

Recovery of Debts of Banks and Financial Institutions, 2059 (2002)

Date of publication in Nepal Gazette

2059.8.12 (30th January 2002)

Amendment:

Recovery of Debts of Banks and Financial

Institution (First Amendment) Rules, 2060(2002)

2060.10.29

In exercise of the powers conferred by Section 33 of the Recovery of Debts of Banks and Financial Institutions Rules, 2059 (2002), Government of Nepal has framed the following Rules.

Chapter -1

Preliminary

1. **Short title and commencement:** (1) These Rules may be called the " Recovery of Debts of Banks and Financial Institutions Rules, 2059(2002)".
(2) These Rules shall commence immediately.
2. **Definitions:** Unless the subject of the commence forthwith,-
 - (a) "Act" means Recovery of Debts of Banks and Financial Institutions Act, 2058(2002).
 - (b) "Petition" means a petition filed by bank or financial institution with the tribunal pursuant to Sub-section (1) of Section 15 of the Act.
 - (c) "Registrar" means the officer designated by Government of Nepal to carry out Acts pertaining to general administration of the Tribunal or Appellate Tribunal pursuant to Rule 32.

Chapter -2

Provision Relating to Petition

3. **Petition to be filed:** (1) In filing a petition, a bank or financial institution has to file the petition with the tribunal in the format as referred to in Schedule-1,

accompanied also by a petition fee of Five Rupees and amount for the debt recovery fee in a sum to be set by 0.25 percent of the claimed amount.

⊕(2) If the fact appears to be proved by a petition and documents accompanied with i.e., records or any other kinds of evidences, that the activities or procedures referred to in Clause (C0 and (c1) of sub- rule (1) have been fulfilled, it shall be considered that he banks or financial institutions have fulfilled the procedures in respect of debts recovery pursuant to sub_ Section (7) of section 14 O the Act.

4. Matters to be set out in Petition: ⊕(1) Petition to be filed pursuant to Rule 3 has to set out the following matters:-

- (a) Full name, surname and Address of each of petitioner and defendant,
- (b) Whether the petition has been filed within limitation setout in the Act and whether the petition fee and amount to be paid in advance for the debt recovery have been accompanied thereby or not,

* (c) whether the concerned bank or financial institution made time to time correspondence discussion or dialogue from time to time, with the debtor in respect of the debts to be recovered by it, or whether the bank or financial institution has made rescheduling, restructuring or similar other activities of such debts in respect of the recovery of debts ,

⊕(c1) whether the bank or financial institution has published a public notice in any daily newspaper of national level with the details of necessary legal proceedings against the debtor having specified that if the debtor does not come for the recovery of debts within the period as specified to him/her for the recovery of debts or not, or whether a notice has been published in any daily newspaper of national level on the auction of the movable or immovable property pledged has been proceeded or whether or nor the

⊕ Inserted by First Amendment.

⊕ Inserted by First Amendment.

* Amended by First Amendment .

⊕ Inserted by First Amendment.

movable or immovable property pledged was put in the process of auction but could not be held by any reason whatsoever,

- (d) Whether any suit has been filed in any office or court on recovery of debt from the borrower pursuant to the prevailing law or not,
- (e) Whether necessary copies of the petition to meet the number of the defendants have been attached or not,
- (f) Whether necessary evidence and documents in corroboration of the claim mentioned in the petition have been attached or not.

5. **Non-registration of petition not in order:** The Registrar has to endorse the received petition which does not set out the matters required to be set out or is not accompanied by the documents required to be accompanied by pursuant to Rule 4 by indicating in such petition that it does not meet the requirements and return it to the concerned bank or financial institution.

6. **Registration of petition and issuance of receipt:** If a petition filed by a bank or finance institution appears to meet the requirement pursuant to the Act and these Rules, the Registrar has to register such a petition and give receipt thereof to the concerned bank or financial institution.

7. **Inquiry into and dismissal of petition:** (1) After the filing of a petition, the tribunal has to enquire into the following matters in that respect.

(a) Whether the grounds of claim or recovery of debt are clear or not,

(b) Whether the evidence and documents accompanied with the petition are adequate to corroborate the claim or not.

(2) If the tribunal thinks, upon an inquiry pursuant to Sub-rule (1), that the ground for claim mentioned in the petition are not clear and thus the claim cannot stand, it may dismiss the petition.

