
Date of Authentication and Publication

2059.3.24(8 July 2002)

Amendment:

Republic Strengthening and Some Nepal Laws Amendment Act, 2066(2010)

2066.10.7 (21 Jan 2010)

Act Number 4 of the year 2059 (2002)

An Act Made To Provide For the Raising of Public Debts by Issuing Bonds

Preamble: Whereas, it is expedient to provide for the raising of public debts by issuing bonds in order to contribute to the proper management of government finance for the economic development of the country and to encourage the mobilization of internal saving mobilization by maintaining harmony between the financial and monetary policies;

Now, therefore, Parliament has made this Act in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

1. Short title and commencement: (1) This Act may be called as “Public Debt Act, 2059 (2002)”.

(2) It shall come into force immediately.

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

(a) “Bank” means the Nepal Rastra Bank established pursuant to the Nepal Rastra Bank Act, 2058(2002).

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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).
(b) "Public Debt" means the debt raised by the Government of Nepal pursuant to Section 3.

(c) "Bond" means the following bond issued pursuant to Section 3, and this term includes the interest payment slip:

1. Stock,
2. Promissory note,
3. Bearer bond,
4. Prize bond, and
5. Any other bond as specified to be bonds by the Bank with the approval of the Government of Nepal.

(d) "Stock" means a bond which is registered in the bank account and which has to be registered and transmitted.

(e) "Promissory note" means a bond which can be transmitted by making endorsement and this term includes a treasury bill.

(f) "Bearer bond" means a bond which has to be paid to the bearer of the certificate of bond.

(g) "Prize bond" means a bond all or some of interest of which is receivable, as prescribed, by the owner by lottery.

(h) "Owner" means a native or foreign person who acquires title to a bond by purchasing the bond or who acquires title to a bond in any other manner.

(i) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. **Power to raise public debt by issuing bonds**: (1) The Government of Nepal may, subject to the prevailing laws, raise public debt by issuing any one type of or more types of bonds at the same time or at several
times in such a quantity as it may consider necessary for the proper mobilization of government finance.

(2) The repayment period of the principal and interest of the bonds to be issued pursuant to Sub-section (1) shall be as specified by the Government of Nepal.

(3) The Bank may, from time to time, give necessary opinion and suggestion to the Government of Nepal in relation to the repayment period of the principal and interest of bonds and the rate of interest.

(4) The interest payment slip to be issued in relation to bonds shall be as prescribed.

4. **Repayment of principal and interest of bonds:**
   
   (1) Notwithstanding anything contained in the prevailing laws, the repayment of principal and interest of the following bonds shall be as follows:

   (a) Repayment of principal and interest of a stock to the owner in whose name the stock is registered in the account of Bank,

   (b) Repayment of principal and interest of a promissory note to the owner of the promissory note or the ultimate person to whom such a promissory note has been transmitted from such an owner by way of endorsement,

   (c) Repayment of principal and interest of a bearer bond to the person holding the certificate of the bearer bond, and

   (d) Repayment of principal and interest of a prize bond to the person holding the certificate of the prize bond.
(2) The payment of interest to a person holding the certificate of a prize bond pursuant to Clause (d) of Sub-section (1) shall be as prescribed.

(3) The payment of the principal and interest of any bond shall be as prescribed.

5. **Management of public debt:** (1) The Bank shall, on behalf of the Government of Nepal, carry out all acts relating to the management of public debt.

   (2) In carrying out the acts relating to the management of public debt pursuant to Sub-section (1), the Bank shall maintain necessary accounts, submit reports on the status of public debt to the Government of Nepal, and shall, from time to time, submit to the Government of Nepal such opinion and suggestion as it thinks necessary.

   (3) In carrying out the acts relating to the management of public debt pursuant to Sub-section (1), the Bank shall provide for such primary and secondary markers as may be required. The operation of the primary and secondary markets shall be as prescribed.

6. **Public debt management agreement:** In order to smoothly operate the acts relating to the management of public debt, necessary agreement shall be concluded between the Government of Nepal and the Bank, and all acts relating to such management shall be carried out subject to such an agreement.

7. **Transmission of bonds:** (1) If the owner of a stock makes an application in writing to the Bank for the transmission of the stock, the Bank shall effect the transmission of the stock as prescribed.

