

NATIONAL JUDICIAL ACADEMY ACT, 2063 (2006)

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Act no 24 of the year 2063 (2006)

An Act Made to Provide for the Management of National Judicial Academy

Preamble :Whereas, it is expedient to establish and operate the National Judicial Academy for the purpose of enhancing capacity and professional competence and for conducting study and research in the field of law and justice,

Now, therefore, the House of Representative has enacted this Act in the first year of the Parliamentary Declaration 2063(2006 AD).

CHAPTER-1

PRELIMINARY

1. **Short title and commencement:** (1) This Act may be called as "National Judicial Academy Act 2063 (2006)".

(2) This Act shall be meant to have come into force on 24th day of Bhadra of the year 2063 B.S. (Sept 9, 2006)

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

- (a) "Academy" means the National Judicial Academy established under Section 3.
- (b) "Council" means the Judicial Academy Council constituted under Section 6.
- (c) "Committee" means the Executive Committee established under Section 9.
- (d) "Executive Director" means the Executive Director appointed or deputed under Sub-section 2 of Section 17.
- (e) "Judicial Body" means all such bodies established under prevailing law such as the court, special court, tribunal or bodies responsible for making judicial decision and this expression also includes other bodies which are related to the field of law and justice.

- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules and bylaws made under this Act.

CHAPTER -2

ESTABLISHMENT OF THE NATIONAL JUDICIAL ACADEMY

3. **Establishment of National Judicial Academy:** (1) For the purpose of enhancing competence and professional development of judges, government attorneys, personnel and law practitioners working in the judicial bodies and, also for undertaking study and research in the field of law and justice, National Judicial Academy has been established.
- (2) The Head Office of the Academy shall be situated in Kathmandu and if it so determines the Academy may open branch office outside of the Kathmandu valley.
4. **Academy to be an autonomous Corporate body:** (1) The Academy shall be an autonomous and a corporate body with perpetual succession.
- (2) The Academy shall, for its activities, have its own separate seal.
- (3) The Academy may acquire, possess, sell or otherwise manage any movable and immovable property as a person.
- (4) The Academy may sue or be sued by or against its name as a person.
5. **Functions, Duties and Powers of the Academy :** The functions, duties and power of the Academy shall be as follows:
- (a) To organize and conduct trainings, conferences, workshops, seminars, symposia, interaction program and any other such types of activities for the purpose of enhancement of the work efficiency and professional skill of judges, government attorneys, personnel engaged in judicial bodies and law practitioners.
- (b) To undertake study and research in the field of law and justice and publish the research report and materials.
- (c) To render or cause to render the service of consultancy and information on various subject pertaining to law and justice.

- (d) To co-ordinate with the Supreme Court, Judicial Council, Judicial Service Commission and Nepal Bar Council for purpose of enhancement of work efficiency and professional skill of judges, Government attorneys, personnel and private law practitioner engaged in judicial bodies.
- (e) To organize or conduct trainings, conference, workshop, seminars and symposia for the personnel performing legal task in Quasi-Judicial bodies.
- (f) To provide help to relevant body about the reforms required for correcting the drawbacks, weakness and mistakes identified in the field of law and justice.
- (g) To make acquainted with, to the human resource engaged in the judicial bodies, the novel technology and use thereof, developed in the field of law and justice.
- (h) To tie up the judicial training programme with the judicial administration as its integral part.
- (i) To tie up the judicial training programme with the objects making justice prompt, simplified and easily available to all.
- (j) To tie up the training with the career development by enhancing the knowledge and skill in relation to the procedure of law-drafting, judicial administration, justice dispensation and execution of the verdict.
- (k) To run programme in order to develop the law practice as the competitive, competent, service oriented and effective legal profession.
- (l) To organize seminars, symposia, conferences and workshops by making participation of the experts of the concerned fields for the purpose of resolving the problems seen in the field of law and justice.
- (m) To make the training program standard and effective by making contact with the judicial training institutions of other countries.
- (n) To work as the liaison with Government of Nepal and International organizations and agencies on matters relating to the training program to be

conducted in the field of law and justice for enhancement of ability and competency.

