

## **National Dalit Commission Act, 2074 (2017)**

### **Date of Authentication and Publication:**

October 15, 2017 (2074.06.29)

### **Amending Acts:**

The Act Amending Some Nepal Acts 2019 (2075) March 3, 2019 (2075.11.19)

### **Act No. 24 of the year 2017 (2074)**

### **An Act Made to make arrangements relating to National Dalit Commission**

**Preamble:** Whereas, it is expedient to make necessary arrangements relating to National Dalit Commission for the respect of the human rights of the Dalit community as well as the protection and promotion of the rights, interests of the Dalit community and the empowerment of the community and to effectively include and mainstream them in nation building and development by ending caste based discrimination and untouchability,

Now, therefore, be it enacted by the Federal Parliament pursuant to Article 296 sub-article (1) of the Constitution of Nepal.

### **Chapter-1**

### **Preliminary**

**1. Short title and Commencement:** (1) This Act may be called "National Dalit Commission Act, 2017 (2074)."

(2) This act shall come into force immediately.

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

- (a) "Chairperson" means the Chairperson of the Commission and the word also includes the member working as the Acting Chairperson.
- (b) "Commission" means the National Dalit Commission established under Article 255 of the Constitution.
- (c) →.....
- (d) "Prescribed" or "As prescribed" means laws prescribed or as prescribed under the Rules framed under this Act.
- (e) "Dalit Community" means the community as defined by the Government of Nepal on the basis of the recommendation made by the Commission.
- (f) "Member" means the member of the Commission and the word also includes the Chairperson.
- (g) "Constitution" means the Constitution of Nepal.

## **Chapter-2**

### **Power, Functions and Duties of the Commission**

3. **Power, Functions and Duties of the Commission:** The power, function and duties of the Commission in addition to the power,

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→ Removed by The Act Amending Some Nepal Acts 2019 (2075)

function and duties of the Commission prescribed in Article 256 of the Constitution shall be as follows: -

- (a) to review, monitor and evaluate the policy and programs related with the Dalit Community,
- (b) to conduct study and research on the prevailing legal provisions relating to the Dalit for the protection and promotion of the rights, interests and the empowerment of the Dalit Community, and to make recommendation to the Government of Nepal relating to the reforms of such laws,
- (c) to make recommendations to the Government of Nepal for the protection and promotion of the rights and interests of the Dalit Community and the empowerment of such community,
- (d) to increase social consciousness against caste based discrimination, untouchability or social malpractices or thoughts, behavior, practices that justify social discrimination on the basis of caste, race based on the supremacy of any caste or based on hate that purport any caste, race or persons of specific origin or community as high or low and to prepare and distribute awareness generating materials for such programs,
- (e) to formulate and implement necessary information, notices and consciousness generating programs for the protection

and promotion of rights and interests of the Dalit Community and the empowerment of such community,

- (f) to monitor the implementation of the international treaties, agreements relating to the Dalit Community that Nepal is a party to, and to make recommendations or suggestions for its implementation to the Government of Nepal,
- (g) to identify Dalit Community by means of detailed studies and research, and to make recommendations to the Government of Nepal to make lists of Surnames,
- (h) to review, monitor and evaluate the awareness generating programs conducted by the Government of Nepal and other institutions for the protection, promotion and empowerment of the rights and interests of the Dalit Community,
- (i) to monitor, cause to monitor the status of implementation of the recommendations made by the Commission,
- (j) to formulate, implement or cause to implement the code of conduct for the Chairperson, Members and employees of the Commission,
- (k) to approve the annual program of the Commission.

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- Amended by The Act Amending Some Nepal Acts 2019 (2075)
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4. **May obtain opinion and consultations:** The Commission, in relation to its functions and duties, may receive opinions and seek consultations from any constitutional organ, government office or public entity.
5. **May obtain service of experts:** The Commission may receive services from experts, pursuant to the federal law by stating the reasons thereof, if the human resource employed within the Commission is unable to perform any work that the Commission is required to perform as per the Constitution, this Act and prevailing federal law.
6. **May form committee or working group:** (1) The Commission may form a committee or working group to perform specific tasks concerned with the Commission, by formulating a procedure.

