# The Nepal Engineering Council Act, 2055 (1999)

# **Chapter 1: Preliminary**

- Title and Commencement: The Act is called "The Nepal Engineering Council Act, 2055 (1999)" and comes into force as per a notification in the Nepal Gazette.
- Definitions: Key terms defined, including "Council," "Chairman," "Member," "Engineer," "Engineering Profession," and others.

# Chapter 2: Establishment, Constitution, Functions, Duties, and Powers of the Council

- Establishment of Nepal Engineering Council: The Council is established to organize and enhance the effectiveness of the engineering profession, including the registration of engineers.
- Council as an Autonomous Body: Describes the autonomy, corporate status, and powers of the Council.
- Constitution of the Council: Details the composition of the Council, including nominations, elections, and representation from various engineering sectors.
- Tenure of Office of Members: Specifies the term duration and conditions for members of the Council.
- Disqualifications and Termination of Membership: Lists conditions rendering an individual ineligible or leading to the termination of Council membership.

#### **Chapter 3: Provisions Regarding the Registration of Name**

- Prohibition on Unregistered Practice: Prohibits the practice of engineering without Council registration after a specified period.
- Application for Registration: Outlines the application process, including required documentation.
- Inquiry on Application: Describes the inquiry process for applications by the Registrar and Subject Committee.
- Examination and Recommendation: Explains the examination process and the Subject Committee's role in making recommendations.
- Registration of Name: Specifies the Council's decision-making process and the registration of an engineer's name in the Council's book.
- Name Registration Certificate: Details the issuance of a certificate to the registered engineer.
- Information on Non-Registration: Obliges the Registrar to inform applicants of any decision not to register their names.

# Chapter 4: Recognition of Certificates of Academic Qualification or Degree

- Recognition of Certificates: Grants the Council authority to recognize academic qualifications or degrees in engineering.
- Details May Be Demanded: Allows the Council to request curriculum details and other information from academic institutions.

- Inspection of Examination: Permits inspection of academic institutions' examination systems.
- Recognition Withdrawal: Specifies the process for withdrawing recognition if academic institutions fail to meet standards.

### Chapter 5: Functions, Duties, and Powers of Chairman, Vice-Chairman, and Registrar

- Chairman's Functions: Enumerates additional functions, duties, and powers of the Chairman.
- Vice-Chairman's Role: Outlines the Vice-Chairman's duties in the absence of the Chairman.
- Registrar's Appointment and Responsibilities: Covers the Registrar's appointment and responsibilities, including general administration, financial management, and liaison duties.

# **Chapter 6: Fund of Council**

- Fund of the Council: Establishes a separate fund for the Council, detailing sources of income and specifying the need for government approval for foreign contributions.
- Accounts and Audit: Mandates the maintenance of accounts and the audit of the Council's finances.

# **Chapter 7: Miscellaneous**

- Offences and Punishment: Defines offences related to practising engineering without registration and prescribes fines or imprisonment.
- Dissolution of the Council: Empowers the government to dissolve the Council under certain circumstances, outlining the transfer of assets and the process for reconstitution.
- Subject Committee and Other Committees: Grants the Council the authority to form committees with specified functions.
- Meeting Allowance and Other Facilities: Determines allowances and facilities for Council and committee members.
- Employees of the Council: Authorises the appointment of necessary staff and outlines their terms and conditions.
- Authority for Inquiry and Investigation: Designates the body responsible for inquiries and investigations related to offences under the Act.
- Contact with Government: Establishes communication channels between the Council and the government through the Ministry of Work and Transport.
- Power to Make Rules and Bye-laws: Grants the Council the authority to create rules and bye-laws for implementation.
- Addition to the Annex: Allows the government to add engineering subjects to the Annex.

#### **Annex: Engineering Professions**

• Lists various engineering professions categorised under subjects such as Civil Engineering, Electrical, Electronic and Communication, Mechanical, Aeronautical, Mining, Chemical, and others.

# **Contract Law**

# **Chapter 1: Preliminary**

- Short Title and Commencement: The Act is titled Contract Act, 2056 (2000) and comes into force immediately.
- Definitions: Key definitions include "Contract," "Proposal," "Consent," and "Consideration."

