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Part 2

Government of Nepal

Ministry of Law, Justice and Parliamentary Affairs

The Act, drafted by the Legislature-Parliament, as per Article 296 (1) of the Constitution of Nepal has been published for the information of the general public.

Act no. 8 of the Year 2074 (2017)

An Act Designed to Make Provisions for Contribution-based Social Security

Preamble: Whereas it is expedient to ensure the right to contribution-based social security of the workers and make necessary provisions on providing social security to the contributors,

Now, therefore, be it enacted by the Legislature-Parliament in accordance with Article 296 (1) of the Constitution of Nepal.

Section 67) Addendum 12 Nepal Gazette Part 2 Date 2074/4/29 (August 13, 2017)

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act shall be called "Contribution-based Social Security Act, 2074".
(2) This Act shall commence ninety-one days after its authentication.

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:
 - (a) "Dependent family" means any living person with the following relations living together with the contributor:
 - (1) Husband or Wife,
 - (2) Son, daughter-in-law or daughter,
 - (3) Father, mother, father-in-law or mother-in-law,
 - (4) Grandson or grand-daughter.
 - (b) "Executive Director" means the Executive Director of the Fund appointed as per Section 42.
 - (c) "Fund" means the Social Security Fund established as per Section 26.
 - (d) "Specified" or "As Specified" means specified or as specified in the Act or in the rules or by-rules framed under this Act.
 - (e) "Ministry" means the Government of Nepal, Ministry of Labour, Employment, and Social Security.
 - (f) "Contribution" means the amount deposited or to be deposited in the Fund regularly by the worker and employer to receive the facility under the social security scheme including amount deposited by workers in the informal sector and those in self-employment to join the social security scheme.
 - (g) "Contributable income" means the basic salary received by the workers on a daily, weekly, fortnightly or monthly basis from direct or indirect employment prior to deduction of tax as per the law.
 - (h) "Contributor" means the worker, self-employed person, individual in government service who has acquired the social security number after being enlisted in the social security scheme or the individual who has received remuneration from government funds as specified by the Government of Nepal by publishing a notice in the Nepal Gazette.
 - (i) "Employer" means the individual or institution that employs the worker and this word shall also denote the following individual:
 - (1) Manager in case of institution,
 - (2) If any worker employs another worker, then the worker who is employing,
 - (3) Worker supplier in case of workers who have been supplied, and

- (4) The Government of Nepal, Provincial Governments or Local Levels in case of individuals who are in government service or individuals who draw remuneration from the government funds.
- (j) "Committee" means the Steering Committee of the Fund formed as per Section 29.
- (k) "Government Service" means the Federal Civil, Nepali Army, Federal Police, Armed Police Force Nepal, National Investigation Department, Provincial Civil, Provincial Police Service or other services related to the Government of Nepal, Provincial Government or Local Government as specified by the Government of Nepal by publishing a notice in the Nepal Gazette.
- (l) "Social Security Scheme" means the social security schemes run by the Fund as per Section 10.
- (m) "Entitlements" means the entitlement or payment provided on the basis of contribution in the social security scheme.
- (n) "Enlisted employer" means the employer enlisted in the Fund as per Section 19.
- (o) "Local Level" means the rural municipality or municipality.
- (p) "Worker" means the worker, employee or individual with any given post involved in physical or intellectual work for the employer in return for remuneration, and this word shall also denote the worker working in the informal sector as specified by the Ministry by publishing a notice in the Nepal Gazette on the recommendation of the Committee.
- (q) "Labour force" means the Nepali citizens between the age-group of eighteen to sixty years who are or could be economically active in the labour market and not involved in any kind of employment.

Chapter-2

Provision Related to Contribution-based Social Security Scheme

3. **Social security not to be received without contribution**: Any individual who does not contribute to the social security scheme shall not receive social security as per this Act.
4. **Contribution to be deposited**: (1) Every enlisted employer should deposit contribution as per Section 7 of the contributable income of every worker that the employer has recruited or maintained labour relations with and additional amount to such contribution as per the same Section to the Fund regularly.
- (2) Contribution of deposits as per Sub-section (1) should be carried out from the day of listing of the worker until the last day she/he remains in employment.
- (3) Unless specified otherwise by the Fund, the deposit of the contribution amount should be made monthly and in case contribution of the full month is not to be made then it should be done proportionally.

(4) The contribution as per Sub-section (1) should be deposited in the Fund within fifteen days of the end of the month for which the contribution is supposed to be made for.

(5) Contribution as specified from the contributable income of individuals in government service or the individuals drawing remuneration from government fund will be deducted by the concerned office and deposited to the Fund.

5. **Informal sector workers and self-employed persons may take part in the social security scheme:** (1) The informal sector workers and self-employed persons may take part in the social security scheme by making contributions to the Fund as specified by the Ministry by publishing a notice in the Nepal Gazette on the recommendation of the Committee.

(2) To encourage participation of the informal sector workers and self-employed persons to the social security scheme, the Government of Nepal shall make deposit to the Fund as specified based on the contribution made by such individuals to the social security scheme.

