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Amendments:


Act Number 29 of the year 2055 (1999)

An Act Made to Provide for Institutions Acting as Financial Intermediary

Preamble: Whereas, it is expedient to provide for the institutions, which act as financial intermediaries, to collect micro-savings and provide micro-credit for bringing about improvement in the economic condition of the persons who reside in various parts of the country and have low income by having them participate in the micro-business;

Now, therefore, Parliament has framed this Act in the twenty seventh year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

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1 This Act came into force on 15 Jestha 2065(28 May 2008).
2 Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066(2010).
Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be called as “Act Relating to Institutions Acting as Financial Intermediary, 2055 (1999).”

   (2) It shall come into force on such date as specified by the Government of Nepal by publishing a notice in the Nepal Gazette.

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

   (a) "Financial intermediation" means the act of collecting micro-savings and providing micro-credit pursuant to this Act.

   (b) “Institution” means an institution which has been registered under the Associations Registration Act, 2034(1977) and obtained license to carry out the act of financial intermediation pursuant to this Act.

   (c) “License” means the license issued entitling any institution to perform the act of financial intermediation.

   (d) “Bank” means the Nepal Rastra Bank established under the Rastra Bank Act, 2058(2002).

   (e) “Micro-business” means an income generating business being operated with the involvement of less than ten persons.

   (f) “Group” means a group of persons with low income, formed after completing the procedures as prescribed.

   (g) “Collective guarantee” means the deed of guarantee executed and delivered to an institution by the other members of a

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4. Inserted by First Amendment.

5. Amended by First Amendment.
group undertaking that they shall collectively repay the micro-
credit if any member of the group fails to repay the micro-
credit borrowed by him or her.

(g1)⁶ “Micro-saving” means the amount of saving to be collected by
an institution from the persons or group of persons, who are
members of a group and have low income, in such a manner
as prescribed by the Bank from time to time.

(h)⁷ “Micro-credit” means a credit to be disbursed by an institution
within the ceiling as specified by the Bank from time to time
for carrying on micro-business.

(i) “Borrower” means a group or any member of a group
borrowing micro-credit from an institution.

(j) “Security” means any movable, immovable property furnished
by way of a deed as a security, mortgage or otherwise while
borrowing micro-credit, pursuant to the prevailing laws.

(k) “Employee” means a person appointed by an institution to
work for the institution whether in consideration for
remuneration or not.

(l) “Prescribed” or “as prescribed” means prescribed or as
prescribed in the Rules or bye-laws framed under this Act.

Chapter-2

Provisions Relating to License

3. **Prohibition on carrying out act of financial intermediation
without license**: After the commencement of this Act, no one shall

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⁶ Inserted by First Amendment.
⁷ Amended by First Amendment.
carry out, or cause to be carried out, the act of financial intermediation pursuant to this Act,\(^8\) without obtaining license.

4. **Application to be made for license:** If an institution, which has been registered with objective to carry out the act of financial intermediation, intends to carry out the act of financial intermediation pursuant to this Act, the institution has to make an application to the Bank in the prescribed format setting out the following details:

(a) Association registration certificate and the statute of the institution,

(b) Names, addresses and occupations of the office-bearers of the institution,

(c) Total number of members of the institution,

(d) Movable and immovable property of the institution,

(e) Geographical area where the institution intends to carry out the act of financial intermediation,

(f) Other matters as prescribed.

5. **License to be issued:** (1) If an application is made pursuant to Section 4, the Bank shall make necessary examination of the application, and if in so examining, it considers necessary to seek additional information or details, it may seek additional information or details form the institution making such an application.

   (2) If, in making examination pursuant to Sub-section (1), the Bank considers appropriate to issue the license, it shall issue the license to the applicant, in the prescribed format, carry out the act of financial intermediation, by collecting the prescribed fees.

   (3) In issuing the license pursuant to Sub-section (2) or in giving information of rejection,\(^9\) such license or information has to

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\(^8\) Inserted by First Amendment.

\(^9\)
be issued or given within a maximum period of Seventy Five days\textsuperscript{10} after the date of receipt of application or the date of receipt of additional information or details where such additional information or details have been sought pursuant to Sub-section (1).