   (2) The Bank shall consider a person in whose name a promissory note has been endorsed by the owner of the promissory note as the owner of the promissory note as if the promissory note were transmitted to such a person.
(3) Where the owner of a bond has nominated a person with effect from the death of the owner, that person shall be considered as the owner of such a bond after the death of the owner. Where no person has been so nominated or the nominee has also died, the surviving person from amongst his or her relatives, in the following order, shall be the heir to the deceased owner in relation to the said bond:

(a) Husband or wife living in a joint family;
(b) Son or daughter, or adopted son or adopted daughter, living in a joint family;
(c) Father, mother, grand-son, or grand-daughter from the son's side living in a joint family;
(d) Husband or wife, son, unmarried daughter, father or mother who is living separately;
(e) Grand-father or grand-mother of the father's side, brother or unmarried sister, living in a joint family;
(f) Nephew, niece, or step-mother living in an undivided family, or a grand-son or unmarried grand-daughter from the son's side who is living separately;
(g) Uncle, widowed aunt, sister-in-law (elder or younger brother's wife), or grand-daughter-in-law living in a joint family;
(h) Brothers living separately;
(i) Married sisters, grand-father, grand-mother, widowed daughter-in-law, grand-daughter-in-law, or nephew who are living separately.

(4) If any bond is jointly purchased by two or more persons and any or all of them has or have died, the right to the principal and interest
of the bond devolving on the deceased shall be transferred to the person if any willed by the deceased and to the person as referred to in Sub-section (3) if no person has been so willed.

8. **Provisions relating to will:** If the owner of a bond intends to nominate any one in relation to the bond after this death, the Bank shall prepare a will as prescribed, and the Bank shall make repayment of the principal and interest of the bond in accordance with the will.

9. **Bonds purchased by governmental office or body corporate:** (1) Any governmental office may, with the approval of the Government of Nepal, purchase a bond. The bond so purchased shall be held in the name of that office.

   (2) A body corporate established in accordance with the prevailing laws may purchase a bond. The bond so purchased shall be held in the name of that body.

   (3) If any trust (Guthi) not registered pursuant to laws intends to purchase a bond, the members of the trust may, with the approval of the Bank, purchase a bond in the form of a stock in the name of any one person, by having the mutual terms and conditions registered with the Bank. Where mutual terms and conditions have been so registered, the Bank shall, notwithstanding anything contained in the other Sections of this Act, take action in accordance with the said terms and conditions.

   (4) If any bond is held in the name of any governmental office, body corporate or trust pursuant to Sub-section (1), (2) or (3), and that office, body corporate or trust is merged with any other office or body or trust or is dissolved or wound up, and, prior to the occurrence of such event, the heir to the bond makes an application, accompanied by the evidence of his or her title, to the Bank for transmission, prior to the period of receiving the principal or interest of such a bond, the Bank shall effect the transmission in the name of the concerned heir.
10. **In the event of doubt about the owner of bond or failure to take payment:** (1) If there arises any doubt or dispute as to the owner of a bond and the payment of principal or interest of the bond is not taken even after the expiration of One Hundred Eighty days after the expiration of the date for repayment of principal, the Bank shall nominate the owner by carrying out necessary inquiry through any of its officers and also taking the statements of necessary persons.

   (2) In making inquiries for the purpose of nominating the owner pursuant to Sub-section (1), the Bank shall publish a notice in a daily newspaper of national circulation, and send a notice in writing to the address of the registration-holder. All heirs shall be deemed to have received the notice after the expiration of one hundred eighty days after the date of the publication of notice in the daily newspaper of national circulation or the date of sending notice, whichever date occurs later.

   (3) The name of owner nominated by the Bank under this Section shall also be published in a daily newspaper of national circulation.

11. **Where the owner of bond is minor or insane:** (1) If the owner of any bond is a minor or insane, his or her father or mother in the case of the minor owner of bond or his or her husband or wife or mother or father in the case of the insane owner of bond may be his or her protector owner. If the mother or father or husband or wife is not protector owner by other person intends to be protector, the conditions as prescribed have to be fulfilled.

