

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

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

October 13, 2017 (2074.06.27)

### **Amending Acts:**

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

### **Act No. 18 of the year 2017 (2074)**

### **An Act made to make arrangements relating to National Inclusion Commission**

**Preamble:** Whereas, it is expedient to make necessary arrangements relating to National Inclusion Commission for the protection and promotion of the rights and interests of the communities including Khas Arya, backward class, persons with disabilities, senior citizens, laborers, farmers, minorities and marginalized communities, people of Karnali, backward areas and economically indigent class and the empowerment of such communities,

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 Inclusion 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 Inclusion Commission established under Article 258 of the Constitution.
- (c) "Karnali" means the then Karnali Zone.
- (d) "Prescribed" or "As prescribed" means laws prescribed or as prescribed under the Rules framed under this Act.
- (e) "Backward Area" 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, function and duties of the Commission prescribed in Article 259 of the Constitution shall be as follows: -

- (a) to review, monitor and evaluate the policy and programs related with the Khas Arya, backward class, persons with

disabilities, senior citizens, labors, farmers, minorities as well as marginalized communities and backward class, people of Karnali, backward areas and economically indigent class,

- (b) to monitor or cause to monitor the implementation of the recommendations made or suggestions given by the Commission,
- (c) to formulate special programs for the development and empowerment of the economically or socially indigent people within the communities, class and region mentioned in Clause (a) and to make recommendations to the Government of Nepal for their implementation,
- (d) to conduct study and research into the language, script, culture, history, tradition, literature, art of the communities, class and region mentioned in Clause (a) and to formulate programs for the protection and development of such language, script, culture, history, tradition, literature, art and to make recommendations to the Government of Nepal for their implementation,
- (e) to conduct awareness generating program for the protection and promotion of the rights and interests of the communities, class and region mentioned in Clause (a) and the empowerment of such class and communities,
- (f) to formulate programs to end all forms of exploitation prevailing in the communities, class and regions

mentioned in Clause (a) and to make recommendations to the Government of Nepal for their implementation,

- (g) to monitor the implementation of the international treaties, agreements relating to the the class, regions and communities mentioned in Clause (a) that Nepal is a party to, and ♦to make recommendations or suggestions for their implementation to the Government of Nepal,
- (h) to collect complaints against the persons or organizations that violate the rights of the class, regions and communities mentioned in Clause (a) and to make recommendation to the concerned agency to conduct investigation and prosecution over such complaints,
- (i) to identify the class, regions and communities stated mentioned in Clause (a), by means of detailed study and research and to make recommendations to the Government of Nepal to make lists of Surnames,
- (j) to coordinate with the Government of Nepal and other institutions and organizations with relation to the policies, program and decisions taken regarding the class, regions and communities mentioned in Clause (a),
- (k) to formulate and implement the code of conduct for the Chairperson, Members and employees of the Commission,

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

(1) to approve the annual plans and program of the Commission.

4. **May obtain opinion and consultations:** The Commission, with 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 relating to 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 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

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

**8. 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.

**9. Meeting of the Commission:** (1) The meeting of the Commission shall decide the activities 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 issue 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 issue 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.

**10. 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

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

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.

11. **Work Division:** The division of the work of the Chairperson and Member shall be as fixed by the Commission.
12. **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.
13. **Work, performance of the Commission not to be interrupted:** The vacancy of post of the Chairperson and/or any Member shall not interrupt the works of the Commission.

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#### **Chapter-4**

#### **Miscellaneous**

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

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

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



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

**15. 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 Khas Arya, backward class, persons with disabilities, senior citizens, labors, farmers, minorities as well as marginalized communities and backward class, people of Karnali and economically indigent class and empowerment of such class and community,
- (b) not to commit any act that would create discord in the relationship between different ethnicities, communities and identities.

(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.

**16. 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.

**17. Power to send for implementation in writing:** If the Commission finds that any agency or official has not made available necessary assistance to

the Commission, it may write to the higher agency or official, above such agency or official for assistance in the matter.

**18. Annual report:** The Commission shall submit an annual report of the work and activities of the Commission to the President, within three months of the date of expiry of the fiscal year.

(2) The report made pursuant to sub-section (1), 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 suggestions, recommendations given by the Commission to Nepal Government or any other agency,
- (c) The status of the implementation of the suggestions, recommendations given in accordance to clause (c),
- (d) Situation of physical and economic resources of the Commission and their utilization,
- (e) Details of other activities performed by the Commission in course of fulfilling the responsibilities required of the Commission, pursuant to this Act.

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

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

20. **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.

<sup>∞</sup>21. ....

22. **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.

23. **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.

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

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

24. **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 functions.

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

**∞Schedule**

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Nepal Law Commission

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