(2) The terms or scope of operation of the committee or working group formed pursuant to sub-section (1), shall be as prescribed by the Commission at the time of its formation.

(3) While forming the committee or working group pursuant to sub-section (1), there shall be representation from within the Dalit Community; based on the principle of proportional representation, as enshrined in the Constitution.
7. **Coordination and Cooperation:** The Commission may on the basis of necessity, coordinate and cooperate with government agencies or public entities.

### **Chapter-3**

#### **Procedure related to complaint action**

8. **Complaint may be filed:** (1) A written or oral complaint may be filed to the Commission by the victim or anyone on behalf of the victim in case of caste based discrimination and untouchability committed by any person or organization or victimization through social malpractices or restriction in use of Dalit rights.

(2) Upon receiving complaints pursuant to sub-section (1), the Commission shall have to register such complaints in a register book as prescribed.

(3) In case where the Commission receives information regarding matters pursuant to sub-section (1), through any other sources, the Commission shall have to record such information and register it within a register book pursuant to sub-section (2).

(4) No fees shall be charged for any complaints filed in the Commission in accordance with this Act.

9. **Preliminary Investigation and Punishment:** (1) The Commission shall initiate preliminary investigation over complaints received pursuant to sub-section (1) of Section 8 or over information received pursuant to sub-section (3) of Section 8.

(2) In course of preliminary investigation conducted pursuant to sub-section (1), if the Commission finds *prima facie*, that there has been an adverse impact on the rights and interests of the Dalit, it may issue

appropriate orders to the concerned individual, agency or official to immediately stop those acts.

**10. Investigation into complaints:** (1) If the preliminary investigation conducted pursuant to section 9, shows that the that there has been an adverse impact on the rights and interests of the Dalit Community, the Commission may conduct an investigation by itself or cause to conduct, on the basis of necessity by formation of a committee or as fixed by the officer of the Commission.

(2) The Commission, investigation committee or investigation officer, while carrying out the investigation pursuant to sub-section (1), shall have the following power: -

- (a) to avail information by calling a person before the Commission,
- (b) to order any person for the submission of any deed or document or evidence,
- (c) to inspect the site as and when necessary,
- (d) to collect any deed or its copy, concerned with the matter of investigation, from any government or public offices.

(3) A report shall be submitted to the Commission upon the completion of the investigation carried out pursuant to sub-section (1).

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• Amended by The Act Amending Some Nepal Acts 2019 (2075)

(4) Other provisions regarding the investigation of the complaints, shall be as prescribed.

**11. Investigation shall not be conducted:** Notwithstanding anything contained in Sections 9 and 10, the Commission shall not carry out investigation or initiate proceedings over matter that has been investigated or is being investigated by any other agency, in accordance with prevailing laws.

**12. Recommendation to file a case:** (1) If the Commission finds it necessary to file a case on the basis of investigation conducted pursuant to Section 10, it shall make a recommendation to the concerned agency to initiate a legal suit, within the time-limit of filing a case and notify the concerned persons of the same.

(2) The Commission, while making a recommendation pursuant to sub-section (1), shall make available the facts, documents and copies of evidences collected in course of investigation, to the concerned agency that will assist in the filing of a case.

(3) Upon receiving the written notice requesting the filing of a case pursuant to subsection (1), concerned agency shall examine and make a decision as to the filing or dismissal of the case.

**13. Complaints may be dismissed:** (1) The Commission may dismiss complaints by stating the reasons thereof, if upon investigation conducted pursuant to Sections 9 and 10, the complaint is found to be baseless.

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• Amended by The Act Amending Some Nepal Acts 2019 (2075)



(2) If a decision to dismiss a complaint is made pursuant to subsection (1), the Commission shall have to inform the concerned complainant of the same, within seven days from which the decision was made.

