

Protection and Welfare of the Disabled Persons Act, 2039 (1982)

Date of Royal Seal and Publication

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Act No. 13 of the Year 2039 (1982)

Act Enacted to Make Arrangement of Protection and Welfare of the Disabled Persons

Preamble: Whereas it is expedient to protect and promote the welfare of the disabled persons, to remove the situation occurring disability by preventing the same and to make the disabled persons as capable member and actively productive citizens of the society by making necessary welfare arrangement of health, education, rearing, training of the disabled persons and their right to equality and employment also;

Now, therefore, His Majesty King Birendra Bir Bikram Shahdev has enacted this Act in consultation and consent of the National Panchayat.

1. **Short Title and Commencement:** (1) The name of this Act shall be "Protection and Welfare of the Disabled persons Act, 2039 (1982)".
(2) This Act shall come into force immediately.
2. **Definition:** Unless the subject or context means otherwise in this Act,-
 - (a) "Disabled Person" means a Nepali citizen who is physically or mentally handicapped or incapable to maintain normal daily life. The term also denotes one eyed, blind, deaf, dumb, half-dumb, feeble, crippled, lame, limping, handless or mentally handicapped person also.

- (b) "Helpless Disabled Person" means the disabled person who has not any property or nobody to rear and care and unable to maintain livelihood by his own employment.
- (c) "Disabled Persons Home" means the shelter where the arrangement of rearing and caring of the helpless disabled persons has been made.
- (d) "Social Welfare Officer" means the officer appointed or specified by the Government of Nepal under Section 18.
- (e) "Prescribed" or "As Prescribed" means prescribed or as prescribed in the Rules enacted under this Act.

3. Determination of Disability: (1) Definition of disabled person mentioned in clause (a) of Section 2 and determination of disability shall be made on the basis of the all-approved principles of medical science and the standard fixed in context of Nepal.

(2) In regard to the issue whether a person is disabled or not in accordance with subsection (1), the decision made by the doctor or committee prescribed or constituted for this purpose by the Government of Nepal shall be authentic.

Provided that, this Section shall not be deemed as obstructive to amend the matter through a notice published in the Nepal Gazette by the Government of Nepal as per the decision made by such prescribed doctor or constituted committee by giving due consideration to the international practice and the context of Nepal.

4. Protection of Welfare of the Disabled Persons: The Government of Nepal may make proper arrangement as per necessity to make available the necessary medicine and medical service for the purpose of treatment of disabled condition of the disabled persons, to minimize the adversity caused by the infirmity to the best of possibility, to make them obtain the accessories, equipments and tools necessary for achieving

capacity to work, to educationally, professionally, economically, physically, mentally and socially rehabilitate, to make available welfare aid and service and to fully get participated in the community on the basis of equality.

5. Right to Equality: (1) Any disabled person cannot be prohibited to enter any organization or club or community or function imparting education and training or organizing social or cultural program within Nepal merely on the ground of his disabled condition.

(2) No one can deprive of the political right and the right to economic and social security, prestigious livelihood, employment, involvement in a useful, productive and meaningful profession and human-suited prestige as enjoyed by the other persons.

(3) No one can discriminate a disabled person merely on the ground of his disable situation in appointing him to the government service or any other public service or deprive of appointment to a particular post or promotion or improvement or equal treatment.

Provided that this Section shall not be deemed as obstructive in the situation of being the act the appointment, promotion, improvement of a particular type of disabled, equal treatment inappropriate on the ground of nature of service or function for a particular type of service.

6. Arrangement of Education and Training: (1) If a disabled person has to be enrolled in an educational organization to obtain education, he shall not be levied fee from such educational organization.

(2) Necessary arrangement of appropriate training may be made for the teachers imparting education to the disabled persons.

(3) Special type of arrangement may be made to impart education to the blind, deaf and mentally handicapped persons.

7. **Arrangement of Health and Medical Treatment:** (1) The Government of Nepal may make necessary arrangement in regard to cure and recover the recoverable and curable disability and to protect, recover, control, eradicate and cure the disability by finding out the casual factors.

