alter a schedule:**

The Government of Nepal may alter Schedules upon publishing a notice in the Nepal Gazette.

19. **Repeal and Saving:**

(1) The Regulation, 1971 has been repealed.

(2) The acts and actions carried out under the Regulation, 1971 shall be deemed to have been done under this Regulation.

Note: The words written in *italics* are irrelevant today since the proclamation of the Interim Constitution of Nepal, 2007. Regulation is yet to be amended.

Special Note: Schedules in all the Acts are subject to change.

Schedule-1, (Relating to sub-rule (1) of Rule 4)

Offices dealing with passport applications

1. The Ministry or Missions for diplomatic and or official passports,
2. The Ministry or Missions or District Administration Office for ordinary passports

Schedule- 2, (Relating to sub-rule (1) of Rule 4)

Passport applications

Schedule- 3, (Relating to Rule 9, sub-rule (2) of Rule 14 and sub-rule (2) of Rule 15)

- a) Fees for an ordinary passport and travel document:
- b) Fees relating to endorsements or changes to an ordinary passport and travel document:

Schedule- 4, (Relating to sub-rule (1) of Rule 13)

Passport and travel documents records

Schedule- 5, (Relating to Sub-rule (1) of Rule 17)

Inspection and supervision report form

Part VII

The Legislative Framework for Arms and Explosives

Explosive Substance Act, 2018 (1961)

Date of Royal Seal: 2018.02.13 (26.05.1961)

Date of Publication: 2018.02.15 (29.05.1961)

An act made to maintain the production, utilization, selling, transportation and import activities of explosive substances

Preamble:

Whereas it is expedient to organize the production, possession, utilization, selling, transportation and import activities of explosive substances for the maintenance of peace and order.

Pursuant to the Article 93 of the Constitution of Nepal, His Majesty King Mahendra Bikram Sahdev has established this Act.

1. **Short title, extent, and commencement:**

This Act may be cited as the " Explosive Substance Act, 1961".

This Act shall be applicable throughout the Kingdom of Nepal.

This Act shall come into force from the date designated by the Government of Nepal by a notice published in the Nepal Gazette.

2. **Definitions:** In this Act, unless the subject matter or context requires otherwise shall mean:

(a) "Explosive Substances" means:

- (i) gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powder, mercury or other metal flint that causes substance damage when exploded and any other substance produced or used with the intent to cause effect with explosion whether or not such substance is equivalent to those mentioned; and,
- (ii) fog signals, fuse rockets, percussion ca, detonator, bomb and other ammunition of all type, and any other substance resembling with or containing or prepared by the explosives mentioned in subsection (1);
- (iii) to include machine or tools, which can be used in producing or making explosive substances;
- (iv) The substances listed under Section 3 declared as explosive substances by the Government of Nepal and published in the Nepal Gazette,

- (b) "Production" refers to those techniques under which any explosive substances shall be separated or split into parts or using a technique that brake down readymade or broken substances into function, and also the techniques that reproduce, alter or repair any explosive substance;
- (c) "Load Carrier" means, vehicle, cart, chariot, rickshaw, boat, *tanga* (two wheel carrier pulled by a horse), including any other means of transportation for goods or passengers through water, land and or air;
- (d) "Import" means an activity that brings effects into the Kingdom of Nepal;
- (e) "License" refers to a license issued under this Act;
- (f) Prescribed or as prescribed means prescribed or in the manner established in the rules or orders promulgated under this Act.

3. Authority to declare explosive substance:

The Government of Nepal, by way of notices placed in the Nepal Gazette, may declare any substance as an explosive substance if such substance contains an inherent explosive element, or due to the potential of an explosion when using required techniques during the course of its production if observed to be dangerous to life or property of an individual, and for the purpose of this Act every substance so declared shall be cited as an explosive substance.

4. Control on the production, possession, utilization, disposition, transportation and import of an explosive substance:

No one may with or without a license, devoid of the following terms and conditions established herein, produce, possess, use, sell, transport or import explosive substances.

Any one who wishes to obtain a license or renew a license to produce, possess, use, sell, transport or import explosive substances, shall submit an application, with the required detail, in the designated format to the Chief District Officer. The terms of a license, fees to be charged, and date of expiry shall be as prescribed by law.

