

The Right to Housing Act, 2075 (2018)

Date of Authentication

2075.6.2 (September 18, 2018 A.D.)

Act number 12 of the year 2075 (2018)

An Act Made To Provide for Right to Housing

Preamble: Whereas, it is expedient to make necessary provisions on providing the homeless citizens with appropriate and safe housing facility in accordance with the Constitution of Nepal;

Now, therefore, be it enacted by the Federal Parliament.

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be cited as the "Right to Housing Act, 2075 (2018)."
 - (2) This Act shall come into force immediately.
2. **Definition:** Unless the subject or the context otherwise requires, in this Act,-
 - (a) "Housing" means building, house, part of it or such permanent or temporary, partial or full structure constructed for the residential purpose.
 - (b) "Place of housing" means the housing and the four corners occupied by it, and this term also includes the place having joint or group housing.
 - (c) "Housing site" means the group of one or more places of housing.
 - (d) "Homeless" means the person and family to be provided with the housing facility referred to in Section 7.
 - (e) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.
 - (f) "Family" means husband or wife, son, daughter-in-law, daughter, adopted son, adopted daughter, father, mother, step-mother, elder brother, elder sister-in-law, younger brother, younger sister-in-law, elder sister and younger sister of the citizen acquiring the housing facility.

Provided that this term does not mean the family any of the members who have settled, dealing with his or her own occupation and business after separation of bread and board and partition under law.

- (g) "Ministry" means the Ministry of the Government of Nepal that looks after the matters of housing.
- (h) "Local Level" means the Rural Municipality or Municipality.

Chapter-2

Respect, Protection and Fulfillment of Right to Housing

3. Right to housing: (1) Every citizen shall have the right to an appropriate housing, and such right shall be respected, protected and fulfilled pursuant to this Act and other prevailing laws.

(2) Under the right to housing referred to in sub-section (1), every citizen shall have the following rights:

- (a) To make safe, appropriate and suitable housing according to his or her capacity, subject to the standards determined by the prevailing law, to settle in that housing and use it,
- (b) To stay safe from the condition of life being into the risk due to the lack of housing,
- (c) To make choice of the place of housing pursuant to the prevailing law, and make provision for housing at a suitable place by migration,
- (d) To respect and protect his or her religious, social and cultural identity at the place of housing,
- (e) To conserve without constructing physical structure in the designated open area in his or her place of housing and surroundings.

(3) The responsibility to respect, promote, protect, fulfill and implement the right referred to in sub-section (1) shall be vested in the Government of Nepal, Provincial Government and Local Level.

4. To respect citizen's right to housing: (1) A citizen shall be allowed to use his or her housing peacefully without any interruption.

(2) No citizen shall be made deprived of, or discriminated from, the facility of housing on the ground of origin, religion, class, caste, ethnicity, gender, physical condition, disability, health condition, marital status, pregnancy, economic condition, language or region, ideology or any other such grounds.

5. To evict for public purpose: (1) Any citizen may be evicted from his or her housing for the public purpose in accordance with the prevailing law.

(2) While evicting any citizen from the housing owned by him or her for the public purpose pursuant to sub-section (1), such eviction shall be made by providing him or her with resettlement or compensation, in accordance with the prevailing law.

(3) The compensation referred to in sub-section (2) shall have to be provided prior to the act of evicting the citizen from his or her housing.

(4) While evicting any citizen from his or her housing for public use pursuant to sub-section (1), the following conditions shall have to be fulfilled:

- (a) Consultation has been held with the citizen,
- (b) Sufficient notice, along with the reason, has been given,
- (c) Person or family to be evicted from housing has been appropriately identified,
- (d) Authorized official as his or her representative has been present at the time and place of eviction,
- (e) There has been not a night time or similar inconvenient time.

(5) In the course of evicting from housing pursuant to this Section, protection of elderly citizen, the sick, person with disability, children, helpless, weak and pregnant woman shall have to be properly paid attention to.

(6) The provisions relating to resettlement pursuant to this Section shall be in accordance with the provisions made by the concerned public body.

