

## Nepal Law Commission Act, 2063 (2007 )

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1. The Act Amending Some Nepal Acts, 2064 (2008)

2064.5.9

Act No.37 of years 2063 (2007)

### **An Act Made to provide the law relating to Nepal Law Commission**

**Preamble:** Where as, it is expedient to establish and manage Nepal Law commission for drafting and codification of law, amendment unification and review of prevailing laws as well as conduct study and research on law and justice.

Now, therefore, this Act is hereby enacted by the House of Representative in the first year of issue of the Declaration of House or Representatives, 2063 B.S. (2006 A.D.)

1. **Short title and commencement:** (1) This Act may be called "Nepal Law commission Act, 2063 (2007)

(2) This Act shall come into force immediately

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

(a) "Commission" means the Nepal Law Commission established under Section 3.

(b) "Chairperson" means the Chairperson of the Commission.

(c) "Vice-chairperson" means the Vice-chairperson of the Commission.

(d) "Member" means the Member of the commission and this term also includes the Chairperson, vice-Chairperson, Honorary Member and member Secretary.

(e) "Secretary" means 'Secretary' of the Commission.

3. **Establishment of The Nepal Law commission:** (1) The Nepal Law Commission has hereby been established for drafting and codification of laws, amendment, unification and review of prevailing laws as well as to conduct study and research on law and justice.

(2) Office of the Commission shall be located in Kathmandu Valley.

4. **Constitution of the Commission:** (1) The Commission shall be constituted as follows.

- (a) A person appointed by the Government of Nepal from among those who has served as already a Justice of the Supreme Court a person being qualified for the same post Chairperson
- (b) A person appointed by the Government of Nepal from among those having already discharged the duty as a Gazetted Special Class of Nepal Judicial Service, or a person having worked as a law-practitioner in the capacity of Senior Advocate or Advocate at least for fifteen years, or a person having gained experience of teaching, research, drafting of law or in the sector of law or justice at least for fifteen years. Vice-Chairperson
- (c) Three persons, in maximum, having at least one women nominated by Government of Nepal from among the persons qualified under clause (b) above. Member
- (d) Secretary, Ministry of Law, Justice and Parliamentary Affairs. Member
- (e) Secretary (law), Office of the Prime Minister and council of ministers. Member

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| (f) | Deputy Attorney General, Office of the Attorney General | Member           |
| (g) | Secretary   | Member Secretary |

(2) There shall be a Recommendation committee to recommend the name for the appointment and nomination of chairperson, Vice-Chairperson and Members of the commission to the Government of Nepal, as follows:

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|-----|---|-------------|
| (a) | Minister for Law, Justice and Parliamentary Affairs                                     | Coordinator |
| (b) | Chairperson, House of Representatives, law, Justice and Parliamentary Affairs Committee | Member      |
| (c) | Chairperson, Nepal Bar Association  | Member      |

5 **Honorary Member:** Government of Nepal may appoint five experts, in maximum, as Honorary Member from among the outstanding experts relating to the subjects deemed necessary by the Commission.

6. **Qualification of Chairperson, Vice-Chairperson and Member:** In addition to the qualification mentioned in Clause (a) or (b) of subsection (1) of Section 4 above, one should have the following qualification to be eligible for appointment or nomination to the post of Chairperson, Vice-chairperson and Member of the Commission:

- (a) Nepalese citizen,
- (b) Having completed forty five years of age,
- (c) Having obtained the degree of at least bachelor in law from a university recognized by the Government of Nepal,
- (d) Being not convicted on criminal offence of moral turpitude from a court,

(e) Having sound mind.

7. **Tenure of The chairperson, Vice-chairperson and Member:** (1) The tenure of the Chairperson and Vice-chairperson shall be of five years.

(2) The tenure of office of a Member shall be of two years.

8. **Circumstances of Vacancy of Post:** The post of member other than ex-officio one, shall be deemed vacant in the following circumstances:-

- (a) If he/she tenders resignation to the Government of Nepal,
- (b) If the tenure is expired,
- (c) In case of death,
- (d) In case of non compliance of the qualification under Section 6.

