

Bill made to provide for the Social Welfare Council

Preamble: Whereas, it is expedient to make law related to social welfare to promote participation and effectiveness in the area of social development nongovernmental organizations working in the field of social welfare and development making transparent and accountable and having mobilized coordinated; to direct the activities carried out by nongovernmental sector to social welfare and developmental activities; and to provide for monitoring, evaluation and regulation of such organizations Legislative Parliament has enacted this Act in accordance with Article 296 of the Constitution of Nepal.

Chapter 1

Preliminary

1 Short title and commencement:

(1) This Act may be called "Social Welfare and Development Act, 2073".

(2) This Act shall come into force immediately.

2 Definitions: In this Act unless the subject or context otherwise requires, -

- a. "Chairperson" means chairperson of the Council of Directors.
- b. "Vice Chairperson" means vice chairperson of the Council of Directors.
- c. "Treasurer" means treasurer of the Council of Directors.
- d. "International Non-Governmental Organization" means nongovernmental organization registered in abroad and engaged in social welfare and development activities in Nepal or assisting in such activities.
- e. "Member Secretary" means member secretary of the Council as appointed in accordance with Section 14.
- f. "Prescribed" or "prescribed" means prescribed or as prescribed, in Rules framed under this Act.

- g. "Donor Agency" means foreign government or organization/institution that provides support in social welfare activities or activities of social service or development.
- h. "Project" means programme or activities prepared by organization for social welfare and developmental activities.
- i. "Council" means Social Welfare Council in accordance with Section 5.
- j. "Board" means Executive Board in accordance with Section 10.
- k. "Ministry" means Ministry of Women, Children and Social Welfare.
- l. "National Non-Governmental Organization" means the organization registered as per Nepalese law without having an objective of distributing profit or dividend and recognized under present Act and the term also denotes the trust established in accordance with current laws.
- m. "Charter" means the charter of non-governmental organization.
- n. "Member" means members of the Council including the Chairperson, Vice-chairperson, Treasurer and Member-secretary and Members as ex-officio.
- o. "Social Welfare and Development Activities" means activities related to equitable development and transformation of Nepali Society, welfare, empowerment, financial uplift and rehabilitation of women, children, senior citizens, gender minorities, persons with disabilities, Dalit, neglected communities and economically indigent citizens.
- p. "Organization" means national nongovernmental organization and international nongovernmental organization.
- q. "Council of Directors" means Council of Directors in accordance with Section 7.

Chapter 2

Conduction of Social Welfare and Development Programme

3 Social Welfare and Development Programme:

For the purpose of assisting all round development of country by various activities related to social welfare and development, Government of Nepal may conduct social welfare and development programmes through relevant ministry, body and social organizations.

4 Special Programme related to Social Welfare and Development:

Government of Nepal may conduct following special programmes through the Council to undertake programmes related to social welfare and development:

- a. Protecting and promoting the interests of women;
- b. Providing welfare to children, aged, helpless and persons with disabilities;
- c. Providing dignified and respectful livelihood to the persons victimized by various types of social infirmities;
- d. Providing support to poverty alleviation, income generating and skill development;
- e. Undertaking social development, social justice, empowerment, and human rights activities.

Chapter 3

Establishment of the Council

5 Establishment of the Council:

1. Social Welfare Council shall be established facilitating the actions of the associations and organizations working in the field of social welfare and development activities to streamline them into a mainstream of development and to conduct activities systematically to coordinate, mobilize and promote assistance without having any adversity to national

integrity, sovereignty, religious, ethnic and social goodwill and incompatibilities to the foreign and security policy of the country directly or indirectly.

2. Headquarters of the Council shall remain in Kathmandu Valley.
3. The Council may open and operate its offices in any places across Nepal as necessary.

6 The Council shall be an Autonomous Incorporated Institution:

1. The Council shall be and autonomous and incorporated institution with continuous perpetuation.
2. The Council have its own office seal for its official functions.
3. The Council may acquire, utilize/consume, sale or manage in any other way movable and immovable properties as a person.
4. The Council may lodge lawsuit or complaint by its name as a person and lawsuit or complaint may be lodged against the Council on with its name.

Chapter 4

Constitution, conduction of meeting and power, duties and functions of Council of the Directors

7 Constitution of Council of Directors:

1. For the functions to be performed on behalf of the Council, as an apex body of it, there shall be a Council of Directors constituted as follows:

a.	Minister or Minister of State, Ministry of Women, Children and Social Welfare	Chairperson
b.	A person nominated by the Government of Nepal having contributed in the field social service with special contribution having acquired at least a	Vice Chairperson

	bachelor degree from recognized University	
c.	A person nominated by the Government of Nepal having contributed in the field social service with special contribution having acquired at least a bachelor degree from recognized University	Treasurer
d.	Joint Secretary, Ministry of Finance	Member
e.	Joint Secretary, Ministry of Foreign Affairs	Member
f.	Joint Secretary, Ministry of Home Affairs	Member
g.	Joint Secretary, Ministry of Women, Children and Social Welfare (In charge of social welfare)	Member
h.	Joint Secretary, Ministry of Education	Member
i.	Joint Secretary, Ministry of Federal Affairs and Local Development	Member
j.	Joint Secretary, Ministry of Health and Population	Member
k.	Joint Secretary, Secretariat of National Planning Commission	Member
l.	Nine people, including three women and ensuring at least one person represented from the seven provinces, nominated by the Government of Nepal from among the people having contributed in the field social service with special contribution having acquired at least a bachelor degree from recognized	Member

	University	
m.	Member Secretary, Social Welfare Council	Member Secretary

2. The tenure of the nominated members shall be of four years. They may be re-nominated. But they shall not be removed from their office without having completed their tenure unless punished by the court for criminal offence with moral turpitude.
3. Government of Nepal shall formulate a standard for the purpose of nomination of the officials of the Council.

