

Poverty Alleviation Fund Act, 2063 (2006)

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Act Number 17 of the year 2063 (2006)

An Act made to establish and operate Poverty Alleviation Fund

Preamble: Whereas, it is expedient to provide for legal provisions to establish and operate a Fund related to poverty alleviation, for causing to implement various programmes related to poverty alleviation through active participation of poor and backward class of society and to alleviate poverty from the country by providing grant and necessary assistance to the institutions involved in the activities for poverty alleviation.

Now, therefore, be it enacted by the House of Representatives in the first year of the issuance of the proclamation of the House of the Representative 2063.

Chapter- 1

Preliminary

1. **Short title and Commencement:** (1) This Act may be called "Poverty Alleviation Fund Act, 2063 (2006)."
(2) This Act shall be deemed to have been commenced on 28th Shrawan 2063 (13 August 2006).
2. **Definition:** Unless the subject or context otherwise requires; in this Act;
 - (a) "Fund" means Poverty Alleviation Fund established pursuant to Section 3.
 - (b) "Poverty alleviation programme" means the programme pursuant to Section 6.

- (c) "Poor" means a person or a group remained below the national or regional poverty line prescribed by Nepal Government as per necessity from time to time under the set standard; remained backward on the basis of human development indicators such as education and health etc; and excluded from the national development process on the grounds of particular gender or social group.
- (d) "Partner organization" means the local Bodies constituted under the Local Self-Governance Act, 2055 and this term also includes any other institution established under the prevailing law for the purpose of conducting poverty alleviation programme.
- (e) "Community organization" means the community based organizations having the objectives of poverty alleviation which are registered pursuant to Section 10 on the basis of the criteria set by the Fund.
- (f) "Social mobilization" means the process, to make the poor of particular group or community action oriented in order to improve their own livelihoods by increasing their awareness ; to enable them to participate in decision making process in organized or collective way and to build up their skill and capacity.
- (g) "Committee" means the Board of Governors of the Fund constituted pursuant to Section 11.
- (h) "Chairperson" means the Chairperson of the Committee.
- (i) "Vice-chairperson" means the Vice-Chairperson of the Committee.
- (j) "Member" means a member of the Committee and this term also includes the Chairperson and Vice-Chairperson of the Committee.
- (k) "Executive Director" means the Executive Director of the Fund appointed pursuant to Section 19.
- (l) "Staffs" means staffs of the Fund.

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

Chapter-2

Establishment, objectives, functions, duties and powers of the Fund

3. **Establishment of the Fund**: (1) A Fund called 'Poverty Alleviation Fund' shall be established.
- (2) The central office of the Fund shall be located in Kathmandu valley and the Fund may establish its other offices in any place within Nepal as per necessity.
4. **Fund to be an autonomous institution**: (1) The Fund shall be an autonomous and a corporate body with perpetual succession.
- (2) The Fund shall, for its activities, have its' own separate seal.
- (3) The Fund may acquire, possess, sell or otherwise manage any movable and immovable property as good as a person.
- (4) The Fund may sue or be sued by or against its name as good as a person.
5. **Objectives of the Fund**: The objectives of the Fund shall be as follows;
- (a) To uplift economic and social status of the poor person, household or community through social mobilization; to ensure their access in the service and facility what they need and to enable them to utilize it; and to cause to build up their capacity so that they can exercise their right, claim and power by making them active in the decision making process of the local development fund.
- (b) To cause to conduct the programme of economic, social and physical infrastructure by identifying economically or socially backward person, household or community and who are remained below the

poverty line for uplifting their economic and social status and for enhancing their capacity.

- (c) To co-operate the poor person household or group for uplifting their economic and social status by identifying the root causes of poverty in local level and by utilizing the local know-how and resources through the medium of social mobilization.
 - (d) To maintain or cause to maintain co-ordination between partner organization.
 - (e) To supply economic and technical support for mobilizing the resource for poverty alleviation and for institutional development thereof.
6. **The programmes to be conducted by the Fund:** Basically the following programmes, as per local demand, shall be conducted to achieve the objectives of the Fund;
- (a) The programme relating to income generation, skill development, employment creation and growth and production growth such as agriculture, livestock, aviculture, sewing, cottage and small industry based on local resources and raw materials.
 - (b) The programme relating to Primary Health, literacy, technical education, employment training for youth, small irrigation, small bridge, suspension bridge, drinking water, sanitation, rural road, rural energy and environment to render support for poverty alleviation as per necessity.
 - (c) Construction programme for small scale infrastructures identified by the community.
 - (d) The programme relating to training, seminar, field visit etc which builds up the capacity of the person, household, community institution and staffs involved through the medium of social mobilization in the programmes which develop the working method

for conducting poverty alleviation programme through the partner organization.