\texttt{(4)} \textsuperscript{11} .................

6. **Power to specify terms:** (1) In issuing the license pursuant to Section 5, the Bank may specify terms required to be abided by the institution in carrying out the act of financial intermediation.

(2) It shall be the duty of the institution to abide by the terms specified pursuant to Sub-section (1).

7. **To obtain renewal:** (1)\textsuperscript{12} An institution has to obtain renewal of the license from the Bank as prescribed in every Two years.

(2) In the event of failure to obtain the renewal of the license within the time limit as referred to in Sub-section (1), such a license shall *ipso facto* be canceled.

(3) Other provisions relating to the renewal of license shall be as prescribed.

**Chapter-3**

**Functions, Duties and Powers of Institutions**

8. **Functions, duties and powers of institutions:** The functions, duties and powers of the institutions shall, in addition to the functions, duties and powers set forth elsewhere in this Act, be as follows:

(a) To encourage the persons with low income to form groups,

(a1)\textsuperscript{13} To collect micro-savings from groups or members of groups,
(b) To disburse micro-credit without or without taking security or guarantee of any movable, immovable property to a group or the members of a group to carry on a micro-business,

(c) To obtain loans or grants from the Government of Nepal or a bank or native or foreign organization, association etc. and to use such loans or grants in the disbursement of micro-credit or in the activities making such act effective,

Provided, however, that in obtaining loans, grants or other assistance from a foreign organization, association etc, the institution has to obtain approval of the Government of Nepal through the Bank.

(d) Prior to disbursing the micro-credit, to evaluate the work for which the credit has been demanded, and identify whether such a work is feasible or not,

(e) To make publicity about the micro-businesses which are of such nature as to bring about improvement in the economic condition of the persons with low income,

(f) To hold symposia about the micro-business, give training to formulate projects, render assistance, provide technical knowledge and bring about technical assistance as per necessity,

(g) To provide necessary services to the groups in relation to the mobilization of the micro-saving and micro-credit,

(h) To take necessary action towards the recovery of micro-credit in time,
(i) To make inquiry, from time to time, into whether the micro-credit has been properly utilized or not, and if, in the course of making such inquiry, it appears that the micro-credit has not been utilized properly, to give necessary direction or take necessary action\(^{17}\),

(j) To perform such other functions as prescribed in relation to the collection of the micro-saving and\(^{18}\) disbursement of the micro-credit,

(k) To act as an agent of a commercial bank or financial institution.

9. **Power to demand details, data or documents:** The Bank may demand any details, data or documents relating to the micro-saving and\(^{19}\) micro-credit from an institution, and it shall be the duty of the concerned institution to submit the details, data or documents so demanded.

10. **To enter into agreement:** (1) In disbursing the micro-credit, an institution shall enter into agreement in writing with the borrower, with such terms as required for the protection and proper use of the credit.

    (2) In entering into an agreement pursuant to Sub-section (1), the institution may so specify the terms that the repayment period of the loan may be any period whatsoever, that the institution may require the borrower to repay the credit in the event of violation of any terms specified by the institution and that the institution may recover the same from the security or collective guarantee furnished by the borrower by executing a deed to that effect.

\(^{17}\) Inserted by First Amendment.

\(^{18}\) Inserted by First Amendment.

\(^{19}\) Inserted by First Amendment.
Provided that, in taking security from the borrower, the institution shall not take security of any person that is not related with the group.

11. **Power of institution in the event of violation of terms:** (1) If any borrower does not abide by the agreement or terms thereof entered into with the institution or fails to repay the micro-credit to the institution within the period specified in the deed or if, upon an inquiry held by the institution, it appears that the borrower has misused or misappropriated the amount of the micro-credit so borrowed, the institution may, notwithstanding anything contained in the prevailing laws, recover its principal and interest by auctioning the security furnished or held by the borrower to or with the institution, in accordance with the prevailing laws.

   (2) If the borrower transfers, in any manner, the title to the security which the borrower has furnished with the institution to any other person or if, for any reason, the price of the security furnished with the institution is devalued, the institution may, notwithstanding anything contained in the prevailing laws, require the borrower to furnish additional security covering the credit for the same within the time-limit specified by the institution. If the borrower fails to furnish such a security within the time-limit specified by the institution, the institution may recover its principal and interest by auctioning the property furnished as the security.