(3) The Fund may collaborate with cooperatives institutions or association, community or other professional associations in order to facilitate the participation of the informal sector workers and self-employed persons in the social security scheme.

(4) The Fund may run social security scheme as specified for the social security of the informal sector workers and self-employed persons.

6. **Social security scheme to be selected:** (1) The informal sector worker and self-employed person may select to join one or more than one social security schemes based on contribution.

(2) Notwithstanding whatsoever is written in Sub-section (1), unless provided otherwise by the Fund, any worker and self-employed person cannot choose to participate in one and not participate in other social security scheme run by the Fund, based on contribution.

7. **Rate of Contribution:** (1) The rate of contribution to be made by the enlisted employer on its behalf or from the contributable income of the contributor shall be as specified by the Ministry by publishing a notice in the Nepal Gazette on the recommendation of the Committee.

(2) The Ministry may make changes to the rate of contribution as per Sub-section (1) by publishing a notice in the Nepal Gazette on the recommendation of the Committee on the basis of the number of workers and self-employed persons participating in the social security scheme, inflation, financial condition of the Fund, and the number of social security schemes.

8. Provision relating to contribution when remuneration is not received: (1) If for any reason any worker does not receive his/her salary and thereby cannot deposit the contribution to be made regularly to the Fund, the concerned enlisted employer should deposit the contribution to be made by the worker for a maximum of three months.

(2) The enlisted employer may deduct the amount contributed as per Sub-section (1) as specified from the remuneration, allowances or other benefits the concerned worker receives.

9. Recovery of contribution amount: (1) In case the enlisted employer does not deposit the contribution within the period as per Section 4, the Fund shall recover the contribution amount from the concerned employer along with an interest of ten per cent of the contribution amount.

(2) Notwithstanding whatsoever is written in Sub-section (1), if an employer is unable to deposit the contribution within the period as per Section 4 in the Fund owing to conditions beyond one's control, the employer may register an application to deposit such amount of contribution within thirty days upon clarifying the reasons and ground for not depositing the contribution.

(3) If the ground and reasons mentioned in the application as per Sub-section (2) are deemed justifiable, the Fund may allow the enlisted employer to deposit the contribution amount in the Fund by waiving, partially or fully, the interest applicable to the employer.

(4) The Executive Director may write to the authorities concerned to take any or all of the actions as stated below against the enlisted employers who do not deposit contributions as per this Act until the employer deposits the contribution amount:

- (a) Freeze the account in the bank and financial institution;
- (b) Freeze the moveable and immovable assets of the concerned individuals or institutions;
- (c) Suspend or stop the rebate facility entitled under the prevailing law;
- (d) Suspend the permit or license in the name of the individual or institution concerned; and,
- (e) Freeze the passport of the individual concerned.

(5) In case communication as per sub-section (4) is received, the authorities concerned should initiate the necessary action on the matter within fifteen days.

10. Social security schemes to be operated: (1) The Fund shall operate, within the scope of this Act, security schemes as stated below:

- (a) Medical treatment and health benefit scheme,
- (b) Maternity protection scheme,
- (c) Accident protection scheme,
- (d) Incapacity protection scheme,
- (e) Old age protection scheme,
- (f) Dependent family protection scheme,
- (g) Unemployment protection scheme,
- (h) Other security schemes specified by the Fund.

(2) The Fund shall operate the social security scheme based on the priority specified by the Government of Nepal.

(3) The Fund may operate the Social Security schemes as per sub-Section (1) in a phase-wise manner.

(4) The contributors making contribution up to the period as specified by the Fund shall be included in the social security scheme as specified in proportion to her/his contribution.

11. Different security schemes may be operated: (1) The Fund may operate different social security schemes based on the nature of work and needs of the workers participating in the social security scheme.

(2) Notwithstanding whatsoever is written in Sub-section (1), security schemes that offer varying benefits to contributors of similar nature shall not be operated.

12. Separate accounts to be maintained: (1) Individual accounts should be maintained for every social security scheme.

(2) The funds in the account of any particular social security scheme cannot be used for another scheme.

(3) The amount to be deposited in the account pursuant to Sub-section (1), expenses to be incurred, account operation and other provisions shall be as specified.

13. Deemed to be involved in the social security scheme: (1) The contributor who has contributed to the social security scheme shall be deemed to have been enrolled for the scheme operated by the Fund from the day she or he is enlisted in the Fund.

(2) The contributor, who has joined the social security scheme pursuant to Sub-section (1) and her or his dependent family, on the criteria as specified, shall receive benefits pursuant to the social security scheme.

14. Payment of benefit: (1) The Fund shall pay benefits to the contributor who has joined the social security scheme as stipulated in the scheme concerned.

(2) In the event of death of any contributor who has enrolled in the security scheme, or, if it is not ascertained that the contributor is alive until the period as per the prevailing law before receiving benefits pursuant to Sub-section (1), then the benefits that she or he is entitled to shall be paid to the nominee agreed by her or him, and, if not agreed then to the dependent family of the contributor.