**14. Provision relating to Reconciliation:** (1) Notwithstanding anything contained elsewhere in this Act, if the concerned parties file a joint petition for reconciliation with respect to any complaint that is under consideration in the Commission, the Commission may have them reconciled on matters in which the prevailing laws allow for reconciliation.

(2) In matters that have been settled through reconciliation pursuant to sub-section (1), complaints may not be filed again in the Commission, except for cases where the decision of reconciliation has not been implemented.

(3) Other provisions regarding reconciliation shall be as prescribed.

**15. Implementation of Recommendation or Decision:** (1) The Commission shall write to the concerned individual, agency or official for the implementation of the recommendations, decision or order issued by it, in accordance with the Constitution or this Act.

(2) Upon receiving such correspondence in written form from the Commission pursuant to sub-section (1), the concerned individual, agency or official shall immediately implement it and inform the Commission of the same.

(3) The concerned individual, agency or officials shall immediately inform the Commission in case of their inability because of some reason to implement the content of the correspondence as written for by the Commission, pursuant to sub-section (1), by citing any reasons thereof.

(4) Upon receiving information pursuant to sub-section (3), the Commission shall write to any individual, agency or official for reconsideration of the matter and to take a decision or for the implementation of any matter.

#### **Chapter- 4**

#### **Operation of the Commission**

**16. Office of the Commission:** (1) A central office of the Commission shall be established in the Kathmandu Valley for the operation of work of the Commission.

(2) The Commission may, on the basis of necessity, establish offices in the provinces.

**17. Meeting of the Commission:** (1) The meeting of the Commission shall decide the activities of the Commission to be performed in accordance with the Constitution and this Act.

(2) The meeting of the Commission shall be held on such a date, time and venue as prescribed by the Chairperson, based on necessity.

(3) The Secretary of the Commission shall finalize and notify all members of the date, time and venue of the meeting along with a list of the agenda to be discussed in the meeting, at least 48 hours prior to the meeting.

(4) Any member interested to discuss additional issues, not included within the list of agenda set to be discussed within the meeting pursuant to sub-section (3), shall notify the Secretary of the additional issues and reason for their introduction to the meeting 24 hours prior to the meeting. Upon receipt of such information, the Secretary of the Commission shall notify all members and such issues shall be considered to have been included in the list.

(5) Notwithstanding anything stated in sub-sections (3) and (4), an issue not included within the list may be introduced and decided by the Commission, with the agreement of all members present in the meeting.

(6) The quorum of the meeting shall be deemed to have been fulfilled with the presence of more than 50 percent, of the immediate members of the Commission.

(7) The meeting of the Commission shall be chaired by the Chairperson of the Commission.

(8) The decision of the majority shall be the decision of the Commission and in case of a tie, the Chairperson shall give a decisive vote.

(9) The Secretary of the Commission shall create a depository of the decision of the Commission, authenticating it with the signatures of the Chairperson and Members.

• (10) The Secretary of the Commission shall be a gazetted first class officer of the Nepal Civil Service. The seniormost official of the Commission shall act as the Secretary of the Commission until the appointment of such official.

(11) Other procedures related to the meeting of the Commission shall be as determined by the Commission.

**18. Not to take part in the decision making in case of conflict of interest:**

If any member of the Commission has any interest, concern or benefit arising from any issue under consideration in the Commission or if the near relatives of such persons stand to benefit directly or indirectly, such member should give prior information to the Commission regarding such matters and such member shall not take part in the decision making process of the Commission concerning such matters.

**19. Work Division:** The division of the work of the Chairperson and Members shall be as fixed by the Commission.

**20. Work to be performed as an acting:** The senior most Member of the Commission, shall work as the acting Chairperson, if the position of the Chairperson falls vacant due to any reason, •is unable to perform work pursuant to sub-article (6) of Article 101 of the constitution, has gone for a foreign visit or is on leave for more than 7 days.

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• Amended by The Act Amending Some Nepal Acts 2019 (2075)  
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21. **Work, performance of the Commission not to be interrupted:** The vacancy of post of the Chairperson or any Member shall not interrupt the works of the Commission.