(3) If the tribunal thinks that the claim cannot be substantiated from the evidence and documents attached with the petition it may give a time limit of seven days and order the concerned bank or financial institution to submit

additional necessary evidence and documents. If the concerned bank or financial institution fails to submit additional necessary evidence or documents within the time limit so specified or it appears that the claim cannot be substantiated from the submitted documents the tribunal may dismiss such a petition.

(4) If the tribunal dismisses a petition pursuant to Sub-rule (2) or (3), it has to give information thereof to the concerned bank or financial institution no later than seven days from the date of dismissal of petition.

Chapter -3

Provisions on Service of Summons and Examination of Evidence

8. Issuance of summons for filling of note of defense: (1) No later than fifteen days from the date of registration of a petition in the tribunal, the tribunal has to issue summons, also accompanied by *one copy each of the petition , in the name of the concerned defendant in the format as referred to in Schedule-2.

(2) The summons issued pursuant to Sub-rule (1) has to be served by delivering it to the defendant or any member of his/her own family, and if the defendant or any member of his/her own family is not found or his/her house or dwelling is not traced in so delivering the Summons, the summons has to be posted in the public place where the house or dwelling is located, in presence of any member of the concerned village development committee or municipality or of any two local persons, and after the summons has been so posted, it shall be deemed to have been duly served notwithstanding anything contained in the prevailing law.

Provided that, in cases where the defendant or his/her house or dwelling has not been traced because of the fact that the bank or financial institution has indicated a wrong address or the tribunal has mentioned a wrong address, the summons shall not be deemed to have been duly served despite that it has been so posted.

* Amended by First Amendment .

(3) An employee who goes to serve the summons referred to in Sub-rule (2) has to complete the service of summons generally no later than two days except the time required for journey.

(4) Notwithstanding anything contained in Sub-rules (1) and (2), in issuing the summons to be served on a decedent who is a firm, company or body for submitting a note of defense, if the summons sent by a registered post to the registered office of such a firm, company or body or sent through telefax, email or other electronic communication means of such office, such summons shall be deemed to have been duly served.

(5) Notwithstanding anything contained in these Rules, while issuing a summon, a report that the summon could not be served a notice on the summon issued in the name of the concerned firm, company or body may be broadcast or published in the radio, television or any newspaper of nation level. In cases where the summons is so broadcast or published it shall be deemed to have been duly served on such a defendant in accordance with these Rules.

9. Extinction of time limit: (1) If, as a result of expiration of the time limit of summons issued to the defendant to submit a note of defenses pursuant of Rule (8) because of occurrence of a circumstance beyond control of the defendant, the defendant is unable to submit the note of defense and the defendant makes an application setting out the reasons therefor, to the tribunal for having the expired time limit extended, no later that fifteen days from the date expiration, and the contents of such an application appear to be reasonable the tribunal may extend a time limit of maximum Fifteen days for the applicant or defendant to submit the note of defense.

(2) If any petitioner or defendant who is to make appearance on a fixed day in any case under consideration pursuant to the Act and these Rules fails to make presence on such a fixed day he/she shall not be allowed to have the expired day for appearance extended.

Provided that, if the fixed day for appearance expires because of occurrence of the circumstance beyond control of the petitioner or the defendant and an application is made to the tribunal no later than Fifteen days from the date of expiration and the contents of such an application appear to be reasonable, the tribunal may extend it for a maximum period of Fifteen days for the petitioner or the defendant.

10. Examination of evidence: (1) The petitioner has to submit the original copy of documentary evidence that is to remain with him/her by virtue of its nature or that he/she may submit and one duplicate copy thereof along with the petition.

(2) The defendant has to submit the original copy of documentary evidence that is to remain with him/her by virtue of its nature or that he/she may submit and one duplicate copy thereof along with the note of defense.

(3) The documentary evidence not submitted pursuant to Sub-rule (1) and (2) by the petitioner or defendant shall not be examined or be taken as evidence in the latter.

Provided that, documentary evidence may be submitted or examined as follows in the following circumstances:

(a) In the case of documentary evidence that cannot be submitted to the tribunal, only a duplicate copy thereof may be submitted.

(b) If the petitioner or the defendant, showing a reasonable reason makes own application for appointment of another day for submitting the petition or the note of defense despite his/her best effort and makes an applications the tribunal to submit such evidence after he/she knows or obtains it and the matter appears to be reasonable, the tribunal may execute a memorandum and examine such documentary evidence.