(3) While making payment pursuant to Sub-section (1) or (2), it should be done so that the contributor or his/her dependent family receives payment through the Fund or the institution or agency that has collected the contribution or through the institution through which she or he has received service benefit or any appropriate medium as specified by the Committee.

15. Suspension and termination of benefit: The suspension and termination of benefits to be received by the contributor pursuant to this Act shall be as specified.

16. Recovery to be made: (1) If information is received in any way that a person who has not enrolled in the social security scheme has received benefits as per this Act or has received benefits more than she or he is entitled to as per this Act, the said amount shall be recovered by the Fund as specified from such person.

(2) The amount recovered pursuant to sub-section (1) should be deposited in the Fund.

17. Fund may issue order: (1) If any employer is not enlisted within the period specified as per this Act or if it does not enlist the worker that the employer has appointed or has an employment relations with, then the Fund may issue the following order to such employer:

- (a) To immediately enlist in the Fund and to enlist the workers that have been appointed or with whom an employment relationship has been established to the Fund;
- (b) To deposit in the Fund the contribution to be made as per this Act since the date of establishment of employment relations between such employer and worker, and also the interest applicable as per Section 9; or
- (c) In case of a situation where the employment relations between the employer and worker has come to an end, to provide the concerned worker

within the specified period the amount worth of the benefits that the worker is entitled to as per this Act for the period when the employment relations were active.

(2) If the employer does not provide the worker the amount equivalent to the social security as per Clause (c) of Sub-section (1), the Fund shall recover such amount and hand it over to the concerned worker.

18. Other provisions relating to social security scheme : (1) Notwithstanding whatsoever is written elsewhere in this Chapter, the Government of Nepal may deposit contribution as specified in the Fund for those workers who do not have a continuous income for the purposes of involving the work force as specified in the social security scheme.

(2) Based on the contribution deposited by the Government of Nepal as per Sub-section (1), such workforce shall participate in the specified social security scheme.

Chapter-3

Provisions Relating to Enlistment in the Fund

19. Publishing notice for enlistment: (1) The Ministry shall, on the recommendation of the Committee and through a notice in the Nepal Gazette, publish a notice calling upon employers who operate industries, services, businesses or transactions of the specified sector and nature for enlistment in the Fund within the period as per Section 20.

(2) The employer shall, within the period as specified in the notice published as per Sub-section (1), file an application, in the specified format and with the specified details, before the office of the Fund to be enlisted in the Fund.

(3) Upon receiving the application along with details as specified pursuant to Sub-section (2), the Fund shall enlist the concerned employer and issue the enlisted number in the specified format to such employer.

20. Workers to be enlisted: (1) The employers who are in existence at the commencement of this Act and who should be enlisted as per this Act, should enlist, the person employed by them or the person with whom they have employment relations, in the Fund within six months of the date of commencement of this Act and, the employers enlisted after the commencement of this Act, should enlist the workers within three months of the establishment such relations.

(2) If any employer does not enlist any worker within the period pursuant to Sub-section (1), then the worker concerned may file an application at the Fund.

(3) If it is found through the application filed pursuant to sub-section (2) or through any other means that an employer has not enlisted a worker appointed by her or him or with whom s/he maintains a relationship of employment as required by Sub-section (1), the Fund may issue an order to the employer concerned to enlist itself and the worker within a specified deadline.

(4) It shall be the duty of the concerned employer to follow the order of the Fund as per Sub-section (3).

(5) The provision relating to the enlisting of the informal sector workers and self-employed persons shall be as specified.

(6) The worker or self-employed person enlisted as per this Section shall be provided with a social security number by the Fund as per Section 41.

21. Provisions regarding enlistment of individuals in government service or those drawing remuneration from government funds: Provisions regarding enlistment of individuals in government service or those drawing remuneration from the Government fund shall be as specified by the Government of Nepal.

22. Deemed to have been enlisted: (1) The employer and contributor shall be deemed to have been enlisted after the employer receives the enlistment number and the contributor receives social security number pursuant to this Chapter.

(2) Notwithstanding whatsoever is written in Sub-section (1), workers and individuals in government service or those drawing remuneration from government funds who make contributions to the social security fund pursuant to prevalent law at the time of commencement of this Act shall be deemed to have been enlisted in the Fund from the date of contribution made to the Fund.

23. Records relating to enlistment: (1) The records relating to enlistment of the persons registered in the Fund pursuant to this Chapter shall be based on an integrated computer-based system.

(2) The personal and bio data of the person enlisted pursuant to Sub-section (1) shall not be used for any purposes other than that of the Fund.

(3) Notwithstanding whatsoever is written in Sub-section (2), information in the records shall be made available if sought by an authorized person for the purpose of helping with the investigation or judicial proceeding as per the prevalent law.

24. Information to be provided if not in employment: If any contributor is no longer in employment for any reason, the enlisted employer should inform the Fund as specified within one month.

