

Legal Aid Act, 2054 (1997)

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Amendment Act:

1. Some Nepal Acts Amendment Act, 2055

2055.10.17(Jan. 31, 1999)

Act no. 16 of the Year 2054

An Act made to provide for managing the Legal Aid

Preamble : Whereas, it is expedient to make legal provisions regarding legal aid for those persons who are unable to protect their legal rights due to financial and social reasons to provide for equal justice to all according to the Principle of Rule of Law.

Now, therefore, be it enacted by Parliament on the twenty- sixth year of reign of His Majesty the King Birendra Bir Bikram Shah Dev.

1. **Short Title and Commencement**: (1) This Act may be called "Legal Aid Act, 2055 (1997)."

(2) Section 1 of this act shall come into force immediately whereas other Sections of this Act shall come into force in the specified regions from the specified date after the notification published in Nepal Gazette by Government of Nepal.

2. **Definitions**: In this Act, unless the subject and context otherwise requires:

(a) "Legal Aid" means Legal Aid to the indigent person under this Act and the term also includes counseling and other legal services such as correspondence pleadings, preparation of legal documents and proceedings in the courts or offices on behalf of indigent person.

(b) "Central Committee" means Central Legal Aid Committee constituted pursuant to Section 6.

(c) "District Committee" means District Legal Aid Committee constituted pursuant to Section 7.

- (d) "Court" means that court or offices where the party in litigation requiring Legal Aid is in proceedings and the term also includes authority or office empowered in litigation or other proceeding.
- (e) "Specified" or "As specified" means specified or as specified in the Rules made under this Act.

3. **Person authorized for Legal Aid:** (1) A person having less than the specified annual income shall only be entitled to Legal Aid under this Act.

(2) The Concerned Committee shall be authorized to grant or deny Legal Aid to a particular person.

(3) The Concerned Committee while deciding for Legal Aid shall consider and discourage unnecessary harassment to other and tendency towards litigation on baseless ground.

4. **Reimbursement of the expenses of Legal Aid:** (1) A Party in Legal Aid has to reimburse the expenses of the concerned committee as prescribed to the Committee if he/she receives any property or economic gain in consequences of receiving Legal Aid.

Provided that, if it is found unfair to the party for reimbursement, the concerned committee shall waive partially or fully the expenses to the party.

(2) The court in its order may direct the party in litigation for reimbursement of expenses to the concerned committee on the expenses made in course of legal aid and such direction shall be implemented in accordance with prevailing laws.

5. **Panel of Lawyers and Remuneration:** (1) The Concerned committee shall prepare separate lists of panel of Lawyers from among the members of Nepal Bar Association for each different subject or nature to provide legal aid to the indigent person.

Provided that,

- (1) At the certain district where the bar unit of Nepal Bar Association has not been constituted non-member lawyers of Nepal Bar

Association from such district may also be listed in the panel of lawyers to provide Legal Aid.

- (2) Concerned committee of one district while constituting panel of lawyers may also list the lawyers of another district with the consent of concerned lawyer in case of non-availability of appropriate lawyer in the district for a related subject or nature of the cases.

(2) Lawyers listed in the panel of lawyers pursuant to Sub-section (1) shall be authorized to provide legal aid to the indigent person.

(3) Concerned committee shall have power to list the name of certain lawyer in the panel or exclude the name of certain lawyer from the panel pursuant to Sub-section (1).

Provided that, the concerned lawyer may file complain as specified against the exclusion of his/her name from the panel.

(4) Concerned committee shall provide remuneration as specified to the lawyer providing legal aid.

6. Constitution, functions, duties and powers of central Legal Aid Committee:

(1) A Central Legal Aid Committee shall be constituted for making necessary arrangements to provide legal aid to the indigent person and the committee shall comprised of the following members:

- | | | | |
|-----|--|---|------------------|
| (a) | Law and Justice Minister | - | Chairman |
| (b) | Chairperson, Nepal Bar Council | - | Member |
| (c) | President, Nepal Bar Association | - | Member |
| (d) | One Legal expert nominated from
Central Committee | - | Member |
| (e) | Secretary Nepal Bar Association | - | Member Secretary |

(2) The tenure of member nominated pursuant to Sub-section (1) of Clause (d) shall be of three years.

(3) Functions, duties and powers of Central Committee shall be as follows:

- (a) To determine Programme and policy of Legal Aid,

- (b) To supervise and control the performance of District Committees and provide necessary directives to such committees,
- (c) To provide grant to District Committee for Legal Aid,
- (d) To make necessary arrangement of funding for Legal Aid,
- (e) To make a panel of lawyers to represent at Supreme Court on behalf of indigent person for providing Legal Aid,
- (f) To make arrangement to publish and distribute introductory booklets, pamphlet, hand outs relating to law and Legal Aid to aware general public and make or cause to make arrangement for research for the same,
- (g) To constitute different committees as required and specify functions, duties and powers of the committees for the purpose of Legal Aid,
- ** (h)
- (i) To appoint required staffs for Central Committee.
- (j) To delegate some authority out of the powers entrusted to the committee to any such committee or any staff of central committee constituted under this Act.
- (k) To conduct other functions as prescribed to fulfill the objectives of this Act.