   (3) If, in making recovery by making auction pursuant to Sub-section (1) or (2), the whole of the principal and interest of the institution cannot be recovered from such a security, the institution may recover its principal and interest by auctioning other assets of a member where the member has borrowed the micro-credit personally and of the members of a group where the micro-credit has been borrowed collectively.
(4) The amount of expenditure incurred in making auction sale of the property and principal and interest of the institution shall be deducted from the proceeds of the auction sale made pursuant to this Section, and the remaining amount shall be returned to the concerned person.\(^{20}\)

(5) If, in making auction sale pursuant to this Section, any one does not take over, the institution may itself take over the property as prescribed.\(^{21}\)

12. **Registration or transmission to be made:** (1) The institution shall write to the concerned Land Revenue Office for the registration or transmission of the property held as security in the name of the person, if any, who takes over it at the auction sale made pursuant to Section 11 or in the name of the institution if the institution takes it over because no one has taken it over, in accordance with the prevailing laws.

(2) If a request is made by the institution pursuant to Sub-section (1), the concerned Land Revenue Office shall effect registration or transmission.

13. \(^{22}\) .................

14. **To determine the rate of interest:** (1)\(^{23}\) The institution shall itself determine the interest to be charged and given by it on the micro-saving and micro-credit, subject to the policies and directions of the Rastra Bank.

(2) Notwithstanding anything contained in Sub-section (1), if the Bank so considers necessary, it may give direction to the institution to alter the rate of interest determined by the institution,

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\(^{20}\) Amended by First Amendment.
\(^{21}\) Inserted by First Amendment.
\(^{22}\) Repealed by First Amendment.
\(^{23}\) Amended by First Amendment.
and it shall be the duty of the concerned institution to abide by such direction.

15. **Power to collect service charge:** The institution may collect service charge in consideration for any service, facility, technical knowledge or training it has provided to any person or group in relation to the mobilization of the micro-saving and micro-credit.

16. **To maintain records:** The institution shall maintain updated records of activities relating to the financial intermediation.

**Chapter-4**

**Functions, Duties and Powers of Bank**

17. **Power to make or cause to be made inspection or inquiry:** (1) The Bank may, as required, make or cause to be made inspection or inquiry in relation to the activities or office of the institution.

   (2) It shall be the duty of the concerned institution and employee to provide the documents or details as demanded by the person making inspection or inquiry in the course of making inspection or inquiry pursuant to Sub-section (1).

   (3) Other provisions relating to the inspection or inquiry shall be as prescribed.

18. **Power to give direction:** (1) If, in the course of inspection or inquiry made pursuant to Sub-section (1), an institution is found to have committed any of the following acts, the Bank may give direction to the institution to make reforms in any activity to be carried out by the institution or to make any specific provision, within the period as specified by the Bank:

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24 Deleted by First Amendment.
25 Amended by First Amendment.
26 Inserted by First Amendment.
(a) Having failed to do any act as required to be done pursuant to this Act,

(b) Having done any act that is contrary to the depositors/savers and borrowers,

(c) Having failed to properly maintain its books of accounts, accounts or documents,

(d) Having failed to abide by the terms specified and directions given by the Bank,

(e) Having misappropriated the funds of the institution or used the received amounts in any activity that is contrary to the objectives of this Act,

(f) Having failed to provide such details, data or documents as demanded pursuant to this Act.

(2) The Bank may from time to time give directions to the institution in relation to the matters to be carried out by the institution pursuant to this Act or the Rules framed under this Act, and it shall be the duty of the concerned institution to abide by such directions.

19. **Power to cancel license**: (1) If any institution violates any direction given pursuant to Section 18, the Bank may warn it or restrict any act of the institution for reforms. If institution violates such direction for three times or does any of the following acts, the Bank may suspend or cancel the license of such an institution.