25. Employer enlistment number to be ineffective: (1) If the enlisted employer founded, as per the prevalent law, dissolved or suffers liquidation or falls under sharing of assets, then the enlistment number received by the employer as per Section 19 shall not remain into effect.

(2) The provision relating to payment of liabilities of the employer who does not have an active enlistment number as per Sub-section (1) shall be as specified.

Chapter- 4

Provisions regarding Establishment and Operation of Fund

26. Establishment of fund: (1) The Social Security Fund has been established for the operation and management of the social security. The Fund shall remain as a revolving fund.

(2) The Fund pursuant to Sub-section (1) shall consist of the amount as stated below:

- (a) Amount received from the contributor and employer in lieu of social security scheme;
- (b) Amount worth 10 per cent of basic remuneration of the worker received every month pursuant to the prevalent labour law and the amount added as provident fund by the employer;
- (c) Amount to be provided by the employer to the worker in lieu of gratuity, retirement and other benefits as per prevalent labour law;
- (d) Amount deposited, and to be deposited, in the national-level welfare fund pursuant to the prevalent law on bonus;
- (e) Amount collected so far, and to be collected in the future, in lieu of social security tax;
- (f) Grants received from the Government of Nepal;
- (g) Grants, assistance or loan received from foreign governments, international organizations;
- (h) Amount of interest and profit received from investment of the Fund's money;

- (i) Amount received in the form of loans from the Government of Nepal; and,
- (j) Amounts received from any other sources.

(3) The amount received by the Fund pursuant to Clause (d) of Sub-section (2) shall be used only to provide to the worker concerned.

(4) The Fund shall obtain approval of the Government of Nepal before receiving amount as per Clause (g) of Sub-section (2).

(5) The amount received by the Fund pursuant to Sub-section (2) shall be deposited by opening an account in a bank or financial institution of class 'A' category licensed to carry out financial transaction pursuant to prevalent law relating to bank and financial institution, by acting within the scope of this Act.

(6) The account of the Fund pursuant to Sub-section (5) shall be operated with joint signatures of the Executive Director and the accounts chief.

27. Fund to be autonomous and organized entity: (1) The Fund shall be an autonomous and organized entity with continued successor.

(2) The Fund shall have its own stamp/seal for its work and activities.

(3) The Fund may make provision for acquiring, consuming, holding, selling off moveable and immoveable assets as an individual.

(4) The Fund may file a lawsuit in its name and may defend a lawsuit in the same name.

(5) The Fund may enter into a contract and exercise rights vested by the contract and fulfill obligations as an individual.

28. Office of Fund: The central office of the Fund shall remain in Kathmandu Valley and the Fund may, as required, open branch offices in any location within Nepal.

29. Committee: (1) A Steering Committee as follows shall be formed for the operation, overseeing and management of the works and activities to be carried out on behalf of the Fund:

- | | |
|--|-------------|
| (a) Secretary, Ministry of Labour | Chairperson |
| (b) Deputy Governor, Nepal Rastra Bank (overseeing regulation department) | Member |
| (c) Joint Secretary, Ministry of Finance (overseeing budget and programme) | Member |
| (d) Joint Secretary, Ministry of Law, Justice and | Member |

	Parliamentary Affairs	
(e)	Joint Secretary, National Planning Commission (overseeing social sector)	Member
(f)	Joint Secretary, Ministry of Cooperatives and Poverty Alleviation	Member
(g)	Three representatives designated by the Ministry from among official trade union federations, including at least one woman	Member
(h)	Three representatives nominated as specified by the Ministry from among the employers, including at least one woman	Member
(i)	Executive Director	Member Secretary

(2) The term of office of members as per Clause (g) and (h) of Sub-section (1) shall be four years.

(3) Notwithstanding whatsoever is written in Sub-section (2), if the performance of the members as per Clause (g) and (h) of Sub-section (1) is not found satisfactory, the Ministry may remove them from their posts. However, opportunity for hearing should be provided before such removal.

(4) If the post of any member of the Committee falls vacant for any reason, the same procedure used to make appointment to the post shall be followed for the remaining term of office.

30. Meeting and decision of the Committee: (1) The meetings of the Committee shall be held at least once in every six months and for any number of times as required.

(2) The meetings of the Committee shall be held on the date, venue and time specified by the chairperson.

(3) The Member-Secretary shall inform members about the meeting of the Committee along with the agenda, date, time and location at least twenty-four hours before the meeting is held.

(4) Notwithstanding whatsoever is written in Sub-section (3), if a meeting needs to be called for special reason, the meeting can be summoned by giving notice with less time than aforementioned.

(5) The meeting of the Committee shall be deemed to have been met its quorum if more than fifty per cent of the members are present.

(6) The decision of the majority of the meeting of the Committee shall be deemed to be the decision of the Committee. And, in case of a tie of votes, the person presiding the meeting shall cast her or his decisive vote.

