

The Interim Government of Nepal Act

In pursuance of Section 15 of Interim Government of Nepal, Third Amendment, Act, 2010, the Interim Govt. of Nepal Act is hereby published for general information.

Preamble: Whereas, by his proclamation dated February 18, 1951, His Majesty the king of Nepal expressed his desire and resolve that his people should thenceforth be governed according to the provisions of a Democratic Constitution framed by a constituent Assembly, elected by them:

And whereas, by the same proclamation His Majesty the king of Nepal had expressed his desire and resolve that until such constitution was framed, there should be a council of Ministers to aid and advice him in the exercise of his functions:

And whereas, by the same proclamation His Majesty the king of Nepal had constituted and appointed a council of ministers to aid and advise him in the exercise of his functions:

And whereas, it is necessary that during this interim period the interim Government should function according to a constitution and certain rules and principles:

Now, therefore, His majesty the king of Nepal, on the advice of his council of ministers, is accordingly pleased to ordain and promulgate the following act.

Part-I

1. Short title and commencement: (1) This Act shall be called the Interim Government of Nepal Act.

(2) It shall come into force immediately.¹

¹ 29th Chaitra, 2007

2. **Interpretation**: The Nepal laws (interpretation) Act shall apply in the interpretation of this Act.

Part-II

Directive Principles of State Policy

3. **Application of the provisions of this part**: (1) The provisions of this part shall not be enforceable by any court in Nepal; and no Nepal law, whether enacted before or after the commencement of this act, and no rule or order made under any such law, shall be deemed to be invalid by reason only that it is inconsistent with the provisions of this part.

(2) Subject to the provisions of Sub-section (1), the principles laid down in the provisions of this part shall be treated by the Government as being fundamental in the governance of the country; and it shall be the duty of the Government to apply the said principle in adapting the existing Nepal laws as early as possible, as well as in framing laws hereafter.

4. **Social order**: The Government shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all the institutions of the national life.

5. **Social conditions for citizens**: The Government shall, in particular, direct its policy towards securing:

- (a) That the citizen, men and women equally, have the right to an adequate means of livelihood;
- (b) That the ownership and control of the material resources of the community are so distributed as best to sub serve the Common good;

- (c) That the operation of the economic system does not result in the concentration of wealth and means of production to Common detriment;
 - (d) That there is equal pay for equal work for both men and women;
 - (e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocation unsuited to their age or strength;
 - (f) That childhood and youth are protected against exploitation and against moral and material abandonment.
6. **Village panchayats**: the Government shall take steps to organize village panchayats and endow them with such Powers and authority as may be necessary to enable them to function as units of self-Government.
7. **Unemployment, old age, sicknesses etc.**: The Government shall, within the limits of its economic capacity and Development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.
8. **Condition of work and maternity relief**: The Government shall make provision for securing just and humane conditions of work and for maternity relief.
9. **Living wage, decent standard of life, etc.**: The Government shall Endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and, in particular, the government shall endeavour to promote cottage industries on any individual or co- operative basis in rural areas.

10. **Civil code**: The Government shall Endeavour to secure for the citizen a uniform civil code throughout Nepal.
11. **Weaker sections**: The Government shall promote with special care the education and economic interests of the weaker sections of the people, and shall protect them from social injustice and all forms of exploitation.
12. **Protection of monuments**: It shall be the obligation of the Government to protect every monument or place or object of artistic or historic interest from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.
13. **International relations**:- The Government shall endeavour to:
 - (a) Promote international peace and security;
 - (b) Maintain just and honorable relations between nations;
 - (c) Foster respect for international law and treaty obligations in the dealings of organized peoples with one another, and
 - (d) Encourage settlement of international dispute by arbitration.
14. **Equality before law**: The Government shall not deny to any person equality before the law or the equal protection of the laws within the territory of Nepal.
15. **Discrimination on grounds of religion, race, cast, sex, etc.**: (1)
The Government shall not discriminate against any citizen on grounds only of religion, race, cast, sex, and place of birth or any of them.

(2) Nothing in this section shall prevent the Government from making any special provision for women and children.
16. **Equality of opportunity**: (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the Government.

(2) Nothing in this section shall prevent the Government from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, which, in the opinion of the Government, is not adequately represented in the service under the Government.

(3) Nothing in this section shall effect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the Governing body there of shall be a person professing a particular religion or belonging to a particular denomination.

17. Fundamental principles of law: Fundamental principles of law:-

(1) No tax shall be levied or collected except under the authority of law.