Pursuant to this Act or the regulations established under this act, the Chief District Officer if required may give an applicant notice, to amend a license as required.

Anyone who wishes to amend a license should submit an application containing the items to be amended and the reasons for amendment to the Chief District Officer. The fees for these amendments shall be as prescribed by law.

5. The Government of Nepal preserves the authority to prohibit and control the activity of the production, use, trade, transportation, import and or possession of an explosive substance: notwithstanding anything stated in other sections of this Act, if the Government of Nepal for the purpose of public security deems it necessary, it may, by way of notice placed in the Nepal Gazette; totally or

partially prohibit the activity of producing, possessing, using, trading, transporting or importing any explosive substance.

6. Power to inspect, search, seize and remove:
 - (i) The Chief District Officer, any Gazetted Officer or at least an assigned sub-inspector ranking police officer may inspect and examine, and upon paying the value, may obtain samples of explosive substances which are under production, possession, use, trade, or imported by a license holder.
 - (ii) If reasonable grounds exist indicating that production, possession, use, trade, or import of any explosive substance are contrary to this Act or Regulations, the Chief District Officer, any Gazetted Officer or at least an assigned sub-inspector ranking police officer, may enter a site or load carrier in order to inspect, examine, search, and or seize explosive substances.
7. Power to arrest: If information is realised that a suspect is about to commit an act which is punishable by this Act or Regulation, and due to that pending activity any production site, store, railway line, airport, load carrier or surroundings may potentially explode or set fire; any an onsite police officer, a police representative, servant or any other person authorized by him, administrators staff (at airports or railway [stations]); may without a warrant arrest a [suspect] person and hand him over to the Chief District Officer within twenty-four hours, exclusive of travel time.
8. Notification of an accident: If an explosion occurs during production, storage, use, or on a transportation vehicle, during the process of loading and unloading, or in a place surrounding a load carrier; and causes conflagration damage to personal life, property and mass casualties; the occupant of such place, owner or captain of such load carrier should inform the principle in-charge at the nearest police station or post as prescribed within the designated timeframe.
9. Investigation of an accident:
 - (i) If an accident as described in Section 8 occurs at a place, load carrier or in its vicinity under the control of Royal Nepal Army, the relevant authority of the Royal Nepal Army should investigate the causes of an accident, and if the accident occurred for other reasons, the Chief District Officer should examine the causes.
 - (ii) The Army authority under subsection (1) or an authority dispatched by the Government of Nepal shall entertain all powers commensurate to the Chief District Officer, and if perceived to be essential and appropriate, may also use the powers of a Chief District Officer as laid down in Section 6 for the purposes of investigation.
 - (iii) The person in charge of investigating an accident under this Section should submit a written report describing the causes and nature of the accident.

- (iv) Upon (of before) receipt of a report in accordance with subsection (3), the Government of Nepal, may, issue an order to halt an investigation process, and require an alternate authority to investigate the causes of such accident.
 - (v) The authorities dispatched to make an investigation under this Section shall have powers commensurate to a trial court in accordance with the prevailing laws, including the summoning of witnesses, the order of essential items [necessary to an investigation], and to collect statements and testimonies.
10. Punishment and confiscation:
- (1) Anyone without a proper license as per Section 4 or in violation of Section 5, who produces, possesses, uses, sells, transports or imports the following explosive substances, shall be sentenced and punishment for the following indictments:-
 - (a) For nitro-glycerine, dynamite, blasting power, mercury or metal flunata-a maximum period of two years imprisonment and or a maximum fine of Rs. 20,000 or;
 - (b) Fireworks and sparklers, and other explosive substances –a maximum imprisonment for one year and or a maximum fine of Rs. 10,000;
 - (c) For fireworks and sparklers a maximum fine of Rs. 1,000.
Provided that if punishment is sanctioned in respect of the same explosive substance for producing, importing or [general] use, no separate punishment shall be imposed for an act of possession and transportation.
 - (d) If any person violates the terms and conditions of a license obtained under Section 4 or violates the regulations adopted under this Act, matters relating to clause (a) of subsection (1) shall be fined at a maximum rate of of Rs. 5,000 and matters relating to clause (b) at Rs. 2,000, and clause (c) at Rs. 500.
 - (2) Explosive substances mentioned under Section 4 or 5, if confiscated, shall remain under the possession of the Government of Nepal.
11. Saving of Nepal laws on arms and ammunition: No provision contained in this Act shall have any effect on the armed and ammunition laws of Nepal. Notwithstanding, the Chief District Officer who confers a license for the activity of producing, using, selling, transporting or importing an explosive substance, under the regulations adopted pursuant to this Act, may designate a licence as being subject to other arms and ammunition related laws.
12. Punishable by other law: No provision of this Act or related Regulation shall restrict punishment by other Nepal law, if the crime punishable by this Act is also punishable by other law, or imposes a more severe punishment.