Provided that, in case of fixing the rate of contribution of the contributable income exceeding twenty per cent for employers and eleven per cent for workers, such decision should be taken at the meeting attended by members pursuant to Clause (g) and (h) of Sub-section 1 of Section 29.

(7) The Committee may invite, as required, any expert or specialist to the meeting of the Committee. Such invitee shall not have voting rights in the meeting.

(8) The decision of the meeting of the Committee shall be certified by the Member-Secretary.

(9) Other procedures concerning the meeting of the Committee shall be as specified.

31. Functions, duties and rights of the Committee: (1) In addition to the function, duties and rights mentioned elsewhere in this Act, the functions, duties and rights of the Committee shall be as follows:

- (a) To formulate policies related to social security scheme;
- (b) To offer suggestions to the Government of Nepal on matters of social security;
- (c) To operate and manage the Fund by approving the social security scheme, budget and programme;
- (d) To formulate the policy on investment and present it before the Government of Nepal for approval;
- (e) To manage necessary funds to operate and manage various social security scheme in an appropriate manner;
- (f) To coordinate and monitor the functions of the Executive Director;
- (g) To maintain up-to-date records of the personal details of the enlisted workers, self-employed person and individuals in government service or drawing remuneration from the government fund;
- (h) To carry out, or cause to carry out, financial audit of the Fund regularly and evaluation of the overall economic and financial condition of the Fund;
- (i) To perform other necessary tasks to operate the social security scheme;
- (j) To conduct programmes to immediately provide employment to the work force that receives the unemployment benefits;
- (k) To identify additional areas of employment in the domestic labour market, and run programmes to involve the workforce in employment extensively;
- (l) To direct distribution of identity cards to the contributors,
- (m) To follow the directives of the Government of Nepal,

(n) To carry out other functions as specified.

(2) The Committee may delegate some of its powers to the Committee chairperson, members, the sub-committee formed as per Section 38 or to the Executive Director or any other officer-level staff of the Fund.

32. Investment of Fund amount: (1) The Committee may mobilize the stock and assets of the Fund in any or all sectors as stated below by acting within the scope of the investment procedures endorsed by the Government of Nepal:

- (a) Invest in the Government of Nepal bonds and purchase or sell such bonds;
- (b) Invest in the fixed accounts or long-term deposit schemes of banks or financial institutions of class A category licensed to carry out financial transaction under prevailing law relating to bank and financial institutions;
- (c) Invest in shares of banks, financial institutions and other companies with limited liabilities;
- (d) Lend loans in the sectors determined as appropriate by the Committee jointly with banks or financial institutions established as per prevailing law on condition of division of collateral based on co-financing as per mutual agreement;
- (e) Invest in debentures issued by companies or organised institutions established as per the prevailing law and determined as appropriate by the Committee,
- (f) Invest in approved mutual funds;
- (g) Identify appropriate venues and construct buildings for commercial purpose and rent them out;
- (h) Give loans to companies or organized institutions founded under the prevailing law by setting down terms and conditions and interest rate on the guarantee of banks or financial institutions established under the prevailing law;
- (i) Invest in sectors determined as appropriate by the Committee against adequate collateral or guarantee;
- (j) In the event of assets acquired in the recovery of loan dues to the Fund, the Fund, on its own or in collaboration with other institutions, shall manage the assets to utilize such assets;
- (k) Issue loans as specified to the workers, self-employed persons and individuals in government service or drawing remuneration from government funds, who have enrolled in the social security scheme;
- (l) Perform other tasks related to investment of the Fund's amount.

(2) While investing in shares pursuant to Clause (c) of Sub-section (1), it should be done without exceeding fifteen per cent of the issued capital of the said bank or financial institution, and while investing in debentures pursuant to Clause (e)

of Sub-section (1), it should be done without exceeding ten per cent of the total debentures issued by such company or organized institution.

(3) While investing the amount of the Fund pursuant to Sub-section (1) in any sector, it should be done without exceeding 20 per cent of the amount in the Fund.

33. Accounts of the Fund: (1) The Fund's accounts shall be maintained as per prevailing law.

(2) The account of the Fund maintained as per Sub-section (1) may also be maintained in electronic form.

34. Auditing of the Fund: Auditing of the accounts and ledgers of the Fund shall be done by the Auditor General or an auditor prescribed by her or him.

35. Internal control system to be maintained: (1) The Fund should maintain an internal control system as prescribed by making appropriate arrangements regarding its organizational structure, human resource management, fiscal transparency and information system.

(2) In order to carry out internal audit of the Fund for the purpose of sub-Section (1), an auditor with membership of chartered accountancy from an established institution as per prevailing law shall be appointed.

(3) While appointing an auditor as per sub-section (2), no person shall be appointed as auditor for more than three consecutive times.

(4) The remuneration, terms and conditions of service and other benefits of the auditor appointed as per this Section shall be as prescribed.

36. Actuarial valuation to be done: (1) The Committee should carry out actuarial valuation of the economic status, assets, liabilities and financial status of the Fund through an Actuary once in every three years.