(2) The Government of Nepal may make necessary arrangement to make available the treatment necessary to reduce the different adverse effects of disability as far as possible and to provide the check-up and health service for that purpose.

(3) The Government of Nepal may make necessary arrangement of promotion in nutritious food, control or eradication of the disease caused by germs and prevention of accidents so as to remove the situation of causing disability as far as possible.

8. **Arrangement of Training and Employment:** (1) Necessary arrangement of appropriate training and employment may be made to make the disabled persons economically self-reliant. Arrangement to impart training that can be able to give appropriate returns of labour may be made in the situation suitable for their condition.

(2) Arrangement of involving the disabled persons in labour or employment system like open and self-reliant industries or rural employment through labour supply system may be made.

(3) Arrangement of providing additional facility to the disable laborers for at least normal livelihood may be made.

(4) A factory appointing the laborers more than twenty five persons may prescribe the quota no less than five percent of the total number of laborers to appoint the disabled persons in the suitable function on the basis of their physical capacity, training, qualification and experience. Such laborers shall obtain remuneration equal to other

laborers and the terms and conditions of service and opportunity of career development also shall be equal to the other laborers.

Provided that a factory may be exempted from such mandatory provision of this subsection in case the factory states the fact of existence of probability of loss in the health and other situation of disabled person in the case of appointing him and obtains prior approval of the Social Welfare Officer.

(5) Arrangement of providing the basic facility and protection like loan, availability of raw materials, market system etc. may be made for the purpose of operation of cottage and rural small scale industry to make arrangement of personal employment for the disabled persons only.

(6) Arrangement of making and causing to make study of the means of employment and livelihood for the disabled persons only and the feasibility of the facilities and privileges to be given for that purpose shall be made.

(7) Arrangement to be used the safety tools to protect the disabled person may be made while involving him in the function of any machine.

9. Priority to the Disabled Persons: While providing the facilities and privileges set forth in this Act and other that can be available, they may be provided by giving due consideration to the situation of a disabled person who is more disabled among the disabled ones.

10. Facilities and Privileges: (1) In case a houseless disabled person needs land for constructing a house or a disabled person needs land for agricultural enterprise, the land to be distributed by the Government of Nepal under the prevailing law or the land to be given for cultivation for the time being, may be made available subject to the prescribed terms and conditions.

(2) In case a disabled person desires to participate in the sports, recreation or cultural show etc., he may be given priority in the concerned organization in regard to impart proper training, teach and make arrangement for that purpose.

(3) Half of the passenger fare may be exempted to a disabled person while traveling by bus, rail or aero plane and to one more person in case the disabled person continuously needs support of another person.

(4) The Government of Nepal may fully or partially exempt the customs duty, excise duty, sales tax, local tax, surcharge and other fees also to be levied in the accessory means, tools or equipments to be used by disabled person and the goods, machine, part and raw materials to be used for the training of disabled person or for the employment of disabled person who is assigned in the employment.

Provided that such employer should be fully employer of disabled person.

(5) The Government of Nepal may exempt the income tax and all other types of taxes to the disabled person and the organizations established for rehabilitation of disabled persons or those used for implementation of that function. The disabled person and such organization needs not submit the statement of income tax when the disabled person submits certificate of his disability or the organization submits certificate of assignment in such service.

(6) The Government of Nepal may exempt the income tax at the rate as prescribed to a factory providing employment to the disabled persons in the ratio of disabled persons appointed by the factory. Permission may be granted to add the expenditure, incurred for the special change made in the machines of the factory or the parts and tools installed for appointing the disabled person, in the figure of exemption of income tax in the quantity as prescribed.

(7) Arrangement of making available credit in simple rate of interest from the bank or financial institution to the social organization, business or industrial enterprises who impart training for the disabled persons only or provide employment or make arrangement of employment may be made.