8 Meeting and Decision of Council of Directors:

1. Meeting of the Council of Directors, in general, shall be held once in four months in date, time and venue prescribed by the chairperson; however, meeting may be held at anytime as necessary.
2. Chairperson shall preside over the meeting of the Council of Directors. Vice Chairperson shall preside over in his absence and even in his absence; a member chosen from among the members shall chair the meeting.
3. It shall be sufficient quorum for the meeting of the Council of Directors if more than fifty percent of the total members of the Council of Directors are present for the meeting.
4. Decision of the majority of the members in meeting shall be deemed as the decision of the Council of Directors. When there is equilibrium of the votes in for and against a motion, person presiding the meeting may cast a decisive vote.
5. Council of Directors may cause participation of experts of the relevant fields and the secretaries of ministries as necessary in a meeting as invitee members. But, in a meeting of the Council of Directors that discusses and passes the annual policy, programme and budget of the Council, secretaries of the ministries shall be compulsorily invited.

6. Minute of the Council of Directors shall be certified by the Chairperson and Executive Director.
7. Other procedure of the meeting of the Council of the Directors shall be as determined by the Council.

9 Functions, Duties and Powers of Council of Directors:

Functions, Duties and Powers of the Council of Directors shall be as follows:

- a. Present recommendations to the Government of Nepal, Ministry of Women, Children and Social Welfare for the policy provisions to be adopted for the establishment, development, expansion and enabling social organizations;
- b. Encourage and facilitate social organizations to conduct social welfare and development functions on the basis of national development priority without having any adversity to national integrity, sovereignty, religious, ethnic and social goodwill and incompatibilities to the foreign and security policy of the country directly or indirectly;
- c. Having determined the priorities of the field of works of the organizations working in the field of social welfare, determine their field scope by subject and geographical basis avoiding duplications;
- d. Approve annual policy, programme and budget of Council;
- e. Approve organizational structure and official positions subject to present Act;
- f. Enact laws related to the service and terms and conditions of the employees of the Council;
- g. Take lead to ensure application of Nepali skills, technology, expertise and resources for social welfare and development functions;
- h. Organize assistance or support from national and international sector for social welfare and development functions and utilize available assistance;

- i. Develop terms and conditions and code of conducts to be adopted by the officials, employees, specialists and volunteers working in organizations and monitor as well as cause their enforcement;
- j. Prepare, enforce, and cause enforcement of Code of Conducts to be adopted by the nongovernmental organizations in relation to the project agreement, working permission and approval of programme;
- k. Provide necessary assistance to the Government of Nepal to formulate policies on social welfare and development functions;
- l. To establish and operate and cause establishment and operation of Guthee (Trust-fund), Fund and Trusts as necessary for the social welfare and development functions;
- m. To ban operation of the projects of the organization not following the agreement and recommend to concerned agency for cancellation;
- n. Perform and cause other functions as prescribed.

10 Constitution and Functions, Duties and Powers of Executive Board:

- 1. The Council shall constitute an Executive Board from among the members of the Council to perform its functions. In the board there shall be seven members maximum including the Chairperson, Vice chairperson, Treasurer and Member Secretary. Council of Directors shall prescribe rest of the three members including at least one women member.
- 2. Functions, Duties and Powers of the Executive Board Shall be as follows:
 - a. Coordinate and cause coordination among the various bodies of Government of Nepal and organizations for performance of social welfare and development functions on the basis of national development priority;

- b. Organize and cause organization of training, studies and research for stakeholders in relevant subject matters related to the social welfare and development functions;
- c. To take action and cause action in accordance with law against the organization acting in contravention of present Act and rules formulated under and cancel the affiliation to Council of such organization;
- d. To provide the movable and immovable properties under the possession of the Council in rent, lease and search other measures to generate incomes;
- e. Honour and award persons and organizations those have performed mentionable tasks in the field of social service and development;
- f. Collaborate with private sector to strengthen and systematize non-governmental sector and encourage and cause encouragement of private sector to maintain social responsibilities;
- g. Maintain coordination among various entities in relation to the functional operation of the Council and supervise and monitor and cause supervision and monitoring of office of the Council;
- h. Regulate, supervise, monitor, inspect and evaluate and cause supervision, monitoring, inspection and evaluation of national and international nongovernmental organization;
- i. Give directions as necessary to the functioning of the national and international nongovernmental organizations;
- j. Prepare annual policy, programme and budget of the Council and present before the Council of Directors for approval;

- k. Prepare necessary policies on agreement and working permission to the international nongovernmental organizations wishing to work in Nepal and their cancellation and present to the Council;
- l. Prepare policies on fund, tax, revenue, custom remission and international representatives, volunteers and experts of national and international nongovernmental organizations and present before the Council of Directors;
- m. Prepare policies on registration, renewal, operation, encouragement, capacity building, extension and strengthening of nongovernmental organizations and trust and present before the Council of Directors;
- n. Present before the Council of Directors for necessary action against national and international nongovernmental organizations acting against current law and the policy and direction of the Government of Nepal;
- o. Keep sector-wise records of investments made by organizations in social welfare and development functions and send it in writing to the relevant ministry or body;
- p. Operate, manage and oversee or cause operation, management and oversights of the funds under the Council as per the direction of Council of Directors;
- q. Perform and cause performance of other tasks as prescribed.