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## Chapter-5

### Miscellaneous

22. **Organizational Structure and Employees of the Commission:** (1) The organizational structure and appointment of employees of the Commission shall be as prescribed by the Government of Nepal.

(2) The Government of Nepal shall make available the employees necessary for the Commission to perform its work.

23. **Duties and Conduct of Post:** (1) The duties and conduct of the post to be adhered by the Chairperson and Members of the Commission shall be as follows:

(a) to perform the obligations of the post independently, impartially and honestly for the protection and promotion of the rights, interests of the Dalit community and the empowerment of the Dalit Community,

(b) not to commit any act that would create discord in the relationship between different ethnicities, communities and identities.

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⊗ Removed by The Act Amending Some Nepal Acts 2019 (2075)

(2) The Chairperson and the Members of the Commission shall adhere to the code of conduct as prescribed by this Act or prevailing federal laws.

24. **Cooperation to be extended:** It shall be the duty of any agency or official with which the Commission seeks assistance, to cooperate with the Commission in course of the performance of its functions.
25. **Power to send for implementation in writing:** If the Commission finds that any agency or official has deliberately not implemented the order, decision or recommendation made by the Commission in accordance with the powers conferred to it under the Constitution or this Act or has not assisted the Commission, it shall have the power to write to the higher agency or official above such agency or official for assistance in the matter.
26. **Annual report:** The annual report to be submitted by the Commission to the President, pursuant to Article 294 of the Constitution, shall *inter-alia*, include the following matters, in addition to other details:
  - (a) Details of implementation of annual programs of the Commission and expenses incurred,
  - (b) Details of complaints filed with the Commission and the decisions taken and orders given with regards to them by the Commission,
  - (c) Details of suggestions, recommendations given by the Commission to Nepal Government or any other agency,

- (d) The status of the implementation of the suggestions, recommendations given in accordance to clause (c),
- (e) Situation of physical and economic resources of the Commission and their utilization,
- (f) Details of other activities performed by the Commission in course of fulfilling the responsibilities required of it, pursuant to this Act.

27. **Liaison with Government of Nepal:** The Ministry of Federal Affairs and General Administration shall liaise the Commission with the Government of Nepal.

28. **Delegation of Power:** The Commission may delegate some authority accorded to it by the Constitution and this Act, as per necessity, with set conditions for its use and adherence to the Chairperson, Member, Government of Nepal, State Government, official employee of any agency or Local Government.

29. **Power to frame rules:** (1) The Commission may frame necessary rules for the implementation of this Act.

(2) The Commission shall have to get the approval of the Government of Nepal, Ministry of Finance, while making rules pursuant to subsection (1), on matters that impose financial burden or liability to the Government of Nepal.

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• Amended by The Act Amending Some Nepal Acts 2019 (2075)

(3) The rules made pursuant to sub-section (1) shall come into force, from the date of publication in the Nepal Gazette.

**30. Power to frame Directives:** The Commission may, subject to this Act or rules framed under this Act, issue directives to conduct or cause to conduct the smooth operation of its work.

**31.** <sup>∞</sup>.....

**32. Protection of the action taken in Good Faith:** No legal proceedings shall be initiated against the Members of the Commission, employees or any person deputed by the Commission for any action performed under this Act or rules framed under this Act, in good faith.

**33. Repeal and Savings:** (1) National Dalit Commission, formed in accordance to the notice published in the Nepal Gazette on Chaitra 6, 2058 B.S., is hereby repealed.

(2) The acts and actions performed by the Commission pursuant to sub-section (1), shall be deemed to have been performed under this Act.

(3) The members appointed under the National Dalit Commission, pursuant to sub-section (1), shall be discharged from their post automatically, with the operation of this Act.

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<sup>∞</sup> Repealed by the The Act Amending Some Nepal Acts 2019 (2075)



**∞ Schedule**

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<sup>∞</sup> Repealed by the The Act Amending Some Nepal Acts 2019 (2075).