9. **Dismissal:** The Chairperson, Vice-chairperson and Member shall be dismissed from the post before the termination of tenure in case the members of the Law, Justice and Parliamentary committee of the House of Representatives decide by a majority on the charge that one failed to accomplish his/her responsibility trusted to the post.

Provided, that he/she shall not be deprived of an opportunity to submit explanation before such dismissal.

10. **Functions, Duties and Rights of the Commission:** The Commission shall have the following functions, duties and rights:-

- (a) To make and cause to be made study and research on enactment of new law or amendment of existing laws or the contemporary issues relating to law and justice,

- (b) To prepare necessary draft for codification of law, and submit the same to the Government of Nepal.
- (c) To unify or review the prevailing laws, and to provide necessary suggestion in this regard to the Government of Nepal,
- (d) To submit a draft along with explanatory notes, in regard to enactment of new law and amendment of prevailing law as per necessity,
- (e) To make study about the laws which are obsolete, contradictory to each other, unequal, discriminatory, conflicting with human rights as well as unimplemented ones, and to submit suggestion to the Government of Nepal in regard to repeal, amendment or review of such laws,
- (f) To provide draft or suggestion to the Government of Nepal for inclusion of the covenants of international treaties and agreements in the prevailing laws, as per necessity,
- (g) To make consultation, discussion and interaction with concerned agency, organization in regard to drafting, codification, integration, review, reform and development of laws as per necessity, or to co-work with the concerned agency or organization in this regard,
- (h) To obtain service of experts for study, research and drafting of special type of laws,
- (i) To collect public opinion, views and suggestions in course of processing enactment of laws as per necessity,
- (j) To launch programs like symposium, seminar and interaction as per necessity in course of reformation of draft of laws,

- (k) To exchange necessary information and knowledge with law commissions as well as laws drafting agencies of other countries having contact with them,
- (l) To make study whether there is or not an existence of laws in consonance with the principles laid down by the Supreme court and to submit a draft to the Government of Nepal in regard to promulgation, repeal and review of laws in case of being found a gap thereto,
- (m) To prepare annual programs of the Commission,
- (n) To accomplish other function relating to law and justice as prescribed by the Government of Nepal and as deemed necessary by the commission itself.

**11. Procedure Relating to the Meeting of The commission:** (1) The Meeting of the Commission shall be held at least once in a month.

(2) The Meeting of the Commission shall be held on the date and time as prescribed by the Chairperson.

(3) Attendance of more than fifty percent of total number of members of the Commission shall be deemed to be a quorum for the Meeting of the Commission.

(4) The Meeting of the Commission shall be chaired by the chairperson and by the Vice-chairperson in case Chairperson is absent and , by the Senior member of the Commission in case of both the Chairperson and Vice-chairperson are absent .

(5) Opinion of majority shall prevail in the Meeting of the Commission, and incase of a tie, the person presiding over the Meeting shall cast his/her decisive vote.

(6) The Secretary shall certify the decision of the Commission.

(7) The Commission may invite any expert or honorary member to attend its meeting as an observer.

(8) Other procedure relating to the Meeting of the Commission shall be as determined by Commission itself.

**12. Function, Duty and powers of the chairperson:** (1) The Chairperson shall be a full time official of the Commission.

(2) The chairperson shall have the following functions, duties and powers:

- (a) To conduct the business of the Commission in a coordinated manner,
- (b) To accomplish other function relating to the Commission as a Chairperson,
- (c) To accomplish functions as prescribed by the Government of Nepal.

**13. Functions, Duties and powers of the vice-Chairperson:** (1) The Vice-Chairperson shall be a full time official of the commission.

(2) The Vice-Chairperson shall have the following functions, duties and powers:

- (a) To discharge the functions relating to the Commission as a Vice-Chairperson,
- (b) To discharge the duty of post of the chairperson in a situation of leave, absence or otherwise deputation of the chairperson.
- (c) To discharge the functions as prescribed by the Chairperson.

**14. Remuneration and Facility of the Chairperson and the Vice-Chairperson:** (1) The Chairperson and the Vice-Chairperson shall receive the salary and other

emoluments equal to a Justice of Supreme Court and the head of a constitutional body respectively.

(2) The chairperson may take casual leave and festival leave by him/herself, and other leaves of Chairperson shall be approved by the Minister for Law, Justice and Parliamentary Affairs.

