

Right to Information Act, 2064 (2007)

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AN ACT TO MAKE PROVISION FOR RIGHT TO INFORMATION

Preamble, Whereas; it is expedient to make the functions of the state open and transparent in accordance with the democratic system and to make responsible and accountable to the citizen; to make the access of citizens simple and easy to the information of public importance held in public bodies; to protect sensitive information that could make adverse impact on the interest of the nation and citizen, and for the necessity to have legal provisions to protect the right of the citizen to be well-informed and to bring it into practice, the 'Legislature-Parliament' has enacted this Act.

Chapter- one

Preliminary

1. **Short title and commencement:** (1) This Act may be called 'Right to Information Act, 2064 B.S. (2007 A.D.).

(2) This Act shall come into force from the 30th (Thirty) day of certification.

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

(a) "Public Body" means the following body and institution list:

- (1) A body under the constitution,
- (2) A body established by an Act,
- (3) A body formed by the Government of Nepal,

- (4) Institution or foundation established by the law, public service.
 - (5) Political Party or organization registered under the preventing law.
 - (6) Body Corporate under the full or partial ownership or under control of the Government of Nepal or such body receiving grants from the Government of Nepal.
 - (7) Body Corporate formed by a Body established by the Government of Nepal or the law upon entering into an agreement,
 - (8) Non-Governmental Organization/Institutions operated by obtaining money directly or indirectly from the Government of Nepal or Foreign Government or International Organizations/Institutions,
 - (9) Any other Body or Institution prescribed as Public Body by the Government of Nepal by publishing notice in the Gazette.
- (b) "Information" means any written document, material, or information related to the functions, proceedings thereof or decision of public importance made by a Public Body.
- (c) "Public Importance" means a subject related directly or indirectly with the interest of citizens.
- (d) "Document" means any kind of scripted document and the word shall also includes any audio visual material collected and updated through a mechanical medium or that can be printed or retrieved.
- (e) "Right to Information" means the right to ask for and obtain information of public importance held in the Public Bodies and this term shall also include the right to study or observation of any written document, material held in Public Body or proceedings of such Public Body; to obtain a verified copy of such document, to visit or observe the place where any construction of public importance is going on and to obtain verified sample of any material or to obtain information held in any type of machine through such machine.
- (f) "Information Authority" means a person appointed in pursuant to with Section 6.

- (g) "Chief" means the Chief of a Public Body.
- (h) "Commission" means the National Information Commission constituted in pursuant to Section 11.
- (i) "Chief Information Commissioner" means a person appointed pursuant to Section 11.
- (j) "Information Commissioner" means a person appointed pursuant Section 11.
- (k) "Prescribed" or "as prescribed" means prescribed or as prescribed in Rules framed under this Act.

Chapter- 2

Right to Information and Provision Regarding the Flow of Information

- 3. **Right to Information:** (1) Every citizen shall, subject to this Act have the right to information.
 - (2) Every citizen shall have access to the information held in the public Bodies.
 - (3) Notwithstanding anything provided in Sections (1) and (2), the information held by a Public Body on the following subject matters shall not be disseminated:
 - (a) which seriously jeopardizes the sovereignty, integrity, national security, public peace, stability and international relations of Nepal.
 - (b) which directly affects the investigation, inquiry and prosecution of a crime.
 - (c) Which seriously affects on the protection of economic, trade or monetary interest or intellectual property or banking or trade privacy.
 - (d) Which directly jeopardizes the harmonious relationship subsisted among various cast or communities.

- (e) Which interferes on individual privacy and security of body, life, property or health of a person.

Provided that, a public Body shall not refrain from the responsibility of dissemination of information without appropriate and adequate reason not to flow the information.

(4) If a Public Body has both the information in its record that can be made public and that cannot be made public in accordance with this Act, the Information Officer shall have to provide information to the applicant after separating the information which can be made public.

4. Responsibility of a Public Body: (1) Each Public Body has to respect and protect the right to information of citizen.

(2) Public Body shall have following responsibilities for the purpose of Sub-Section (1):

- (a) to classify and update information and make them public, publish and broadcast,
- (b) to make the citizens' access to information simple and easy,
- (c) to conduct its functions openly and transparently,
- (d) to provide appropriate training and orientation to its staffs,

(3) Public Body may use different national languages and mass media while publishing, broadcasting or making information public in accordance with Section (a) of Section (2).