13. Saving and power to not to apply:
 - (1). No provision set forth in this Act shall be applied in relation to the production, use, transport or import made by the following person or authority:
 - By the Nepal Army personnel pursuant to the Regulation adopted by the Government of Nepal; and
 - By any Government of Nepal Ministry or Administrative Office.
 - (2) The Government of Nepal, by publishing a notification in the Nepal Gazette, may make a declaration that all or any provision of this Act or Regulations adopted hereunder, may be subject to conditions that make it inapplicable, in relation to [selected] explosive substances.
14. Power to establish a Regulation: In order to implement the objectives of this Act, the Government of Nepal may establish Regulations.
15. Repealed.

Arms and Ammunition Act, 2019 (1963)

Date of Royal Seal: 2019.10.22 (04.02.1963)

Date of Publication: 2019.10.23 (05.02.1963)

Preamble: Whereas it is expedient to amend and consolidate current Nepal law relating to arms and ammunition in order to maintain security, peace and order in Nepal, His Majesty's King Mahendra Bir Bikram Shal Dev has enacted this law under Article 93 of the Constitution of Nepal.

1. Short title, extent and commencement:

- (1) This law May be called the "Arms and Ammunition Act, 1963".
- (2) This law shall be applicable throughout the Kingdom of Nepal.
 - (a) Provided that no provision of his Act, shall be applicable in case arms and ammunition are manufactured, repaired, converted from one form to another, sold, supplied, for the purpose of sale, carried, retained personally or under one's custody, exported, from the Kingdom of Nepal to a foreign country, imported from a foreign country into the Kingdom of Nepal or transported from one district of the Kingdom of Nepal to another in accordance with orders issued by His Majesty's Government, or by any government employee in his official capacity in the course of the discharge of his duties.

2. Definitions:

Unless in contradiction to the subject or context, in this Act,

- (a) "Cannon" means all categories of cannon and mortars and parts thereof, vehicles used for the transport or installation of such cannon, as well as machinery and equipment used in its manufacture,
- (b) "Machine-gun" means Bren guns, Louis guns, station-machine carbines, Thompson machine carbines, and other similar automatic weapons and parts thereof, vehicles used for the transport, installation and manufacture,

- (c) "Arms" include rifles, guns, pistols, revolvers, mines, grenades and parts thereof, as well as machinery and equipment used for the manufacture of such weapons,
- (d) "Ammunition" includes fog signals, fuses, gunpowder, capes, bullets, shots, detonators, cartridges and other similar categories of ammunition,
- (e) "License" means a license obtained under this Act in respect to arms and ammunition, and a License-holder means the person who obtains such license,
- (f) Prescribed or as prescribed means prescribed or in the manner established in the rules or orders promulgated under this Act.

3. Prohibition to manufacture, possess, convert from one form to another, or to sell cannons and machine-guns as well as arms and ammunition without a license:

- (1) No person shall manufacture cannon or machine-guns, repair or possess them, convert them from one form to another, sell, or supply them.
- (2) No Person shall manufacture arms or ammunition, repair or possess them, convert them from one form to another, sell, hold or supply them for the purposes of sale, without obtaining a license, or without fulfilling the terms and conditions prescribed in the license.