# **Chapter 2: Contracting Parties and Proposal and Consent**

- Person Competent to Conclude Contracts: Specifies conditions for competence, including age and mental capacity.
- Parties to be Autonomous: Affirms the freedom of contracting parties to determine the form, content, consideration, and terms of the contract.
- Contract Deemed Concluded: Outlines when a contract is considered concluded.
- Place of Contract: Defines the place where a contract is deemed concluded.
- **Processes of Proposal and Consent:** Describes the completion of communication and the acceptance process.
- **Proposal or Consent May be Cancelled:** Provides conditions and procedures for the cancellation of proposals or consent.
- Proposal to be Deemed Cancelled: Lists circumstances under which a proposal is considered cancelled.
- Contract According to Proposal Presented Before the Public: Addresses contracts made through public proposals, cancellation, and compensation for work performed.
- **Indirect Contract**: Describes circumstances where a contract is deemed concluded indirectly.
- **Contingent Contracts:** Specifies conditions and liabilities related to contracts contingent on future events.

# **Chapter 3: Void and Voidable Contracts**

- **Void Contracts:** Enumerates contracts that are considered void, including those against prevailing laws, immoral purposes, and vague or impossible contracts.
- **Voidable Contracts:** Lists contracts that may be made void by the aggrieved party, such as those concluded through coercion, undue influence, fraud, or deceit.
- Coercion, Undue Influence, Fraud, and Deceit: Provides explanations and conditions for contracts concluded under these influences.
- **Burden of Proof:** Specifies the burden of proof in cases involving contracts under undue influence.

# Chapter 4: Contracts on Guarantee, Indemnity, and Subrogation

#### • Guarantee Contracts:

- Definition and need for a written form.
- Surety's liability, conditions, and limitations.
- Circumstances releasing the surety from liability.

• Surety's role concerning the debtor and restrictions on actions.

# • Indemnity Contracts:

- o Definition, conditions, and compensation provisions.
- Subrogation details, loss or damage responsibility.
- Subrogator's rights and recovery from the party causing loss.

# **Chapter 5: Contracts on Bailment**

#### Bailment Contract:

- Formation conditions, written deed for property over Rs. 5,000.
- Completion when bailee receives property for safekeeping.

### Liability and Return:

o Bailee's liability, return obligations, and responsibility for damages.

# • Specifics of Bailed Property:

o Bailee's duty to inform bailor of defects; liability for undisclosed defects.

#### Void Contracts:

Contracts evading legal obligations or with illegal motives are void.

# **Chapter 6: Contracts on Collateral and Deposit**

#### Contract Formation:

- o Formation conditions for collateral or deposit contracts.
- Property as security for credit or guarantee for work.

# • Return of Collateral/Deposit:

- Return conditions after credit repayment or work completion.
- Rights of the person obtaining collateral and consequences of pledging without title.

#### • Equal Status for Creditors:

- o Equal status for creditors if pledged property is insufficient.
- Pledging the same property with priority to a second creditor makes the contract void.

# **Chapter 7: Contracts Relating to Sale of Goods**

# • Contract Formation:

Seller agrees to hand over goods for a price, conditional or unconditional.

#### Void Contract:

 If specific goods suffer loss before the contract due to seller's unknowing, the contract is void.

#### Price Determination:

Determined by contract terms or agreed procedure; if not, a reasonable price.

### Payment of Price:

Buyer pays at the time of buying, simultaneous with the handover of goods.

#### • Ownership and Quality:

- Seller deemed to have/title to future goods.
- o Goods deemed of merchantable quality unless specified.

#### Delivery and Risk:

Delivery per contract; seller bears risk until goods are delivered.

# • Buyer's Right to Inspect:

Buyer can examine goods upon delivery; not deemed accepted until done.

# • Deemed Delivery:

o Buyer deemed to have received goods in various circumstances.

# • Compensation:

- Seller can claim compensation for buyer's refusal or different payment.
- Buyer can claim compensation if the seller refuses or fails to deliver goods.

#### **Chapter 8: Contracts Relating to Agency**

# • Formation of Agency Contract:

• Any person can appoint an agent; contract concludes upon appointment.

### Agent's Authority:

- o Liability from agent's actions recognized as principal's actions.
- Principal not responsible for actions beyond agent's authority.