6. Access to resources: The Government of Nepal, Provincial Government and Local Level shall have to make provision of having easy access of the citizens to the resources available in the place of housing.

Chapter-3

Provision of Housing Facility

7. **To provide housing:** Notwithstanding anything contained in Chapter-2 of this Act, the Government of Nepal, Provincial Government or Local Level shall have to provide the homeless person and family as follows with the housing facility gradually, as prescribed, on the basis of resources by prioritizing, with mutual coordination:
- (a) Having no house and land under ownership of him or her or his or her family within the State of Nepal or and is unable to make arrangement for housing from his or her or his or her family's income generation, resource or effort,
 - (b) Having been displaced permanently due to a natural disaster, and having the condition referred to in clause (a) in existence.
8. **To provide financial instrument:** (1) In order to provide the homeless person and family with the housing facility referred to in Section 7, concessional financial facility shall be provided as prescribed.
- (2) The homeless person and family under extreme destitution not able to manage housing even under the facility referred to in sub-section (1), and being unable to make other alternative provision, shall be gradually provided with the housing facility on the basis of the priority as prescribed.
9. **To collect list and to identify:** (1) The concerned Local Level shall have to collect the list as prescribed setting out the detailed identity and settlement conditions of the persons and families to be provided with the housing facility.
- (2) The Local Level shall have to provide the details of the list collected pursuant to sub-section (1) to the Government of Nepal through the Provincial Government.
10. **To provide identity card:** (1) The concerned Local Level shall have to distribute the persons or families concerned with the identity cards as prescribed.
- (2) The distribution of identity cards referred to in sub-section (1) shall have to be accomplished within the deadline as prescribed.
- (3) The concerned Local Level shall have to provide the concerned Provincial Government and the concerned Ministry with the details of the identity cards distributed pursuant to this Section.

(4) On the basis of the details of the identity cards distributed pursuant to this Section, the Government of Nepal, Provincial Government and Local Level shall have to provide the citizens with the housing facilities gradually by making arrangement of resources avoiding duplication.

11. **To provide support:** For accomplishing the work referred to in Sections 9 and 10, the Government of Nepal and Provincial Government shall have to provide the Local Level with financial and technical support.
12. **To make declaration of not having land or housing:** Before obtaining the housing facility under this Act, the person and family identified for obtaining housing facility pursuant to Section 9 shall have to make self-declaration, as prescribed, of not having land, housing in the name of his or her or his or her family at any part of the country, and of not being able to make provision for housing out of the income generation, resources or efforts of his or her or his or her family.
13. **To provide temporary housing:** (1) The Government of Nepal, Provincial Government and Local Level shall have to immediately provide the person and family displaced with disaster with the temporary housing or financial support as prescribed, upon mutual coordination.

(2) The temporary housing referred to in sub-section (1) shall have minimum facilities as prescribed, including gender friendly, disability friendly environment.

(3) If there is condition to settle the person or family taking shelter in temporary housing referred to in sub-section (1) at the previous place being the situation normal after such disaster, rehabilitation shall have to be managed at the same place.
14. **To make provision for resettlement:** (1) The Government of Nepal, Provincial Government or Local Level shall have to make proper arrangement for the resettlement of the person and family fully displaced due to the reason referred to in Section 13, if there is no land elsewhere in the name of such a person and family, or even if having land, it is not suitable for settlement due to geographical or other reason, and if there is condition that he or she is not able to make arrangement for any other place of housing by himself or herself due to financial hardship of his or her or family.

Provided that if such a person or family is involved in any activity of income generation, arrangement for resettlement may be made by providing him or her with concessional loan and partial grant pursuant to the prevailing law.

(2) While making provision for resettlement pursuant to sub-section (1), social, cultural aspects and matters of livelihood of the concerned person and family shall also have to be paid attention to as far as possible.

15. Ownership, use and right of possession of housing: (1) After the housing is provided for the citizen, upon construction by the Government of Nepal, Provincial Government or Local Level pursuant to this Act, arrangement may be made for the ownership of such housing to be vested in single, group or joint ownership of the person, family or community obtaining such housing facility.