- (o) To conduct or cause to conduct programme as required in collaboration with the Government of Nepal, National or International organization for capacity enhancement and professional development of Judges, officials and lawyers working in judicial bodies.
- (p) In order to provide support to run and develop the programme of the Academy, the Academy shall work to make means and resources available from the government of Nepal, foreign government, international agency, and institution or individual.
- (q) To organize study tours of foreign judicial bodies or training institutes and foreign training programmes, seminars and workshops etc for the purpose of enhancing professional skill of judicial human resource.
- (r) To carry out or cause to be carried out the other functions as prescribed.

CHAPTER- 3

PROVISION RELATING TO THE COUNCIL

6. Constitution of the Council (1) A Judicial Academy Council shall be constituted for working as the Apex body of the Academy.

(2) The Council shall be comprised of the followings:

- (a) Chief Justice - Chairperson
- (b) Minister for Law, Justice and Parliamentary Affairs - Member
- (c) Vice-Chair, National Planning Commission - Member
- (d) Two person from among the sitting Justices of Supreme Court - Member
- (e) Attorney General, Office of the Attorney General - Member
- (f) One person from among the retired Judge of the Supreme Court - Member

- (g) Dean, Law Faculty, Tribhuvan University - Member
- (h) One Judge from among the sitting Judges of Court of Appeal - Member
- (i) One person among those who is professor of law and having at least Five year's teaching experience - Member
- (j) President, Nepal Bar Association - Member
- (k) One Judge from among the District Court Judges - Member
- (l) Three persons representing women, ethnic community and dalit from among persons and, after graduating in law have working for fifteen years in field of law and justice - Member
- (m) Executive-Director - Member-Secretary

(3) The members pursuant to Clauses (d), (f), (h), (I) and (k) shall be nominated by Chief Justice and members pursuant to clause (l) shall be nominated by the government of Nepal. The tenure of such member shall be for a period of two years from their appointment.

(4) The Council if it deems necessary, may invite a person having expertise in the field of law and justice to participate at its meeting as an observer.

7. Meeting of the Council: (1) The meeting of the Council shall be held at least twice a year.

(2) The Member-Secretary of the council shall call the meeting of the Council as directed by the chairperson of the Council.

(3) The member-Secretary of the Council shall make available the notice regarding the calling of the meeting along with the agenda to be discussed at the meeting in advance of seven days at minimum.

(4) The Chairperson shall preside over the meeting of the Council and in his/her absence, a member selected from among the members themselves present at the meeting shall preside over the meeting.

(5) The quorum for holding the meeting shall be deemed as adequate in case more than fifty percent of total members existed at that time are present.

(6) The decision at the meeting shall be taken on the basis of majority votes and in case of a tie the person presiding over the meeting shall exercise his/her casting vote.

(7) The member secretary of the Council shall authenticate the minutes of the meeting.

(8) Other procedures of the meeting of the Council shall be as determined by the Council itself.

8. Powers, functions and duties of the Council: The powers, functions and duties of the council shall be as follows:

- (a) To formulate policies as regards to training and research programme to be conducted by the Academy,
- (b) To approve the long-term plan of the Academy,
- (c) To approve the annual programme and budget of the Academy,
- (d) To evaluate the activities conducted by the Academy,
- (e) To frame Rules of the Academy and to approve bye laws,
- (f) To carry out other functions as prescribed by the Council itself.....

CHAPTER -4

PROVISION RELATING TO THE COMMITTEE

9. Formation of the Executive Committee : (1) For the purpose of carrying out the functions as the executive body of the Academy there shall be an executive committee.

(2) The formation of the committee shall be as follows:

- (a) Executive Director - Chairperson
- (b) Secretary, Ministry of Law, Justice and Parliamentary Affairs - Member
- (c) Secretary, Judicial Council - Member
- (d) Registrar, Supreme Court - Member
- (e) Senior most Deputy Attorney General, Office of the Attorney General - Member

- (f) Secretary, Nepal Bar Association - Member
- (g) One Senior employee of the Academy - Member-
nominated by the Committee - Secretary

(3) The Committee may, if it seems necessary, invite any expert working in the field of law and justice to attend its meeting as an observer.

10. Meeting of the Committee : (1) The meeting of the Committee shall be held as per required.

(2) The member-secretary of the Committee shall call the meeting of the Committee as directed by the chairperson of the Committee.