(a) If the institution abandons the act of financial intermediation,
(b) If the institution misappropriates the funds of the institution or does not use the amount in the purpose for which it has been obtained,

(c) If the institution has failed to make reforms or make any specific provision in relation to any activity with specification of the period,

(d) If the institution fails to obtain renewal pursuant to the Association Registration Act, 2034 (1977) and Section 7 of this Act.

(2) Prior to issuing order to cancel the license pursuant to Sub-section (1), the Bank may, if it considers necessary, make necessary inquiry or examination in relation thereto.

(3) Prior to cancelling the license pursuant to Sub-section (1), the Bank shall give an opportunity to the concerned institution to submit explanation.

20. **Power to prevent the carrying out of act of financial intermediation:** If it is not appropriate to allow any institution to keep on carrying out the act of financial intermediation by the reason that the institution has done any act as referred to in Section 18, the Bank shall give an opportunity to such an institution to make necessary reforms, and may prevent such an institution from carrying the act of financial intermediation.

21. **To give up carrying out of act of financial intermediation:** If any institution makes an application to the Bank that it be relieved of carrying out of the act of financial intermediation and if it appears that all liabilities to be paid such an institution seem to have been

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30 Inserted by First Amendment.
31 Amended by First Amendment.
paid up, the Bank may allow such an institution to stop doing the act of financial intermediation.

Provided that, if such an institution is not able to pay up all liabilities, the Bank may prevent such an institution from carrying out the act of financial intermediation and shall write to the Government of Nepal for the payment of the liabilities from the assets of the institution pursuant to the Association Registration Act, 2034(1977).

21A. **To recover from household properties of office-bearers:** If any office-bearer of an institution carries out, or causes to be carried out the act of financial intermediation being guided by personal interest or with mala fide intention, and contrary to the objectives of this Act or misappropriates the amounts of the institution, the Bank shall recover, or cause to be recovered, the amount so misappropriated from the personal properties of such an office-bearer or from the movable and immovable properties held in his or her name and ownership in………….. Nepal.

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**Chapter-5**

**Fund, Accounts and Audit of Association**

24. **Fund of Association:** (1) The institution shall have a separate fund of its own, and the following amounts shall be credited to the fund:

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32 Inserted by First Amendment.
34 Deleted by First Amendment.
35 Deleted by First Amendment.
36 Amended by First Amendment.
37 Amended by First Amendment.
(a) Amount received from the Government of Nepal or native or foreign organization, institution etc. as a grant or loan,

(a1) Amount received upon collecting the micro-savings,

(a2) Amount received from a commercial bank or financial institution,

(b) Amount as prescribed out of the fees received from the members of the Association,

(c) Amount of service charge received in consideration for the service provided by the institution,

(d) Amount including interest, fee received from the micro-credit.

(e) Amount received from any other source.

(2) All expenses made in the name of the institution shall be chargeable on the fund as referred to in Sub-section (1).

Provided that, the amount collected from the micro-saving and received for the micro-credit shall not be spent for other purpose.

(3) Amount of the fund shall be deposited in an account opened with any commercial bank or financial institution, and such account shall be operated as prescribed.

(4) If there is a situation that the institution cannot disburse the micro-credit for the time being, the institution may, with the
approval of the Bank, make investment in periodic deposits for a maximum period of six months.

25. **Risk bearing fund**: (1) The institution shall establish a separate risk bearing fund, in addition to the fund set forth in Section 24, for the purpose of bearing the possible loss and damage while disbursing the micro-credit, and the amount to be set as prescribed of the remaining total credit applied in the investment by the last day of each financial year shall be credited to this fund.

   (2) The institution may invest the amount deposited in the fund pursuant to Sub-section (1) in the securities of the Government of Nepal or the Bank or periodic deposits of a commercial bank or financial institution.\(^{44}\)

   (3) The amount deposited in the fund pursuant to Sub-section (1) shall be used only for the remission of the micro-credit. Where it is required to so remit the micro-credit, the institution shall obtain the approval of the Bank.

26. **Accounts and audit of institution**: (1) The institution shall maintain separate accounts of the activities relating to financial intermediation, and prepare a balance sheet for each financial year, and get the same audited by any recognized auditor appointed by the general meeting of the institution within Six months after the expiration of the financial year.