(2) Notwithstanding whatsoever is written in Sub-section (1), the Committee, if it deems necessary to carry out an evaluation of the Fund before that period, then it may carry out assessment of the Fund's economic status, assets, liabilities and financial status through an actuary.

(3) After an actuarial valuation pursuant to Sub-section (1), the actuary shall submit the report to the Executive Director, disclosing the matters as stated below:

- (a) Criteria adopted for valuation,
- (b) Aspects and subjects specially considered in the valuation,

- (c) Total assets and liabilities of the Fund,
- (d) Financial condition of the Fund,
- (e) Liquidity of the amount available in the Fund,
- (f) Steps to be taken for keeping the financial condition of the Fund sound and healthy,
- (g) Rate of contribution to be done for security scheme in the context of providing social security, amount of benefit and other relevant issues, and
- (h) Other matters as specified.

(4) The Executive director shall submit the actuarial valuation report to the Committee.

(5) Provisions related to appointment, qualification, terms and condition of service of the actuary and other provisions related to actuarial valuation shall be as specified.

37. Responsibility for auditing and actuarial valuation: (1) The responsibility to carry out, or cause to carry out, auditing and actuarial valuation regularly shall be that of the Executive Director.

(2) It shall be the duty of all concerned to assist in carrying out or cause to carry out the task of auditing and actuarial valuation of the Fund.

38. Subcommittee may be formed: (1) The Committee may form a subcommittee, composed of, among others, experts in investment, social security management, auditing and other areas, as required, to extend support in relation to the activities to be carried out as per this Act.

(2) The functions, duties, rights, procedures of the subcommittee formed pursuant to sub-section (1) and the benefits entitled to the members of such subcommittee shall be as specified by the Committee at the time of formation of such subcommittee.

Chapter-5

Identification of Person, Documentation and Identity Card

39. Identification of person receiving social security: (1) The Fund shall develop a system based on information technology to identify individuals who are eligible to receive social security pursuant to this Act.

(2) In respect of the persons who are receiving any benefit under social security at the time of commencement of this Act, the Fund shall link them to the information technology system pursuant to sub-section (1) within the period as specified.

40. Documentation and registration of contributors receiving social security: (1)

Contributors receiving social security shall be included in the database system as specified by the Committee.

(2) For the purpose of Sub-section (1), the Committee shall receive information and personal details from all kinds of documentation system available in Nepal.

EXPLANATION: For the purpose of this section, ‘all types of documentation system available in Nepal’ means the vital events registration records at the local level; details, including photographs and other bio data, compiled in the voters list prepared by the Election Commission; details developed for national identity card; details developed for the poor household identity card; records of personal details of contributors in the Employees Provident Fund; Citizens' Investment Fund; civil, teachers, police, armed police and army kitabkhana (archives); and in private schools, public corporations and all industries, company, associations, firms or enterprises established as per prevalent law.

(3) Notwithstanding whatsoever is mentioned in the prevailing law, the Fund shall have access to all types of database systems established in Nepal for personal details of individuals during the process of registrations and enlistment of those individuals to the Fund.

41. Determination of social security number: (1) The Committee shall provide a unique social security number to every contributor affiliated to social security.

(2) The Committee shall provide identity cards with social security number pursuant to Sub-section (1) free of cost to contributors enlisted in the Fund.

(3) The format of the identity card pursuant to Sub-section (2) shall be as specified.

(4) The social security to be received by the contributors as per this Act shall be received based on the identity card along with the social security number pursuant to Sub-section (2).

(5) Documentation of information required by the Fund, including contributors' social security, income and employment, shall be maintained based on the social security number pursuant to Sub-section (1).

Chapter-6

Provisions concerning Executive Director and Employees

- 42. Executive Director:** (1) There shall remain an Executive Director for functioning as administrative chief of the Fund. The Executive Director shall be accountable to the Committee for her or his acts and actions.
- (2) The Committee shall form a selection subcommittee comprising three members of the Committee to recommend appointment of the Executive Director.
- (3) The subcommittee formed pursuant to Sub-section (2) shall select, no more than three candidates to the extent they are available from among candidates who have attained no less than postgraduate degree in economics, management, labour, commerce or law disciplines and have no less than fifteen years' working experience in officer-level position in government or nongovernment organizations or company or organized institution established as per prevalent law, through an open competition and shall submit their names to the Committee for appointment.
- (4) The Committee shall evaluate the qualifications, experience, leadership capacity, and the fund management and operational work plan presented by the candidates selected pursuant to Sub-section (3) and appoint the most suitable candidate to the post of the Executive Director of the Fund.
- (5) Notwithstanding whatsoever is written in this Section, the Ministry may designate or assign any First Class Gazetted Officer of the Government of Nepal to officiate as Executive Director until an Executive Director is appointed.
- (6) The term of office of the Executive Director appointed pursuant to Sub-section (4) shall be of four years and she or he may be re-appointed for additional one more term.
- (7) Notwithstanding whatsoever is written in Sub-section (6), the Committee may relieve the Executive Director of her or his post in the following conditions:
- (a) If she or he is found to be lacking functional capacity to execute or cause to execute tasks to be carried out pursuant to this Act;
 - (b) If she or he is found to have acted with dishonesty or *mala fide* intention in a task related to the Fund;
 - (c) If she or he has not conducted in a manner fitting the position; and,
 - (d) If she or he has not been able to act according to the work performance agreement or if her or his work performance appraisal has not been satisfactory.