(3) The member secretary of the Committee shall make available the notice regarding the calling of the meeting along with the agenda to be discussed at the meeting in advance of three days at minimum.

(4) The quorum for holding the meeting shall be deemed as adequate in case more than fifty percent of total members existed for the time being are present.

(5) The chairperson shall preside over the meeting of the Committee and in his/her absence, a member selected from among the members themselves present at the meeting shall preside over the meeting.

(6) The decision at the meeting shall be taken on the basis of majority votes and in case of a tie the person presiding over the meeting shall exercise his/her casting vote.

(7) The member-secretary of the Committee shall authenticate the minutes of the meeting.

(8) Other procedures of the meeting of the Committee shall be as determined by the Committee itself.

11. Powers, Functions and Duties of the Committee shall be as follows:

- (a) To draft the long term plan of the Academy,
- (b) To draft the policies as regards to judicial training and research to be conducted by the Academy,

- (c) To draft annual program and budget of the Academy and submit it to Governing Council,
- (d) To conduct research and training programme of the Academy and to provide consultancy service,
- (e) To evaluate or to cause to be evaluated the training programmes conducted by the Academy,
- (f) To make arrangement for exchange of service with experienced personalities of various faculties in order to make the training programme more functional and practical,
- (g) To carry out or cause to carry out other functions as prescribed.

CHAPTER – 5

PROVISION RELATING TO THE TRAINING PROGRAMME

- 12. To determine the Training program and scope:** (1) The Academy as per requirement in consultation with other judicial bodies shall determine the training programme and scope to that effect.
- (2) The Academy shall determine the scope of training, evaluation criteria, training material and syllabus on the basis of training programme and scope formulated pursuant to Sub- section (1).
- 13. Evaluation of training programme :** (1) With the help from expert, the Academy from time to time shall monitor and evaluate the effectiveness of the training programmes conducted by it.
- (2) The Academy on the basis of the evaluation made pursuant to Sub-section (1) after making review of its training program and policy may redesign or reform on the same.
- 14. Training method:** Considering the subject of training and group of trainees, the Academy may adopt the useful and effective modern training method.
- 15. Arrangement of Training material:** The Academy may make arrangement of necessary and appropriate training material for the training programmes.

16. To prepare the panel of instructors: (1) The Academy shall prepare the panel of instructors on the basis of subject and sector and shall make arrangement for providing training on subject matter relating to law and Justice.

(2) While preparing the panel pursuant to Sub-section (1), the Academy shall prepare separate list on the basis of subject-wise and scope-wise.

(3) The Academy shall make the panel list prepared pursuant to Sub-section (1) up to date from time to time.

CHAPTER – 6

PROVISION RALATING TO

EXECUTIVE DIRECTOR AND PERSONNEL

17. Appointment of Executive Director : (1) There shall be an Executive Director as the Executive Chief of the Academy.

(2) Chief Justice of Supreme Court on the recommendation of Judicial Council shall appoint at the post of Executive Director from the sitting Chief Judge or other judge of Court of Appeal or person already worked as the Justice of the Supreme Court or a Chief Judge of the Court of Appeal or a person who deserves qualification to become a Judge of Court of Appeal having the ability on management, research and training.

(3) The tenure of the Executive Director shall be for the maximum period of four years and may be eligible to be re-appointed for one additional term if his/her performance is deemed satisfactory.

Provided that, the sitting Judge designated to work in the post Executive Director may be send back to the post of a Judge on the recommendation of the Judicial Council before the termination of his/her tenure.

(4) Remuneration, facilities and other terms and conditions of service of the Executive Director shall be as prescribed.

18. Removal of Executive Director from the office : (1) In case the Council feels that Executive Director is not performing his/her duty honestly and efficiently or he/she is found engaged in misconduct, Chief Justice, on the recommendation of

Judicial Council may remove the Executive Director from his office prior to expiration of his/her term.

Provided that, before removing the Executive Director from his/her office he /she shall be provided a reasonable opportunity to submit his/her clarification.

(2) Notwithstanding anything contained in Sub-section (1), the action to be taken to the Executive Director designated from the sitting judge, shall be in accordance with the law relating to his/her terms of services.

