

**National Natural Resources and Fiscal 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. 17 of the year 2017 (2074)**

**An Act made to make arrangements relating to National Natural  
Resources and Fiscal Commission**

**Preamble:** Whereas, it is expedient to make necessary arrangements relating to the power, function and duties of the National Natural Resources and Fiscal Commission,

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 Natural Resources and Fiscal 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.
- (b) "Commission" means the National Natural Resources and Fiscal Commission established under Article 250 of the Constitution.
- (c) "Plan" means planning, project and program as well.
- (d) "Member" means the member of the Commission and the word also includes the Chairperson.
- (e) "Constitution" means the Constitution of Nepal.

## **Chapter-2**

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

**3. Power, Functions and Duties of the Commission:**(1) The power, function and duties of the Commission in addition to the power, function and duties of the Commission contained elsewhere in this Act and the Constitution shall be as follows: -

- (a) to make recommendations to the States in relation to the fiscal equalization grant to be provided by the States to the Local Level in accordance with State Laws,
- (b) to set bases for determination of the conditional grant to be provided by the State to the Local Level in accordance with State laws and to make recommendations to the State on same,

- (c) to facilitate and provide assistance necessary to resolve disputes between the Government of Nepal, State or Local Level relating to the distribution of revenues,
- (d) to make suggestions to the Government of Nepal, in relation to the grants to be provided by the Government of Nepal to the State and Local Level,
- (e) to provide necessary suggestions to the Government of Nepal and to the States, as requested by them, in relation to the distribution of revenues,
- (f) to provide necessary suggestions to the Government of Nepal, State and Local Level in case of suggestions requested by them in relation to the taxes levied by them,
- (g) to make suggestions to the Government of Nepal, State and Local Level in relation to the protection and utilization of Natural Resources.

(2) The Commission, while making or preparing the frame for its suggestions or recommendations, in accordance to the Constitution or this Act, shall take into consideration the performance of the State and Local Level.

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 and this Act.
  
6. **May form committee or working group:** (1) The Commission may form a committee or working group with the purpose of performing tasks of specific nature relating to the Commission, by formulating a procedure.  
  
(2) The tasks, terms or scope of operation and procedure 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.
  
7. **Coordination and Cooperation:** The Commission may on the basis of necessity, coordinate and cooperate with constitutional agency, Government of Nepal, government offices at the State and Local Level or public entities.
  
8. **To assist in the functioning of the Commission:** If the Commission seeks any information, details or assistance from any agency or official in course of performance of its function, it shall be the duty of such agency or official to make available such information, details or assistance.

### Chapter- 3

#### Operation of the Commission

9. **Office of the Commission:** The office of the Commission shall be established in the Kathmandu Valley.

10. **Meeting of the Commission:** (1) The meeting of the Commission shall decide the activities to be performed by the Commission, in accordance with the Constitution this Act and other prevailing laws.

(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 and also authenticate it with the signatures of the Chairperson and Members.

(10) The seniormost official of the Commission shall act as the Secretary in the meetings of the Commission.

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

**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 seniormost 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)

13. **Work, performance of the Commission not to be interrupted:** The vacancy of posts of the Chairperson and/or any Member shall not interrupt the works of the Commission.

#### Chapter-4

#### **Mobilization of Natural Resources, Revenue Distribution and Grants**

14. **Bases to be taken during the mobilization of Natural Resources:** (1) The Commission shall determine the portion of investment to be made by the Government of Nepal, State and Local Level, in relation to the mobilization of natural resources, on the following bases and make recommendations to the Government of Nepal: -

- (a) status of Revenue and capacity to collect it,
- (b) capacity to make investments,
- (c) portion to be obtained,
- (d) portion of consumption made from the portion obtained,
- (e) condition of infrastructure and necessity,
- (f) economic condition and geographical terrain.

(2) The portion of returns to be received from the mobilization of Natural Resources made pursuant to sub-section (1), shall be determined by the Commission on the following grounds and recommendation of the same shall be made to the Government of Nepal: -

- (a) situation of mobilized natural resources,

- (b) area affected due to the mobilization of natural resources,
- (c) dependence upon the mobilized natural resources,
- (d) population benefitting from the results,
- (e) population dependent on the natural resources,
- (f) participation in the protection and sustainable management of natural resources.

