

Armed Police Force Act, 2058 (2001)

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Amendment:

Republic Strengthening and Some Nepal

Laws Amendment Act, 2066 (2010)¹

2066.10.7 (21 Jan. 2010)

Act Number 3 of the Year 2058 (2001)

An act made to establish and operate the Armed Police Force

Preamble: Whereas, it is expedient to establish and operate the armed police force for the protection of life, property and liberty of the people by maintaining peace and order in Nepal,

Now, therefore, be it enacted by the Parliament on the First year of reign of His Majesty King Birendra Bir Bikram Shah Dev.

Chapter-1

Preliminary

- 1. Short Title and Commencement:** (1) This Act may be called "Armed Police Force Act, 2058 (2001)."

(2) This Act shall come into force immediately.

¹ This Act came into force on 15 *Jestha* 2065, "*Prasasti*" and the word "Kingdom" has been deleted.

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

- (a) "National Security Council" means National Security Council pursuant to Article 118 of the Interim Constitution of Nepal, 2063².
- (b) "Central Security Committee" means the Central Security Committee pursuant to Section 7.
- (c) "Armed Police Service" means the service under Armed Police Force formed pursuant to Section 3.
- (d) "Armed Police" means a person appointed to the Armed Police Force.
- (e) "Armed Police Officer" means an Armed Police Assistant Inspector and an Armed Police Officer of superior rank.
- (f) "Gazetted Officer" means Armed Police Inspector and an Armed Police Officer of superior rank.
- (g) "Commission" means the Armed Police Service Commission constituted pursuant to Section 11.
- (h) "Authority" means an officer empowered to appoint pursuant to Section 13.
- (i) "Other Police" means police under the Police Act, 2012 (1957)
- (j) "Armed Police Special Court" means the Armed Police Special Court constituted Pursuant to Sections 28 or Section 29.
- (k) "Armed Mutiny" means an act to jeopardize the sovereignty, integrity or the national unity of Nepal with an intention to create

obstacles or overthrow the government or create hurdles into the functions of Nepal by using arms and ammunition.

- (1) "Prescribed" or "as prescribed" means prescribed or as prescribed in Rules framed hereunder.

Chapter-2

Formation and Operation of Armed Police Force

3. **Formation of Armed Police Force:** (1) An Armed Police force is, hereby, formed in Nepal.

(2) The number of posts to be contained in the Armed Police Force formed pursuant to Sub-section (1) shall be as prescribed by Government of Nepal.

(3) Armed Police Inspector General shall be the Chief of the Armed Police Force.

(4) The Headquarters of the Armed Police Force shall be located in the *Kathmandu* Valley and offices subordinate thereto shall be as prescribed.

4. **Oversight, Control and Directives:** (1) Government of Nepal shall have powers to oversee, control over and provide directions to the armed police.

(2) Government of Nepal may delegate the power conferred on it pursuant Sub-section (2) to any sub-ordinate officer, as per necessity.

(3) It shall be the duty of armed police to abide by the order and direction issued by Government of Nepal and the competent authority as referred to in Sub-section (2).

²

Amended by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

5. **Administration of the Armed Police:** The Armed Police Force shall be administered by the Armed Police Inspector General and other prescribed armed police officers subject to this Act and the Rules framed hereunder and other prevailing laws and directions of Government of Nepal from time to time.
6. **Operation of Armed Police:** (1) Government of Nepal shall operate the armed police for the purpose of carrying out the following functions:
 - (a) To control an armed struggle occurred or likely to occur in any part of Nepal,
 - (b) To control arm rebellion or separatist activities or likely to occurred in any part of Nepal,
 - (c) To control terrorist activities occurred or likely to occur in any part of Nepal,
 - (d) To control riots or likely to occur in any part of Nepal,
 - (e) To render assistance to the relief of natural calamities or epidemic occurred or likely to occur in any part of Nepal,
 - (f) To relief an abducted person in case where a citizen of Nepal or any person is abducted or to control heinous or serious crime if such is committed or a disorder of serious nature has occurred or likely to occur in Nepal,
 - (g) To maintain security in border area of Nepal,
 - (h) To provide assistance in case of external intervention being under the Nepalese Army,

- (i) To provide security for building, structure and other place of public importance as prescribed by Government of Nepal,
- (j) To provide security to person and prescribed institutions etcetera as prescribed by Government of Nepal,
- (k) To carry out other functions as referred to in this Act, Rules framed hereunder or as prescribed by other prevailing laws,
- (l) To carry out other functions as prescribed by Government of Nepal from time to time.