11 Functions, Duties and Powers of Chairperson:

- 1. Functions, Duties and Powers of the Chairperson shall be as follows:
 - a. Preside over the meeting of Council of Directors;
 - b. Give instructions to regulate and operate the functions of Council, Sub-committees under the Council and the funds;

- c. Delegate the powers vested in self to the Vice chair person, Treasurer, Member Secretary or any other employee of an officer level when it become necessary to regulate and operate the functions of Council and the Board;
- d. Implement and cause implementation of regulations to achieve the objectives of the Act;
- e. Inspect functions of the Council, Subcommittees under the Council and funds and provide necessary directives;
- f. Liaise and coordinate with various ministries and bodies of the Government of Nepal;
- g. Act and cause acting as facilitator and coordinator between national and international nongovernmental organizations and donor agencies;
- h. Perform other tasks as prescribed.

12 Provisions on Vice chairperson:

1. Functions, Duties and Powers of the Vice chairperson shall be as follows:
 - a. Preside over the meeting in the absence of Chairperson;
 - b. Exercise the functions, duties and powers of Chairperson in his absence or under his prescription;
 - c. Supervise, monitor and evaluate the matters related to the registration, renewal and recording of national and international nongovernmental organizations;
 - d. Take necessary initiatives for expanding relations at national and international sector for capacity building and promotion and development of the Council;
 - e. Liaise and coordinate with various ministries and bodies of the Government of Nepal;
 - f. Perform other tasks as prescribed.
2. Salary, allowance and other facilities of the Vice chairperson shall be as prescribed.

13 Provisions on Treasurer:

1. Functions, Duties and Powers of the Treasurer shall be as follows:
 - a. Manage and cause management of fiscal administration of the Council;
 - b. Operate, regulate and control and cause operation, regulation and control of the funds of the Council;
 - c. Give necessary instructions to maintain financial disciplines of the Council and funds and bodies of its under;
 - d. Prepare annual budget of the Council and present it to the Executive Board;
 - e. Regulate, monitor and inspect and cause regulation, monitor and inspection of the matters related finance of the organizations affiliated to the Council.
 - f. Take necessary initiatives at national and international sector for financial and physical capacity building of the Council;
 - g. Operate accounts of the Council as prescribed;
 - h. Prepare and submit financial report of the Council to the Executive Board;
 - i. Perform and cause performance necessary tasks to best utilization of the movable and immovable properties of the Council;
 - j. Maintain intact records of cash and commodity articles and control financial irregularities;
 - k. Cause implementation of the recommendations made in the audit reports of the organizations affiliated to the Council;
 - l. Perform other tasks as prescribed.

2. Salary, allowance and other facilities of the Treasurer shall be as prescribed.

14 Committee and Subcommittee may be Constituted:

1. The Council may constitute Committees and Subcommittees as necessary to perform its functions smoothly.
2. The Functions, Duties, Powers and *modus operandi* of the Subcommittees to be constituted under Subsection 1 shall be as prescribed.

Chapter 5

Provisions on Member Secretary and Employees

15 Appointment of Member Secretary:

1. Member Secretary shall be the Administrative Chief of the Council.
2. Government of Nepal, Council of Ministers shall appoint Member Secretary on the basis of the recommendation made by the Recommendation Committee constituted under Subsection 3.
3. To recommend for appointing a Member Secretary to Government of Nepal, Council of Ministers, a Committee comprised of three members under the convenor-ship of the Secretary of the Ministry along with Secretaries of Public Service Commission and Ministry of Federal Affairs and Local Development shall be constituted.
4. The Committee constituted under Subsection 3 shall recommend names of the three persons to the Government of Nepal, Council of Ministers on the basis of merit list holding competitive examinations from among the persons those have acquired and experience of at least ten years in the field of social service having a Masters Degree from a University recognized by the Government of Nepal for the purpose of appointing a Member Secretary. Any employee or official incumbent in the position under Civil Service of Government of

Nepal and Public Corporations and Authorities under it may not be feasible candidate under present Section.

5. Procedures of the examination shall be as determined by the Recommendation Committee.
6. Government of Nepal, Council of Ministers shall appoint as Member Secretary a person from among the recommended under Subsection 4.
7. Tenure of the Member Secretary shall be for four years.
8. Notwithstanding anything else in present Section, if the Member Secretary acted against the interest of the Council by causing loss or damage to the Council, committed gender violence, involved in any organizations affiliated to the Council, lacked working competency, committed irregular or corruption, Government of Nepal may oust him from the position of Member Secretary having constituted an Enquiry Committee and receiving recommendation from the Committee. However, he shall be given an opportunity to present clarifications in his favour prior to expelling from the position.
9. Member Secretary shall receive salary and allowance equivalent to special class employee of the Government of Nepal for his work for the Council. Terms and conditions of his service and other facilities shall be as prescribed.