Provided that in case any person possesses arms or ammunition in a lawful manner for his personal use, no provision contained in subsection (2) shall prevent him from selling such arms or ammunition to any person not prohibited by law for the time being in force. When selling such arms and ammunition, prior information shall be supplied to the Chief District Officer with particulars of the name and address of the purchaser and of the sale.

4. Prohibition to import or export:

- (1) A person shall not import, export nor transport a cannon or machine-guns from a foreign country into the Kingdom of Nepal (*vice versa*).
- (2) A person shall not import, export nor transport a cannon or machine-guns from a foreign country into the Kingdom of Nepal (*vice versa*), without obtaining a license, or without fulfilling conditions prescribed in the license.

5. Prohibition to carry arms without a license:

- (1) No person shall move about with arms in his possession without obtaining a license, or without fulfilling the term and conditions prescribed in a license.
- (2) In case any person moves about with arms in his possession without a license, or in contravention of the provisions of the Act, a police officer of assistant sub-inspector or higher rank, or the Chief District Officer, or a person deputed by him, may arrest such person without warrant and seize such arms. The police officer of a person deputed by the Chief District officer who makes such arrest or seizure shall produce the arrested person as well as the seized arms before the Chief District Officer within 24 hours, excluding travel time.

5A. Prohibition to carry arms during elections:

Notwithstanding anything contained elsewhere in this Act, no person other than government employees dealing with security shall carry licensed arms in election constituencies during the fixed period for submitting applications for candidature elections for Members of the House of Representatives or the National Assembly, as well as to local bodies of villages, towns or districts, and up to seven days after the announcement of election results.

6. Search and arrest of persons suspected to be carrying arms and ammunition

- (1) In case any person is suspected of having exported, imported or transported arms and ammunition from the Kingdom of Nepal to a foreign country, (*vice versa*) without a license, he may be personally (including his chattels/vehicles used to carry arms and ammunition) searched by a police officer of assistant sub-inspector or a higher rank, and if arms and ammunition are discovered, an arrest and confiscation can be made without a warrant.
- (2) A person arrested and any arms or ammunition discovered shall be handed over to the Chief District Officer within 24 hours, exclusive of travel time in accordance to this section.

7. Office or post conducting search:

His Majesty's Government may, if deemed necessary, establish a post for the purpose of searching for arms or ammunition on the border between

Nepal and a foreign territory, and the person empowered by His Majesty's Government may stop vehicles, porters or animals on the move and carry out appropriate searches.

8. Prohibition on the storage of arms and ammunition at prescribed places:
His Majesty's Government may, by notification in the Nepal Gazette, prohibit any person from storing arms or ammunition of designated categories at prescribed places.
9. Arms or ammunition to be surrendered to the police:
 - (1) In case the possession of arms or ammunition by any person becomes unlawful by reason of an expiry of a license term for the possession of such arms or ammunition, or by the cancellation of such license, or by the publication of a notification under Section 8, or otherwise, such arms or ammunition shall be handed over to the local police office, who shall receive the arms or ammunition and take action according to current law.
 - (2) After handing over arms and ammunition under subsection(1), the person doing so may again acquire the following rights even before the expiry of the time-limit prescribed in the rules established under this Act :
 - (a) To get back arms or ammunition handed over when possession becomes lawful.
 - (b) To sell or arrange for the sale of arms or ammunition handed over to any person entitled to be in possession thereof according to law and or to appropriate the profits of such sale.
 - (c) Provided that nothing contained in this subsection shall be deemed to have conferred the right to regain possession of or sell any arms or ammunition confiscated under Section 16.
 - (3) Arms or ammunition that are not handed back within the prescribed time limit under subsection (2), and thus accumulate, shall accrue to His Majesty's Government.
 - (4) Without prejudice to the generality of the preceding sections, His Majesty's Government may establish rules in relation to the following matters:
 - (a) Circumstances and conditions under which a license holder is required to hand over arms or ammunition, and

- (b) The time limits on expiry of which arms or ammunition are to be confiscated under subsection (3).