(2) Subject to the laws for the time being in force, all citizens shall have the right.

- (a) To freedom of speech and expression;
- (b) To assemble peaceably and without arms;
- (c) To form associations and unions;
- (d) To move freely throughout the territory of Nepal;
- (e) To reside and settle in any part of Nepal;
- (f) To acquire, hold, and dispose of property;
- (g) To practice any profession or to carry on any occupation, trade, or business.

18. Rule of law: the Government shall ensure that:-

(1) No person is convicted of any offence except for violation of law in force at the time of the commission of the act charged as an offence, nor is subjected to a penalty greater than that which might have

been inflicted under the law in force the time of the commission of the offence.

(2) No person is prosecuted and punished for the same offence more than once.

(3) No person accused of any offence is compelled to be a witness against himself.

19. Personal liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law or rules made by Government for the public goods, or for the maintenance of public order or the security of the state.

20. Traffic in human beings, beggary:- (1) Traffic in human beings and beggars and other similar forms of forced labour shall be prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this section shall prevent the Government from imposing compulsory service of public purpose, and in imposing such service the Government shall not make any discrimination on grounds only of religion, race, cast or class or any of them.

21. Children: No child bellow the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Part-III

Chapter -1

The Executive

22. Executive power exercisable by king, minister and others: (1) The executive power of the state vesting in the king shall be exercisable

by him either directly or through ministers or other officers subordinate to him;

Provided that, nothing in this section shall be construed as affecting the validity and operation of any Nepal law conferring powers and functions upon authorities subordinate to the king.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the defense forces of Nepal shall be vested in the king.

23. Grant of pardons reprieves etc: (1) The Government shall have power to grant pardons, reprieves, respites, or remissions of punishment, or to suspend, remit or commute the sentence of any person convicted of any offence by any court in Nepal or by a court martial.

(2) Nothing in Sub-section (1) shall affect the power conferred by law on any officer of the Armed forces of Nepal to suspend, remit or commute a sentence passed by a court martial.

Council of ministers

24. Council of ministers: (1) There shall be a council of ministers with the prime minister at the head, to aid and advise the king in the exercise of his functions.

(2) The question any, and, if so, what, advice was tendered by ministers to the king, shall not be enquired into any court.

25. Appointment and tenure of ministers: (1) the prime minister shall be appointed by the king and the other ministers shall be appointed by the king, on the advice of the prime minister.

(2) The ministers shall hold office during the pleasure of the king.

(3) The Council of Ministers shall be collectively responsible for the advice tendered to the king.

26. Executive action to be expressed to be taken in the name of Government: (1) all executive action of the Government of Nepal shall be expressed to be taken in the name of Government.

(2) Orders and other instruments made and executed in the name of the Government shall be authenticated in such manner as may be specified in rules to be made by the Government, and the validity of an order or instrument, which is so authenticated, shall not be called in question on the ground that it is not an order or instrument made or executed by the Government.

(3) Rules making power: The Government shall make rules and instructions for the more convenient transaction of the business of the Government of Nepal, and for the allocation among the ministers of the said business.

27. Duty of prime minister: It shall be the duty of the prime minister-

- (a) To communicate to the king all decision of the council of ministers relating to the administration of the affairs of Nepal;
- (b) To furnish such information relating to the administration of the affairs of Nepal as the king may call for: and
- (c) If the king so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

Procedure in financial matters

28. Annual financial statement (budget):-The Government shall, in respect of every financial year, cause to be prepared a statement of the estimated receipts and expenditure of the Government of Nepal for that

year. This statement shall be known as the Annual financial statement (budget).

29. **Passing of the annual financial statement**: The annual financial statement shall be laid before the advisory Assembly and the Assembly shall have power to discuss and vote upon any demand or grant or exceptional grant.

Provided that, nothing in this section shall be deemed to entitle the Advisory Assembly to consider the demand for His Majesty the king's Privy Purse or matters connected therewith.

Provided further that, the provisions of sections 56, 57, 58 shall be applicable to all considerations under this section.

Chapter-2

Legislative power

30. **Legislative power of the king**: For the avoidance of doubt, it is hereby declared and affirmed that, notwithstanding anything contained in any Nepal law or in any judgment of any court, the king has and continues to have sovereign and plenary powers to make laws for the peace, order, and good Government of Nepal.

31. **Legislation initiated by the council of ministers**: (1) In enacting laws for the peace, order and good Government of Nepal, the king may act on the advice of the council of ministers, in accordance with the provisions of this section.