5. Updating and Publication of Information: (1) A Public Body shall keep its information updated.

(2) A Public Body, as long as possible, shall update at least of twenty years old information from the commencement of this Act related to it in pursuant to Sub-Section (1).

(3) A Public Body shall enlist and publish its following information:

- (a) structure and nature of Body,

- (b) functions, duties, and powers of Body,
- (c) number of employees and working details of Body,
- (d) service to be rendered by the Body,
- (e) branch and responsible officer of the service providing Body,
- (f) fee and time limit required for service,
- (g) decision making process and authority,
- (h) authority to hear appeal against decision
- (i) description of functions performed
- (j) name and designation of Chief and Information Officer
- (k) list of Acts, Rules, By Laws or Guidelines
- (l) updated description of income, expenditures and financial transactions.
- (m) other particulars as prescribed.

(4) Public Body shall have to update and publish the information in accordance with Sub-Section (3) within three months from the date of commencement of this Act and in every three months thereafter.

6. Provision of Information Officer: (1) A Public Body shall arrange for an Information Officer for the purpose of disseminating information held in its office.

(2) For the purpose of disseminating information in accordance with Sub-Section (1), the Chief has to regularly provide information held in the office to the Information Officer.

(3) Public Body shall set up an Information Section for the purpose of disseminating information as per necessity.

7. Procedures of Acquiring Information: (1) A Nepali Citizen, who is interested to obtain any information under this Act, shall submit an application before concerned Information Officer by stating reason to receive such information.

(2) If an application is received pursuant to Sub-Section (1), Information Officer should provide the information immediately if the information by its

nature could be provided immediately and has to provide within fifteen days from the date of application if the information by its nature could not be provided immediately.

(3) If information cannot be provided immediately pursuant to Sub-Section (2), Information Officer should instantly give a notice with reason to the applicant.

(4) Notwithstanding anything contained in Sub-Section (3), if the requested information is related to the security of life of person, the information officer should provide such information within Twenty Four hours of such request.

(5) Information Officer has to provide information in the format as demanded by the applicant as much as possible.

(6) Notwithstanding anything contained in Sub-Section (5), if any possibility subsist that the source of information may be damaged or destroyed or spoilt if it is provided in the format as requested by the applicant, the Information Officer shall provide such information in appropriate format with stating reason thereof.

(7) If any individual submitted an application to study or observe the document, material or activity pursuant to Sub-Section (1), the Information Officer shall provide a reasonable time to the applicant for the study and observation of such document, material or activity.

(8) While examining the application received in pursuant to Sub-Section (1), it is found that the information demanded by the applicant is not related to such Body, the Information Officer should give notification to the applicant immediately.

8. Fee for information: (1) Applicant shall pay fee as prescribed while requesting information pursuant with Section 7.

Provided that, if different fees are prescribed for any specific information in the prevailing law, it shall be collected accordingly.

(2) The fee structure, pursuant to Sub-Section (1), shall be based on the actual cost of providing information.

(3) If the fee prescribed pursuant to Sub-Section (2) is deemed more than the actual price, the concerned person may file a petition before the Commission.

(4) While examining the petition pursuant to Sub-Section (3), the commission may order to review the fee if it is found in contrary to Sub-Section (2).

9 **Complaint may be made:** (1) If, Information Officer, does not provide information, denies to provide information, partially provides information, provides wrong information or does not provide information by stating that the applicant is not a stakeholder, the concerned person shall make a complaint to the Chief within (7) days from the date of information denied or partially information received.

(2) While investigating the complaint received pursuant to Sub-Section (1), the Chief shall order the Information Officer to provide information as demanded by applicant if it is found that the information was denied or partially provided or wrong information was provided and the Information Officer has to provide information to the concerned applicant if such order is issued.

(3) While conducting investigation pursuant Sub-Section (2), if it is found that the Information Officer denied to provide information or partially provided the information knowingly or with *mala fide* intention or provided wrong information, the Chief may take departmental action against such Information Officer.

(4) While investigating pursuant to Sub-Section (2), if it is found that the information cannot be provided; the Chief shall make a decision accordingly and provide a notice stating the reasons to the applicant.

10. **Appeal can be made:** (1) An individual, who is aggrieved by the decision of the Chief made pursuant to Sub-Section (4) of Section 9, shall appeal before the Commission within Thirty Five (35) days of the notice of decision received.