**15. Bases to be taken during distribution of revenues:** (1) The Commission shall determine the detailed bases and framework for the distribution of revenues between the Government of Nepal, State and Local Level and State and Local Level, on the following bases and make a recommendation to the Government of Nepal: -

- (a) population and demographic details,
- (b) territory/area,
- (c) Human Development Index,
- (d) requirement of expenditure,
- (e) attempts made for revenue collection,
- (f) infrastructure development,
- (g) special condition.

(2) The detailed bases and framework determined by the Commission pursuant to sub-section (1), shall be acceptable for five years



and the Commission shall review it every five years and make a recommendation to the Government of Nepal.

(3) Notwithstanding anything contained in sub-section (2), the Government of Nepal may request the Commission as per necessity, to review prior to five years, the detailed bases and framework made after this Act comes into force for the first time, pursuant to sub-section (1), because of specific reasons. If the request made by the Government of Nepal seems reasonable, the Commission shall review the detailed bases and framework made pursuant to sub-section (1) and make a recommendation to the Government of Nepal.

(4) Notwithstanding anything contained in sub-section (3), the detailed bases and framework, made for the first time, pursuant to sub-section (1), shall not be reviewed more than once within five years.

**16. Bases to be taken while making recommendations for grants:** (1) The Commission, while making recommendations to the Government of Nepal and State, in relation to the Fiscal Equalization Grant to be provided by the Government of Nepal to State and Local Level and by the State to Local Level in accordance with the prevailing laws, shall take the following bases into consideration: -

- (a) Human Development Index like education, health, drinking water within State and Local Level,
- (b) situation of balanced development within other State and Local Level,

- (c) situation of economic, social or any other discrimination prevalent within other State and Local Level,
- (d) situation and necessity of infrastructure development of State and Local Level,
- (e) services to be provided by the State and Local Level to the citizens,
- (f) situation of revenue of the State and Local Level and their capacity to collect it,
- (g) necessity of expenditure of the State and Local Level.

(2) The Commission, while making recommendation to the Government of Nepal and State for the Conditional Grant to be provided by the Government of Nepal to State and Local Level and by State to Local Level, in accordance with prevailing laws, shall take the subjects contained in the clause (c) and sub-section (1) of sub-article (1) of Article 251 of the Constitution, as bases.

(3) The Commission, while making recommendation for fiscal equalization grant pursuant to sub-section (1), shall determine the minimum grant to be received by every state and Local Level, and considering, the bases pursuant to sub-section (1), shall recommend the fiscal equalization grant receivable by every state and local level.

## Chapter-5

### Miscellaneous

**17. 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.

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

**18. Duties and Conduct of Post:** The duties and conduct of the post to be adhered by the Chairperson and Members of the Commission shall be as per the Constitution, this Act and prevailing federal laws.

**19. Annual report:** (1) The Commission shall submit an annual report of the work and activities performed by 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 and recommendations given by the Commission to the Nepal Government, State and Local Level,
- (c) The status of the implementation of the suggestions and recommendations,

- (d) Situation of physical and economic resources of the Commission and their utilization,
- (e) Suggestions for reforms on other areas concerning natural resources and revenue distribution,
- (f) Details of other activities performed by the Commission in course of fulfilling the responsibilities required to be fulfilled by it, in accordance to this Act.

(3) The report made pursuant to sub-section (1) shall be published by the Commission for information of the general public, after it is submitted to the Federal Parliament.

**20. Liaison with Government of Nepal:** The Government of Nepal, Ministry of Finance, shall liaise the Commission with the Government of Nepal.

**21. 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, Secretary of the Commission or any official employee of the Government of Nepal, State or Local Level.

**22. 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 on 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.

- 23. Power to frame Directives or Procedures:** The Commission may, subject to this Act or rules framed under this Act, issue directives or procedures to conduct or cause to conduct the smooth operation of its functions.