# Sub-agents and Duties:

- Agent can appoint sub-agent with principal's consent.
- Sub-agent has rights and duties equal to the agent; follows contract conditions or directives.

# • Termination of Agency:

 Voluntary termination, completion of work, or principal's loss of senses or bankruptcy.

### • Removal and Giving Up Agency:

- Agent can't be removed without appropriate reasons; compensation may apply.
- o Agent can't quit before completion without reasons; compensation may apply.
- Sub-agent automatically leaves if the agent leaves.

# **Chapter- 9: Contracts Relating to Transportation of Goods**

- Contracts for transporting goods are deemed concluded.
- Transporter's receipt serves as proof of contract.
- Transporter must handle goods properly, held responsible for loss or damage.

# Chapter- 10: Time, Procedure, and Place for Performing Contracts

- Contracts must be performed within specified time and procedure or within a reasonable time.
- Perform at specified place or a reasonable place if not specified.

# Chapter- 11: Execution of Contract and Obligation Arising out of the Contract

- Each party must fulfill contractual obligations.
- Parties must simultaneously fulfill obligations or follow the specified order.
- Rights and liabilities devolve upon the heir upon death.
- Contracting party may appoint an agent; joint signatories are jointly responsible.

#### **Chapter- 12: Breach of Contract and Remedies**

• Breach of contract occurs if a party fails to meet obligations or shows incapacity.

- Aggrieved party may recover losses due to breach, with specified compensation limits.
- Refund or payment for services/benefits upon contract termination.
- Compensation for completion of work or benefit provided in certain circumstances.
- Aggrieved party may demand specific performance under certain conditions.

#### **Chapter- 13: Miscellaneous**

- · Contracts must adhere to legal formalities for validity.
- Time limits apply to contracts and specific matters as prescribed by prevailing law.
- Repeal of the Contract Act 2023 (1966) and relevant chapters of the Muluki Ain.

# The Labour Act

The Labor Act, enacted in Nepal on September 4, 2017, serves as a comprehensive framework governing the relationships among employers, employees, and labor organizations. Its primary objective is to protect the rights, interests, and benefits of workers while eradicating various forms of labor exploitation. The act encompasses several crucial chapters, each addressing specific aspects of labor relations.

**Chapter 1:Preliminary** This chapter defines the law as an agreement enforceable by law concluded between two or more parties performing or not performing any work. It defines proposal as a document presented by one person to another with the intent of obtaining his/her consent to do or not to do any work.

**Chapter 2: Basic Labor Provisions** This chapter establishes fundamental standards for labor, explicitly prohibiting forced labor and discrimination. It also sets the groundwork for safeguarding against child labor.

**Chapter 3: Employment** Key provisions here emphasize the necessity of employment contracts, providing a legal basis for the relationship between employers and laborers. Dispute resolution mechanisms are outlined, and the act ensures continuity in employment during changes in ownership.

**Chapter 4: Trainees and Apprentices** Regulating apprenticeships, this chapter outlines the permissible working hours for apprentices and mandates minimum remuneration and social security benefits, fostering a balanced learning environment.

**Chapter 5: Part-time Labor** This section addresses the employment of part-time workers, specifying remuneration based on working hours and requiring employers to contribute to social security benefits.

**Chapter 6: Work Permit** To regulate foreign employment, this chapter mandates work permits, with specific provisions for foreign nationals engaged in foreign investment or assistance-operated enterprises.

**Chapter 7: Working Hours** Here, the act sets limits on daily and weekly working hours, allowing controlled overtime. This ensures the well-being of laborers while accommodating certain flexibility.

**Chapter 8: Remuneration** Ensuring fair compensation from the start, this chapter protects laborers' rights by defining remuneration terms and preventing unilateral reductions.

**Chapter 9: Leave** This section addresses various leave entitlements, including weekly, public, and sick leave. Special consideration is given to pregnant female laborers with a provision for maternity leave.

**Chapter 10: Provident Fund, Gratuity, and Insurance** Establishing financial safeguards, this chapter outlines deductions for provident funds and social security. Employers are also required to provide annual medical insurance for each laborer.

**Chapter 14: Fair Labor Practice** This chapter establishes the imperative for fair labor practices, placing responsibilities on employers, enterprises, and trade unions to adhere to ethical standards.