(4) The procedure relating to the meeting of the Central Committee shall be as prescribed.

7. Constitution, functions, duties and powers of District Legal Aid Committee:

(1) The District Legal Aid Committee for each district shall be constituted comprising of the following members to provide legal aid to indigent person at the district level and also list a panel of lawyers for the purpose of providing legal aid to the indigent person.

** Deleted by Some Nepal Acts Amendment Act, 2055 (1999)

- (a) Government Attorney of the Government Attorney office where the Appellate Court located, or District Government Advocate where such Appellate Court is not located - Chairperson
- (b) President of superior Bar Unit among the Bar Association Units at the District - Member

Provided that, President of the District Bar Association shall be the member for the purpose of Kathmandu District.

- (c) Two lawyers nominated from District Committee from among the lawyers of the district - Member
- (d) Secretary of Superior Bar Unit among the Bar Association Units located in that District - Member Secretary

Provided that, Secretary of District Bar Association shall be the member-secretary in case of Kathmandu District.

(2) The tenure of the members pursuant to part (c) of sub-section (1) shall be of 3 years.

(3) The other functions, duties and powers and procedure of the meeting of the District Committee shall be as prescribed.

8. Legal Aid Fund : (1) There shall be a fund for the functioning of the Legal Aid and the fund shall have the following money:

- (a) Money received from Government of Nepal as grant.
- (b) Money received as grant, aid, subscription from an individual, Association or institution.
- (c) Money received from other sources.

(2) The operation of fund pursuant to Sub-section (1) shall be as prescribed.

9. Account and Auditing : (1) The Central Committee and District Committee shall have to maintain the book of account of income and expenditure in the format as prescribed in prevailing laws.

(2) The Auditing of the income and expenditure of Central Committee and District Committees shall be made by the Office of the Auditor General.

10. Provision of Staffing: (1) Staffs may be appointed at Central Committee and District Committee as required.

□□(1a) The Central Committee may appoint a person who holds at least a Bachelor Degree in Law, as an office Secretary. Until such appointment is made, on the request of Central Committee, the Government may depute a Gazetted officer to work as an Office Secretary.

(2) Notwithstanding anything contained in Sub-section (1), the District Committee shall obtain approval of Central Committee beforehand to appoint a staff.

(3) The remuneration, condition of the services and facilities of a staff appointed pursuant to Sub-section (1) shall be as determined by the Central Committee.

11. Provision of Copies of Document: The Court shall provide the copies of document to the staffs and lawyers involved in the services of Legal Aid without charging fee as prescribed in prevailing law.

12. Power to Frame Rules: (1) The Central Committee may frame necessary Rules to implement the objectives of this Act.

(2) The Rules framed pursuant to Sub-section (1) shall come into force after it is approved from the Ministry of Law and Justice and Published in Nepal Gazette.

□□ Inserted by Some Nepal Acts Amendment Act, 2055 (1999)

Note: Date of commencement of Section of the Act and District:

1. Section 6 and 12 of the Act commence from dated 2055.1.26 as per the notice of Nepal Gazette dated 2055.1.21
2. Other all Section commence on the following district from 2055.7.23 as per the notice of Nepal Gazette dated 2055.7.23
(1) Sunsari (2) Bara (3) Dolakha (4) Palpa and (5) Banke.
3. Other all Sections commence on the following district from 2056.11.7 as per the notice of Nepal Gazette dated 2056.11.7
(1) Sarlahi (2) Dhading and (3) Gulmi
4. Other all Sections commence on the following district from 2058.1.1 as per the notice of Nepal Gazette dated 2057.12.20
(1) Kanchanpur (2) Kaski (3) Makwanpur (4) Dhanusa and (5) Jhapa.
5. Other all Sections commence on the following district from 2060.9.1 as per the notice of Nepal Gazette dated 2060.8.22
(1) Ilam (2) Morang (3) Parsa (4) Mahotari (5) Kavrepalanchok (6) Rupandehi
(7) Dang (8) Syangja (9) Kailali and (10) Doti
6. Other all Sections commence on the following district from 2060.9.1 as per the notice of Nepal Gazette dated 2060.8.22
(1) Panchthar (2) Udayapur (3) Sindhuli (4) Chitwan (5) Nawalparasi (6) Baglung (7) Parbat
(8) Arghakhachi (9) Pyuthan and (10) Dadeldhura