10. Procedure for obtaining a license renewal:

- (1) Any person desirous of obtaining a license under this Act shall submit an application in the prescribed form with the established fee to the Chief District Officer.
- (2) Upon receipt of an application submitted by any person under subsection (1), the Chief District Officer shall conduct the necessary inquiries. After perusing an application, if deemed appropriate, he shall issue a license in the prescribed manner, subject to established conditions.
- (3) The term of every license issued under subsection (2) and the procedures for renewal thereof (place and fees), shall be as prescribed.

11. Power to cancel or suspend a license:

- (1) The Chief District Officer may, if he deems necessary for the maintenance of public peace and security, cancel or suspend any license in part or in full, for the entire area under his jurisdiction thereof, indicating reasons for his decision.
- (2) Any license holder convicted of an offence under this Act or the Rules framed hereunder, may be subjected to a license cancellation or suspension made by the Chief District Officer.
- (3) His Majesty's Government may, by notification in the Nepal Gazette, cancel or suspend any or all licenses throughout the Kingdom of Nepal.

12. Power of the Chief District Officer to search and impound:

In case any Chief District Officer has reliable information to the effect that any person residing in his jurisdiction is in possession of any arms or ammunition without a license, or for unlawful purposes, or in case he has reason to believe that it will not be in the interests of public safety to allow such person to possess such arms or ammunition, he may search or arrange for the search of a house, compound or any other place under suspicion, and impound any arms or ammunition, whether licensed or unlicensed, after submitting written grounds for such search.

The Chief District Officer in the presence of an employee from another government office may conduct a search.

13. Power of His majesty's government To Impound:
His Majesty's Government may, if deems necessary in the interests of public security, order the impounding of arms or ammunition in the possession of any person at any time, even if he holds a license.
14. Power of His Majesty's Government to enforce:
His Majesty's Government may, by notification in the Nepal Gazette from time to time, exempt any person, a specified area, arms or ammunition of any particular type, from any or all provisions of this Act, or enforce any amended provision as specified in such notification.
15. Power to control arms or ammunition:
His Majesty's government may, by notification in the Nepal Gazette from time to time; direct any person in possession of any arms or ammunition at any place, as specified by the prescribed authority.
After the publication of such notification, all concerned persons in possession of arms or ammunition shall submit such particulars as may be sought by the prescribed authority, and show the authority such arms or ammunition, as required.
16. Power to confiscate arms or ammunition:
Any person convicted of any offence punishable under this Act by the Chief District Officer, may have all arms or ammunition connected with the offence, including vehicles, animals, boxes or bags, confiscated and accrued in favour to his Majesty's Government.
17. Military arms or ammunition to be confiscated in the event of a submitted report
In case any person imports military rifles, pistols, revolvers and similar arms of an official marking after obtaining a license, he shall provide necessary evidence and company invoices within the prescribed time limit before the authorities. If a person fails to produce such arms or ammunition within the prescribed time limit, except, on reasonable grounds, His Majesty's Government may confiscate his weaponry without recourse to compensation.

18. Information to be supplied with regard to an offence:
Any person who obtains information regarding a matter involving an offence punishable under this Act shall transmit such information within a reasonable time to the Chief District Officer or a police station.
19. Time limit for information and action:
No Legal action other than the submission of complaints shall be instituted against any person for any action taken in accordance with this Act, except in the following circumstances:
- (a) When he has sent a written notice to the relevant person at least one month in advance, indicating his intention to and reasons for instituting legal proceedings,
 - (b) When he has instituted such legal action within a period of three months from the date of the cause.
20. Penalties:
- (1) Any person who commits any of the following offences shall be punished with imprisonment for a term not exceeding 7 years, and or a fine not exceeding Rs, 2,000:
 - (a) Manufactures, repairs, possesses, converts, supplies for the purposes of sale a cannon or machine-gun in contravention of the provisions of subsection (1) of Section 3, or
 - (b) Exports, imports or transports a cannon or machine-gun of any category in contravention of the provisions of subsection (1) of Section 4.
 - (2) Any person who commits any of the following offences shall be punished with imprisonment for a term not exceeding 2 years, and or with a fine not exceeding Rs, 1,200:
 - (a) Manufactures, repairs, possesses, converts, or supplies arms for the purposes of sale in contravention of the provisions of subsection (2) of Section 3,
 - (b) Exporting, importing or transporting arms of any category in contravention of the provisions of subsection (2) of Section 4 or,
 - (c) Moving about with arms in contravention of the provisions of Section 5 or,
 - (d) Personal possession or retention under one's control of arms of any category in contravention of Section 8,