(2) In cases, Government of Nepal has mobilized armed police in any part of Nepal, the National Security Council and Central Security Committee shall be notified at least once a week about the number of armed police mobilized in that area and the functions and activities carried out by the armed police.

(3) Government of Nepal may delegate the power conferred to Government of Nepal pursuant to Sub-section (1) to Special Class Officer as per necessity.

(4) In cases, the competent authority pursuant to Sub-section (3) has mobilized armed police in any part of Nepal, Government of Nepal shall be notified at least once a week about the number of the armed police mobilized in that area and the functions and activities carried out by the armed police.

(5) Upon receiving information pursuant to Sub-section (4), Government of Nepal shall notify into the National Security Council and Central Security Committee.

7. Central Security Committee: (1) There shall be a Central Security Committee consisting of the following Chairperson and members to provide necessary suggestion to Government of Nepal for the purpose of Sub-section (1) of Section 6:

- (a) Home Minister or State Minister - Chairperson
- (b) Brigadier (*Baladhikrit*), Nepal Army - Member
- (c) Secretary, Ministry of Defence - Member
- (d) Secretary, Ministry of Home Affairs - Member
- (e) Inspector General of Police - Member
- (f) Armed Police Inspector General - Member
- (g) Chief National Investigation Department - Member
- (h) Joint Secretary, Ministry of Home Affairs - Member Secretary

(2) Other concerned officers may be invited in the meeting of the Central Security Committee, as per necessity.

8. To be under the Control of Nepal Army: In case, the Nepal Army is mobilized to maintain peace and order in any part of Nepal, during the period of mobilization of Nepal Army the armed police of the concerned place shall be under the control of the Nepal Army.

Chapter-3

Terms and Conditions of Services

9. Post and Tenure of Service: (1) There shall be an Armed Police Inspector General and other posts as prescribed in the Armed Police Service.

(2) The tenure of the Office of Armed Police Inspector General shall be Four years and the tenure of office of other Gazetted officers shall be as prescribed, as per necessity.

10. Filling of Vacancies: Vacancies of the Armed Police Force shall be filled up as prescribed.

11. Armed Police Service Commission: (1) There shall be an Armed Police Service Commission consisting of the following Chairperson and members to make recommendation to Authority empowered to appoint for appointment to the post of the Armed Police Services to be filled up by open competition:

- (a) Chairperson of the Public Service Commission or a member of the Public Service Commission designated by him/her - Chairperson
- (b) A person designated by Government of Nepal from amongst the Special Class Officer in the service of Government of Nepal - Member
- (c) Secretary, Ministry of Home Affairs - Member

- (d) Representative (Special class), Nepal
Army -Member
(e) Armed Police Inspector General -Member Secretary

(2) The tenure of the Office of the Chairperson and member shall be Four years and they shall be eligible for reappointment.

(3) Remuneration, terms and conditions of services and facilities of the Chairperson and member of the Commission shall be as prescribed.

(4) The commission shall make recommendation by examining appropriateness of candidate by a procedure and on the basis as prescribed to the authority empowered to appoint for appointment.

(5) The commission shall determine its procedure by itself.

(6) Other functions, duties and powers of the Commission shall be as prescribed.

(7) The commission may entrust some of its powers, functions and duties to its member or employee of Government of Nepal on the condition that same shall be exercised and complied with subject to the prescribed conditions.

12. To be Appointed on the Recommendation of the Commission:
Appointment to the post of Armed Police Service to be filled up by open competition shall be made on the recommendation of the Commission.

13. Appointing Authority: Gazetted Officer shall be appointed by Government of Nepal and other armed police shall be appointed by prescribed officer.

14. Qualification Required for Candidate: Minimum academic qualification and other qualification required to be a candidate for the post of armed police service to be filled up by open competition shall be as prescribed.