(c) If, the petitioner or the defendant showing a reasonable causes/grounds makes an application for the appointment of

another day for submitting any documentary evidence, the tribunal may appoint another date to provide reasonable opportunity to produce such documentary evidence.

(4) On the day specified for examination of evidence and proof, the original documentary evidence of the petitioner has to be shown and read out to the defendant and that of the defendant to the petitioner and gets him/her to make deposition as to whether it is genuine, forged or fake whatever he/she says. If in so getting him/her to record his/her deposition, he/she is not able to name it so genuine, forged or fake at the moment and the tribunal holds to give a time limit at its discretion, it may give a time limit not exceeding Three days.

(5) After the petitioner or the defendant has submitted the documentary evidence mentioned as such in the petition or the note of defense to the tribunal, the Registrar has to prepare a duplicate copy thereof, verify such copy with the original, cause the petitioner or the defendant who has submitted that document to write the duplicate copy correspondents to the original in that document and sign it if the copy verifies with the original, and retain it in the case file.

(6) The original documents as referred to in Sub-rule (5) have to be given consecutive number and the office Seal stamped on the reverse side (back of the document) thereof, and such original documents has to be returned to the concerned person.

- 11. Submission of evidence by other on behalf of absent defendant:** (1) If any heir of the joint family of the defendant or any other person showing any reasonable ground for failure of the defendant to submit a note of defense in any case within the time limit issued under these Rules submits any evidence refuting the petitioner's claim no later than seven days from expiration of the time limit, the tribunal has also to examine that evidence and try and settle the case.
- 12. Party need not keep on appearing on appointed Date:** (1) After the tribunal has examined the evidence of both petitioner and defendant any party may if he/she so

intends, not keep on appearing on the appointed date, with the permission of the tribunal.

(2) Even if the petitioner only or the defendant too expires the appointed date for presence after the petitioner has submitted his/her evidence, the case has not to be dismissed rather it has to be tried and settled based on the evidence so far examined.

13. Examination of witness: (1) Following an order by the tribunal for issuing summons in the name of the witness, the Registrar has to prepare and send the summons.

(2) In sending the summons by the Register pursuant to Sub-rule (1), a time limit of seven days has to be given.

14. Depositions of Witness: (1) The Register has to obtain name of their witness from the petitioner and the defendant present on the date appointed for presence immediately upon commencement of tribunal's action on that day retain the list in the case file and submit the same to the tribunal for deposition,

(2) Even if the other party do not present upto Two p.m. on the day appointed for examination of witness, making deposition of the witness of the party present has not to be stopped.

15. Power to issue order for submission of documentary evidence: (1) In cases where any document, design, information, detail etc, that can be taken as evidence under the prevailing law has not been submitted to the tribunal for any reason, the tribunal may order the concerned Party to submit such evidence to the tribunal prior to enlistment of the case in the cause list.

⊕15A. representation may be made : (1) If the bank or financial institution or the debtors submitting a petition of an appeal before the tribunal or Appealed Tribunal or by debtor submitting the note of defense before the Tribunal or by a respondent submitting the note of defense before the Appellate Tribunal respect velum may make representation on its behalf of it by appointing any Law Practitioner or

⊕ Inserted by First Amendment .

accounts Practitioner or Accounts Practitioner before the Tribunal or Appellate Tribunal, as the case may be, as its representative.

(2) Except in the case referred to in Sub-rules (1), the bank or financial institution may make a representation on their behalf before the Tribunal or Appellate Tribunal by appointing any staff also as their representative.

Chapter -4

Provisions Relating to Decision

16. **Period for decision:** After a case has become matured upon examination of the required evidence by the tribunal from the petitioner or defendant, the tribunal has to decide the case no later than fifteen days from the date of its maturity for decision, subject to the period of time specified on Section 17 of the Act.
17. **Format of decision and order:** Any decision to be made by the tribunal shall be in the format referred to in Schedule-3 and other order in the format refer to in Schedule-4.
18. **Prohibition alteration in decision or order:** Any decision or order already signed by the members has not to be altered in any other manner except correction of minor grammatical and typo error.
19. **Execution of Decision:** (1) After the tribunal has made a decision, and issue an order to the Debt Recovery Officer for implementation of that decision pursuant to Section-21 of Act, that decision has to be executed within the period indicated in that order .
(2) If the Debt Recovery Officer be in need in the course of execution of a decision pursuant to Sub-rule (1), he/she may seek assistance of the local administration and police. If assistance is so sought by the Debt Recovery Officer, the local administration and police have to render assistance to the officer.
20. **Execution of compromise:** (1) If it has been so decided by the tribunal or Appellate Tribunal under Sub-section (1) of Section 20 of the Act, tat compromise can be made; the concerned parties have to execute the compromise on their own.

