

↔Electoral Rolls Act, 2052 (1995)

Date of Royal Seal and Publication

2052/10/25 B.S. (Feb. 8, 1996 A.D.)

Amendment:

1. Local Election Related Some Nepal

Acts (Amendment) Act, 2054 (1997) 2054.5.6 (Aug. 22, 1997)

Act No. 10 of the year 2052 (1995)

An Act Made to Provide for the Preparation of Electoral Rolls

Preamble: Whereas, it is expedient to make necessary legal provisions to prepare Electoral Rolls and to provide the identity cards to the voters and as to other things pertaining thereto for the election of Members to the House of Representatives and of Members to the Local Authorities;

Be it enacted by Parliament in the Twenty-Fourth year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

Chapter-1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called as "the Electoral Rolls Act, 2052 (1995)".

(2) This Act shall come into force immediately.

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

↔ Repealed by Electoral Rolls Act , 2063 (2006).

- (a) "Commission" means the Election Commission referred to in Article 103 of the Constitution of the Kingdom of Nepal, 2047 (1990).
- (b) "Election" means the general election and mid-term election to the Members of the House of Representatives to be held pursuant to the House of Representatives Members Election Act, 2047 (1991) and the election to the Members of the Village Development Committee and Municipality to be held pursuant to the Local Authority (Election Procedures), Act, 2048 (1991) and this term also includes any bye-election to be held to the post of such Member.
- (c) "Election Constituency" means the constituency as follows:
- (1) For the Election to the Members of the House Representatives, Election Constituencies delimited, as per Article 105 of the Constitution of the Kingdom of Nepal, 2047 (1990) by the Election Constituency Delimitation Commission constituted pursuant to the said Article,
 - (2) For the Election to the Chairperson or Vice-chairperson of the Village Development Committee, ¹the concerned Village Development Area as specified pursuant to Section 3 of the Village Development Committee Act, 2048 (1991), and for the Election to ²Ward-chairperson and Ward Members, the area of the Ward of the concerned Village Development Committee as divided pursuant to Section 4 of the said Act, and

¹ Amended by the Act Made to Amend Some Nepal Acts relating to Local Elections, 2054 (1997).

² Amended by the Act Made to Amend Some Nepal Acts relating to Local Elections, 2054 (1997).

- (3) For the Election to Mayor or Deputy-Mayor of the Municipality, ³ the concerned municipal area as specified pursuant to Section 3 of the Municipality Act, 2048 (1991), and ⁴ for the Election to the Ward Chairperson and Ward-Member, the area of the Ward of the concerned Municipality as divided pursuant to Section 4 of the Said Act.
- (d) "Name Registration Official" means the Chief Name Registration Official appointed or designated pursuant to Section 3 and this term also includes the Name Registration Official and Assistant Name Registration Official.
- (e) "Voter" means a voter/elector as referred to in Section 4.
- (f) "Electoral Roll" means the Electoral Roll of the concerned Election Constituency prepared pursuant to this Act.
- (g) "Voter Identity Card" means the voter identity card provided to a Voter pursuant to Section 23.
- (h) "Prescribed" or "As Prescribed" means prescribed or as prescribed in this Act or the Rules framed under this Act or in the orders issued by the Commission upon a Notification published in the Nepal Gazette.

Chapter-2

Name Registration Official and Electoral Roll

3. **Appointment of the Name Registration Official:** (1) The Commission may appoint or designate one Chief Name Registration

³ Amended by the Act Made to Amend Some Nepal Acts relating to Local Elections, 2054 (1997).

⁴ Amended by the Act Made to Amend Some Nepal Acts relating to Local Elections, 2054 (1997).

Official and Name Registration Officials and Assistant Name Registration Officials as required in each District of the Kingdom of Nepal to collect names and other necessary details of Voters, to prepare the Electoral Roll, to make it up-to-date and to carry out all other functions related therewith in the Election Constituency referred to in clause (c) of Section 2.