16 Functions, Duties and Powers of Member Secretary:

1. Member Secretary shall perform tasks as Administrative Chief of the Council and all financial and administrative responsibility necessary for implementing present Act shall remain upon him.
2. Functions, Duties and Powers of Member Secretary shall be as following:

- a. Implement and cause implementation of the decisions of the meetings of Council of Directors and various Board/Committees and Subcommittees under the Council;
- b. Handle administratively and direct employees of the Council;
- c. Enter into the ordinary and project agreements with international non-governmental organizations under recommendation of Ministry;
- d. Request with recommendations and opinions to the Ministry for arrangements of the tax remission, import permission and visa;
- e. Prepare annual programme and report of the Council and submit to the Executive Board;
- f. Perform and cause daily administrative functions on behalf of the Council;
- g. Perform and cause inspection, supervision and management of programmes and income and expenditure of the Council;
- h. Maintain the records of the progresses of the organizations and send in writing to the relevant ministry and body;
- i. Grant and renew affiliation under this Act to the organization wishing to perform social welfare and development functions;
- j. Recommend to relevant body for remission, facilities and other assistance available in accordance with law while performing social welfare and development functions by the Council and the organization;
- k. Perform and cause performance as information and achieve centre of organizations;
- l. Assess and cause audit of the physical assets of organizations affiliated to the Council;
- m. Perform and cause performance of other tasks as prescribed.

17 Provisions on Employees of the Council:

1. There shall be employees in necessary number for carrying out the functions of the Council.
2. Employees shall be appointed on the basis of the general principles determined by the Public Service Commission as provided in the Constitution of Nepal.
3. Remunerations, terms, conditions and facilities of the services of the employees shall be as prescribed.

Chapter 6

Provisions on Fund and Audit of Accounts of the Council

18 Fund of the Council:

1. There shall be a separate fund of the Council.
2. Following amounts shall remain in the fund of the Council:
 - a. Amount obtained from Government of Nepal;
 - b. Amount obtained through Government of Nepal from any foreign government, international organization, friendly nation and donor agencies;
 - c. Amount earned from movable and immovable assets of the Council;
 - d. Amounts obtained from any person, institution or nation in a form of donation, support, grants;
 - e. Amounts obtained as fees of affiliation to the Council;
 - f. Amounts obtained as agreement fees;
 - g. Amounts received from various other sources;
3. All expenses of the Council shall be borne from the fund under Subsection 1.

4. The fund of the Council shall be operated having bank accounts at Nepal Rastra Bank or any Commercial Bank.
5. Operation of the bank accounts of the Council shall be run by Treasurer, Member Secretary and Chief of Account as prescribed.

19 Funds Operated by the Council:

1. The Council may establish and operate different funds as necessary to achieve specific purposes.
2. For the purpose of social welfare and development functions, the Council shall establish a Social Welfare and Development Fund. International nongovernmental organizations, while entering into a project agreement, shall deposit amount as prescribed into that fund.
3. Operation of the funds shall be in accordance with the standards and procedures set by the Council.

20 Accounts and Audit of the Accounts:

1. Accounts of the incomes and expenditures of the Council shall be kept in a manner as adopted by the Government of Nepal.
2. Auditing of the accounts of the Council shall be carried out by the Office of the Auditor General.
3. Provisions of the accounts keeping and auditing of the nongovernmental organizations affiliated to the Council shall be as prescribed.
4. Government of Nepal, if desired so, at anytime may check or cause examination of documents, cash and commodity items related to the accounts of the Council.

5. The Council, if desired so, at anytime may check or cause examination of documents, cash and commodity items related to the accounts of the nongovernmental organizations affiliated to the Council.

Chapter 7

Provisions on Affiliation, Work Permission and Approval of Non-governmental Organizations

21 To be Affiliated with the Council:

1. Nongovernmental organization desiring to carry out social welfare and development functions shall be affiliated to the Council as prescribed.
2. To be affiliated in accordance with Subsection 1, nongovernmental organization shall submit a petition before the Council in a prescribed format describing clearly the Charter of the organization, name list of the Executive Board Members, profession, address and office of registration and date.
3. After having received the petition pursuant to the Subsection 2, if deemed appropriate having necessary inquiry against the petition, the Council shall grant the applicant organization a certificate of affiliation in a prescribed template taking prescribed fees.
4. The affiliation acquired under Sub-section 3 shall be valid for the period of five years.

22 Causing Renewal of Affiliation:

1. Nongovernmental organization affiliated to the Council, to sustain continued affiliation, shall submit an application before the Council in a prescribed template along with the prescribed charge within one month before the expiry of period of affiliation.
2. While submitting application pursuant to Subsection 1, details and documents as prescribed shall be attached with.

3. If deemed appropriate by the review of the application under Subsection 1 and attached documents and details along with, the Council shall grant renewal to such nongovernmental organization taking the tariff as prescribed.

23 Work Permission to be Obtained:

1. International nongovernmental organization desiring to carry out social welfare and development functions keeping office in Nepal shall compulsorily take working permission.
2. International nongovernmental organization which have carried out functions having agreement with Government of Nepal, the Council or any other agency prior to enactment of present Act, shall enter into the agreement in accordance with the provision of the current Act after its enforcement.
3. International nongovernmental organization may not carry out functions unless obtaining working permission under present Act.
4. Other provisions related to the working permission to the international nongovernmental organization shall be as prescribed.