(2) If the tribunal or Appellate Tribunal has issued an order to the Debt Recovery Officer pursuant to Sub-section (3) of Section 20 of the Act, because of failure of one party to execute the compromise pursuant to Sub-rule (1), he/she has cause to execute the compromise.

(3) The procedures for the execution of compromise pursuant to Sub-rule (2) shall be the same as the procedures for implementation of the decision made by the tribunal or Appellate Tribunal.

Chapter-5

Provisions Relating to Appeal

21. **Making of Appeal** : In making appeal against a decision made by the tribunal pursuant to the Act and these Rules, a memorandum of Appeal has to be filed in the Appellate Tribunal in the format refer to in Schedule-5, accompanied by a fee of Five Rupees.
22. **Matters to be set out in memorandum of Appeal**: The following matters have to be set out in the memorandum of appeal to be filed pursuant to Rule 21.
- (a) Appellants name ,surname and address,
 - (b) Name ,surname and address of person or body to be named as respondent,
 - (c) Name of tribunal having made decision with which the appellant is not satisfy,
 - (d) Matter of being a petitioner or defendant in the case of first instance,
 - (e) Date of decision and details thereof,
 - (f) Amount in controversy as claimed in the case of first instance and amount set in such case,
 - (g) Matter of dissatisfaction in the decision, reasons therefor in matters requested (demanded) in the appeal,
 - (h) Where the amount in the controversy has not been set out in the case appealed, estimated value of such amount ,
 - (i) Matter whether appellant knows as to any appeal has been made by other party or respondent, If any,

- (j) Matter that under which law appeal is made,
- (k) Matter that appeal is within the limitation,
- (l) Other necessary matters.

23. Examination and Registration of memorandum of appeal: (1) Any appeal received by the Appellate Tribunal has to be examined whether it meets the requirements under Rules (21) and (22), and such memorandum of appeal has to be registered if it meets such requirements, and a proof thereof has to be given to the concern appellant.

(2) If the memorandum of appeal does not appear to meet the requirement upon its examination pursuant to Sub-rule (1), the matter that it does not so meet the requirement has to be mentioned and endorsement so made in such memorandum of appeal has to be returned.

24. Procedures following registration of memorandum of appeal: (1) The Appellate Tribunal has to procure the case file of the case of which memorandum of appeal has been filed from the concerned tribunal.

(2) After the Appellate Tribunal has received the case file procured by it pursuant to Sub-rule(1), the register has to specify day for presence for trial and settlement of that appeal, enter the case in the weekly and daily cause list in refer it to the Appellate Tribunal.

(3) The memorandum of appeal and deed of attorney (*vakalatenama*) submitted in the case shall all be recorded in the appellate case file.

25. Issuance of summons for filing note of defense: (1) After registration of memorandum of appeal in the Appellate Tribunal, the Appellate Tribunal has to issue summons, also accompanied by one copy each of memorandum of appeal and evidence and document attached with it, in the name of the concerned respondents, in the format as refer to in Schedule-6 for filing note of defense.

(2) In issuing the summons under Sub-rule (1), the procedures refer to in Sub-rules (2) ,(3) and (4) of Rule 8 have to followed.

26. **Extension of time limit:** If the time limit of summons issued to the respondent to submit a note of defense pursuant to Rule 25 expires because of occurrence of a circumstance beyond control and the respondent makes application, setting out the reasons therefor, no later than Fifteen days the Appellate Court may extend the time limit for a maximum of Fifteen days pursuant to Rule 9.

Chapter -6

Provisions Relating of Debt Recovery

27. **Functions duties and powers of Debt Recovery Officer :**(1) If, upon receipt of the Tribunal order, the Debt Recovery Officer finds that the property furnished as security by the borrower or the guarantor cannot satisfy the principal and interest of the debt, and the debt has to be recovered also from other movable and immovable property of its borrower or the guarantor, he/she has to immediately write to the concerned office to withhold such movable and immovable property.

(2) Upon receipt of the tribunal order, the Debt Recovery Officer has to get the debt recovered as follows, subject to the time limit specified in that order.