(2) The Commission may depute a required number of employees of Government of Nepal or of autonomous bodies owned by Government of Nepal and get other persons engaged in work so as to assist the Name Registration Official, for the performance of the functions as referred to in sub-section (1).

(3) The office of the Name Registration Official shall be located at the concerned Ward of the concerned Municipality or at the Office of the concerned Village Development Committee.

4. Voters: (1) Each Nepalese citizen who is a permanent resident of any Election Constituency and has completed the age of 18 years on or before the last day of the month of *Chaitra* (about mid April) of the previous year of the year in which names of the Voters are collected shall be the Voter for the Election referred to in this Act.

(2) The name of a Voter as referred to in sub-section (1) shall be included in the Electoral Roll of the Election Constituency where the Voter is permanently residing, and the Voter shall be entitled to vote only in that Election Constituency where his name has been registered.

(3) Any person whose name has not been registered in the Electoral Roll of the concerned Election Constituency shall not be entitled to vote in the Election.

5. Non-eligibility for Being a Voter: Notwithstanding anything contained in sub-sections (1) and (2) of Section 4, the following person

shall not be eligible to be a Voter and his/her name shall not be registered in the Electoral Roll of any Election Constituency:-

- (a) Who is not a citizen of Nepal,
- (b) Who has not completed the age of 18 years,
- (c) Who has been certified by a recognized doctor to be mentally deranged,
- (d) Who has been imposed and been undergoing punishment of imprisonment pursuant to the Election (Offences and Punishment) Act, 2047 (1991), or in the case of punishment of imprisonment for one year or more, awarded under this Act, a period of one year has not elapsed since the date of completion of such punishment.

6. **Deemed to be Residing Permanently**: For the purposes of sub-section (1) of Section 4, the residence in the following situation shall be deemed to be permanent residence :

- (a) Situation of residing in any Election Constituency in a normal way,
- (b) Situation where a person whose name is registered in the Electoral Roll of any Election Constituency and who has become a Member of Parliament remains absent in the Election Constituency during his tenure,
- (c) Situation where a person remains absent in the Election Constituency where his/her name has been registered, owing to trade, business, study and teaching, governmental or non-governmental service, medical treatment or any other special work or reason or owing to being detained or imprisoned according to the law.

7. **Not to Be Deemed to be Residing Permanently** : For the purpose of sub-section (1) of the Section 4, the persons in the following situations shall not be deemed to have been residing permanently in the concerned Election Constituency :-

- (a) In spite of having possession or ownership of any person in any house situated in any Election Constituency, if that person is not residing in that house, the houseowner or his family, on the basis of ownership only,
- (b) If a house of any person has been taken on rent for the purpose of running any industry, business or profession in that house, the tenant or his/her family, only on that basis,
- (c) Persons residing in the office of governmental, semi-governmental, non-governmental organization, and quarters made for the employees of such organization, army or police barrack and quarters, industrial enterprise and quarters for the employees and workers of such enterprise, hospital, clinic, nursing home, school, college and hostel, orphanage, house for the aged, jail and similar other places.

8. **To Prepare the Electoral Roll**: (1) The Commission shall cause the Electoral Roll to be prepared in each Election Constituency as prescribed, under its supervision, control and direction.

(2) The names of the following persons shall be included in the Electoral Roll, while preparing the Electoral Roll pursuant to sub-section (1).

- (a) Who possess the qualification for being a Voter pursuant to Section 4,

- (b) Who have been residing permanently in the current Election Constituency, after having permanently migrated from other Election Constituency due to marital or any other reasons.

(3) It shall be the duty of each Nepalese Citizen having possessed the qualification for being a Voter to get his name registered, as prescribed, in the Electoral Roll of the Election Constituency where he is residing permanently.

(4) The name of any person shall not be registered in the Electoral Roll of more than one Election Constituency or of more than one place of the same Election Constituency.

(5) If it is required to inspect the written evidence setting out the date of birth or age, residence and citizenship of any person for the purpose of registering the name in the Electoral Roll pursuant to sub-section (3); the Name Registration Official or the official authorized by him may ask for such evidence, and the Name Registration Official shall refuse to register in the Electoral Roll the name of that person who fails to show the evidence so asked.