15. Transfer and Promotion: Transfer and promotion of the Armed Police Force shall be as prescribed.

16. To be Transferred: (1) Notwithstanding anything contained elsewhere in this Chapter, Government of Nepal may, until the commission is formed, transfer army personnel serving in the Nepal Army and police personnel serving in other police service to armed police service and make their placement and their service in the army and police shall be counted in the armed police service.

(2) Armed police shall not be transferred to the Nepal Army or other police service and army personnel of Nepal Army and police personnel of other police service shall not be transferred to the armed police service after the Commission is constituted.

17. Oath: Every armed police shall be required to take an oath in the prescribed format before undertaking the charge.

18. Retention of Lien: The Armed Police shall continue to have lien over his/her post in the following circumstances:

- (a) Until discharging duties and functions in that post,
- (b) Until the period of time allowed for the assumption of charge of another post (portfolio), on being transferred to that post,
- (c) During the period of leave,
- (d) During the suspension period,

- (e) During the period of discharging the functions prescribed by Government of Nepal,
- (f) During the period of serving in any other post in an acting capacity.

19. Departmental Action, Penalties and Appeal: (1) If the armed police discharges his/her duty carelessly or recklessly or pretends to be refrained from discharging a duty or is incapable to discharge his/her duty or breaks discipline or commit any improper conduct as prescribed or does not discharge the duties pursuant to Section 24 or commits a crime pursuant to Section 27 or in other conditions prescribed, such armed police may, according to the degree of offence be dismissed from service on the condition that he/she shall be disqualified for governmental service in future; be removed from service on the condition that he/she shall not be disqualified for governmental service in future or be awarded other departmental action as prescribed.

(2) The competent authority shall have the power to issue an order of departmental action against the armed police service.

(3) Without prejudice to the generality of the power conferred by Sub-section (1), the authority to issue an order of departmental action against the armed police shall be as prescribed.

(4) The competent authority, while issuing an order of penalty pursuant to Sub-section (2) or (3), shall prepare a memorandum (*Parcha*) which shall contain the statement of a charge including the reasons and grounds for penalties, inquiry made in relation thereto, opportunity for defence and his/her statement (response) and opinion if any further inquiry is made; reasons and grounds of unreasonableness of providing opportunity for defence, if opportunity for a defence is not provided and shall sign it and include it into the case file.

(5) An appeal against the order of departmental penalty to armed police shall lie to the prescribed authority.

20. Power to Suspend: (1) The authority empowered to issue an order of departmental penalty may suspend up to a prescribed period to the armed police who is under departmental action pursuant to Section 19.

(2) The authority empowered to issue an order of penalty shall disarm such armed police before suspension pursuant to Sub-section (1).

(3) The armed police shall *ipso facto*, be deemed to have been suspended in the following circumstances:

- (a) If the armed police is arrested in the charge of crime pursuant to Section 27 from the date of such arrest and if one is not arrested from the date of making decision to file the case,
- (b) If arrested and detained for a criminal charge during the period of such detention.

(4) If armed police is suspended in relation to governmental functions or as a result of functions initiated on behalf of Government of Nepal, he/she shall receive only half of the salary obtainable by him/her during the period of such suspension.

Provided that, if he/she is absolved of the charge and acquitted, he/she shall receive salary after deducting half salary if he/she had received the same during the period of suspension and the full amount of salary (including the increments of salary, if any). If one is found guilty, he/she shall not be entitled to receive the remainder of the salary from the date of suspension.

(5) If armed police is suspended for any reason other than as referred to in Sub-section (4), he/she shall not be entitled to receive salary for the period of such suspension.

21. Saving from Discriminatory Dismissal: While taking departmental action against armed police, an opportunity to put his/her defense shall be provided to him/her, specifying a reasonable time for defense beside in the following conditions:

- (a) Who has been convicted by a court in a criminal offence involving moral turpitude,
- (b) Who has been convicted to an offence pursuant to Section 27 and imposed a penalty of imprisonment, or
- (c) If the authority empowered to impose penalty has established a memorandum (*Parcha*) recording the condition that waives responsibility of providing an opportunity of defense.

22. No Restriction to Institute Case: If armed police has committed a crime liable to be established an offence under this Act or other prevailing laws, such police shall not be deemed to have been caused a restriction to institute a case pursuant to this Act or other prevailing laws that a departmental action or penalty pursuant to Section 19 is awarded to him/her already.