- (e) Failure to hand over arms in accordance with the provisions of Section 9,
- (3) Any person who commits any of the following offences shall be punished with imprisonment for a term not exceeding 6 months, and or with a fine not exceeding Rs. 300:
- (a) Manufacture, repair, possession, conversion, sale, supply or possession for the purposes of sale of arms in contravention of the provisions of subsection (2) of Section 3,
 - (b) Exporting, importing or transporting a cannon or machine-gun of any category in contravention of the provisions of subsection (2) of Section 4 or
 - (c) Personal possession or retention under one's control of arms of any category in contravention of Section 8,
 - (d) Failure to hand over arms in accordance with the provisions of Section 9.
21. Penalties in case arms or ammunition are deliberately handed over or purchased from an unauthorized person:
- (1) Any Person who commits any of the following offences shall be punished with imprisonment for a term not exceeding 6 months, and or with a fine not exceeding Rs 3,000:
- (a) The purchase of arms from an unauthorised person as under subsection (2) of Section 3, or
 - (b) The deliberate handing over to any person who is unauthorized to possess or purchase weaponry.
- (2) Any person who commits any of the following offences shall be punished with imprisonment for a term not exceeding 2 months, and or with a find not exceeding Rs 100:
- (a) The purchase of arms from an unauthorised person as under subsection (2) of Section 3, or
 - (b) The deliberate handing over to any person who is unauthorized to possess or purchase weaponry.
22. Punishment in the event of a violation of license conditions:
If a person commits any act violating the conditions or regulations of a license, he shall be punished with imprisonment for a term not exceeding 3 months, and or with a fine not exceeding Rs 150.

23. Other Penalties:
- (1) Any person, who obtains knowledge of any matter involving an offence under Section 18 and fails to inform the Chief District Officer or a police station, shall be punished with imprisonment for a term not exceeding one month, and or with a fine not exceeding Rs 500.
 - (2)
 - (a) If a person, who is directed to submit particulars of arms or to produce them before the authority prescribed under Section 15, fails to do so, he shall be punished with imprisonment for a term not exceeding one month, and or with a fine not exceeding Rs. 50.
 - (b) In case a person is directed to submit particulars of ammunition or to produce them before the authority prescribed under Section 15, fails to do so, he shall be punished with imprisonment for a term not exceeding 20 days and or with a fine not exceeding Rs 35.
 - (3) In case any person violates any provision of this Act or the rules established hereunder, punishment shall be ordered as prescribed, and if punishment has not been prescribed, he shall be punished with imprisonment for a term not exceeding one month, and or with a fine not exceeding Rs 50.
24. Jurisdiction regarding disposal of cases:
- (1) Original jurisdiction with regard to a hearing and disposal of a case relating to offences punishable under this Act shall vest in the Chief District Officer.
 - (2) An appeal against the final order or judgment issued by the Chief District Officer under subsection (1) may be filed with an appellate court in accordance with current law.
25. Reward for an informant:
- Any person who provides information with regard to any matter or action contravening the provisions of this Act shall be given a reward of 25% of the fine collected from an offender, initiated on the basis of the information supplied by him if he is a government employee, and 50% of such fine in case he is not a government employee.

26. Power of His Majesty's Government to establish Rules:

- (1) His Majesty's Government may establish rules in order to implement the objectives of this Act.
- (2) Without Prejudice to the generality of the power conferred by subsection 9), These rules may, in particular, provide for any or all of the following matters:
 - (a) Category and number of arms for which licenses are issued,
 - (b) Forms of licenses to be issued in respect to arms or ammunition, and conditions and restrictions to be imposed while issuing licenses,
 - (c) Term of such licenses,
 - (d) License fees,
 - (e) Maintenance of accounts or records in the prescribed form of matters or actions according to the license by every license-holder, issuance of directives to produce such accounts or records in case government employees desire to inspect them,
 - (f) Conferment of authority by the Chief District Officer to any government employee to enter into any place where arms or ammunition are manufactured or sold, in order to conduct an inspection or to audit accounts,
 - (g) Issue directives to any person who manufactures or sells goods mentioned in the license, to show arms or ammunition possessed by him or retained by him under his control to any person empowered by His Majesty's Government,
 - (h) Submission of accounts and records by any person who possesses arms or ammunition to a person empowered by His Majesty's Government to conduct an inspection,
 - (i) Arrangements for the renewal of licenses,
 - (j) Arrangements for permission to open shops or factories for arms or ammunition within the Kingdom of Nepal,
 - (k) Issue licenses for foreign countries,
 - (l) The categories of guns, rifles, pistols and revolvers to be enumerated in official bore,