Explanation: For the purpose of this sub-section, the citizenship certificate, land ownership certificate, any identity card issued by the governmental office or government owned organization, or by an educational institute, and the recommendation letter, too, given by the Village Development Committee or Municipality may also be taken as the evidence.

(6) If a Voter who has migrated from any other Election Constituency due to marital or any other reason desires to get his name registered in the Electoral Roll of the Election Constituency of the place where he is currently residing, he/she shall have to submit the

marriage registration or migration certificate as referred to in the prevailing law. Pending the submission of such certificate, his/her name shall not be registered in the Electoral Roll of the current Election Constituency.

9. **Collection of Names of Voters:** (1) The act of collecting the names of Voters or updating the same shall be done in the format as specified by the Commission from the first day of the month of *Baisakh* (about mid April) up to the last day of the same month.

(2) It shall be the duty of the main person of the concerned family to provide the details of each Voter residing in each house to the name collector for the purpose of collecting the names pursuant to sub-section (1).

10. **Publication of Electoral Roll:** The Name Registration Official shall publish the Electoral Roll, prepared as per the names and other details of the Voters collected pursuant to Section 9, at the concerned Ward of the Municipality or at the office of the Village Development Committee within the last day of the month of *Jestha* (about mid June) of each year, as prescribed.

11. **Application for Inclusion of Name in the Electoral Roll:** If the name of any person has been left out of the Electoral Roll published pursuant to Section 10, and such person desires to get his name included therein, he may make an application, along with the evidence, to the Name Registration Officer within 15th day of the month of *Ashad* (about 29 June) each year.

12. **Application for Correction of Name in the Electoral Roll:** If there is any error or alteration in the name or details of any Voter, or they have been wrongly mentioned, in the Electoral Roll published as per Section 10, the concerned Voter or his guardian may make an

application, as prescribed, for the correction of the same, within the 15th day of the month of *Ashad* (about 29 June) each year.

13. **To Inquire and Publish the Amended Electoral Roll:** If any application is made pursuant to Section 11 or 12, the Name Registration Official shall inquire into such application as prescribed and if he/she is confident that the name of the applicant has been left out of the Electoral Roll or there has occurred any mistake or alteration in the details or such details have been mentioned wrongly, he shall have to prepare the amended Electoral Roll as prescribed by including or correcting the name of such Voter as prescribed and publish it on or before the last day of the month of *Ashad* (about mid July).
14. **Objection to the Electoral Roll:** If any Voter of the same Election Constituency considers that name of any person has not to be included, according to this Act, in the amended Electoral Roll published pursuant to Section 13, such Voter may make an application objecting thereto, along with proper reason, to the Name Registration Official within the 15th day of the month of *Shrawan* (about 30 July). If such application is received, and while inquiring by the Name Registration Official into the matter as prescribed, the content is found to be true, then the name of that person shall be deleted from the Electoral Roll.
15. **To Inform on the Deletion of Repeated Name :** In cases where the name of a Voter has been registered in the Electoral Rolls of more than one Election Constituency or in more than one place of the same Election Constituency, the concerned Voter shall have to give information to the concerned Name Registration Official in writing to delete his name from the Electoral Roll of other Election Constituency or place, and maintain his name only in the Electoral Roll of one Election Constituency or place of his choice.

16. **Removal of Repeated Name** : In cases where even though any Voter whose name has been registered in the Electoral Roll of more than one Election Constituency or of more than one place in the same Election Constituency does not give information to choose the Election Constituency or place pursuant to Section 15, the Commission receives information thereof, then the Commission shall order the concerned Name Registration Official to delete such Voter's name from the Electoral Roll of other Election Constituency or place and maintain his name in the Electoral Roll of the Election Constituency or place where he is permanently residing. If the Name Registration Official himself comes to know that matter, he may delete his/her name from the Electoral Roll of other Constituency or place except the Constituency or place where the Voter is residing permanently.