(2) It shall be lawful for the council of ministers to submit a bill for the consideration of the king.

(3) The king may assent to a Bill submitted to him under Sub-section (2), or he may withhold his assent thereto, or he may return the Bill with a message requesting that the council of ministers will reconsider the Bill or Any specified provisions thereof, and, in

particular, consider the desirability of introducing any such amendment as he may recommend, and the council of ministers shall reconsider the Bill accordingly.

(4) If the king assents to any Bill so submitted, the Bill shall become law and have effect accordingly.

(5) This section shall have effect subject to the provisions of chapter IV.

Provided that, it shall be lawful for the council of ministers to submit, for the consideration of the king, a Bill which has not been considered and approved of by the advisory Assembly-

- (i) If no Advisory Assembly has been constituted under the provisions of chapter IV; or
- (ii) If the Advisory Assembly constituted under the provisions of chapter IV is not in session and the council of ministers consider that it is necessary, in the public interest, immediately to enact a law as proposed in the Bill.

Chapter-3

Judiciary

32. **Pradhan Nyayalaya**: (1) There shall be a *Pradhan Nyayalaya*.

(2) The constitution, powers and functions of the *Pradhan Nyayalaya* shall be as determined by law.

Chapter-4

The Advisory Assembly General

33. **Constitution**: (1) There shall be constituted an Advisory Assembly for Nepal consisting of so many members as His Majesty the king may determine, who will be selected by His Majesty the king from qualified

citizens of Nepal, and, of all the members of the council of Ministers, Ministers of state and Deputy Ministers as its ex- officio members.

(2) The Advisory Assembly shall cease to exist on the formation of a constituent Assembly.

34. Selection of members:- The non-official members shall be selected, as far as possible, as representatives of various areas, classes and interests of Nepal.

35. Qualifications: A person shall not be qualified to be selected as a member of the Advisory Assembly unless he-

- (a) is a citizen of Nepal;
- (b) is not less than 25 years of age; and
- (c) does not possess any disqualification as described in the next Section.

36. Disqualifications: (1) A person shall be deemed to be disqualified for selection as a member of the Advisory Assembly, if he-

- (a) holds any office of profit under the Nepal Government,
- (b) is convicted or found guilty of any offence involving moral turpitude or corrupt or illegal practice, and
- (c) is of unsound mind.

For the purpose of this section a person shall not be deemed to hold an office of profit under the Government of Nepal by reason only that he is a member of the council of Ministers of Nepal or is a Minister of state or a Deputy Minister.

(2) No one shall be deemed to be a member of the Advisory assembly till he has taken the oath of office.

37. Vacation of seat: (1) A member of the adversary Assembly shall be deemed to have vacated his seat if-

- (a) he tenders his resignation in his one hand –writing to the Speaker of the Advisory- Assembly;
- (b) he becomes subject to a disqualification mentioned in Sec. 36.
- (c) he absents himself from all the sittings of the Assembly for a period of Twenty Five days without the permission of the Assembly.

In computing this period of Twenty Five days, no account shall be taken of any period during which the Assembly was prorogued or his adjourned for more than four consecutive days.

(2) If any question arises as to whether a member of the Assembly has become subject to any of the disqualification mention in Sec. 36. The question shall be referred for the decision of His Majesty the King and his decision shall be final.

38. Salary and allowances of member: The salary and allowances of the members of the Assembly shall be as fixed by the King.

39. If a person sits or votes as a member of the advisory Assembly before he has taken an oath or affirmation or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he sits or votes, to a penalty of *Moru* 100 to be recovered from him as a debt due to Government.

40. The right of filling any vacancy in the Assembly shall vest in His Majesty the King.

Officers of the Assembly

41. Election of speaker and Deputy Speaker: Under the president ship of a member or any other person so nominated by the King, the

Advisory Assembly shall at its first meeting choose two members to be respectively Speaker and Deputy Speaker thereof and so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be the Speaker or Deputy speaker as the case may be. The election of the speaker and the Deputy Speaker shall be made by a majority vote and the ex-officio members shall not be entitled to seek election to these posts.

42. Vacation of office of Speaker and Deputy Speaker: The Speaker or Deputy Speaker of the Assembly-

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time, by writing under his hand addressed to His Majesty the king, resign his office; and.
- (c) may be removed from his office by a resolution of the Assembly passed by Two-Third majority vote.

43. Absence of Speaker or Deputy Speaker: (1) while the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the Assembly as His Majesty the King may appoint for the purpose.