27. Repeal:

The following Nepal laws have been repealed:

- (a) Arms and Ammunition Act promulgated under the *Khadga Nishana* order approved on Falgun 25, 1965 (approximately March 8, 1909,) and amendments made thereto from time to time.

- (b) Section 99 of the *Amini jafta*.
- (c) Section 4 of the 1955 Tarai District Administration Act.
- (d) Section 58 of the *Amini* Regulations.
- (e) The following words contained at the beginning of Section 4 of the Kathmandu Valley Commissioner and Magistrate's Regulations:
 - a. The inspector general of police shall issue licenses for the import of arms and ammunition from foreign countries and for the purchase of arms and ammunition existing inside the country. He shall also issue passes for hunting. The *Sardar Kotwali* Office shall issue passes for the possession of arms, and,
 - b. clauses (a) and (b) of the Regulations have been repealed.
- (f) Section 109 and of the Central Police Headquarters Office Regulations.
- (g) Section 61 of the Tarai District Police Inspector Regulations.
- (h) Order issued on *Falgun* 14, 2002(February 25, 1946) in the name of the Director General of the Nepal Police Office.
- (i) Additional Regulations issued on *Chaitra* 13, 2003 (March 26, 1947) in the name of inspectors according to a report approved on *Falgun* 7, 2003(February 18, 1947).
- (j) All other orders and regulations relating to arms and ammunition.

Arms and Ammunition Regulation, 2029 (1972)

History;

Consolidated text:

1. Short title and commencement:
2. Definition:
3. Arms and ammunition for which licenses must be obtained;
4. Number of arms for which licenses may be issued:
5. Application for obtaining a license:
6. Inquiries to be conducted while issuing licenses:
7. Issue of licenses
8. Quantity of arms and ammunition allowed for possession and purchase:
9. License fees and term of validity:
10. Renewal fees:
 - 10A. Special arrangements requiring renewal:
11. Authorities renewing licenses:
12. Renewal of licenses in another area:
13. Authority to renew license through agent:
14. A Replacement license is to be obtained in the event of loss:
15. Entries of licenses to be cancelled:
16. Maintenance of records:
17. Transfer of arms:
18. Issue of license to persons enjoying diplomatic immunity:
 - 18A. Power to keep old guns after destroying the bore or removing bolts thereof:
19. Obligation of taking back arms and ammunition which are surrendered to a police station within three months:
 - 19A. Surrender of arms
 - 19B. Payment of compensation:
 - 19C. Compensation Determination Committee:
 - 19D. Powers to make changes or alterations in Schedules:
20. Saving:

Schedule – 1 (a), (Pertaining to Rule 5 (a))

Schedule -1 (b), (Pertaining to Rule 5 (a))

Schedule – 2, (Pertaining to Rule 5(b))

Schedule – 3, (Pertaining to Rule 5(c))

Schedule – 4, (Pertaining to Rule 5(d))

Schedule – 5 (a), (Pertaining to Rule 5(e))
Schedule – 5 (b), (Pertaining to Rule 5(f))
Schedule – 6, (Pertaining to Rule 7(1))
Schedule – 7 (1), (Pertaining to Rule 7(1))
Schedule – 8, (Pertaining to Rule 7(1))
Schedule – 9, (Pertaining to Rule 7(1))
Schedule – 10, (Pertaining to Rule 7(1))
Schedule – 11, (Pertaining to Rule 7(1))
Schedule – 11A, (Pertaining to Rule ...)