(2) Notwithstanding anything contained in sub-section (1), it shall not prevent from providing only the right of possession to the person or family concerned on such housing.

(3) If the housing facility has been provided under single ownership of any one person and family, the same person and family having ownership shall have to reside in it.

(4) If the housing facility has been provided under group or joint ownership, all the persons settling in it shall have the ownership of such housing.

(5) Without obtaining approval of the Government of Nepal or the concerned Provincial Government or Local Level, providing such housing facility, obtaining loan by pledging and mortgaging in the bank, financial or other institution, selling, lending or giving on rent or lease or transferring ownership to other person or relinquishing the right in any manner from the housing provided under single, group or joint ownership of any person and family pursuant to sub-sections (2), (3) and (4) shall be forbidden.

Provided that, partitioning between the coparceners under the prevailing law, and transferring and transmitting to the name of the heir after his or her death or inheriting or transferring ownership with any other descriptions shall not be prevented.

(6) Any act contrary to the provision of sub-section (5) shall *ipso facto* be void, and the Government of Nepal or Provincial Government or Local Level, which has provided housing, shall automatically have the ownership of such housing.

(7) The Government of Nepal or Provincial Government or Local Level providing housing may provide such housing referred to in sub-section (6) to other displaced, homeless persons and families.

16. Not to provide double facility: (1) Housing shall not be provided for the person and family to whom housing has been provided under this Act in such a way that such a person or family gets double facility.

(2) The person and family to whom the facility of housing has been provided once under this Act shall not be provided with such facility again.

(3) Notwithstanding anything contained elsewhere in this Section, it shall not prevent from providing housing again if the housing provided earlier is completely destroyed as a result of the disaster and is not habitable.

17. Not to provide housing facility: (1) Notwithstanding anything contained elsewhere in this Act, any of the following persons and families shall not be provided with the housing facility under this Act:

- (a) A person who holds a post that is deemed as a public office under the prevailing law is retired from the office or released from the post, and his or her family,
- (b) A person who receives remuneration or any other financial facility from a domestic or foreign company, corporate body, partnership, firm, and his or her family,
- (c) A person who receives remuneration or any other financial facility from a domestic or foreign non-governmental organization, and his or her family,
- (d) A person who is involved in trade, business or other work of income generation in the private sector, and his or her family,
- (e) A person who is serving for a foreign government or international organization or institution, or receiving pension or other financial facility from it, and his or her family,
- (f) A person and family who has the resident visa of a foreign country or resides permanently in a foreign country,
- (g) A person and family staying upon taking anybody else's house, land or apartment on rent for residential purpose,

- (h) A person and family who does not have any housing but has movable and immovable property more than the ceiling as prescribed by the Government of Nepal,
 - (i) Such other person and his or her family as prescribed.
 - (2) Notwithstanding anything contained in sub-section (1), the housing facility under this Act shall not be prevented from being provided if the housing is completely destroyed as a result of disaster or for the person and his or her family who earns annual income less than that prescribed by the Government of Nepal.
- 18. To coordinate with Local Level:** (1) While providing any facility relating to housing under this Act, the Government of Nepal and Provincial Government shall have to implement it in coordination with the Local Level.
- (2) The Government of Nepal and Provincial Government may implement it through the Local Level by providing necessary budget, human resource and other technical support for the implementation of the programs related to housing.
- 19. Provision of development of integrated settlement:** (1) While providing the housing facility under this Act, the Government of Nepal, Provincial Government and Local Level may make arrangements for housing according to the concept of integrated settlement development as per necessity and suitability.
- (2) Notwithstanding anything contained elsewhere in this Act, it shall not prevent from shifting the settlement of remote, inaccessible and unsafe places, where service and facility cannot be extended, due to geographical inaccessibility, to the appropriate place.
- 20. To provide housing facility from domestic private sector:** (1) The private company or body corporate may construct housing and distribute it to the citizen, subject to the prevailing law.
- (2) Minimum service, facility and infrastructure shall have to be available in the housing referred to in sub-section (1).
- 21. Availability of service, facility and infrastructure:** Minimum service, facility and infrastructure shall have to be available in the area of housing to be provided under this Act.
- 22. To monitor:** The Government of Nepal, Provincial Government and Local Level shall have to form a mechanism, as prescribed, for monitoring of the work of providing the housing facility pursuant to this Act.