24 Cancellation of Working Permission of International Nongovernmental Organization:

1. The Council may cease working permission granted to international nongovernmental organization in following conditions:
 - a. If acted against the sovereignty, integrity, foreign and security policy of Nepal, harmonious relations between various castes, tribes, religions, communities, incited violent acts or acted against public morality;
 - b. If failed to submit annual progress report and account audit report to be submitted before the Council under present Act;

- c. If acted against prescribed terms and provisions of the working permission, ordinary agreement and project agreement;
 - d. If not acted in accordance with present Act and rules and instructions under present Act;
 - e. If closed the ongoing programme without reason or remain inactive for a period of more than one year by the date of work permission obtained or entered into the project agreement;
2. Project agreement of the international nongovernmental organization whose working permission is ceased under Subsection 1 shall be ceased *ipso facto*.

25 Ordinary Agreement and Baseline Survey:

1. International nongovernmental organization desirous to work in Nepal shall enter into an ordinary agreement with the Council within 45 days of obtaining working permission under Section 23.
2. After having entered into the ordinary agreement under Subsection 1, international nongovernmental organization shall undertake a baseline survey reflecting the real situation of the desired working sector.
3. Other provisions on ordinary agreement and baseline survey shall be as prescribed.

26 Assets to be Shifted to the Council:

1. In cases of cessation of the working permission under Section 24 or cancellation of the programme in-betweens, all assets of the international nongovernmental organization remained in Nepal in course of project implementation shall be shifted to the Council.

2. It shall be deemed ipso facto cessation of all facilities obtained from the Council by the international nongovernmental organization following the cessation/cancellation of working permission.

27 Approval to be taken to receive Foreign Aid:

1. If nongovernmental organization receives any types of aid or support from Government of Nepal, foreign government, international nongovernmental organization or foreigner citizen, whether the aid or support is receivable entering to a contract or without having any contract, prior to obtaining such aid or support, receiving organization shall submit an application in prescribe template before the Council for the approval describing prescribed details.
2. Having inquiry against the application received under Subsection 1, if such aid or support is not found against present Act and current laws, the Council, within 15 days of the receipt of the application, may grant an approval to accept aid or assistance. Where aid or support is found against Act and current laws such aid or support shall not be acceptable.
3. Nongovernmental organization receiving foreign aid or support without obtaining approval from the Council in accordance with Subsection 1 may not carry out programme expending the amounts of foreign aid or support.
4. While opening office in Nepal by international nongovernmental organization of regional level or institution providing aid or support bilaterally or multilaterally shall carry out programme in Nepal as well.

28 Not necessary to take an Approval:

1. Notwithstanding anything mentioned in Section 27, in following situations nongovernmental organization shall not require to take an approval from the Council for receiving foreign aid or support :
 - a. Receiving aid or assistance granted as emergency rescue by the institutions establish in accordance with international treaties/conventions to which Government of Nepal is party to;
 - b. Amounts approved by the Council under programme agreement with international nongovernmental organization;
 - c. Financial assistance/support provided by Nepalese living abroad within the maximum limit, programme and number of beneficiaries determined by the Council compatible to present Act;
 - d. In relation to the support distribution received by the call made by the Government of Nepal in times of divine calamities and natural disaster.
2. Notification shall be given to the Council within one month where foreign aid/support is received in accordance with Subsection 1.

29 Foreign Aid not to be Accepted:

1. Any nongovernmental organization shall not launch project accepting foreign aid for the purpose of conducting actions against the sovereignty, integrity, foreign and security policy of Nepal, harmonious relations between various castes, tribes, religions, communities, incited violent acts or acted against public morality.
2. If it is found foreign aid received by any nongovernmental organization in contravention of Subsection 1, the Council may ban such organization in executing project.

3. If any nongovernmental organization is found expending amounts of foreign aid without obtaining approval pursuant to Section 27, the Council shall take in or cause the control of or restrict the cash or commodities of such aid in status quo. And, it shall write to the relevant authority for cancellation of the registration of such organization.
4. If any funding/donor agency or international nongovernmental organization is found releasing aid amount to any organization, person or others against present Act and rules and regulations formulated under it, the Council shall dismiss the work permission and agreement of such international nongovernmental organization.

Chapter 8

Provisions on Suspension, Dissolution and Taking Actions

30 May Suspend, Dissolve or take Action:

1. The Council may recommend to the relevant authority to suspend or dissolve the organization if any nongovernmental organization affiliated to the Council or receiving financial assistance from the Council acted against current Nepal law or Charter of the organization.
2. If written recommendations made by the Council in accordance with Subsection 1 is received, concerned authority of registering nongovernmental organization shall immediately suspend or dissolve the organization and inform the Council there of.
3. Notwithstanding anything mentioned elsewhere in present Section, the Council may conduct inquiry having constituted an Inquiry Committee if a residential representative of international nongovernmental organization, programme chief and officials of the nongovernmental organization under its support or any other person working in organization caused harm and loss against interest of the organization or committed

corruption. On the basis of the inquiry report of the Council, if it is recommended by the Ministry as well, action shall be taken against such person in accordance with present laws.

31 May not perform Functions:

Except in a condition of contract to which Nepal is a party or a bilateral contract, any other international nongovernmental organization may not perform social welfare and development function without being affiliated to the Council.