- (a) To give an order to the borrower to repay in full the principal and interest of the debt repayable by him/her to the bank or financial institution by giving a time limit of Seven days in maximum ,
- (b) If the borrower does not repay the principal and interest of such debt within the time limit referred to in Clause (a), to take into possession of movable and immovable property whether or not subject to security finished by the borrower.
- (c) If the movable and immovable property subject to security furnished by the borrower does not satisfy the principal and interest of the debt and someone has furnished guarantee, to take into possession of the movable and immovable property belonging to such guarantor,

(d) To auction the movable and immovable properties taken into possession pursuant to Clause (b) or (c).

28. Procedure Relating to debt recovery: (1) In cases where the movable and immovable property furnished as security by the borrower or as guarantee by the guarantor is being possessed and enjoyed by him/her, and possession of such movable and immovable property has to be detached from him/her, the Debt Recovery Officer has to enter the place where such property is located in presence of at least two local people and representative of the concerned bank or financial institution, and in so taking possession an inventory of the movable and immovable properties so possessed has to be prepared and a deed has to be executed to that effected.

(2) If the property taken into possession does not satisfy the principal and interest of the debt and other movable and immovable property of the borrower has to be detached from his/her possession, the Debt Recovery Officer has to enter the place where such property is located, in presence of at least two local people and representative of the concerned bank or financial institution and take the property in his/her possession, and in so taking possession, an inventory of the movable and immovable property so possessed has to be prepared and a deed has to be executed to that effect.

29. Procedure of auction sales: (1) The Debt Recovery Officer has to recover the debt by auctioning the movable property and immovable taken into his/her possession pursuant to Rule 28.

* (2) In making auction pursuant to Sub-rule (1), a notice on auction sale of bidding competition (*Dank Badhabad*) or sealed tender has to be published in a newspaper of national level, by giving a time limit of Thirty-Five days in the case of immovable property and that of Fifteen days in the case of movable property;

* Amended by First Amendment .

⊕(2a) The sealed tenders offered on the basis of a notice published pursuant to Sub-rule (2) shall be evaluated by owning them in the presence of the representatives of local administration and the person offering tender or his/her *bona fide* representative. While so evaluating, such property should be auctioned by approving bid tender of such person, who has offered highest value than the others.

⊕(2b) In conducting auction such movable and immovable property by bidding competition, it shall be auctioned in the presence of the interested persons to participate in the auction, representative of local administration and at least two local persons subject to the value so fixed pursuant to Sub-rule (2) .

(3) Prior to selling movable and immovable property by auction pursuant to Sub-rule (1), the Debt Recovery Officer has to fix the value of such movable and immovable property in presence of the representative of local administration, representative of district land revenue office and representative of local body and at least two local people, also taking into consideration of the prevailing market value of such property. ⊕ The opinion of the concerned experts may be taken while so fixing the value of movable and immovable property..

(4) In the course of auction sale pursuant to Sub-rule (2a) and (2b), if the value be offered less than the value of such movable and immovable property fixed pursuant to Sub-rule (3), a notice shall be published for next time in a newspaper of national level by giving a time limit of Fifteen days in the case of immovable property and of Seven days in the case of movable property and such property shall then be sold by auction.

(5) If, even if in selling through auction pursuant to Sub-rule (4) for the second time, the value be offered less than the value of such movable and immovable property fixed pursuant to Sub-rule (3), a notice shall be published in a

⊕ Inserted by First Amendment.

⊕ Inserted by First Amendment.

⊕ Inserted by First Amendment.

newspaper of national level by giving a time limit of Ten days in the case of immovable property and of Five days in the case of movable property and such property shall be sold by auction. If, even if in so selling by auction for the third time, the value be offered less than the value of such movable and immovable property fixed pursuant to Sub-rule (3), the concerned bank or financial institution has to accept such movable and immovable property for the prescribed value. If such movable and immovable property is accepted by the bank or the financial institution the debt shall be considered to have been recovered and the account thereof shall be adjusted accordingly.

Explanation: For purpose of this Chapter, a movable property means any movable property except cash.

⊕29A. Expenditure incurred in auction: (1) The Debt Recovery Officer, while recovering debt through the auction sale from the movable and immovable property taken into his/her possession pursuant to Rule 28, shall cause to recover to the Bank or Financial Institution from the remaining amount upon deducting all the costs in the course of such auction sale.

(2) The remaining amount, upon deducting the total cost incurred in the course of auction sale pursuant to Sub-rule (1) and the amount to be recovered to the Bank or Financial Institution, shall be returned back to the debtor or the guarantor.