19. Powers, function and duties of the Executive Director: The powers, functions and duties of the Executive Director shall be as follows:

- (a) To implement or cause to be implemented the decisions and directives of the council and committee.
- (b) To prepare or to cause to be prepared the long- term plan, annual programme and budget of the Academy,
- (c) To submit the progress report of the Academy before the committee and the council.
- (d) To do or cause to do internal evaluation and inspection of the training programme conducted by the Academy,
- (e) To carry out other works as prescribed.

20. A judge of Court of Appeal or District court may be appointed on deputation:

As per the request of the Academy, a judge of Court of Appeal or District Court may be appointed on deputation in the Academy as Trainer or Researcher or Analyst for a specified period of time on the request of Council.

21. Provision relating to the staff of the Academy : (1) There shall be staffs in the Academy as prescribed.

(2) Appointment, salary and terms and conditions of service and powers, functions and duties of the staff shall be as prescribed.

(3) On the request of Academy, the employee from Nepal Judicial Service may be deputed in the Academy for a fix term.

CHAPTER – 7

PROVISION RELATING TO FUND AND AUDITING

22. **Fund of the Academy** : (1) There shall be a separate fund of the Academy and the following moneys shall be deposited in the fund:
- (a) Money to be received as grants from Nepal Government,
 - (b) Money to be received as grant assistance from any foreign government or international institutions or agencies,
 - (c) Money to be earned for rendering consultancy services,
 - (d) Money to be received through sale of publications of the Academy,
 - (e) Money to be received from any other sources.
- (2) Prior to receiving money pursuant to Clause (b) of Sub-section (1), the Academy shall have to obtain approval of Nepal Government.
- (3) Money of the fund shall be deposited any bank by opening the account.
- (4) Money to be required for running the Academy shall be borne from the fund pursuant to Sub-section (1).
- (5) Operation of the account of the fund of the Academy shall be done as prescribed.
23. **Accounts and Auditing** : (1) Book of income and expenditure of the Academy shall be kept as required by the prevailing law.
- (2) Auditing of the Academy shall be done by the Auditor General.

CHAPTER – 8

MISCELLANEOUS

24. **Formation of sub-committee and task force** : (1) The Academy may form sub-committee or working group as required for performing tasks pursuant to this Act.
- (2) Powers, functions and duties of and facilities to be provided to the members of the Sub-Committee to be formed pursuant to Sub-section (1) shall be as prescribed.
25. **To publish the Annual Report** : (1) Every year the Academy shall publish in its annual report.

(2) The report prepared pursuant to Sub-section (1) shall contain *inter alia* the programmes conducted by the Academy in the previous year, money received by the Academy from various resources, statement of cost and expenses incurred in each programme separately, cost incurred on conducting the training programmes, evaluation of achievement attained from various programmes conducted by the Academy, and recommendations for reforms.

26. Delegation of power : (1) The Academy as it requires may delegate all or any of the powers vested on it pursuant to this Act to the board or Executive Directors.

(2) The committee as it requires may delegate all or any of the powers vested on it under this Act to the sub-committee formed pursuant to Section 24, executive director or any other official.

(3) The Executive Director as it requires may delegate any of his/her power vested on him/her pursuant to this Act to an Officer subordinate to him/her.

27. Contact with Nepal Government : The Academy while making contact with Government of Nepal shall contact through the Ministry of Law, Justice and Parliamentary Affairs.

28. Power to frame Rules: For the purpose of carrying out the objectives of this Act, the Academy may make the required Rules.

Provided that, the Academy shall obtain concurrence from Government of Nepal while framing Rules pertaining to remuneration, facilities which has impact of financial burden to Government of Nepal.

29. Effect of the Annulment of the National Judicial Academy Ordinance, 2062: With the National Judicial Ordinance, 2062 (2005), being inoperative, unless a different intention appears, the inoperativeness shall not:

- (a) revive anything not in force or existing at the time at which the Ordinance became inoperative;
- (b) affect the matter in operation as per the Ordinance or anything duly done or any punishment suffered thereunder;

- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Ordinance;
- (d) affect any penalty, punishment or forfeiture incurred under the Ordinance;
- (e) affect any action or remedy made or taken in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced as if the Ordinance were in force.