Chapters 18-19: Settlement of Individual and Collective Disputes These chapters detail procedures for resolving individual and collective disputes, emphasizing timely resolutions through various avenues.

**Chapter 20: Conduct and Provisions** This section outlines the responsibilities of laborers to adhere to discipline and prohibits workplace sexual harassment, ensuring a safe and respectful work environment.

**Chapter 21: Termination of Employment** Providing guidelines for employment termination, this chapter covers time-based and work-based scenarios, including termination due to incompetence.

**Chapter 22: Labor Court** Establishing a specialized Labor Court, this chapter grants specific powers during cases, facilitating effective resolution and examination of evidence

# The company Act

The Companies Act, 2063 (2006) is an act made to amend and consolidate the law relating to companies in Nepal. It aims to promote investment in the industry, trade, and business sectors through economic liberalization. The act defines various terms related to companies, such as private company, public company, holding company, subsidiary company, foreign company, and more. It also establishes the roles and responsibilities of directors and officers of companies. Additionally, the act mentions the establishment of the Company Registrar's Office for the administration of companies.

Incorporating a company in Nepal requires seven promoters and application to the Office. Once registered, the company becomes autonomous, corporate, and has perpetual succession, limited shareholder liability. The Act restricts individual shares subscription, limiting private companies to fifty and public companies to seven. Private companies cannot sell shares, transfer securities, or open partnerships. Public companies must have a minimum paid-up capital of ten million rupees. A private company can be converted into a public company by amending its memorandum and articles of association, applying to the Office for conversion, and receiving notices or summonses, with the Registrar

responsible for implementing the Act.

The articles of association of a company must include specific business matters. If any provision contained in the articles of association of the company is inconsistent with this Act and the memorandum of association, such provision shall be void to the extent of such inconsistency. Public companies must publish their memorandum and articles of association within three months of getting a license, and any amendments must be published within three months. A company must submit a prospectus for approval to the Securities Board, which must be registered and complied with. The directors who signed the prospectus are personally liable for any false statements. The court can order compensation and expenses for company officers who violate specific sections. Companies can issue shares at a premium with prior approval, and shareholders must approve any changes. The board must propose resolutions for shareholder rights alteration. Companies must file returns and share certificates, deal with securities transactions, and issue certificates within two months of allotment. A company must inform the registered office of any lost or destroyed share certificates. If necessary, a duplicate share certificate may be issued. A company must submit a deed and share or debenture certificate for registration, record the execution of a pledge, and cross off the register when redeemed. A company must maintain a register at its registered office, including accurate information about shareholders. If a shareholder requests information, the company must provide it within 30 days. Companies must prepare an inventory of shareholders and debentureholders before the annual general meeting, containing details about the company's capital, payments, loans, and directors.

The act outlines fines, penalties, and requirements for company meetings, aiming to regulate operations and ensure transparency in financial reporting. The act discusses a company's financial statement, auditor's opinion, and the option to publish the abstract. It also covers the appointment of directors, independent director requirements, and shares qualification.

Independent directors are not eligible for appointment due to certain factors such as punishment, lack of qualifications, disqualifications, and non-compliance with financial reporting requirements. Retired directors can be reappointed, and their remuneration and facilities are determined by the board of directors. Compensation payments to retired or relieved directors are not permitted. Directors must disclose any personal interest within seven days of assuming office.

A company's directors collectively perform its duties through the board of directors. Public directors cannot do anything that brings personal benefit without a general meeting's decision. A managing director may be appointed from among the directors, with their functions and powers specified in the articles of association or prescribed by the board. Meetings must be held at least six times a year, with at least 51% of the total number of directors present for validity.

The annual financial statements of a company should include current achievements, board opinions, industrial relations, changes in the board, major factors affecting transactions, comments on audit reports, dividend recommendations, forfeited shares, and more. The statements must be approved by the board of directors and signed by the chairperson and at least one director. Companies must appoint an auditor to audit their accounts, who can also audit branch office accounts.