(3) If the Tribunal deems necessary, it may ask the concerned bank or financial institution to deposit the estimated amount as the cost of auction prior to selling the movable and immovable property by the auction.

⊕29B. Reward : - In case the debts of any bank or financial institution in not recovered from the property pledged as collateral of the debtor or guarantor, as the case may be, and other property of the debtor or guarantor is to be sold by auction , and if

* Amended by First Amendment.

⊕ Inserted by First Amendment .

⊕ Inserted by First Amendment .

other property is not searched out, an amount at the rate of Five percent of the total amounts received from auction sale of such property shall be given to a person who has given an information to the Tribunal in written form, about such property in a case where that property was found out by virtue of such information."

30. Execution: (1) the Debt Recovery Officer has to give the person who buys a movable and immovable property through auction pursuant to Rule 29, a possession slip of such movable and immovable property and execute possession of such moveable and immovable property.

(2) In executing possession pursuant to Sub-rule (1), the Debt Recovery Officer may, if required, seek assistance of the local administration and police. It shall be the duty of the local administration and police to render assistance to the Debt Recovery Officer if such assistance is so sought.

30A. To be sent to keep in custody: If some particular debtor or guarantor has to be kept into custody pursuant to Clause (c) of Sub-section (2) of Section 25 of the Act, it shall be written to the concerned police office to keep such person into the custody and if it is so written, the Police Office shall keep such person into the custody.

31. Application to be made to an action for contempt: (1) In instituting an action for contempt pursuant of Sub-section (2) of Section 27 of the Act, the Debt Recovery Officer has to make an application setting out the matter (details) to the tribunal or Appellate Tribunal.

(2) If the tribunal or Appellate Tribunal obtains the matter pursuant to Sub-rule (1) that any person has violated an order given by the Debt Recovery Officer, the tribunal or Appellate Tribunal may institute an action on contempt against such person pursuant to Section 30 of the Act.

Chapter -7

Provisions Relating to Registrar

32. Designation of Registrar: (1) Government of Nepal has to designate one each officer level employee of the gazetted class Three Officer of Nepal Judicial

Service to act as the Registrar of the tribunal or Appellate Tribunal, in order to carry out the functions relating to general administration of the tribunal or Appellate Tribunal, subject to general direction and control of such tribunal and Appellate Tribunal.

33 Functions, Duties Power of Register: In addition to the functions, duties and powers mentioned elsewhere in these Rules the functions, duties and powers of the Register shall be as follows:-

- (a) To examine and verify the documents including petitions, notes of defenses and memoranda of appeal to be filed with the tribunal or Appellate Tribunal and register them if they meet requirements or endorse (*darpith*) accordingly them with reasons if they cannot be registered,
- (b) To verify duplicate copies submitted in a case with the originals and certify them if they appear in order and if the original appears to have some defects to mention such defects and get the concerned party to sign to that effect,
- (c) To verify whether documents submitted along with petition memoranda of appeal and notes of defense are correct or not,
- (d) To issue summons and get it served,
- (e) To appoint Dates for appearance in cases indicating reasonable reasons pursuant to law,
- (f) To obtain power of attorney and get a case assumed to the party pursuant to prevailing law
- (g) To promptly execute or cause to be executed, the actions as referred to in the order made by the Bench,
- (h) To have security or guarantee as per their order made by the Bench,
- (i) To maintain, or cause to be maintained, updated records including registration Books,
- (j) To examine the case note submitted by the clerk (*phatwala*) put signature and include into the case file.
- (k) To maintain personal records of employees,

- (1) To safely retain orders and directions in systematic manner.

Chapter -8

Provisions Relating to Remuneration and Facilities

34. **Remuneration of member of tribunal and appeal hearing authority:** (1) The members of tribunal shall receive such monthly remuneration as prescribed by Government of Nepal.

(2) The appeal hearing authority shall receive such monthly remuneration as prescribed by Government of Nepal.

35. **Housing Facilities:** (2) Monthly facility of Five Thousand Rupees shall be given to the member of the tribunal and the Appeal Hearing Authority for the housing facility.

Provided, however that no housing facility shall be given to the member of tribunal or the appeal hearing authority who has own house in the district where the tribunal or Appellate Tribunal is located.

(2) Notwithstanding anything contained in Sub-rule (1), a monthly lump sum amount of Two Thousand and Five Hundred Rupees shall be given to the Member of the Tribunal or Appeal Hearing Authority, as a house repairing and sanitation expenses, who is not entitled to receive housing facilities.