7. **Functions, duties and powers of the Fund:** The functions, duties and powers of the Fund shall be as follows;-

- (a) To approve the policy, plan and programme related to the operation and management of the Fund,
- (b) To approve annual and periodical programme and budget of the Fund and to manage or cause to manage for necessary fund, (c) To prepare poverty alleviation programmes and to mobilize partner organizations for conducting such programmes (d) To prepare criteria and procedure for providing grant and assistance in order to conduct poverty alleviation programmes and to provide grant and assistance accordingly,
- (e) To set poverty indication criteria and indicators for particular place, region, person, household or community and to conduct poverty alleviation programmes accordingly and to evaluate the outcome,
- (f) To carry out or cause to carry out regular follow-up and evaluation of poverty alleviation programme conducted upon taking grant or support from the Fund.
- (g) To approve the plan and programmes submitted to the Fund.
- (h) To cause to carry out the annual audit of the Fund.
- (I) To submit an annual report, on the works that the Fund has performed, to the Nepal Government.
- (j) To approve organizational structure of the Fund and to create necessary posts and seats for human resources accordingly.
- (k) To perform other necessary works to achieve the objectives of the Fund.

Chapter -3

Sources of Fund, it's mobilization and management

8. **Fund may manage for financial sources:** (1) The Fund may, to conduct the programmes pursuant to its' own objectives; manage for donation, grant and other financial resources from Nepal Government, governmental and non-governmental institutions, international institutions or agencies or persons.

Provided that, prior to receiving money from foreign government or institution, international institution or agency or foreign person, the Fund shall have to obtain approval of the Government of Nepal.

(2) The government of Nepal shall, upon including the amount to be provided for the Fund pursuant to Sub-section (1) by the Government of Nepal, foreign government or institution, international institution or agency or foreign person as donation or grant in its' budget, provide such amount to the Fund as a grant.

9. **Mobilizing partner organization:** (1) The Fund, for conducting poverty alleviation programmes may mobilize selected partner organizations by providing them grant or assistance as prescribed
10. **Mobilizing community organization:** (1) The Fund, as per necessity, may, for conducting the programmes in order to achieve the objectives pursuant to this Act, mobilize community based organizations which conduct poverty alleviation programmes and have met the standard set by the Fund.

(2) The Organization which intends to be mobilized pursuant to Sub-section (1) shall register its name in the Fund, in the manner, as prescribed.

(3) The Fund may, in order to conduct poverty alleviation programmes pursuant to Sub-section (1), provide grant or assistance as prescribed by the Fund to the community organizations.

Chapter-4

Formation, functions, duties and powers

of the Board of Governors

11. **Formation of the Board of Governors:** (1) There shall be a Board of Governors to operate, supervise and manage all the business to be performed by the Fund to carry out its' objectives.
- (2) The Board of Governors shall consist of the following members;
- (a) Prime- Minister - Chairperson
 - (b) A person nominated by the Government of Nepal as referred to in Section 12 from amongst the persons who have rendered a conspicuous contribution in the field of poverty alleviation in national level along with having at least seven years of experience in the said field after obtaining, at least a Master's degree Vice-Chairperson
 - (c) Secretary, secretariat of Nation Planning Commission -Member
 - (d) Chairperson, Association of District Development Committees - Member
 - (e) Chairperson, Association of Village Development Committees - Member
 - (f) Chairperson, National Women Commission -Member
 - (g) Chairperson, National *Dalit* Commission -Member
 - (h) Five persons including at least a woman nominated by the Government of Nepal from amongst the persons who hold reputation in national life after having rendered a

significant contribution in the field of
poverty alleviation and from amongst the
persons of group or region which is not
properly represented in national life - Member

(3) The government of Nepal shall, while nominating a Member pursuant to Clause (h) of Sub-section (2), nominate from amongst the persons who have rendered a contribution of at least Seven years in the field of poverty alleviation after having obtained a Masters degree.