Chapter 9

Provision on Executing Project

32 Social Welfare and Development Functions may be Conducted through Nongovernmental

Organization:

1. Government of Nepal may cause execution of its social welfare and development functions through nongovernmental organization as prescribed.
2. In social welfare and development functions executed in accordance with Subsection 1, specially following programmes may be conducted as per priority:
 - a. Programmes related to interest and welfare of women, children, senior citizens, persons with disabilities, gender minorities, indigenous, Janajati, Dalits, helpless and backward and marginalized communities;
 - b. Programmes related to creation of employment and self-employment;
 - c. Programmes related to promotion of the participation for local development and gender mainstreaming and empowerment of women;
 - d. Programmes related to prevention of gender violence, and control of trafficking in human persons;

- e. Programmes related to promote access, ownership and control of women in resources and means;
- f. Programme creating self-employment of women by business operation and income generative activities;
- g. Programmes against customary social malpractices (KURITI) and superstitions;
- h. Programmes related to poverty alleviation, income generating and skill development;
- i. Programmes related to law and human rights;
- j. Programmes related to forest, environmental conservation and disaster reduction;
- k. Programme related to awareness raising;
- l. Various programmes related to fulfilment of basic needs including education and health;
- m. Other programmes as prescribed.

33 Setting Priority Sector:

1. The Council shall set the priority sector for carrying out projects having considerations on subjective and geographical region on the basis of national policy of the Government of Nepal.
2. The projects to be carried out by the international nongovernmental organization shall be concentrated to the prioritized sectors in accordance with Subsection 1.
3. No work permission shall be granted for the programmes to be executed beyond the sector prioritized under Subsection 1. Further, no ordinary and project agreement shall be entered for such programme.

34 Project Agreement to be done:

1. International organization desiring to work in Nepal shall enter into project agreement within three months of signing ordinary agreement with the Council under Section 25.
2. If project proposal is not submitted within the period as prescribed under Subsection 1, a time period of additional 60 day may be granted for a time if an application made by the organization is found to be appropriate having inquiry. If international nongovernmental organization that has taken working permission from the Council required to execute project through any agency of Government of Nepal or a local body, agreement shall be done having coordination with the Council. The Council shall also be the participant of such Agreement.
3. While having project agreement pursuant to Subsection 1, a plan of action along with indicators setting targets on the basis of the baseline survey under Section 25 shall be prepared and submitted before the Council.
4. The Council shall enter into a project agreement based on recommendation of the Project Facilitation Committee under Section 44 and decision of the Ministry.
5. In the proposal pursuant to Subsection 2, in addition to others following information shall be compulsorily exposed:
 - a. Particulars on the amount received for the project is not received in the name of any ethnic, linguistic, religious community or institution;
 - b. Particulars on the amount of the project would not be used for the acts against the sovereignty, integrity, foreign and security policy of Nepal, harmonious relations between various castes, tribes, religions, communities, inciting violent acts or against public morality;

- c. Particulars that administrative expenses would not exceed 20 percent of the total budget of the project;
 - d. Particulars that 75 percent of the amount allocated for project shall be spent in the activities beneficial to the target group and rest amount would be spent for activities awareness, training and capacity development.
6. The Council shall make necessary inquiry on the proposal received under Subsection 2 and if deemed revision on it causing so and submit it to the Project Facilitation Committee within one month of the receipt of such proposal.
 7. The day of signing and entering a project agreement pursuant to Subsection 3 shall be deemed the commencement of the project period.
 8. Approval from the Ministry for amendment shall be obtained if any change is required in the project after having project agreement with the Council pursuant to Subsection 1.
 9. Other provision regarding project agreement shall be as prescribed.

35 Aid to be Provided through Bank:

1. International nongovernmental organization shall open a bank account in a commercial bank in Nepal as directed by the Office of the Comptroller of Account prior to having project agreement with Social Welfare Council.
2. While providing financial aid by international organization for approved project, that shall be done through commercial bank operated in Nepal.

36 To be kept as Partner or Counterparts:

1. International nongovernmental organization shall keep nongovernmental organizations affiliated to the Council as partners or counterparts while participating in social welfare service and development functions.

2. International nongovernmental organization shall be responsible for all activities done by the partner or counterpart organization in accordance with Subsection 1.
3. But, the Council shall give priority to appoint such specialist or volunteer from Nepali human resources as far as available. For selection of nongovernmental organization directives are to be prepared and enforced.

37 To be Performed having Coordination with Local Bodies:

1. While preparing and implementing project, national and international nongovernmental organization shall coordinate with relevant local bodies.
2. If project is found prepared and implemented without having coordination with local bodies pursuant to Subsection 1, the Council may dismiss such project agreement immediately.
3. The Council may delegate local bodies its powers to supervise, monitor and evaluate programmes conducted with the support of international nongovernmental organization under present Act.

38 Organization may not manage financial resource from the amounts allocated by Foreign Government or Donor Agency:

International nongovernmental organization desiring to undertake social welfare and development functions in Nepal may not manage or consume financial resources having deducted or making less from the amounts allocated by foreign government or donor agency having specified for Nepal.

39 Provision on Appointment of Employees of Nongovernmental Organization:

1. Nongovernmental organization, while appointing its employee, shall appoint on competitive basis having notice published in national daily newspaper.

2. The Council shall make directives related to the appointment of employee by nongovernmental organization. Nongovernmental organization shall fulfil vacancy of employee based on the directives

40 Provision on Public Hearing:

1. Public auditing and hearing shall be conducted annually in the participation of social serving people, intellectuals, media person, civil society and users about aims, objectives budget and achievements of the programme conducted by nongovernmental organization.
2. The Council shall develop and enforce directives on public auditing and hearing of the nongovernmental organization.