(2) Commission may summon and take statement of the concerned Chief or Information Officer, order to submit a document, take statement of witness and

evidence or demand copy of the document from a Public Body while deciding the appeal received pursuant Sub-Section (1).

(3) In the course of proceeding and deciding the appeal pursuant to Sub-Section (2), the Commission may do as following:

- (a) May order the concerned Chief to provide information, within a given time, to the appellant without fee, if appeal is found reasonable.
- (b) May dismiss the appeal if it is found not reasonable.

(4) The Commission has to give final verdict on the appeal within sixty days of the appeal.

(5) Other procedures to be followed by the commission during appeal pursuant to this Section shall be as prescribed.

Chapter 3

Provision Regarding Commission

11. Provision Regarding Commission: (1) There shall be an independent National Information Commission for the protection, promotion and practice of right to information.

(2) A Chief Information Commissioner and two other Information Commissioners shall be in the commission.

(3) In order to appoint Chief Information Commissioner and Information Commissioner, there shall be a committee comprised as follows:

- (a) The Speaker – Chairperson
- (b) Minister or State Minister for Information and Communication – Member
- (c) President, Federation of Nepalese Journalists – Member

(4) The Government of Nepal, on the recommendation of the Committee under Sub-Section (3), shall appoint a Chief Information Commissioner and Information Commissioners, at least one female shall be included in such

appointment.

(5) The Committee pursuant Sub-Section (3) shall follow the inclusive principle as much as possible while recommending for appointment of Chief Information Commissioner and Information Commissioners.

(6) The procedures of recommendation pursuant to Sub-Section (3) shall be as determined by the Recommendation Committee itself.

12. Qualifications: One shall have the following qualifications to be appointed for the post of the Chief Information Commissioner and Information Commissioners:

- (a) Nepali citizen,
- (b) holding at least a Bachelor Degree from a recognized University,
- (c) having at least fifteen years of working experience in the field of Mass communication, law justice, public administration, information technology or management.

13. Disqualifications: A person with any of the following disqualification shall be disqualified to be appointed in the post of Chief Information Commissioner and Information Commissioners:

- (a) not having the qualification pursuant Section 12,
- (b) convicted by the court in a criminal offence with moral turpitude,
- (c) incumbent employee of Government or Public institution,
- (d) incumbent in any political position,
- (e) Disqualified for appointment under the prevailing laws.

14. Tenure of Office: (1) The tenure of office of the Chief Information Commissioner and the Information Commissioner shall be for five years and s/he shall not be re-appointed in the same Post.

(2) Notwithstanding anything contained in Sub-Section (1), the Information Commissioner may be re-appointed in the post of Chief Information Commissioner subject to the provision of tenure of office stated in the same Sub-Section.

(3) The recommendation committee pursuant to Sub-Section (3) of Section

11, shall recommend for new appointment of Chief Information Commissioner and Information Commissioners one month period to the expiry of the tenure of the office .

15. Post to be Vacated: The post the Chief Information Commissioner and Information Commissioner shall be considered vacant under the following conditions:

- (a) In case of his/her death,
- (b) In case, s/he completes the age of 65 years,
- (c) In case, s/he tenders resignation to the Prime Minister,
- (d) In case, his/her term of office is completed,
- (e) In case, s/he is convicted by the court in a criminal offence with moral turpitude ,
- (f) In case of s/he is removed from the post pursuant to Section 16.

16. May Remove From Office: If the meeting of the Legislature-Parliament endorse the recommendation of the information and communication related committee of the Legislature-Parliament, with the two third majority of meeting presented by at least two third members out of total members, for removing Chief Information Commissioner or Information Commissioner on the ground that s/he is not fit to hold office for the reason of incompetence or misbehavior or not carrying out the duties honestly, such Chief Information Commissioner or Information Commissioner shall be removed from his/her office.

Provided that, the Chief Information Commissioner or Information Commissioner charged with such accusation shall not be denied for reasonable opportunity of clarification.

17. Provision Regarding the Conditions of Service: The remuneration, conditions of service and facilities for Chief Information Commissioner and Information Commissioner shall be as prescribed.