23. Remuneration, Allowance and other Facilities and other Terms and Conditions of Service: Remuneration, allowance and other facilities and other terms and conditions of service of the armed police shall be as prescribed.

Chapter - 4

Duties and Powers of the Armed Police

24. Duties and Powers of the Armed Police: (1) The duties and powers of the armed police shall be as follows:

- (a) Every armed police shall be deemed to be on duty in all the time and shall have to complete his/her responsibility at any time to the deputed place and time;
- (b) Shall have to abide by the order of a superior rank of the armed police without delay,
- (c) Every armed police should be aware and careful to the work entrusted to him/her or his/her team,
- (d) It shall be the duty of the armed police to carry out other functions mentioned in this Act or Rules framed hereunder and other prevailing laws as the one to be carried out by him/her.

(2) If the armed police officer has a reasonable ground to believe that an object prohibited by the prevailing laws is kept or a person involved in a crime is living in a house, place or vehicle of any place where he/she is deputed, he/she may search such house, place or vehicle as per the prevailing laws and arresting the person involved in criminal activities and entrust local other police as soon as possible.

25. Power of Superior Armed Police: The power conferred to the armed police by this Act or Rules framed hereunder may be exercised by the superior armed police senior in the area where he/she has been deputed.

26. Saving of the act Done in Good Faith: An armed police shall not be liable of penalty for a result caused while discharging duty or exercising the power in good faith to be discharged or exercised under this Act or Rules framed hereunder.

Chapter-5

Crime and Penalty

27. Crimes on which Imprisonment is a penalty: (1) The armed police who commits any of the following crimes shall be punished with life imprisonment including confiscation of entire property:

- (a) If he/she involved in armed rebellion,
- (b) If carried out or cause to be carried out by writing, speech or sign or any other means so that such hatred, enmity or contempt is caused as is likely to disrupt the sovereignty or territorial integrity, or integrity of Nepal,
- (c) If sells government's or other's arms and ammunition under his/her custody to others or to entrust (handover) for any reason to others,
- (d) If absconded with arms or ammunition which has been given to him/her for his/her use or under his/her custody,
- (e) If assists terrorist activities directly or indirectly.
- (f) If the information and news relating to security provides or attempts to provide or encourage to

provide to an unauthorized national or international person, association or group.

(2) An armed police who commit the following offence shall be punished with imprisonment from Seven years to Twelve years,

- (a) If attempts to commit armed rebellion,
- (b) If perpetrates a riot in a place where he/she is deputed or the building, structure or place or office or any other place to be protected by him/her or runs away showing timidity when attacked by assaulter,
- (c) If breaks up a house or a place with the objective of loot or loots of goods in any way or causes a loss or damage thereto,

(3) An armed police who commits the following offences shall be punished with imprisonment from Five years to Seven years:

- (a) If uses or attempts to use criminal force after knowing or having reasonable ground to believe that he/she is a higher ranking armed police or other competent authority in relation to security whether or not they are on duty,
- (b) If does not inform or give notice as soon as possible to superior official to him/her or higher official even after knowing the conspiracy or attempt of armed rebellion.
- (c) If carries out or causes to carry out a work by writing or speech or form or sign so as to commit

hatred, enmity or contempt likely to disrupt Government of Nepal or to any function of Government of Nepal,

- (d) If a detainee or prisoner under his/her responsibility is knowingly let escape or causes to escape.

(4) The armed police who commits the following offences shall be punished with imprisonment from Three years to Five years.

- (a) If does not abide an order given by the superior armed police,
- (b) If knowingly submits false statement of numbers, conditions of the person or cash and kinds under his/her responsibility or command,
- (c) If acquires membership of a political organization or party or takes part in a procession or demonstration organized with political objective,
- (d) If abuses, losses recklessly, disorders or breaks up arm and ammunition or vehicle or cash or kinds under his/her responsibility,
- (e) If runs away with governmental property or goods under his/her responsibility,
- (f) If takes others property or goods forcefully,
- (g) If provides assistance to disrupt religious or social harmony of the country,
- (h) If deserts from the service of Armed Police Force,

- (i) If resigns without the permission of the competent authority empowered to appoint him/her or omits to discharge the duty of his/her post.