41 Foreigner Representative, Specialist and Volunteer:

1. Either Chief or deputy chief of the international nongovernmental organization that has obtained work permission from the Council is to be from Nepali citizen compulsorily.
2. For the purpose of using Nepali human resource, international nongovernmental organization shall formulate and enforce its charter.
3. International nongovernmental organization may keep foreigner specialist or volunteer as mentioned in the project agreement. However, were Nepali human resources are available such specialist or volunteer is to be appointed from among them.
4. Number of the international specialist or volunteer under Subsection 3 shall be specifically confirmed in the agreement. No permission shall be given for bringing foreigner specialist or volunteer human resources where such number is not mentioned in the agreement.
5. The Council shall recommend to the Ministry for the service and visa for specialist and volunteer serving in Nepal under bilateral or multilateral agreement with Government of Nepal.

6. The Council shall develop and enforce directives to provide services of foreigner volunteers and specialists for the purpose of promoting capacity and resources and fulfilling technical need of nongovernmental organization.

42 May not be Involved:

1. Officials and members of the Council of Directors and employees of the Council may not be involve in any nongovernmental organization as its member, executive board member or official and employee.
2. A single person at a time may not be a representative of international nongovernmental organization as well as chief of the programme for a programme executed under the aid of international organization.

43 Visa, Work Permission and other Facilities:

1. As provided in working permission and agreement, residential representative, specialist, volunteer and their dependent family member shall apply before the Council in prescribe template to seek a visa.
2. Having inquiry to the application lodged in accordance with Subsection 1, the Council shall recommend to the Ministry for granting visa, work permission and other facilities to the persons deemed necessary.
3. If residential representative, specialist and volunteer of international nongovernmental organization receiving visa under Subsection 2 is found to be acting against the agreement, the Council shall recommend cancelling the visa and work permit of such residential representative, specialist and volunteer.
4. The Council, where concluded as necessary, may recommend to the Ministry for remitting custom duty and other tariffs for the items necessary for social welfare and development

functions to be carried out by international non-governmental organization registered and working with agreement under present Act. While to make recommendation for concession of tariffs of this kind, the details of the items to be imported shall be mentioned in the programme agreement entered between the Council and relevant party.

5. Foreigner citizen, coming to Nepal to work for international nongovernmental organization that has received work permission subject to the agreement with the Council, shall receive visa subject to Immigration Act and Regulations.
6. Provisions contained above in Subsection 1 to 5 shall be applicable also for the international nongovernmental organization that has done agreement with the Council.

Chapter 10

Provisions on Project Facilitation Committee

44 Constitution of Project Facilitation Committee:

1. To recommend in relation to the ordinary and project agreement of the international nongovernmental organization, there shall be a Project Facilitation Committee.
2. In the Committee pursuant to Subsection 1, Convenor and member shall be as follows:

a. Joint Secretary of Ministry, taking in charge of the Social Welfare Division	Convenor
b. Representative, Ministry of Finance	Member
c. Representative, Ministry of Home Affairs	Member
d. Representative, Ministry of Foreign Affairs	Member
e. Representative, Ministry of Federal Affairs and Local Development	Member

f. Representative, Ministry of Law, Justice and Parliamentary Affairs	Member
g. Representative, Secretariat of National Planning Commission	Member
h. Director or Deputy Director prescribed by the Council	Member
i. Under Secretary of relevant Section of the Ministry and Officer prescribed by the Convenor in his absence	Member Secretary

3. While nominating the representatives pursuant to Subsection 2, relevant Ministry shall nominate the officer at least of the level of Under Secretary.
4. If it is seen that the proposal submitted for facilitation is related to the Ministry other than represented in the Committee, the Convenor may invite a representative of relevant Ministry at least of Officer of the level of Under Secretary and expert having knowledge of subject matter as necessary in the meeting of deliberation of such proposal.

45 Functions, Duties and Powers of Project Facilitation Committee:

1. Functions, duties and powers of the Project Facilitation Committee shall be as follows:
 - a. Recommend the Ministry for ordinary and project agreement of international nongovernmental organization subject to the priority of national development and consistent to national integrity, sovereignty, social, ethnic and social harmony and foreign and security policies;
 - b. Recommend the Ministry amendments of ordinary and project agreement of international nongovernmental organization;

- c. Recommend the Ministry along with suggestions on the subject matters to be adopted policies and process in future in relation to the support/assistance from the organization;
 - d. Coordinate and cause coordination among various agencies at central level for the projects implemented by organizations;
 - e. Perform and cause performance of other functions related to facilitation and coordination of nongovernmental organization;
2. Other provisions in relation to the facilitation shall be as prescribed.

46 Performed in Coordination:

1. While providing financial and physical assistance to any of the nongovernmental organizations by the office of Government of Nepal, it shall be provided only having coordination with the Council.
2. The project run by ministry of Government of Nepal or body under it through the financial support received with an objective of social service from any international nongovernmental organization, donor agency or friendly nation shall be executed in coordination with the Council.
3. To ensure activities of nongovernmental organizations transparent, accountable and answerable, coordination shall be maintained having ensured the participation of local bodies and stakeholders in activities from preparation of planning to implementation, monitoring and evaluation.

Chapter 11

Miscellaneous

47 Supervision, Monitoring and Evaluation:

1. The Council shall regularly supervise, monitor and evaluate the programmes run by the assistance of national and international nongovernmental organizations
2. For the task as stipulated in Subsection 1, the Council shall deposit an amount in a separate account having deducted in advance as prescribed from the total amount of the project at the time of entering into project agreement.
3. Other provisions on supervision, monitoring and evaluation shall be as prescribed.