A company's registration can be cancelled, with individuals bearing the remaining debt or liability. The Office will return property to shareholders after deducting cancellation expenses. Shareholders can petition the Court to prevent unauthorized acts, and the Court

can issue remedies such as preventing harmful acts, requiring actions, initiating civil cases, buying back shares, paying damages, or liquidating the company. Foreign companies can establish offices in Nepal without registering a liaison office, but

certain activities require approval from the relevant authority. They must display their name and registration details prominently and must register within six months. Foreign companies registered in Nepal must submit accurate returns and documents, including annual financial statements, balance sheets, and profit and loss accounts. Foreign companies in Nepal are governed by insolvency laws, with proceedings and complaints filed by the Office or concerned person. The Court has the power to hear and settle cases, including compensation matters. The Act outlines penalties for non-compliance, including fines of ten to fifty thousand rupees, and personal liability for losses or damage caused by Violations. The Nepali government can convert a public corporation into a public company, with no restrictions on promoters or shareholders. The company's assets and liabilities can be converted into share capital, and directors can sell shares to the private sector. Transactions between companies must be notified to shareholders and the Office. Merging a public company requires approval from the Office.

# The Copyright Act

The Copyright Act of Nepal 2002 is the primary legislation governing copyright protection in Nepal. It defines the rights and responsibilities of authors and copyright holders, and outlines the legal framework for protecting original works of authorship. It was enacted by the Parliament of Nepal and came into force on 15th August 2002. The Act protects a wide range of original works, including:

- •Literary works (books, poems, scripts, etc.)
- Musical works (songs, compositions, etc.)
- Artistic works (paintings, sculptures, photographs, etc.)
- •Cinematographic works (films, documentaries, etc.)
- Sound recordings
- Broadcasts
- Performances

The Act grants copyright holders the exclusive right to:

- •Reproduce their work
- Translate their work
- Adapt their work
- Perform their work
- Publish their work
- Broadcast their work
- •Rent or lend their work

The term of copyright protection in Nepal is generally the lifetime of the author plus 50 years after their death. For certain types of works, such as joint works and anonymous works, the term of protection is different.

The Act recognizes several limitations to copyright protection, including:

• Fair use: certain uses of copyrighted material without permission, such as for criticism, commentary, or news reporting, are permitted.

- •Government use: the government is allowed to use copyrighted material for certain purposes, such as education or research.
- Traditional knowledge, folklore, and expressions of culture: these are not protected by copyright.

The Act provides several mechanisms for enforcing copyright rights, including:Civil lawsuits, Criminal penalties, Administrative actions

Some key features of the Nepal Copyright Act are

- •Registration is not mandatory: Unlike some other countries, registration is not required to obtain copyright protection in Nepal. However, registration can provide certain benefits, such as making it easier to enforce your rights.
- •Moral rights: In addition to economic rights, the Act also recognizes moral rights of authors, such as the right to attribution and the right to prevent the distortion of their work.
- •International obligations: Nepal is a member of several international copyright treaties, such as the Berne Convention and the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) which makes it easier to hold your copyright claim internationally.

Suggestions and Recommendations:

- Enhancing Enforcement and Awareness:
  - → Invest in enforcement infrastructure: Strengthen the Department of Intellectual Property with resources and trained personnel to effectively combat piracy and enforce copyright law.
  - → Raise public awareness.
  - → Streamline dispute resolution: Improve the efficiency and accessibility of copyright infringement dispute resolution mechanisms.
- Modernizing the Legal Framework:
  - → Align with international standards: Consider revisions to align specific provisions of the Act with international copyright treaties and best practices to facilitate cross-border collaboration and trade.
  - → Clarify exemptions and limitations: Provide clearer guidelines on fair use and other limitations to prevent misuse and enhance legal certainty for creators and users.
  - → Adapt to technological advancements.
- Promoting Creativity and Innovation:
  - → Support rights management infrastructure.
  - → Incentivize creative industries.
  - → Foster knowledge sharing and innovation.
- Specific Recommendations:
  - → Consider introducing a registration system: While voluntary, a registration system could offer additional evidence of authorship and facilitate enforcement.
  - → Address digital piracy comprehensively: Implement mechanisms for online takedown notices, website blocking, and penalties for digital infringement.

By continuously improving and adapting the Nepal Copyright Act, Nepal can create a more robust and dynamic copyright ecosystem, stimulating creativity, innovation, and economic growth.