Chapter - 6

Armed Police Special Court and Appeal

28. Constitution of Armed Police Special Court: (1) In order to initiate original proceedings and settle a case related to an offence punishable pursuant to Chapter- 5, Government of Nepal shall by publishing a Notification in the Nepal Gazette constitute the Armed Police Special Court.

(2) The Armed Police Special Court constituted pursuant to Sub-section (1) shall be located in *Kathmandu* valley.

(3) The Armed Police Special Court pursuant to Sub-section (1) shall consist of three members under the Chairperson of the Special class officer of Nepal Judicial Service including a gazetted armed police Officer and an officer of the Ministry of Home Affairs or hereunder.

29. Arrest and Custody: (1) The armed police against whom a charge has been made of any offence pursuant to Chapter- 5 may be arrested by an order of the superior armed police officer of any designation and be placed in custody.

(2) Such armed police shall be disarmed before placing into custody pursuant to Sub-section (1).

(3) If the armed police has been placed into custody after arresting, notice thereof shall be given as soon as possible to the Chief of body in which he/she was deputed and the Armed Police Inspector General.

30. Provision relating Collecting Statement and Evidence: (1) The Armed Police Special Court shall take statement from the accused concerned with a case and keep it into the case file.

(2) If documentary evidence is to be collected during the course of the hearing of a case, the Armed Police Special Court may order the concerned body or Officer to submit such evidence and such body or officer also shall submit in specified time the documentary evidence requested for submission.

(3) If a witness is to be examined in the course of the hearing of a case, the Armed Police Special Court may examine such witness by issuing summon.

Provided that, if the Armed Police Special Court considers that unnecessary delay or expense or inconvenience is caused if the witness to be inquired is called for, the Armed Police Special Court may, order sending a sealed questions (*Banda Sawal*) to the Chief District Officer of the place where the witness and order to forward the same to the Court.

(4) Other procedure of the Armed Police Special Court shall be as prescribed.

31. Period for Disposal of Case: The Armed Police Special Court shall settle the case generally within Ninety days from the date of collection of evidence.

32. Provision concerning Detention and Prison: If the accused is to be detained in reference to trial by an order of, or imprisoned by the decision of the Armed Police Special Court, Government of Nepal may detain in any prison of Nepal.

- 33. Appeal:** The person who does not satisfy with the decision of the Armed Police Special Court may appeal to the concerned Court of Appeal within Thirty Five days.
- 34. Co-ordination Committee:** (1) In order to harmonize and co-ordinate the Armed Police and other police organization to maintain peace and order in Nepal, there shall be a coordination committee in centre consisting of Inspector General of Police and Armed Police Inspector General as members and Secretary of the Ministry of Home Affairs as coordinator.
- (2) For the purpose of Sub-section (1), there may be a coordination Committee in regional and district level consisting official as prescribed.
- (3) The Coordination Committee pursuant to Sub-sections (1) and (2) shall itself determine its own procedure.
- 35. Delegation of Powers:** The competent authority may delegate the power conferred to him/her by this Act or Rules framed hereunder to the subordinate officer under his/her responsibility.
- 36. Power to Frame Rules:** Government of Nepal may, in order to implement the objectives of this Act, frame necessary Rules
- 37. Saving:** (1) Notwithstanding anything contained in the prevailing laws, this Act shall prevail over the matters covered in this Act.
- (2) The functions done and activities carried out pursuant to the Armed Police Ordinance 2057 (2001), issued on the 9th day of the month of *Magh*, 2057 (22 January 2001) shall be deemed to have been carried out pursuant to this Act.

38. Effect of inoperativeness of the Armed Police Ordinance, 2057 (2001)

(**2001**): With the Armed Police Ordinance, 2057 (2001) being inoperative, unless a different intention appears, the inoperativeness shall not:

- (a) revive anything in force or existing at the time at which the ordinance became inoperativeness;
- (b) affect the matter in operation as per the ordinance or anything duly done or any punishment suffered there under;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the ordinance;
- (d) affect any penalty, punishment or forfeiture incurred under the ordinance;
- (e) affect any action or remedy made or taken in respect of any such right, privilege, obligation, liability, penalty or punishment aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced as if the ordinance was in force.