- 18. Oath of Office:** Before taking charge of the office, the Chief Information Commissioner shall take the oath of office before the Prime Minister and the Information Commissioner before the Chief Information Commissioner respectively in the format as laid down in the Schedule.
- 19. Functions, Duties and Powers of the Commission:** In addition to the functions, duties and powers stated elsewhere in this Act, the functions, duties and powers of the Commission shall be as follows:
- (a) To observe and study the records and documents of public importance held in Public Bodies,
 - (b) To issue order to such Body to enlist and manage the records, documents and other materials pertaining the information
 - (c) To issue order to the concerned Public Body to make information public for citizen's notification,
 - (d) To prescribe timeframe and order concerned Public Body to provide information demanded by applicant within such timeframe.
 - (e) To order concerned party to fulfill the liability as mentioned in this Act.
 - (f) To provide necessary suggestions and recommendations to the Government of Nepal and other bodies related to information and communications regarding the protection and promotion of right to information.
 - (g) To issue other appropriate orders regarding the protection, promotion and exercise of right to information.
- 20. Delegation of Power:** The commission may delegate any of the functions, duties or powers, except the power to hear and decide an appeal under Section 9, to the Chief Information Commissioner, Information Commissioner or any other body or official, subject to the terms and conditions prescribed for that purpose.
- 21. Office of the Commission:** The central office of the Commission shall be

located in Kathmandu Valley and the Commission may open its offices in various places of the country as per necessity.

22. Staffs of the Commission: (1) Required number of staffs shall be there at the Commission.

(2) The Government of Nepal shall manage the staffs required for the Commission.

23. Expenditure of the Commission: (1) The Government of Nepal shall arrange necessary budget for the Commission.

(2) The Commission shall also receive necessary financial resources from other sectors after getting prior permission of the Government of Nepal.

24. Cooperate with the Commission: Public bodies shall provide necessary cooperation in the activities of the commission.

25. Annual Report: (1) The commission shall submit annual Report of its activities to the Legislature-Parliament through Prime Minister.

(2) The Commission shall publish, the Annual Report pursuant Sub-Section (1) publicly for the purpose of public notice.

26. Contact With the Government of Nepal: The Commission shall contact with the Government of Nepal through the Ministry of Information and Communication.

Chapter- 4

Provision Regarding Protection of Information

27. Provision Regarding Classification of Information: (1) For the protection of the information related to Sub-Section (3) of Section 3, held in public Body, there shall be a committee as following to classify the information in policy level:

- (a) Chief Secretary of the Government of Nepal- Chairperson
- (b) Secretary of the concerned Ministry – Member
- (c) Expert of concerned subject assigned by the Chief of Office or Chairperson – Member

(2) The Committee pursuant to Sub-Section (1), regarding the classification of information under Sub-section 3 of Section (3), has to inform the Commission by determining the number of years the information should be kept confidential and method for the protection of information.

(3) A person, who is not satisfied with the classification made by the committee pursuant to Sub-section (2) may file a review petition before the commission to make the information public.

(4) The Commission, shall if it finds that any information need not be kept confidential in the course of review of the petition pursuant to Sub-section (3), issue an order to public such information.

(5) The information classified pursuant to the Sub-Section (2) may be kept confidential for a maximum period of thirty years, according to the nature of the information.

(6) Notwithstanding anything contained in Sub-Section (5), the Committee shall review in every ten years that any information classified as confidential is necessary to keep as confidential or not.

(7) While reviewing pursuant to Sub-Section (6), the Committee, if finds necessary to keep such information confidential for additional period, may decide the duration and classify as confidential for that period or may classify as non-confidential if finds not necessary to keep confidential.

28. Protection of Information: (1) Public Body shall protect the information of personal nature held in for preventing unauthorized publication and broadcasting.

(2) Personal information held in public Body, except in following conditions, shall not be used without written consent of concerned person.

- (a) In case of preventing a serious threat to life and body of a person or public health or security.
- (b) If required to be disclosed in accordance with prevailing laws.
- (c) If required to control the offence of corruption.

29. Protection of Whistleblower: (1) It shall be a responsibility of an employee of

a Public Body to provide information on any ongoing or probable corruption or irregularities or any deed taken as offence under the prevailing laws.