   (2) The Bank may provide such amount, out of the amount receivable by the owner for the bond, as it thinks reasonable to the protector owner as referred to in Sub-section (1) at one time or at several times.

12. **Government of Nepal or Bank not to be liable:** (1) After the nomination of owner made by the Bank pursuant to this Act, no case
may be filed in any court against the Government of Nepal or the Bank in relation to such a nomination.

(2) Where the Bank has made payment of a bond pursuant to this Act, no case may be filed in any court against the Government of Nepal or the Bank.

13. **Complaint may be filed**: Notwithstanding anything contained in the other Sections of this Act, a person who has the title to a bond may file a complaint, lawsuit in a court in accordance with the prevailing laws against any person who has taken or is about to take payment of the bond or who has been nominated as owner thereof for the settlement of his or her title.

14. **Punishments**: (1) If any person knowingly submits false details to the officer of the Bank pursuant to this Act within intention to establish his or her or any other's false title to any bond, such a person may be liable to the punishment of a fine up to the amount of the principal and interest specified in the bond or of imprisonment for a term not exceeding Six months or both punishments.

(2) The Bank shall designate one officer to make necessary inquiries into the offense punishable pursuant to Sub-section (1), and the officer shall make necessary inquiries and file a case in the District Court on behalf of the Bank upon making necessary inquiries.

15. **Secrecy of documents relating to bond**: Personal accounts and documents relating to bonds held in the Bank shall remain secret. The Bank shall not be compelled to show or submit such documents to any persons without order of the Government of Nepal or of a court or written request by the competent authority to investigate or inquire in the course of a criminal offense in accordance with the prevailing laws.

16. **To issue duplicates of bonds and interest payment slip**: If the owner of a bond submits to the Bank an application in writing,
accompanied by the evidence, stating that the bond or its interest payment slip or both was/were lost, stolen or destroyed or became unclear upon letters being erased or torn out, and if the Bank is satisfied on the basis of the said evidence, the Bank may issue duplicate copy of the bond or interest payment slip or both to the applicant upon getting the applicant to complete the prescribed terms and conditions, and upon collecting the prescribed fees.

17. **To change, divide, unify and renew bonds**: If the owner of a stock or promissory note makes an application to the Bank for the mutual conversion, division, unification or renewal of his or her previous bond, the Bank may issue the new bond to the application in lieu of such a bond as prescribed, upon collecting the fees specified by the Bank.

18. **Not to be liable for act done in good faith**: The office-bearers of the Government of Nepal, Governor, Deputy Governor, Director of the Bank or any officer or employee of the Bank shall not be personally or collectively liable for any act and action done and taken pursuant to this Act and the rules framed under this Act.

19. **This Act to prevail in relation to bond**: (1) Notwithstanding anything contained in the other prevailing laws in relation to bonds, the matters contained in this Act shall be governed by this Act accordingly.

   (2) The provisions contained in the other prevailing laws relating to bonds shall not be applicable in relation to bonds.

20. **Power to frame Rules**: (1) The Government of Nepal may, on the advice of the Bank, frame necessary Rules for the implementation of the objectives of this Act.

   (2) Without prejudice to the generality of the powers conferred by Sub-section (1), Rules may be framed particularly on all or any of the following matters:

   (a) The manner of issuing bonds,
(b) The repayment period, terms and facilities of bonds,

(c) The manner of transmission of bonds of various forms and modes to be issued by the Government of Nepal,

(d) The manner and form of payment of the interest of bonds,

(e) The terms and fees for the issuance of copies of bonds,

(f) The manner, terms and fees of the act to be done pursuant to Section 17,

(g) The identification of documents relating to bonds,

(h) The operation of the bond account for those owners of bonds who are illiterate,

(i) The conditions, manner and terms and conditions for allowing the account, document relating to bonds for inspection,

(j) The manner of nomination of owners of bonds,

(k) The nomination of protector owners,

(l) The management of the primary and secondary market of bonds, and

(m) Any other matters required to be done to smoothly carry out the functions required to be carried out pursuant to this Act.

21. **Repeal and saving:** (1) The Public Debt Act, 2017 is, hereby, repealed.

(2) All acts and actions done and taken pursuant to the Public Debt Act, 2017 shall be deemed to have been done and taken under this Act.