17. **To Remove the Name from the Electoral Roll** : (1) If a Voter whose name has been included in the Electoral Roll dies or renounces to reside in the concerned Election Constituency permanently or renounces his Nepalese Citizenship Certificate or ceases to possess the qualification to continue to have his/her name included in the Electoral Roll, then the Voter may inform it to the Name Registration Official within the 15th day of the month *Shrawan* (about last day July) each year.

(2) If, in inquiring by the Name Registration Official into the matter as prescribed upon receiving the information pursuant to sub-section (1), such statement is found to be true, then the name of such a Voter shall be deleted from the Electoral Roll, as prescribed.

(3) If the name of any Voter has to be removed from the Electoral Roll pursuant to Sub-section (2), and if there exists a situation where he may furnish his explanation in that regard, his name shall not

be deleted from the Electoral Roll without providing him with a reasonable opportunity to so furnish explanation.

- 18. Publication of the Final Electoral Roll** : (1) After completing the process of making claim, objection, holding inquiring and making amendment according to this Chapter, the Name Registration Official shall prepare the final Electoral Roll of the concerned Election Constituency and publish it as prescribed within the last day of the month of *Shrawan* (15 August) each year.

(2) The Name Registration Officer shall send the final Electoral Roll published pursuant to sub-section (1) to the Commission within the 15th day of the month of *Bhadra* (about last day August) each year.

- 19. Review of the Electoral Roll** : (1) The Commission may review the final Electoral Roll received by it pursuant to Sub-section (2) of Section 18. In cases where, in so reviewing it, extensive and serious errors are found in the final Electoral Roll, the Commission may give necessary direction to the concerned Name Registration Official to correct such errors; and if such direction has been given, the concerned Name Registration Official shall make necessary reforms in the Electoral Roll as per the direction. The Electoral Roll so reformed shall be taken to the process of publication.

Explanation : For the purpose of this sub-section, "extensive and serious error" means such thing as may materially affect the election results owing to the fact that the names of the persons whose name have to be included in the Electoral Roll pursuant to this Act have not been included therein or the names of the persons whose names have not to be included in the Electoral Roll have been included therein or matters of similar other type.

(2) Except in cases where the Commission has given direction pursuant to sub-section (1) or that referred to in Section 17, nobody shall make any type of alteration or change or correction in the final Electoral Roll published pursuant to Sub-section (1) of Section 18.

20. The Electoral Roll Existing At Present Shall be Final : In the case of failure to update the Electoral Roll in an year by fulfilling the process referred to in this Chapter, due to any circumstances beyond control of the Commission, the Commission may issue an order to maintain the presently existing Electoral Roll of the previous year as the final Electoral Roll for that year in which the updating of the Electoral Roll could not be done.

21. Power to Alter the Period of Time : Even though it is mentioned in various Sections of this Act that any specific function is to be completed within any specific month or time, if the Commission considers that such function cannot be completed within the specified time due to occurrence of natural calamity, or any other circumstance beyond control of the Commission during that period, the Commission may alter such time by issuing orders.

Provided that, while so altering the time, generally it shall not be so altered that there happens the difference of less than Three months from the date of Election.

22. Not to Raise Question in the Court : No question shall be raised in any Court about the following matters :

- (a) As to whether or not the name of any person has been registered in, or may or may not be registered in, the Electoral Roll of any Election Constituency, and
- (b) As to the preparation of the Electoral Roll by the Name Registration Official or the authorized person deputed by him or

the alteration made by the concerned Official in the Electoral Roll pursuant to this Chapter.

Provided that, this Section shall not be applicable to the Election Court constituted pursuant to the prevailing law.

Chapter-3

Provisions relating to the Voter Identity Card

23. Power of the Commission to Apply Provision relating to Voter

Identity Card : The Commission may, upon a Notification published in the Nepal Gazette, apply the provision of providing the Voter Identity Card to the Voters in the Election Constituency specified in that Notification. While determining the area where the Voter Identity Card is to be so applied, it shall be applied by giving priority to the Election Constituency where Municipality and headquarters are located.