36. **Vehicle and fuel facility:** One motor vehicle with a driver and One Hundred liter of petrol or diesel on monthly basis and Five liters of mobil on tri-monthly basis shall be given to each member of tribunal and Appeal Hearing Authority.

37. **Electricity, water and telephone facility:** (1) Expenditure to be incurred in installing one line telephone in the residence of the member of tribunal and the Appeal Hearing Authority and amount chargeable for deposits therefor shall be provided.

(2) A monthly sum of One Thousand Five Hundred Rupees shall be provided in lump sum for tariff of electricity, water supply, and telephone installed in the residence of the member of the tribunal and Appeal Hearing Authority.

38. **Dashain (Festival) expenditure:** A sum equal to one month's remuneration shall be provided to the member of tribunal and Appeal Hearing Authority each year for the *dashain* (festival) expenditure.
39. **Other facilities:** Provident fund, gratuity and pension, insurance, medical facility daily and traveling allowance for home country and foreign travel leave and other facilities shall be as prescribed by Government of Nepal.

Chapter-9

Miscellaneous

40. **Power to have bench elsewhere:** The tribunal or Appellate Tribunal may, in view of Volume of petitions or appeals, have its bench in any other place under its jurisdiction for a certain period, and carry out its activities accordingly.
41. **Provisions relating to duplicates:** The concerned person may get duplicate copies of any documents whatsoever attached with the case file of a case filed in the tribunal or Appellate Tribunal by a paying Two Rupees for each page.
42. **Safety of case files documents:** (1) It shall be the duty of the Registrar to secure the case files and documents in the tribunal or Appellate Tribunal.
- (2) Except with the order of the member of tribunal or the Appeal Hearing Authority, no case file, documents, record, books in the tribunal or Appellate Tribunal shall be taken out and shown to any unauthorized person.
- ⊕42A. **A Representation may be made:** The Bank or Financial Institution who has to submit or debtor or so submitted a petition, Appeal or Defense, may authorize as an representative to a legal practitioner or account practitioner to represent in his/her behalf before the Tribunal or Appellate Tribunal.
- ⊕42B **Service of notice outside the Katmandu valley:** - If any notice is to be served outside the Katmandu valley, the Tribunal or Appellate Tribunal may serve or

⊕ Inserted by First Amendment .

⊕ Inserted by First Amendment .

Note

The word "*Shrestedar*" changed in various place in the Main regulation, shall be substituted by the word 'Registrar'.

cause to serve such a notice having assigned any of its own staff or upon requesting the concerned District Court for the same.

43. **Oath:** The member of tribunal and the Appeal Hearing Authority shall, prior to taking up responsibilities of their respective offices, take oath of office before the chief judge of the concerned Appellate Court in the format referred to in Schedule-7.
44. **Uniform of members:** The member and the Appeal Hearing Authority has to put on a black cap, black coat and black shoes while on bench.
45. **Prevailing law to prevail:** The matters contained in these Rules shall be governed by these Rules and other matters be governed by the prevailing law.

Nepal Law Commission

Schedule -1
(Relating to Rule 3)

Petition filed in tribunal-----

Subject -----

-----Petitioner

Vs.

-----Defendant

I/We, the petitioner(s), hereby, petition as follows.

1. -----
2. -----
3. -----

It is therefore, petitioned that in this matter, an order of such matter be issued to so and so person pursuant to so and so Act and Rules.

The contents of this petition are true and correct. If they are proved is false, I/ we shall bear and pay according to the prevailing law.

Petitioner,

Authorized person's signature –

Name of bank or financial institution-

Address-

If there be more than one petitioner a serial, number that is 1,2,3 has to be given and full name, surname and address shall be mentioned and a literate person has to sign and other has to put thumb impressions over there

Done on----- day, the ----- day of the month of ----- of the year -----

Note:- Contents of the petition have to be mentioned in paragraph with serial numbers and the last two paragraphs should not be given number and the first should, to the extent possible indicate the Act or law under which the claim is made and the claim, and the second should indicate the facts, as shown in the above format.

Schedule-2
(Relating to Rule 8)

Issued by tribunal ----- Summons-----

As ----- bank/ financial institution, situated at Ward No.-----, -----
Municipality/VDC,----- District filed in this tribunal a petition on ---- case
against you on ----- , You are, hereby, summoned to make presence in person or
send attorney or legal practitioner pursuant to law to file a note of defense on the
day on which this tribunal remains open within fifteen days excluding the time
required for journey. If you fail to appear in-person or do not send even your
attorney or legal practitioner to file a note of defense within that time limit, the
case shall be decided in accordance with the Act. None of your subsequent
complaints shall be entertained.