- 23. To abide by building code and standards relating to building construction:** While providing housing pursuant to this Act, the Government of Nepal, Provincial Government and Local Level shall have to abide by the standards regarding settlement development, use of land, building code and building construction, prescribed by the federal law.
- 24. Dispute resolution:** Regarding the use of the housing facility provided under this Act, if any dispute, excluding the title, arises between the persons and families settled in such housing, the local Judicial Committee shall have the authority to deal with such a dispute.

Chapter-4

Offences and Punishment

- 25. Offences and punishment:** (1) If any person does any of the following acts, such a person shall be deemed to have committed the offence referred to in this Act:
- (a) To receive the housing facility by submitting false details,
 - (b) To abuse the housing facility, or to use the housing for the purpose other than residence,
 - (c) To collect description or make false recommendation deliberately,
 - (d) To do any act contrary to sub-section (5) of Section 15.
- (2) A person who commits the offence referred to in sub-section (1) shall be liable to the punishment as follows:
- (a) If the offence referred to in clause (a) is committed, imprisonment for a term not exceeding two years or fine not exceeding five hundred thousand rupees, or both,
 - (b) If the offence referred to in clause (b) is committed, imprisonment for a term not exceeding one year or fine exceeding three hundred thousand rupees, or both,
 - (c) If the offence pursuant to clause (c) is committed, fine of one hundred thousand rupees and the departmental action shall also be taken in the case of a government employee,
 - (d) If the offence referred to in clause (d) is committed, imprisonment for a term not exceeding three years or fine not exceeding one million rupees, or both.

(3) If the fine referred to in sub-section (2) cannot be recovered from the concerned offender, recovery shall have to be made as government arrears.

(4) If the person provided grant for construction of the housing under this Act is found to have obtained the grant by submitting false descriptions, recovery shall be made as the government arrears, calculating the amount along with the interest incurred upon such grant, and further action shall also be taken under the prevailing law, if any.

Chapter-5

Miscellaneous

- 26. To maintain in the name of the Government of Nepal, Provincial Government or Local Level:** In addition to the conditions mentioned in sub-section (6) of Section 15, if the following condition exists, the housing provided under this Act shall be maintained in the name of the Government of Nepal, Provincial Government or Local Level providing such housing facility, by removing the name of such a person and family from the registry.
- (a) If the person and the family whom the housing has been provided to does not settle or use it for three or more than three years consecutively;
 - (b) If there exists any other case as prescribed.
- 27. Repair, maintenance and service charge of housing:** (1) The housing provided under this Act shall have to be repaired and maintained by the person and family obtaining such housing facility.
- (2) Except as otherwise prescribed by the Government of Nepal, Provincial Government or Local Level that service charge will be free, the service charge for using facilities including electricity, drinking water supply installed in the housing shall have to be borne, within the deadline prescribed, by the person and family obtaining such housing.
- 28. Housing may be returned:** If the person and family who have obtained the housing provided under this Act wish to return the housing due to the increase in their financial capacity or other reasons, such person and family may return such housing to the Government of Nepal, Provincial Government or Local Level, as the case may be, which has provided such housing. The person or family who so returns may be honored by the concerned body.

29. Government of Nepal to become plaintiff: (1) The Government of Nepal shall be the plaintiff in the cases referred to in sub-section (1) of Section 25.

(2) The cases referred to in sub-section (1) of Section 25 shall be deemed to have been included in Schedule-1 of the National Criminal Procedure Code, 2074 (2017).

30. Power to frame Rule: The Government of Nepal may formulate necessary Rules in order to implement this Act.

31. Power to make procedures and directives: (1) The Government of Nepal, Provincial Government and Local Level may make necessary procedures or directives subject to this Act and the Rules framed under this Act.

(2) The procedures or directives made pursuant to sub-section (1) shall have to be made public.