

## **Nepal Special Service Act, 2042 (1985)**

Date of Authentication and Publication

2042-5-12 (28 August 1985)

### **Amendments,**

1. Nepal Special Service  
(First Amendment) Act, 2047 (1991) 2047-12-29 (12 April 1991)
2. Republic Strengthening and Some  
Nepal Laws Amendment Act, 2066 (2010)<sup>1</sup> 2066-10-7 (21 Jan. 2010)  
Act Number 9 of the Year 2042 (1985)

### **An Act made to provide for provisions relating to Nepal Special Service**

**Preamble:** Whereas, it is expedient to constitute Nepal Special Service and to provide for provisions on condition of said service for maintaining security of Nepal.

Now, therefore, be it enacted by His Majesty the king Birenda Bir Bikram Shah Dev on advice and with consent of *Rastriya Panchayat*.

1. **Short Title and Commencement:** (1) This Act may be called "Nepal Special Service Act, 2042 (1985)".  
(2) It shall come into force immediately.
2. **Definition:** In this Act, unless the subject or context otherwise requires;  
(a) "Service" means Nepal Special Service to be constituted pursuant to Section 3.

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<sup>1</sup> This Act came into force on 15 *Jestha* 2065 and "Prasasti" and the word "Kingdom" has been deleted.

<sup>2</sup>(b) "Office" means National Investigation (intelligence) Department established pursuant to Section 4 and any regional, zonal and district office under the said Department.

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

3. **Constitution of Nepal special service:** (1) The Government of Nepal may constitute Nepal Special Service.

(2) The constitution of Nepal Special Service and other procedure relating to it shall be as prescribed.

<sup>3</sup><sup>4</sup> **Establishment of Office:** (1) National Investigation Department shall be established under the Ministry of Home Affairs to operate service related functions.

(2) Regional, zonal and district office, as may be required, may be established under the supervision and control of National Investigation Department established pursuant to Sub-section (1).

(3) *Nepal Janasamparka pradhan karyalaya* (Nepal Public Relation Head Quarters) established before the commencement of this Act and offices there under shall be deemed to have been transformed in to the National Investigation Department and sub-ordinate offices, as the case may be.

5. **Functions, duties and powers of office:** The functions, duties and powers of office shall be as prescribed.

<sup>4</sup>5A. **Necessary powers may be exercised in the course of investigation:**

(1) The Government of Nepal may cause the National Investigation Department to investigate the matters which it deems necessary.

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<sup>2</sup> Amended by First Amendment.

<sup>3</sup> Amended by First Amendment

(2) In the course of investigation to be made by the National Investigation Department pursuant to Sub-section (1) the investigating officer may exercise powers of police conferred pursuant to Police Act, 2012.

(3) If any irregularity is found through the investigation carried out by National Investigation Department pursuant to Sub-section (1) the Government of Nepal shall prosecute against concerned person in accordance with the prevailing law.

<sup>5</sup>5B. **Duty to extend co-operation:** It shall be duty of government office or person to co-operate the employee, who shows identity card of office, in the course of discharging his/her office related function.

6. **Appointment and Condition of Service of employee:** Appointment, transfer, promotion removal from the Service and other conditions of service of employee of the Service shall be as prescribed.

7. **Saving:** (1) Except in the offence punishable pursuant to Section 9, no employee of the Service or person deputed in the function of Service shall be questioned by any body, authority or court as to when and to whom he/she submitted the information collected in the course of discharging his/her duty or what information was collected by him/her, nor shall be produced before the said organization (body, authority or court) in this regard.

(2) No one shall be compelled to submit or express confidential document of office to any other body, authority or court other than authorized official.

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<sup>4</sup> Inserted by First Amendment.

<sup>5</sup> Inserted by First Amendment.

8. **Prohibited function:** (1) No employee of Service shall abuse his/her office nor shall any person deputed in the function of the Service act in contravention of his/her duty.

(2) No employee of the Service or a person deputed in the function of the Service shall breach confidentiality of Service related function in any way when he/she is in the Service or during in the function of the Service or even after removal or discharge from the Service.

9. **Penalty:** An employ of the Service or a person deputed in the function of the Service who acts in contravention of this Act shall be liable to an imprisonment for a term not exceeding Ten years or a fine up to Ten Thousand Rupees or the both<sup>6</sup> depending on the gravity of offence and if he/she has caused any loss or damage of property, the amount of loss or damage shall be recovered upon making auction of his/her movable and immovable property. If such property is not sufficient for compensation he/she shall be imprisoned in accordance with prevailing law for the dues as if he/she fails to pay fine.

10. **Power to try case:** (1) The court constituted or prescribed by the Government of Nepal upon publishing a Notification in Nepal Gazette shall have power to try a case under this Act.

(2) A court pursuant to Sub-section (1) shall follow the procedures as referred to in Special Court Act, 2059.

Provided that notwithstanding anything contained in Clause (e) of Section 7<sup>7</sup> of Special Court Act, 2059 or in other prevailing law in respect of holding a person under detention, if there is a reasonable reason to keep an accused in custody for trial, the court may order to hold such accused under detention for trial upon setting out the statement of government

<sup>6</sup> Amended by First Amendment.

<sup>7</sup> Amended by Republic Strengthening and Some Nepal Laws Amendment Act, 2066

attorney in this regard, if any. In case an accused is so detained, no complaint shall be lodged upon raising a question against the said order.

(3) An appeal may be filed before Supreme Court against the judgments or final order made by the Court pursuant to Sub-section (1) and such appeal shall be heard and decided by a bench of at least three judges.

11. **In camera hearing**: The trial and appeal of a case filed pursuant to this Act shall be heard and decided in camera.
12. **Power to frame Rules**: The Government of Nepal may frame necessary Rules to carry out the objectives of this Act and such Rules shall not be published for Public.

NEPAL LAW COMMISSION