Done on----- day, the – day of the month of -- ----- of the year -----

Schedule-3
(Relating to Rule 17)

----- Tribunal

- (1) Chairperson Mr./Mrs.-----
- (2) Member Mr./Mrs.-----
- (3) Member Mr./Mrs.-----

Decision

Petition registration No ----- of the year -----

Case –

Petitioner's Name,
Surname and address

Witness of Petitioners

- Document

Evidence examination by tribunal

Witness -----

Document-----

Summary of the facts of case

Verdict-

Defendant's name

Surname and address

Witness of Petitioners

Document

Upon studying all documents of this case, the petitioner appears to claim so and so, the defendant appears to contend so and so or so and so and so has happened, and because of so and so evidence and so and so law, it is held to have so and so or as it appears so and so, it is held to have so and so, we have handed down this decision.

Done on ----- day of the month of --- of the year -----

- (1) Let it be done so because of the verdict
- (2) Let appeal be made within the time limit.

Note:-

- (1) Any one member out of the deciding members has to write down or cause to be written down on his/her own. After the member who has so written down or caused to be written down or typed the decision and has signed the decision so prepared the member who concurs the decision has also to sign it.
- (2) If, in making decision, the members have a single opinion or details are different despite divergence of opinion, single decision has to be written down or caused to be written down by those who have divergence of opinion.
- (3) One, who has written down decision as dictated by the chairperson or the member, has to write down to the left hand side at the end of decision that one has written down or typed it a dictated by the chairperson or member Mr. --- and sign there.

Schedule -4
(Relating to Rule 17)

Tribunal -----
Order sheet
Petition Registration No. ----- Of the year ---
-----Petitioner
And
----- Defendants
Order

Member of Tribunal

Date -

Signature –

Schedule -5

(Relating to Rule 21)

Memorandum of appeal filed in Appellate Tribunal -----

Appeal registration no. - Of the year -----.

So/ so (full name, surname and address of each) -----Petitioner/Defendant

Respondent

Vs

So/so (full name, surname and address of each) -----Petitioner/Defendant

Respondent

As we are not satisfied with the decision handed down in the case of ----- by the ----- tribunal on ----- requiring me/us to do so and so . I / we have made this appeal, attaching herewith a proof of payment made for the amount in controversy in the case or fine and punishment of such and such or while in detention. If the judgment made by the authority subsequently is found reasonable m I/ we shall bear and pay according to the act for making appeal m I/we the appellant m have the following appeal claim in this matter.

1. -----

2 -----

Appellant,

So and so residing in so and so place.

(If here be more than one appellant number 1, 2,3 has to be given and full name , surname and address of the all mentioned and literate ones have to sign and other to put thumb impressions over there) .

Done on ----- day, the ---- day of the month of --- of the yea -----

Note: - This is a general format of memorandum of appeal. Memorandum of appeal of any case has to be written in theist format mutatis mutandis so as to fulfill the requirements under these Rules.

Schedule-6
(Relating to Rule 25)

Summons issued by Appellate Tribunal-----

As ----- bank/financial institution, situate dad Word No. -----, ----- municipality/
VDC – District, filed in this tribunal a petition on case against you on ----- you are
hereby summoned to make presence in person or send attorney or legal practitioner
pursuant to law to file a note of defaces on the day on which this Appellate Tribunal
remains own within fifteen days excluding the time required for journey, iffy you fail to
that time limit the case shall decided in accordance with the act. None of your subsequent
complaints shall be entertained.

Done on ----- day, the ----- day of the month of ----- of the year -----

Schedule 7
Relating to rule 43
Oath

I ----- do solemnly swear in the name of God that I shall discharge the functions assigned to me as ----- and those to be discharged by me pursuant to law honestly and to the best of my be knowledge and wisdom being loyal to the country, Crown adds duty m without fear, partiality or enmity and being free from geed, avarice and favor. I shall not disclose any matter related with debt recovery known to me in the cause of discharging may duties to any authorized person directly or indirectly in any case whether I hole or case to hold office, except cases where such disclosure is required by law.

Signature -----

Name -----

Address -----

Date -----

Person certifying that it is true that oath has been taken-

Signature -----

Name -----

Designation -----

Date -----