48 Project Advisory Committee:

1. To provide advices in relation to the execution of the project to be run by international nongovernmental organization, provisions for Project Advisory Committees at Central, Provincial and district level shall be made as necessary.
2. Other provisions related to the Project Advisory Committees under Subsection 1 shall be as prescribed.

49 Delegation of Powers:

1. The Council may delegate its powers to Chairperson, Vice chairperson, Treasurer, Member and Member Secretary as necessary.
2. The Chairperson may delegate his powers to any Officials, Member and Member Secretary of the Council as necessary.
3. Member Secretary may delegate his powers employed Officers of the Council as necessary.

50 Establishment and Distribution of Award:

The Council, to encourage national and international nongovernmental organizations person or donor to make mentionable contribution in the protection of rights of the people and promotion of interest, welfare and empowerment of deprived and backward classes and communities by being involved in social service and development work, may establish and distribute various awards.

51 Remuneration, Meeting Allowance and other Facilities:

Allowance to chairperson and members of Council of Directors for attending meetings of council, various committees and subcommittees and daily and travel allowance while making visits across Nepal and abroad in course of the tasks of Council shall be as prescribed.

52 Direction may be given:

1. The Ministry may give directions to the Council time and again in course of various proceedings. Secretary of the Ministry may inspect and monitor the Council and any of the national and international nongovernmental organizations affiliated to the Council. Relevant body shall be proactive to implement the advices received from inspection and monitoring.
2. The Council may give necessary instructions in course of running programmes to organisations and institutions undertaking social welfare and development functions. If taken necessary, the Ministry may give necessary instructions supervising and monitoring the activities done by any national and international nongovernmental organization.
3. Upholding the directions or instructions given pursuant to Subsection 1 and 2 shall be the duty of the Council and concerned Organization.

4. Work permission of the organization not performing under current laws, periodic plan, Development Assistance Policy 2071, Sector-wise Policies, prescribed standards and directions/instructions shall be cancelled as prescribed.

53 Classification of Organizations:

Nongovernmental organizations registered by Nepal law shall have equal status. But, the Council shall make a work division having organizations classified in accordance with standard determined by the Council on the basis of the experience, resources and competencies.

54 Selection of Partner Organization:

1. Each international nongovernmental organization while running project, shall implement project through an organization working in relevant region and affiliated to the council having selected. But priority shall be given to the working organization registered in relevant district while running programme at local level.
2. If organization in accordance with Subsection 1 is not available at local level, organization of adjoining or nearby district shall be selected.

55 Progress Report to be Submitted:

1. Each international nongovernmental organization shall submit half yearly and yearly progress reports and account audit report within six month of the completion of each fiscal year to the Council compulsorily.
2. National nongovernmental organization affiliated to Council shall submit annual report detailing the functions done and achievements thereto along with account audit report within six month of the completion of each fiscal year to the Council.

56 Annual Report to be presented to the Ministry

1. The Council shall submit an annual report to the Ministry within six months after the completion of fiscal year, along with detail descriptions of its work and audit report.
2. The Ministry shall present the annual report pursuant to Subsection 2 before Legislative Parliament.

57 Contact with Government of Nepal

1. In maintaining contact with Government of Nepal, the Council shall make it through Ministry of Women, Children and Social Welfare.

58 Law may be Formulated

1. Necessary legislations may be promulgated and enforced at provincial and local levels in relation to the operation, regulation, supervision, monitoring and evaluation of organizations having mobilized maximum social welfare and development efforts to be made by nongovernmental sector at provincial and local levels.
2. While making laws related to the province, there shall be clear mention about the provincial offices of the Council and scope and authorities of organizations.
3. All nongovernmental organizations desirous to run functions in social welfare and development sector in Nepal shall be registered at the Council or at office, authority or associations prescribed by it in accordance with one door system.

59 Powers to frame Rules and Directives:

The Council may frame necessary rules and directives for implementing the objectives of this Act subject to ambit of this Act.

60 Powers to frame Byelaws:

The Council may frame necessary byelaws to further its functioning subject to ambit of this Act and the rules framed under it.

61 Recovery:

The Council may recover its dues from the subordinate funds and offices equivalently as government dues.

62 Appeal:

Party unsatisfied on the order or decision made in accordance this Act, may lodge an appeal against before a relevant High Court within 35 days.

63 Powers to remove difficulties:

If any difficulty arises in connection with the implementation of this Act, Government of Nepal may remove such difficulty by notification published in the Nepal Gazette.

64 Shall be in accordance with Law:

It shall be in accordance with this Act in the matters written in present Act and for matters not written herein, it shall be in accordance with current Nepal law.

65 Saving and Repeal:

1. The Social Welfare Act 2049 BS (1992) is hereby repealed.
2. Properties, rights and liabilities of Social Welfare Council shall be transferred to the Council constituted under this Act.
3. The tenure of the nominated officials under Social Welfare Act 2049 shall remain as mentioned in the same Act.

4. The Officials, Members and Employees working under Social Welfare Council under Social Welfare Council Act 2049 shall be transferred to the Council constituted under this Act.
5. Functions and proceedings carried out in accordance Social Welfare Act 2049 shall be assumed to be carried out under present Act.
6. Nongovernmental organization registered in the Council in accordance with Social Welfare Council Act 2049 previously shall be transferred to the Council after commencement of present Act.
7. Other Acts and Rules inconsistent with present Act shall be inactive ipso facto to the extent of inconsistency.