(3) The Vice-chairperson may take casual leave and festival leave by him/herself, and the Chairperson shall approve other leave of the Vice-chairperson.

(4) The vice-chairperson working as the Chairperson, for more than seven consecutive day in the circumstances of Clause (b) of Sub-section (2) of Section 13 above, shall obtain the remuneration and other emoluments equal to the Chairperson for such period of his/her working as Chairperson.

**15. Secretary:** (1) There shall be an Officer of Special Class of Nepal Judicial Service in the Commission to act as the Secretary of the Commission.

(2) The functions, duty and powers of the Secretary shall be as follows:-

(a) To act as the administrative head of the Commission,

(b) To manage and get managed the administrative affairs of the Commission,

(c) To discharge the functions supposed to be discharged as a departmental head under the prevailing law,

(d) To convene the meeting of the Commission as per the direction of the chairperson,

(e) To execute and cause to be executed the decision of Commission.



16. **Arrangement of Employee:** (1) There Shall be employees of the Commission in required number.

(2) The Government of Nepal shall make available the employees required for the Commission.

17. **Service of Expert May be Obtained:** (1) The Commission, as per necessity, may obtain services of various experts in regard to the functions of the Commission.

(2) The expert shall be provided allowances as prescribed by the Commission for his/her service under Sub-section (1) above.

18. **Committee or Working Team may be constituted:** (1) The Commission may constitute a Committee or Working Team by involving any member and experts of relevant subjects to discharge a particular function to be discharged by the Commission under this Act.

(2) The functions, duties, powers and tenure of the Committee or Working Team constituted under Sub-section (1) and the allowance and facility to be received by the members of the Committee or Working Team shall be as prescribed by the Commission.

19. **Meeting Allowance:** The Member shall receive meeting allowance as prescribed by the Government of Nepal.

20. **Expenditures of the Commission:** The Government of Nepal shall make arrangement of expenditures required for the Commission.

21. **The commission Might be Involved in a Function Relating to Drafting of Laws:** The commission might be involved in a function relating to drafting of laws as per necessity.

22. **Report to be Submitted:** The Commission shall submit its annual progress report to the Government of Nepal within sixty days of the expiry of every fiscal year.

23. **Delegation of Power:** The commission may delegate some of its power under this Act to the Chairperson, Vice-Chairperson, Member, Secretary or to any Officer of the Commission as per necessity.
24. **Cooperation:** The government agencies shall have to provide necessary cooperation to the Commission in regard to the activities of the Commission.
25. **Oath:** The chairperson shall have to take an oath before the Chief Justice prior to holding the duty of his / her post, and the vice - chairperson and Member before the Chairperson, in the prescribed format as mentioned in the schedule.
26. **Contact with the Government of Nepal:** The Commission, while contacting with the Government of Nepal, shall contact through the Ministry of Law, Justice and Parliamentary Affairs.
27. **Power to make Rules:** The Government of Nepal, for execution of the objectives of this Act, may make necessary Rules in consultation with the Commission.
28. **Saving:** (1) The Nepal Law Reform Commission, existing at the time of commencement of this Act, shall be deemed of being constituted under this Act.
- (2) All activities accomplished by the Nepal Law Reform Commission, existing at the time of commencement of this Act, shall be deemed of being accomplished by the Commission under this Act.
- (3) The chairperson and the Vice-Chairperson being assigned in the time of commencement of this Act shall remain in their post till the period specified at the time of their appointment .

**∇Schedule**

**(Relating to Section 25)**

**Oath**

I..... solemnly promise/swear in the name of God that I will bear true faith and allegiance to the Nepalese people and prevailing constitution or other law that I will faithfully discharge the duties of the office of Chairperson/member subject to the prevailing laws, doing right to the country and people, without fear, favor, affection or ill will, and that I will not in any manner communicate or reveal any matter which shall become known to me in the course of discharging my duties, irrespective of whether I hold or cease to hold the office, except as may be required in the observance of law.

Name, surname:

Date:.....

Name:.....

Signature:.....

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<sup>∇</sup> Amendment by The Act Amending Some Nepal Acts, 2064 (2008)