(8) Before relieving the Executive Director of her or his post pursuant to sub-section (7), she/he shall be given appropriate opportunity for clarification.

(9) The remuneration, benefits and other terms and conditions of service of the Executive Director shall be as specified.

43. Function, duties and rights of the Executive Director: (1) In addition to the function, duties and rights mentioned elsewhere in this Act, the functions, duties and rights of the Executive Director shall be as follows:

- (a) Implement, or cause to implement the decisions of the Committee;
- (b) Prepare long-term plan, annual programme and budget of the Fund and present it to the Committee for approval;
- (c) Implement, or cause to implement the long-term plan approved by the Committee;
- (d) Present the progress report of the Fund to the Committee on a periodic basis;
- (e) Operate and manage day-to-day financial and administrative affairs of the Fund and oversee, control, direct and supervise subordinate staff;
- (f) Maintain records of, protect and repair and maintain moveable and immoveable and physical assets of the Fund;
- (g) To certify the decisions of the Committee and maintain a record of it; and,
- (h) Carry out, or cause to carry out, other tasks assigned by the Committee.

(2) The Executive Director may delegate some of his/her powers under this Act to any officer-level staff of the Fund.

44. Agreement to be concluded based on performance: (1) The Committee shall, prior to appointing the Executive Director, conclude a performance-based agreement with her or him.

(2) While concluding agreement pursuant to Sub-section (1), the work to be performed by the Executive Director, plan of action and provisions related to the indicators of their monitoring and evaluation shall be mentioned in the performance agreement.

45. Expert or advisor may be appointed: (1) The Fund may appoint experts and consultants as required for the purpose of acquiring expert service essential to execute the works pursuant to this Act.

- (2) For the purpose of Sub-section (1), the Fund shall develop a roster of experts and update it regularly.
- (3) The qualifications, remuneration, terms and conditions of service, benefits and other provisions related to the experts and advisors to be appointed pursuant to Sub-section (1) shall be as specified.
- 46. Employees of the Fund:** (1) The number of staff shall be as necessary to carry out the functions of the Fund.
- (2) The Ministry shall provide the staff required by the Fund until provision is made for them pursuant to sub-section (1).
- (3) The appointment, remuneration, terms and conditions of service, benefits and other provisions related to the staff of the Fund shall be as specified.

Chapter-7

Provisions concerning Offences and Punishment

47. **To be deemed commission of an offense:** (1) Anyone who does not deposit the amount in the Fund within the timeline mentioned in this Act and embezzles it or draws benefits as per this Act by submitting wrong or fake details or acquires benefits more than he/she is entitled to or commits irregularities in any programme related to social security shall be deemed to have committed an offense as per this Act.
- (2) If an offence as per Sub-section (1) is committed, a punishment of recovery of property if the property is known, and if not known, a fine up to one hundred thousand rupees or six months imprisonment or both shall be enforced.
- (3) The person acting accomplice to the offense as per Sub-section (1) or inciting to commit such offense shall be sentenced half of the punishment applicable to the main convict.
48. **Investigation of offense:** (1) Where any complaint is received about any offense committed or about to be committed as per Section 47 or if it comes to the notice of the Fund directly or indirectly through any other means, the Executive Director may designate a subordinate officer-level staff as the investigation officer and cause to carry out investigation of the concerned offense.
- (2) For investigation of the offense as per Sub-section (1) or while collecting the evidence, the investigation officer shall enjoy all the powers in par with a police

personnel as per the prevalent law to arrest those involved in the offense, search any location related to the offense, take under one's control documents and other goods related to the offense, record statement and prepare incident report.

(3) If upon investigation as per Sub-section (2), the investigation officer finds sufficient ground to show that the accused is guilty from the evidence that has been received then after having taken the statement of the accused, the Investigation Officer may release the person on a general date or on bail or surety, by explaining the reasons for the same, or can initiate action by keeping him/her under custody for not more than seven days at a time for a maximum of twenty-five days with the approval of the case hearing official, in case the accused fails to deposit the bail amount or surety.

(4) The investigation officer shall take the opinion of the public prosecutor while filing a case under his/her name following investigation pursuant to this Section.

(5) It shall be the duty of all concerned including police to provide necessary support to the investigation officer in the investigation work pursuant to this Section.

49. Arrest to be made: (1) If anyone has committed an offense as per this Act and if the Fund communicates after seeing possibility that the person could flee if not arrested immediately, the police personnel shall arrest such person and hand him/her over to the Fund.

(2) If the person arrested pursuant to Sub-section (1) has to be kept under custody for investigation, then the investigation officer has to present that person before the case hearing authority within twenty-four hours, excluding the time for road travel.