(2) In any sitting of the Assembly, the deputy Speaker shall in the absence of the Speaker act for the Speaker and if the Deputy speaker is also absent then a person selected by the assembly according to rules shall perform such functions of the Speaker.

44. Speaker's, Deputy Speaker's right of vote: The Speaker, or the Deputy Speaker, any other member when he is acting for the Speaker, shall have no right to vote in the first instance but may exercise a casting vote in the case of equality of votes.

45. **Speaker, Deputy Speaker not to sit when resolution about their removal is under consideration:** When a resolution to remove the speaker is under consideration in the Assembly, then the speaker and when a resolution to remove the Deputy Speaker is under consideration then the Deputy Speaker, shall not attend the meeting of the Assembly.
46. **Salary and allowances of Speaker, Deputy Speaker:** The salaries and allowances of Speaker and the Deputy Speaker shall be as fixed by the king.

Summoning of the Assembly and its session

47. **Summoning of the Assembly:** (1) the Advisory Assembly shall be summoned at least twice in every year, and six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.
- (2) Subject to the provision of Sub-section (1) above, His Majesty the King may from time to time-
- (a) Summon the Advisory Assembly to meet at such time and place as he thinks fit, and
 - (b) Prorogue the Assembly.

48. **King's address to Assembly:** At the Commencement of every session of the advisory Assembly, His Majesty the king shall address it and inform it of the causes of its summons.

49. **King's message to Assembly:** (1) His Majesty the king may address the advisory Assembly and for that purpose require the attendance of members;

(2) His Majesty the king may send messages to the Advisory Assembly, whether with respect to a matter pending before the Assembly or otherwise, and the Advisory Assembly shall by all

convenient dispatch consider any matter required by the message to be taken into consideration.

Conduct of Business

50. Oaths of members: Every member of the Advisory Assembly shall, before taking his seat, make and subscribe before His Majesty the king or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the first schedule.

51. Decision by majority vote: (1) Save as otherwise provided in this act, all questions at any sitting of the Assembly shall be determined by a majority of votes of the members present and voting, other than the speaker or the person acting as speaker.

(2) No proceeding in the Assembly shall be held to be invalid on account of any vacancy in the membership there of or it being discovered subsequently that some person who was not entitled so to do, sat or voted or took part in the proceedings.

(3) Quorum: The quorum to constitute a meeting of the Assembly shall be 25 members.

(4) If at any time during a meeting of the Assembly there is no quorum, it shall be the duty of the speaker, or the person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Special privileges of the members

52. Freedom of speech: (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Assembly, there shall be freedom of speech in the Assembly.

(2) No member of the Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof, and no person shall

be so liable in respect of the publication by or under the authority of the Assembly of any report, paper, votes, or proceedings.

Powers of the Advisory Assembly

53. **Discussions Exceptions:** The Adversary Assembly may discuss any matter connected with the legislative and executive functions of the Government, save.
- (a) any question or matter the discussion of which might affect the friendly relations of the Government of Nepal with any foreign power;
 - (b) any question regarding the person or personal conduct of His majesty the king or a member of the Royal family;
 - (c) any matter, the disclosure of which will not be in public interest such as the movements and postings of the troops;
 - (d) any motion expressing censure of or want of confidence in any Minister or the cabinet as a whole.
54. **Voting upon bills:** It shall be necessary for the promulgation of any law to get it discussed and voted upon in the advisory Assembly before obtaining the approval of His Majesty the king.
55. **Questions:** Any member of the Assembly may put questions regarding any matters connected with the legislative or executive functions of the Government of Nepal except on the subjects excluded in section 53.
56. **Non-official bill or resolution:** Any member of the Assembly may, with the permission of the Speaker and in accordance with the rules of procedure of the Assembly, move a bill or a resolution for the consideration of the Assembly.
57. **King's refusal to assent:** His Majesty the King may, in his discretion, refuse to give his assent to any bill or resolution passed by the

Assembly or may return it to the Assembly for such changes or amendments as he may deem fit.

- 58. Certification by King:** If any Government bill or resolution is rejected by the Assembly or if the Assembly does not accept the changes or amendments suggested by His Majesty the King and if His Majesty the king consider that bill or their changes or amendments to be in public interest, he may certify the said Bill or their changes or amendments to have been passed by the Assembly.
- 59. Rule making:** His majesty the King may make Rules for regulating, subject to the provisions of this act, the procedure and the conduct of business of the Assembly.