(4) The tenure of office of a Member nominated pursuant to Clauses (b) and (h) of Sub-section (2) shall be Four years. He/she may be eligible for re- nomination.

(5) The Government of Nepal shall, while nominating a member pursuant to Clauses (b) and (h) of Sub-section 2, nominate from amongst apolitical and professional persons.

(6) The Fund may, as per necessity, invite the person related to poverty alleviation activities and the experts of concerned subject matter in the meeting of Committee to take part as an observer.

(7) The Committee may, as per necessity, constitute an Advisory Committee of the representatives from concerned organization in order to coordinate programmes related to the mobilization of external resource and means and to make more effective to the poverty alleviation programmes.

(8) The Executive Director of the Fund shall be the Secretary of the Committee.

12. **Selection Committee**: (1) There shall be a Selection Committee to recommend the Government of Nepal for the purpose of nominating the Vice-Chairperson pursuant to Clause (b) of Sub-section (2) of Section 11 and the Committee shall consists of the following Coordinator and Members;

(a) Vice-Chairperson of the National

planning Commission - Coordinator

- (b) A person nominated by the Government of Nepal from amongst the experts related to poverty alleviation sector - Member
- (c) Chief-Secretary of the Government of Nepal - Member

(2) The Committee pursuant to Sub-section (1) shall, while making recommendation to the Government of Nepal for nominating the Vice Chairperson, recommend the name of Three persons.

(3) The Government of Nepal shall nominate a person for Vice-Chairperson from amongst the Three persons recommended by the Selection Committee under Sub-section (2).

(4) The Selection Committee may determine itself the process, to be followed by the Committee for making recommendation in order to nominate Vice-Chairperson and the procedure related to its' own meetings.

13. **Meetings of the Committee and minutes:** (1) The meetings of the Committee shall be held at least for Six times in a year on the date, time and venue as fixed by the Chair -Person.

Provided that, the interval between Two consecutive meetings shall not be more than Two months.

(2) The Secretary of Committee shall provide the notice of the meeting along with the agenda to be discussed at the meeting to every member before at least Seven days of the meeting.

(3) The Chairperson of the Committee shall preside over the meetings of the Committee and in his/her absence the Vice-Chairperson shall chair the meeting of the Committee.

(4) It shall be deemed to have achieved the quorum for holding the meeting if more than Fifty percent of the total members of the Committee are present in the meeting.

provided that, the attendance of at least Seventy Five percent members shall be necessary for the meeting to be held for the discussion in the issues of long- term and short- term Plan, Annual Programme and Budget of the Fund.

(5) The Majority opinion shall prevail over the meeting of the Committee and in case of tie the person who presides over the meeting of the Committee shall exercise his/her casting vote.

(6) The Secretary shall authenticate the minutes of the Committee.

(7) The other procedures related to the meetings of the Committee shall be as determined by the Committee itself.

14. **Vacation of the seat of a member:** (1) The office of a member nominated pursuant to Clauses (b) and (h) of Sub-section 2 of Section 11 shall deem vacant in any of the following circumstance;

- (a) if he/she dies;
- (b) If his/her tenure of office expires;
- (c) If he/she resigns;
- (d) If he/she, without any information, absents from Three consecutive meetings of the Committee.
- (e) if a resolution, submitted by a member of the committee against him/her accusing that he/she has committed an act against the objectives of this Act or has been inactive to perform the business or has not cooperated to perform the business or has committed an act which causing loss or damage to the Fund or has acted against the policy and direction of the Fund or committees, is passed by more than Fifty percent members of the total Members of the Committee.