- (2) It shall be the duty of the information receiver to make the identity of whistleblower in accordance with Sub-Section (1) confidential.
- (3) The whistleblower shall not be terminated from his/her post or punished with any legal responsibility or caused any loss or harm for giving information pursuant to Sub-section (1)
- (4) If any punishment or harm is done to the whistleblower against Sub-Section (3), the whistleblower may complain, along with demand for compensation, before the commission for revoking such decision.
- (5) While investigating the complaint pursuant to Sub-Section (4), the Commission may order to revoke the decision of removal from the office if so removed from office and for the compensation if any damages caused to the whistleblower.

30. Providing Personal Information: (1) Concerned Body shall provide information to the concerned person holding a public post, if such concerned person demands information of during his service in the public Body.

(2) if a person demands for information related with him/her held in Public Body that Information shall be made available to that person.

(3) The procedure for demanding and acquiring information pursuant to Sub-Section (1) shall be as mentioned in Section 7.

(4) Fees to received the information pursuant to Sub-section (1) shall be as prescribed in Section 8.

31. Information not to be Misused: (1) A person who obtains information from a Public Body shall not misuse the information by not using it for the same purpose that was considered.

(2) The concerned Public Body may complain to the Commission against a person who misuses the information against Sub-Section (1).

Chapter- 5

Provision Regarding Punishment and Compensation

- 32. Punishment:** (1) If the Commission finds that Chief of public Body or Information Officer has held back information without valid reason, refused to provide information or provided partial or wrong information or destroyed information; the Commission may impose a fine to such Chief or Information Officer from Rupees One Thousand Rupees to Twenty Five Thousand Rupees and if such Chief or Information Officer is eligible for departmental action, it may write to the concerned Body for departmental action.
- (2) If the Chief of a public Body or Information Officer, delay to provide information which has to be provided on time without reason, shall be punished with a fine of Two Hundred Rupees per day so is delayed to provide the information.
- (3) If the Commission writes to the concerned Body for Departmental action pursuant to Sub-Section (1), the Public Body shall take Departmental action against that Chief or Information Officer within three months and notify the same to the Commission.
- (4) The Commission may impose a fine between Five Thousand Rupees to Twenty Five Thousand Rupees considering that seriousness of misuse of information if any person is found misusing the information acquired from public Body instead of using it for purpose it was obtained for.
- (5) The Commission may impose a fine up to Ten Thousand Rupees to the concerned person in case its decision or order pursuant this Act is not abided by.
- 33. Compensation:** (1) If person incur losses and damages due to not providing information, denying to provide information, providing partial or wrong information or destroying the information by the Chief or Information Officer of Public Body, such person may file a petition before the Commission for

compensation within three months from the date of not acquiring information, acquiring partial or wrong information or restriction of the information.

(2) If the application pursuant to Sub-Section (1) is found reasonable upon the investigation, the Commission may compensate the applicant from the concerned Body with reasonable amount upon considering the actual loses.

- 34. Appeal:** A person not satisfied with the decision rendered by the Commission pursuant to Section 32, may appeal before the Appellate Court within thirty five days of decision received.

Chapter- 6

Miscellaneous

- 35. Information may be Corrected:** (1) If anyone believes that the information in a Public Body on a particular matter is wrong, s/he may file an application before the concerned Chief along with necessary evidence for the correction of the information.
- (2) The Chief shall conduct necessary investigation regarding the application pursuant to Sub-Section (1) and if the information held in such Body is found wrong in the course of investigation, he/she should inform the applicant upon correcting within seven days from the date of application imformation.
- 36. Save to Works done with Good Faith:** Notwithstanding anything contained elsewhere in this Act, no case shall be filed and no punishment shall be imposed against the Chief or Information Officer for his/her works regarding the dissemination of in **forvevtion** good faith.
- 37. To be Pursuant to this Act:** All the matters mentioned in this Act shall be carried out in accordance with this Act, whereas other matters shall be dealt with pursuant to prevalent laws.
- 38. Power to Frame Rules:** The Government of Nepal, upon consultation with the Commission shall frame necessary Rules to implement the objectives of this Act.

Schedule

(Related to Section 18)

Oath

I ,hereby, faithful to the state and the people promise with truth and trust/take the oath in the name of God that highly respecting the shall expressed by the people through the people's movement that Nepal's state authority and sovereignty is to be vested only on the people, professing allegiance to the constitution of Nepal and laws of the land, I shall carry out my responsibilities with honesty and without any fear, sycophancy, partiality, malice or greed, by honoring citizen's right to information and for the effective implementation and practice of laws pertaining to right to information.