

# **Inter-country Adoption Development Board (Formation) Order, 2067 (2011)**

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In exercise of the powers conferred by Section 3 of the Development Board Act, 2013 (1956), the Government of Nepal has issued the following Order.

1. **Short title and commencement:** (1) This Order may be called as the "Inter-country Adoption Development Board (Formation) Order, 2067 (2011)".

(2) This Order shall come into force immediately.

2. **Definition:** Unless the subject or the context otherwise requires, in this Order,

(a) "Chairperson" means Chairperson of the Board.

(b) "Prescribed" or "As prescribed" means prescribed or as prescribed by the Rules framed under this Order.

(c) "Ministry" means Ministry for Women, Children and Social Welfare.

(d) "Member" means the member of the Board, and this term also includes the Chairperson and member- secretary of the Board.

(e) "Board" means Inter-country Adoption Development Board formed pursuant to Section 3

3. **Formation of the Board:** (1) A Board to be named as the Inter-country Adoption Development Board is, hereby, formed in order to carry out function as a central agency for the Inter-country adoption.

(2) The Board as referred to in Sub-section (1) shall consist of the following members:

- (a) A person nominated by the Government of Nepal -Chairperson
- (b) Joint Secretary of the Ministry -Member
- (c) Joint Secretary, Ministry of Home Affairs -Member
- (d) Joint Secretary, Ministry of Law and Justice -Member
- (e) Joint Secretary, Ministry of Foreign Affairs -Member
- (f) A person nominated by the Ministry from amongst the person who works as a Child expert -Member
- (g) Representative, Child Non-governmental Organization Federation, Nepal - Member
- (h) A person nominated by the Ministry from amongst the person who works in the Children area -Member
- (g) Under Secretary (Law) of the Ministry -Member  
Secretary

(3) The tenure of office of the members nominated shall be maximum Five years.

(4) Notwithstanding anything contained in Sub-section (3), if nominated member does not perform his/her function as per his/her post, the Ministry may remove at any time.

Provided that, an opportunity to defend himself/herself shall be provided to such member before removal of his/her post.

**4. Functions, duties and powers of the Board:** (1) The Board shall have following Functions, Duties and Powers:

- (a) To approve short term, long term plan and annual programme of the Board,
- (b) To approve annual budget of the Board,
- (c) To formulate necessary policy on the subject of Inter-country child adoption and submit to the Ministry,
- (d) To inquire as per the adoption of Nepalese children by foreign citizens pursuant to Terms, Conditions and Procedures for Adoption of Nepalese Children by Foreign Citizens, 2065(2008) and recommend to the Ministry,
- (e) To maintain co-operation between various institutions relating to Inter-country child adoption,
- (f) To monitor the function and proceedings of children welfare home/*anathalaya* (Orphanage) regularly,
- (g) To collect and protect information related with the person who intends to adopt a child and exchange such information with each other,
- (h) To construct or cause to construct the children welfare home, orphanage house, children reform home and other physical infrastructures as per necessity in order to manage the function relating to inter-country adoption with taking approval of the Ministry and give operation expenses in the form of contribution,

- (i) To exchange the procedures and experiences of adoption with the central agencies or institutions of other countries those are related with adoption,
- (j) To make available information to the central agency of other countries related with adoption or other public agency related thereof in case such agency made request any information about the condition of children,
- (k) To control Nepalese children from child abuse, exploitation, trafficking or kidnapping and protect such children from any other act which may occur at the time of taking and giving adoption,
- (l) To make recommendation to the Ministry for determination of the service fee chargeable in order to the adoption of a children,
- (m) To determine necessary procedures for adoption,
- (n) To maintain confidentiality of the information of children, parents of such children and adoptive parents,
- (o) To conduct or cause to be conduct research, study and investigation on the subject related with inter-country adoption,
- (p) To make inspection and monitoring of child welfare home, orphanage or children home (*Bal Mandir*) enlisted pursuant to Terms and Procedures for Adoption of Nepalese Children by Foreign Citizens, 2065 (2008) and issue necessary directions,
- (q) To make recommendation to the Ministry for delisting of the children welfare home, orphanage or children home which are not compiling the direction issued pursuant to Clause (p),
- (r) To monitor or cause to be monitor competency of the adoptive family and the foreign institutions those are enlisted in the Ministry

and present progress and development made by Nepal in connection to the adoption of children to the International forum considering the progress and development those are made internationally,

- (s) To carry out other necessary functions as may be required on inter-country adoption as prescribed by the Ministry.

**5. Meetings and decisions of the Board:** (1) A meeting of the Board shall be held as required.

(2) The meeting of the Board shall be held on such date, time and place as specified by the Chairperson.

(3) The member secretary of the Board shall provide notice of the meeting at least twenty four hours earlier of the meeting to the member.

(4) The presence of more than fifty percent members of the total number of members of the Board shall be deemed to constitute a quorum for a meeting of the Board.