- (2) The procedures related to the submission of resolution, discussion and voting upon the resolution for the purpose of the Clause (e) of Sub-section (1) shall be as prescribed by the Committee.
15. **Business of the Committee shall not be invalid**: A business transacted by the Committee shall not be invalid on the mere ground of any error occurred in the formation of the Committee or any vacancies in the seat of its' Member.
16. **Sub-Committee may be formed**: (1) The Committee may, for conducting its' business, form Sub-committee as per necessity. (2) The function, duties, powers, terms of reference and procedure of the committee formed under Sub-section (1) shall be as determined by the Committee.
17. **Functions, duties and powers of the Chairperson**: The functions, duties and powers of the Chairperson shall be as follows;
- (a) To direct the Vice-Chairperson in order to conduct the programme of fund in effective manners,
 - (b) To perform or cause to perform any necessary works needed to conduct the Fund in effective manner.
18. **Functions, duties and powers of the Vice-Chairperson**: (1) The Vice-Chairperson shall be the Executive Chief of the Fund and he/she shall transact the business of the Fund as per the direction of the Chair-person.
- (2) Save as provided in Sub-section (1), the functions, duties and powers of the Vice-Chairperson shall be as follows;
- (a) To direct the Executive Director in the matter relating to the transaction of daily business of the Fund smoothly.
 - (b) To carry out or cause to carry out supervision, evaluation or inspection of the programme conducted by the Fund.

- (c) To cause to prepare the Annual Report of the Fund on time.
- (d) To perform or cause to perform the acts as prescribed to carry out the objectives of the Fund.

Chapter - 5

Provision relating to Executive Director and staffs

19. **Executive director:** (1) The Committee shall, for conducting the daily business of the Fund, appoint a person in the post of Executive Director on the basis of open competition from amongst the persons who have gained at least Seven years experience in the field of economic development or poverty alleviation after having obtained a Master's degree in Economics, Management or Sociology.
- (2) Notwithstanding anything contained in Sub-section (1), the Committee may, until the office of Executive Director is filled, appoint a person who has fulfilled the qualification as mentioned in Sub-section (1) in the post of Executive director for a maximum period of six months.
- (3) The tenure of office of the Executive Director shall be five years.
- (4) The remuneration, the condition and facilities of service of the Executive Director shall be as prescribed.
- (5) Notwithstanding anything contained in Sub-section (3), if an Executive Director commits an act causing loss or damage to the Fund or the charge of corruption against him/her is proved or he/she has acted against the policy or direction of the Committee, the Committee may, upon following the prescribed process, remove him/her from the office.
20. **The functions, duties and powers of the Executive Director:** (1) The functions, duties and powers of the Executive Director shall be as follows;
- (a) To implement or cause to implement the decision made by committee.

- (b) To prepare the long- term and short- term plan, annual programme and budget of the Fund and submit it to the Committee for its' approval.
- (c) To implement or cause to implement the plan and programme approved by the Committee.
- (d) To supervise and monitor the daily business of the Fund and to perform the act compatible to the objectives of the Fund.
- (e) To monitor poverty alleviation programme implemented in the donation and support of the Fund and to submit the progress report thereof to the Committee.
- (f) To prepare annual and periodical report of the programme conducted by the Fund and to submit it to the Committee.
- (g) To mobilize internal and external resource in order to manage the money needed for the Fund.

(2) Save as provided in Sub-section (1) the other functions, duties and powers of the Executive Director shall be as prescribed.

21. **Provisions relating to staffs:** (1) There shall be staffs as required to operate the business of the Fund smoothly.

(2) The staffs of the Fund shall be appointed in contract as prescribed.

(3) The remuneration, facilities and the conditions of the service of the staffs shall be as prescribed.

Chapter - 6

Fund and Audit

22. **Fund**: (1) The Fund shall have its' own y fund and the followings moneys shall be deposited on the fund;

- (a) The grant to be obtained from the Government of Nepal.
- (b) The money to be received from foreign government, national or international organization or institution or person as donation or grant.
- (c) The money earned from the movable or immovable property of the Fund.
- (d) Money to be received from any other source.

(2) The total amount to be received by the Fund pursuant to Sub-section (1) shall be deposited on the account opened in Nepal Rastra Bank (Central bank of Nepal) or in any commercial bank situated within Nepal.

(3) The total money to be expended by the Fund shall be charged on the fund pursuant to Sub-section (1).