Provided that, in the case of a bye-election, it shall not be a bar to applying the provision of Identity Card in all the Constituencies/areas where that election is to be held.

24. Provision of Voter Identity Card : The Voter Identity Card shall be

so provided as prescribed in the format specified by the Commission to each Voter whose name has been registered in the Electoral Roll of an Election Constituency as specified by the Commission pursuant to Section 23 or the Village Development Committee or Municipality falling in that Election Constituency that the Card can be used only for the purpose of voting.

25. To be Present with Voter's Identity Card : Each Voter shall be

present at the time of voting, along with the Voter Identity Card provided pursuant to Section 24.

26. Other Provisions Regarding the Distribution of the Voter

Identity Card: Other provisions relating to the provision of the Voter Identity Card to the Voter pursuant to Section 24, and terms and procedures to be abided by in that regard shall be as prescribed.

Chapter-4

Penalties

27. Offences and Penalties : (1) The carrying out of the following act shall be deemed as the commission of the offence referred to in this Act :-

- (a) If, while collecting the necessary details in the course of the preparation of the Electoral Roll according to this Act, any person gets his name registered or makes an application for the registration of his name or submits objection by lying his/her name, surname, address, age, citizenship or other details,
- (b) If any person intentionally adds something to, rewrites or corrects, the Electoral Roll published or the Voter Identity Card provided to the Voter according to this Act, or tears or defaces in any manner, destroy or spoil such Electoral Roll or the Voter Identity Card,
- (c) If any person diverts the employees deputed for the preparation of the Electoral Roll or for the distribution of Voter Identity Card from carrying out their duty, by using any kind of fear, intimidation, threat or by giving any gratification or by using force,
- (d) If any person divulges the secrecy of those papers or details which are required to be kept secret.

Chapter-5

Miscellaneous

28. **Not to Affect Matters relating to Citizenship** : Only the inclusion or non-inclusion of the name of any person in the Electoral Roll pursuant to this Act shall have no effect on his citizenship pursuant to the prevailing law.
29. **To Certify a Voter**: If a Voter whose name is registered in the Electoral Roll of any Election Constituency makes an application, as prescribed, for certification of that matter, the Commission or the Official authorized by the Commission shall certify the same as prescribed.
30. **To Render Assistance**: It shall be the duty of all the concerned to render necessary assistance as required by the Name Registration Official while preparing the Electoral Roll according to this Act.
31. **Government of Nepal to Be Plaintiff**: Government of Nepal shall be the plaintiff in a case to be instituted according to this Act.
32. **Authority to Try Cases**: The prescribed court shall have the powers to try the case under this Act.
33. **Powers to Frame Rule**: The Commission may frame necessary Rules in order to carry out the objective of this Act.
34. **Powers to Prepare Manuals**: The Commission may prepare and enforce manuals, as required, subject to this Act and the Rules framed under this Act.

35. Powers to Issue Orders and Directions: (1) The Commission may issue orders and directions, as required, for the implementation of this Act and the Rules and manuals made under this Act.

(2) It shall be the duty of all the concerned to abide by the orders and directions issued pursuant to Sub-section (1).

36. Powers to Fix Period of Time and Date: Notwithstanding anything contained elsewhere in this Act, the programme relating to the collection of Electoral Roll may be conducted on such date and at such time as may be prescribed by the Commission, for the first Election after the commencement of this Act.

37. Prevalence of this Act: Those matters mentioned in this Act shall be governed by this Act, and other matters shall be governed by the prevailing law.

38. Electoral Roll to Be Valid: Pending the preparation of the Electoral Roll according to this Act, the Electoral Roll prepared as per the prevailing law before the commencement of this Act shall be valid.

39. Saving : (1) All the acts and actions carried out by the Commission in a manner consistent with the provisions of this Act prior to the commencement of this Act shall be deemed to have been carried out according to this Act.

(2) It shall not be deemed to be a bar to gradually accomplish the acts started by the Commission pursuant to sub-section (1) but not completed.