Chapter-5

Comptroller and Auditor General of Nepal

- 60. Appointment, Salary:** (1) There shall be a comptroller and Auditor General of Nepal who shall be appointed by the Government.
- (2) The salary and other conditions of service of the comptroller and Auditor General will be the same as those of the judge of the *Pradhan Nyayalaya*.
- 61. Forms of accounts:** The accounts of Nepal Government shall be kept in such form as the comptroller and the Auditor General of Nepal may, with approval of the king, prescribe.
- 62. Reports:** The reports of the comptroller and Auditor General of Nepal relating to the accounts of the Nepal Government shall be submitted to the King.

Part – IV

63. Public acts, records, judicial proceedings: (1) Full faith and credit shall be given throughout the territory of Nepal to public Acts, records and judicial proceedings of the country.

(2) Final judgment or order delivered or passed by civil courts in Nepal shall be capable of execution anywhere in Nepal according to law.

Part -V

64. Public Service Commission: There shall be a public Service Commission for Nepal consisting of a chairman and so many other members as the King may prescribe.

65. Appointment: The chairman and other members of the public Service Commission shall be appointed by the Government.

66. Salary, conditions of services: The salary and other conditions of service of the chairman and members of the public Service Commission shall be the same as for the judge of the *Pradhan Nyayalaya*.

67. Duties: (1) It shall be the duty of the Public Service Commission to conduct examinations for appointment to all service of Nepal Government.

(2) The Public Service Commission shall be consulted-

- (a) on all matters relating to methods of recruitment to Civil Service and for civil posts;
- (b) on the principles to be followed in marking appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotion or transfers;

- (c) on all disciplinary matters affecting a person serving under the Government of Nepal in a civil capacity, including memorials or petitions relating to such matters, and it shall be the duty of the public Service Commission to advise on any matter so referred to it and on any other matter which the King may refer to it,

Provided that, the King may make regulations specifying the matters in which either generally or in any particular class of cases or in any particular circumstances, it shall not be necessary for a Public Service commission to be consulted.

Part-VI

Elections

- 68. Early elections:** The aim of the Interim Government shall be to create conditions, as early as possible, for holding elections for the constituent Assembly which will frame a constitution for Nepal.
- 69. Commission:** (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, these elections, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with these elections shall be vested in a Commission (referred to in this Act as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the King, under the advice of his Ministers, may from time to time fix, and the appointment of the chief Election Commissioner and other Election Commissioners shall be made by the king, under the advice of his ministers.

(3)The conditions of service and tenure of office of the Election Commissioners shall be such as the King may by rules determine;

Provided that, the chief Election Commissioner and the Election Commissioners shall not be removed from their offices, except in the manner and on the like ground as a judge of the *Pradhan Nyayalaya* and their conditions of service shall not be varied to their disadvantage after their appointments.

70. **General electoral roll**: There shall be one general electoral roll for every territorial constituency for these elections, and no person shall be ineligible for inclusion in any such roll for any such constituency on grounds only of religion, race, caste, sex or any of them.
71. **Adult suffrage**: These elections shall be on the basis of adult suffrage, that is to say, every person who is a citizen of Nepal and who is not less than 21 years of age on such date as may be fixed in that behalf by the King and his council of Ministers and is not otherwise disqualified under the rules to be framed for this purpose on the ground of none residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter.
72. (a) The validity of any law or rule relating to the delimitation of constituencies, made in accordance with this Act, shall not be called in question in any court.
- (b) No such election shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by the rules made by the King and his council of Ministers.

Part-VII

73. The Government of Nepal Act, 2004 *Sambat* (1949AD) is, hereby, repealed.

Schedule

I. Form of oath of office for a member of the council of ministers

"I _____, do swear in the name of God
Solemnly affirm

that I will bear true faith and allegiance to His Majesty, the king and the Interim Government of Nepal Act, as by Law established that I will faithfully and conscientiously discharge my duties as a Minister for Nepal and that I will do right to all manner of people in accordance with the Interim Government of Nepal Act and the other laws without fear or favour, affection or ill-will."

II. Form of oath of secrecy for a member of the council of Minister

"I _____, do swear in the name of God
Solemnly affirm

that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my considerate on or shall become known to me as a minister for Nepal except as may be required for the due discharge of my duties as such Minister".

III. Form of oath or affirmation to be made by a member of the Advisory Assembly

"I _____, having been nominated a member of the Advisory Assembly,
do swear in the name of God
Solemnly affirm

that I will bear true faith and allegiance to His Majesty the king and the interim Government of Nepal Act as by law established and that I will faithfully discharge the duty upon which I am about to enter".