Provided that, the ceiling of the operation cost of the Fund shall be Seven percent if the allocated amount for project and programme cost is up to Five Hundred Million, if the said allocation is more than Five Hundred Million and up to One Billion the said ceiling shall be either Thirty Five Million or Five percent which is maximum and if the said allocation is more than One Billion the said ceiling shall be either Fifty Million or Four percent which a maximum.

(4) The account of the fund shall be operated in such a manner as prescribed.

23. **Accounts and auditing**: (1) The account of the income and expenditure of the fund shall be maintained in such a manner as prescribed.

(2) The internal audit of the account of the fund shall be conducted by the Chartered Accountant registered pursuant to Nepal Chartered Accountants Act, 2053.

(3) The annual audit of the accounts of the fund shall be carried by the Auditor- General in a manner as determined by the law.

(4) The government of Nepal, if it wishes, may examine or cause to examine the annual accounts of the fund at any time.

Chapter-7

Miscellaneous

24. **A bar to involve in decision**: A member, the Executive Director or any staff shall not take part in the process of a decision related to a matter of his/her conflict of interest.
25. **Taking an oath**: Member, Executive Director or staff shall, before undertaking official job, take an oath of confidentiality and honesty.
26. **Annual Report**: (1) The Executive Director shall submit an annual report of the works of the Fund to the Committee within Six months from the end of every fiscal year. The Executive Director shall submit a copy of the said report approved by the Committee to the Government of Nepal.
- (2) The Annual Report to be submitted to the Committee pursuant to Sub-section (1) shall include, *inter alia*, the programmes conducted by the Fund throughout a year, the cost of amount of the said programmes, the operational cost of the Fund, outputs of the said programmes and the reforms to be made in future.
- (3) The Executive Director shall, upon taking approval from the Committee, publish and make public the annual report as referred to in Sub-section (2).
27. **Meeting allowances**: Member of committee shall be entitled to receive meeting allowances as prescribed.

28. **Orders or directives may be issued**: The Government of Nepal may, upon making an inquiry in to the works performed by the Fund or at any time what it deems necessary, issue necessary order or directives to the Fund in order to perform necessary works for carrying out the objectives of the Fund. It shall be the duty of the Fund to abide by the directives or order issued by the Government of Nepal.
29. **Co-ordination and follow up of the poverty alleviation Programmes**: (1) The Fund, while conducting the programme related to poverty alleviation pursuant to this Act, shall keep coordination with the Local Bodies constituted pursuant to Local Self-Governance Act, 2055.
- (2) The Fund may follow up the poverty alleviation programme conducted pursuant to Sub-section (1) itself or cause to follow up the said programme through the Local Bodies.
30. **Delegation of powers**: (1) The Committee may delectate any of the powers conferred on it pursuant to this Act to any Member, Sub-Committee formed pursuant to Section 16 or to the Executive Director as per necessity.
- (2) The chairperson as it requires may delegate any of his/her powers conferred on him/her pursuant to this Act to the Vice-Chairperson.
- (3) The Executive Director as it requires may delegate any of his/her powers vested on him/her pursuant to this Act to any officer staff.
31. **Transfer of property and obligation**: In the case of dissolution of entire property and obligation of the Fund shall be devolved to the Government of Nepal.
32. **Liaison with the Government of Nepal**: The Fund shall liaise with the Government of Nepal through the Office of Prime Minister and Council of Ministers.
- Provided that, for the daily administrative activities related with the Fund, the Fund may liaise with the concerned body directly.

33. **Power to frame Rules and Bye-laws:** (1) For the purpose of carrying out the objectives of this Act, the Fund may frame necessary Rules and such Rules shall come into force after being approved by the Government of Nepal.

(2) For the smooth functioning of its' business the Fund may, subject to the Rules made under Sub-section (1), frame necessary Bye-Laws.

34. **Effect of the inoperativeness of Poverty Alleviation Fund Ordinance, 2063:** With the poverty alleviation fund ordinance 2063 being inoperative unless a different intention appears, the inoperativeness shall not;

- (a) revive anything in force or existing at the time at which the ordinance became inoperativeness;
- (b) affect the matter in operation as per the ordinance or anything duly done or any punishment suffered there under;
- (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 aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced as if the ordinance was in force.