   (2) In appointing an auditor pursuant to Sub-section (1), the same person or firm shall not be appointed for more than Three consecutive times.

   (3) The remuneration of auditor shall be as specified by the general meeting of the institution.

\(^{44}\) Inserted by First Amendment.
\(^{45}\) Amended by First Amendment.
(4) If the Bank so wishes, it may at any time examine or cause to be examined the accounts of the institution.

Chapter-6

Punishment

28. **Punishment**: (1) If a person carries out the act of financial intermediation without obtaining the license pursuant to this Act, such a person shall be punished with a fine not exceeding Twenty Thousand Rupees or imprisonment for a term not exceeding Six months or both punishments. Where any institution has done such an act, the office-bearer doing the activities of such an institution shall be liable to such punishment.

   (2) If any institution does not abide by this Act or theR framed under this Act or any order or direction given by the Bank or does not provide or submit any details or document demanded pursuant to this Act or provides false details deliberately and such act has resulted in any loss and damage, the concerned employee shall be punished with a fine not exceeding Ten Thousand Rupees or imprisonment for a term not exceeding Six months or both punishments, and the amount in question shall be recovered from such an employee.

   (3) If any employee of an institution misappropriates the cash or in-kind of the institution or uses the same for his or her personal purpose, such an employee shall be punished with a fine equal to the amount in question or imprisonment for a term not exceeding Five years or both punishments, and the amount in question shall be recovered from him or her.

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46 Repealed by First Amendment.
(4) If any employee of an institution cheats or illegally grieves or harasses a borrower, the Bank or concerned party may institute action against him or her in accordance with the prevailing law.

29. **Action may be taken pursuant to prevailing law:** If any institution does any act punished under the prevailing law, nothing contained in this Act shall be deemed to bar the taking of action under such law.

**Chapter-7**

**Miscellaneous**

30. **Exemption from registration fee or revenue stamp:** The transaction of registering the property taken by an institution from a borrower as a security in the name of the institution or of sale or purchase of any immovable property by the institution shall be exempted from the registration fee or revenue stamp.

31. **Exemption from income tax:** The Government of Nepal may, by publishing a notice in the Nepal Gazette, grant exemption so that income tax is not chargeable fully or partly on the income earned by the institution.

32. **Annual report to be submitted:** The institution shall submit to the Bank a preliminary annual report of the activities carried out by its in relation to the financial intermediation, along with its profit and loss statements within Three months after the expiration of each financial year.

33. **Bank to be consulted:** Prior to dissolving the institution pursuant to the Associations Registration Act, 2034(1977), the Bank shall be consulted.

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47 Inserted by First Amendment.
48 Amended by First Amendment.
33A. **To merger or be merged:** (1) Notwithstanding anything contained in the Associations Registration Act, 2034(1977), if two-thirds members of the number of members present at the general meeting of the institution carrying out the act of financial intermediation pursuant to this Act supports a proposal to merge another institution to it or be merged to another institution, the proposal shall be deemed to have been passed by the general meeting.

Provided that, no proposal may be passed in a manner to merge or be merged to any institution that has not carried out the act of financial intermediation.

(2) The proposal passed pursuant to Sub-section (1) shall be submitted to the office registering the institution to be merged and come into force only when separate approval is received from that office and the Bank. After the receipt of such approval, the legal identity of such an institution shall be deemed to have ipso facto lapsed.

(3) The properties of the institution to be merged pursuant to Sub-section (1) shall be transferred to the merging institution, and the merging institution shall bear all liabilities of that institution.

34. **Saving of act done in good faith:** The members or employees of the institution shall not be held individually or collectively liable for any act done by them in good faith subject to this Act or the rules framed under this Act.

35. **Prevailing law to apply:** Notwithstanding anything contained in the prevailing law, the matters provided for in this Act or the Rules framed hereunder shall be dealt with accordingly, and the other matters shall be as per the prevailing law.

36. **Power to frame Bye-laws:** The institution may, subject to this Act or the Rules framed hereunder, may frame Bye-laws, as required, for the operation of its activities, and such Bye-laws shall come into force upon being approved by the Bank.

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49 Inserted by First Amendment.