# The Public Procurement Law

- **Chapter 1: Definitions and Procedures** This section of the Act elucidates key terms related to procurement, underscoring the necessity for public entities to strictly adhere to the outlined procedures. Any deviation renders the procurement null and void.
- **Chapter 2: Procurement Procedures** Detailing the procurement process, this chapter mandates public entities to prepare thorough descriptions, cost estimates, and plans. Emphasizing the role of the public entity's chief, it establishes procurement units and delineates various procurement methods.
- **Chapter 3: Bidding Process** Outlining bidding procedures and stages, this section allows open bids with or without prequalification. It covers bid document preparation, bid invitations, international bidding conditions, bid examination, security, and bid evaluation, emphasizing transparency and fairness.
- **Chapter 4: Consultancy Services** This chapter outlines procedures for procuring consultancy services, focusing on transparency in selecting qualified proponents and detailing negotiation and contract conclusion processes.
- **Chapter 5: Additional Procurement Provisions** Covering various procurement scenarios, this chapter provides guidelines for sealed quotations, direct procurement, ration procurement, renting of property and services, construction work, force account, and outsourcing to non-governmental organizations.
- **Chapter 6: Procurement Review** This chapter allows bidders to file review applications, ensuring a mechanism for addressing procurement errors or decisions. The Review Committee, with relevant expertise, assesses applications within a specified timeframe, maintaining transparency and fairness.
- **Chapter 7: Contract Formation** For procurements exceeding low value, this chapter mandates the formation of contracts, covering essential details. It addresses amendments, variations, price adjustments, contract extensions, payments, dispute resolution, termination, and the obligation to publish notices after contract conclusion.
- **Chapter 8: Ethical Standards** Officials engaged in public procurement must adhere to principles of impartiality and transparency. Violations can lead to blacklisting by the Public Procurement Monitoring Office, with specified criteria for exclusion.
- **Chapter 9: Procurement Monitoring Office** This chapter establishes the Public Procurement Monitoring Office under the Office of the Prime Minister, tasked with monitoring, recommending reforms, issuing guidelines, preparing documents, conducting training, and serving as the Review Committee's secretariat.
- **Chapter 10: Miscellaneous Provisions** This chapter allows immediate procurement in special circumstances, grants powers to the Public Procurement Monitoring Office, permits electronic communication, emphasizes record-keeping, delegates powers to competent authorities, and provides for rule creation, repealing, or amending previous regulations. All acts and proceedings under prior regulations are deemed carried out under this Act.

# **Building By-Laws**

Building bye-laws are government regulations established by planning organizations, either centrally or locally, aimed at overseeing urban development in accordance with Master Plans. The primary objectives are to ensure safe, sustainable, and organized urban growth, regulating construction activities for land use, infrastructure, and public safety while promoting good design principles and preserving aesthetic appeal.

# **Key Features:**

- 1. **Differentiated by Area:** Varied bylaws for distinct urban areas and building categories.
- 2. **Planning Regulations:** Define zoning, plot sizes, setbacks, height restrictions, and permissible uses.
- 3. **Construction Standards:** Specify minimum structural requirements for safety, accessibility, and environmental considerations.
- 4. **Permitting Process:** Outline procedures for building permits, approvals, and safety compliance.
- 5. **Fees and Charges:** Establish fees for permits, inspections, and penalties for non-compliance.

### **Recent Developments:**

- 1. Revised in 2015 to focus on earthquake resilience, energy efficiency, and accessibility.
- 2. Emphasis on stricter enforcement and improved inspection mechanisms.
- 3. Integration of smart city development principles.

#### **Challenges:**

- 1. Lack of awareness among the public and construction professionals.
- 2. Inadequate resources for effective enforcement, leading to safety concerns.
- 3. Complex and conflicting regulations across jurisdictions.

#### Suggestions:

- 1. Continuous review to adapt to changing technology and urban needs.
- 2. Public awareness campaigns and training programs for compliance.
- 3. Streamlining regulations to reduce ambiguity and bureaucratic hurdles.
- 4. Increased investment in enforcement infrastructure for effective building control.

In conclusion, building bye-laws are vital for shaping Nepal's urban landscapes. Addressing challenges and continuous improvement will ensure safe, sustainable, and aesthetically pleasing environments.

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