50. Nepal Government to be the plaintiff: The Government of Nepal shall be the petitioner in the case under this Act.

51. Penalty in case of non-compliance to the Fund's order: Any individual not complying with the order of the Fund as per this Act shall be fined up to fifty thousand rupees.

52. Provision related to appeal: Any person not satisfied with the order or decision handed down by the Fund may file an appeal at the concerned High Court within thirty-five days of receiving information about such order or decision made.

Section-8

Miscellaneous

- 53. Provisions regarding contingency fund:** (1) There shall remain a separate contingency fund under the Fund.
- (2) The amount deposited in the contingency fund pursuant to Sub-section (1) and the provisions pertaining to its operation shall be as specified.
- 54. Other provisions related to the Fund:** (1) The Fund may constitute other funds, as required, to operate social security-related programmes.
- (2) The amount to be maintained in the Fund pursuant to Sub-section (1) and the provisions concerning its operation shall be as specified.
- 55. Annual report to be submitted:** (1) The Fund shall submit an annual report with details of expenses incurred in social security and of the beneficiary groups, to the Ministry within three months of the end of the fiscal year.
- (2) The details to be included in the annual report pursuant to Sub-section (1) shall be as specified.
- (3) The Ministry shall make public the annual report submitted pursuant to Sub-section (1).
- 56. To be recovered as government arrears:** The amount to be recovered by the Fund as per this Act shall be recovered as government arrears.
- 57. Social security to be voluntary:** If any person does not wish to receive any benefit under the social security as per this Act or wishes to denounce the benefit being received, then the person can voluntarily not receive or denounce such benefit.
- 58. Unclaimed amount to be deposited in the Fund:** (1) In case the concerned contributor, or his/her beneficiary or dependent family does not come forward to receive any amount the contributor is entitled to from her/his employer, as per the prevailing law, for a period of five years, the employer or institution or authority concerned shall deposit such amount in the Fund within one month.
- (2) Amount received pursuant to Sub-section (1) shall be deposited by the Fund by setting up a separate account in a class 'A' category bank or financial institution licensed for financial transaction under the prevailing law.

(3) The amount deposited pursuant to Sub-section (1) shall be used as specified.

59. Help may be sought: (1) The Fund may, in course of executing tasks as per this Act, seek necessary support from professional and business organizations related to the employers or workers, local administration, concerned authorities and office-bearers.

(2) In case support is sought pursuant to Sub-section (1), it shall be the duty of the authority and office-bearer concerned to render necessary support.

60. Financial details to be made public: (1) The Executive Director shall prepare and present financial details of the Fund to the Committee every six months.

(2) The Committee shall make public annual financial details of the Fund within six months of end of every fiscal year.

61. Insurance or re-insurance may be done: If the Fund has assumed any liability in lieu of any social security programme operated by the Fund, the Fund may carry out insurance or re-insurance in order to meet the risk of such liability.

62. Duty of the Government of Nepal: If for any reason the amount in the Fund is found inadequate to provide benefits pursuant to the social security scheme to the contributors participating in the social security scheme, it shall be the duty of the Government of Nepal to give continuity to the social security scheme.

63. Dissolution of the Fund: (1) The Government of Nepal may, on the recommendation of the Committee, dissolve the Fund.

(2) In the event of dissolution of the Fund pursuant to Sub-section (1), the liabilities and assets of the Fund shall be transferred to the Government of Nepal.

64. Collective bargaining not to play any influence: (1) The provisions mentioned in this Act or the Regulations framed under this Act shall not be influenced by provisions or agreements pertaining to collective bargaining.

65. The Government of Nepal may issue instructions: (1) The Government of Nepal may issue instructions to the Fund, as required.

(2) It shall be the duty of the Fund to abide by the instructions issued pursuant to Sub-section (1).

66. Liaison with the Government of Nepal: While liaising with the Government of Nepal, the Fund shall do so through the Ministry.

- 67. Security of Social Security Fund:** The Social Security Fund as per this Act shall receive rebate and benefits in par with those enjoyed by the Employee's Provident Fund as per the Employees Provident Fund Act, 2019 BS (1962).
- 68. The Act to prevail:** Anything mentioned in this Act shall prevail accordingly and as per the prevailing laws of Nepal in other matters.
- 69. Rules to be framed:** The Government of Nepal may draft rules necessary to implement this Act.
- 70. Regulations, directives and operational guidelines to be framed:** (1) The Fund may develop regulations relating to financial and personnel administration for executing the financial and administrative tasks of the Fund.
- (2) The Fund may develop necessary directives and operational procedures by acting within the scope of this Act or the rules/regulations framed under the Act.
- (3) The regulation as per Sub-section (1) or the directives or operational procedures as per Sub-section (2) shall come into force after being approved by the Ministry.

Date of Certification: 2074/4/29(August 13, 2017)

As ordered,

Kamalshali Ghimire

Secretary, Government of Nepal