(5) The meeting of the Board shall be presided over by the Chairperson of the Board and by the person selected by the members from amongst themselves in the absence of the Chairperson.

(6) The majority opinion shall prevail at the meeting of the Board; and in the event of a tie, the person presiding over the meeting shall exercise the casting vote.

(7) The Board may invite any official or expert in the meeting of the Board.

(8) The decisions of the Board shall be authenticated by the member-secretary of the Board.

(9) Other Rules of procedures relating to the meeting of the Board shall be as determined by the Board itself.

6. **Chairperson:** (1) There shall be a Chairperson in the Board to work as an Executive Chief.

(2) Government of Nepal shall appoint Chairperson from amongst persons who served in the post of special class of the Government of Nepal or judge of the Appellate Court.

(3) The tenure of office of Chairperson shall be four years.

(4) Notwithstanding anything contained in Sub-section (3), Government of Nepal may remove the Chairperson from his/her post on the ground of incompetence, misbehaviour, failure to discharge the duties of his/her office honestly or his/her inability to discharge his/her duties because of physical or mental reason.

Provided that, a reasonable opportunity shall be provided to defend himself/herself before removal from the post of Chairperson.

(5) The functions, duties and powers of Chairperson shall be as prescribed.

(6) The remuneration, facilities and other terms and conditions of service of Chairperson shall be as prescribed and in case such remuneration, facilities and other terms of service has not been prescribed, the Chairperson shall be entitled to the remuneration and facilities obtainable by the employee of special class of the Government of Nepal.

7. **Employee of the Board:** (1) The Board may have necessary number of employees.

(2) Until the appointment of employees in the Board, the Ministry shall make available necessary number of employees to the Board.

(3) The appointment, remuneration, facilities and other terms and conditions of service of the employees of the Board shall be as prescribed.

8. **Fund of the Board:** (1) The Board shall have its own separate fund.

(2) The following amount shall be deposited in the fund pursuant to Sub-section (1).

- (a) Amount received from the Government of Nepal,
- (b) Amount to be deposited pursuant to Sub-section (2) of Section 19 of the Terms and Procedures for Adoption of Nepalese Children by Foreign Citizens, 2065 (2008).
- (c) Amount received from any person or institution,
- (d) Amount received from foreign government or person or international organization, institution,
- (e) Amount received from other any sources.

(3) The Board shall have to take prior approval of the Government of Nepal before receiving the amount pursuant to Clause (d) of Sub-section (3).

(4) The fund shall be operated in the form of Revolving Fund.

(5) The Board shall have to deposit the amount to be credited in the Fund pursuant to Sub-section (1) in any commercial bank within Nepal by opening an account.

(6) All the expenditures to be expended in the name of the Board shall be borne from the Fund pursuant to Sub-section (1).

(7) Notwithstanding anything contained in Sub-section (6), an amount not exceeding ten per cent of total annual income of the Fund can be spent for the operation of office of the Board.

(8) The Fund of the Board shall be operated as prescribed.

9. **Account and Audit:** (1) The accounts of the incomes and expenditures of the Board shall be maintained in accordance with the method followed by the Government of Nepal.
- (2) The Board shall have to develop internal control system as prescribed.
- (3) The internal audit of the account of the Board shall be audited by the recognized auditor designated by the Board from amongst the auditors.
- (4) The final audit of the Board shall be carried out by the Auditor General or auditor designated by the Auditor General.
- (5) The Government of Nepal may, if it so desires, inspect or cause to inspect the accounts of income and expenditure, cash, commodity or other any document of the Board at any time.
10. **May form Sub-Committee:** (1) The Board may, form necessary Sub-Committee to carry out or cause to carry out the functions smoothly to be performed by it under this Order.
- (2) The functions, duties, powers and procedures of the Sub-committee to be constituted pursuant to Sub-section (1) and the facilities to be entitled to members of such Sub-committee shall be as prescribed by the Board at the time of formation of such Sub-committee.
11. **Meeting allowance:** The Chairperson and Members shall be entitled to meeting allowance for their participation in the meeting of the Board as prescribed by the Ministry.
12. **To give direction:** (1) The Ministry may give necessary direction to the Board in connection to the function and proceedings to be carried out by the Board.



(2) It shall be the duty of the Board to abide by the direction given pursuant to Sub-section (1).

13. **Delegation of powers:** The Board may, as per necessity, delegate any or all of the powers conferred on it to Chairperson, member or officer level employees of the Board.
14. **Liaison with the Government of Nepal:** The Board shall liaise with the Government of Nepal through the Ministry.
15. **Office of the Board:** The office of the Board shall be located at the place as prescribed by the Ministry.
16. **Powers to frame Rules:** (1) The Board may frame necessary Rules to implement the objectives of this Order.

(2) The Rules framed pursuant Sub-section (1) shall come into force after approval from the Ministry.

NEPAL LAW COMMISSION