(8) Arrangement of disabled person's home for the residence of senior disabled person or helpless disabled person and recreation and the means to make easy pastime in such disabled person's home may be made.

(9) Arrangement of unemployment allowance, livelihood allowance, old age pension as prescribed for the disabled persons or special allowance for a disabled person unable to make livelihood by earning may be made.

(10) Arrangement of making reserved some seats for the disabled persons in the means of public transport may be made.

11. **Rearing and Caring of the Disabled Person:** The family members, guardian or successor shall take care and rear the disabled person.
12. **Duty of a Guardian and Doctor:** The guardian of a disabled person or the doctor making his medical check up, in the situation of realization of a person's disabled condition or the situation to be disabled, shall have duty to inform the nearest hospital or the place prescribed by the Government of Nepal, as soon as possible. Such hospital or doctor shall have duty to make medical treatment of such person on priority basis and in the case of not possibility of treatment there, to send with recommendation to the place where medical treatment is possible.
13. **Organ may be Donated:** A person, in case of his desire to donate any of his organ to a person or organization after his death, may donate by preparing a deed.

14. **Amount to be Allocated:** The factory or industrial enterprises or religious organizations shall allocate the prescribed percentage of their income for the purpose of protection and promotion of the disabled persons.
15. **Additional Arrangement Relating to the Leper Disabled Person:** No one shall hate a leper disabled person be deeming him as untouchable or on such ground. In the case of hating in any way or libeling and slandering by hurting the feeling of such diseased person on such ground, such person or other person responsible for such act can be punished as prescribed in this Act.
16. **Additional Arrangement for a Disabled Person with Mental Disorder:** (1) Arrangement of treatment of a disabled person with mental disorder may be made by keeping him in a hospital or care centre.
- (2) Notwithstanding anything written in the prevailing law, any person with mental disorder other than one being taken action or convicted of criminal offence under the prevails law, shall not be kept in the jail except for the purpose of his treatment or safety purpose.
17. **Offence Relating to Disabled Person and Punishment:** (1) No one shall knowingly make transaction or prepare a document on behalf of a disabled person by causing his harm.
- (2) No one shall make disabled anyone or make effort to make disabled either or not obtaining his consent with an objective of using him in begging or committing an immoral act or such other act.
- (3) No one shall use any disabled person in begging or committing an immoral act or such other act.
- (4) Any disabled person shall not be allowed to make livelihood by an immoral occupation or profession.

(5) A person committing any act restricted by this Act or making effort to do so or ordering to do so or helping to do so, shall be punished with an imprisonment for one year in the maximum or fine Rs. five thousand or both on condition to be added the punishment to be imposed by the prevailing law if any and to be carried on under this very Act in case of not being such provision.

(6) In addition to the punishment under subsection (5), in the case of creation of disabled situation of a sound person resulted by any act restricted in this Act or not doing any other function supposed to be done, appropriate compensation shall be made to be paid for medical treatment of such person and for his ordinary livelihood also in the future in the situation of his being unable to make livelihood by giving due consideration to the matter.

18. Administrative Arrangement Relating to Disabled Person: (1)

The Government of Nepal shall make arrangement relating to disability through the Ministry of Labour and Social Welfare (hereinafter referred as "Ministry").

(2) For the purpose of subsection (1), the Government of Nepal may appoint Social Welfare Officer in the District realized as necessary or the Government of Nepal may specify any Officer for that purpose.

(3) The Ministry shall register the name of the disabled persons throughout the country and shall maintain record as per their nature. The Ministry may publish by collecting the statistics in this regard in each five year.

(4) The Ministry shall make coordination in the program of the agencies relating to the disabled persons.

(5) The Ministry may make or cause to be made research of different technologies in regard to provide more facilities to the disabled persons and make them self-reliant.

19. To Be the State Case: The Government of Nepal shall be the plaintiff of the cases under this Act and the case shall be deemed of being included in schedule 1 of the State Case Act, 2017 (1960).

20. Planning of the Policy and Program Relating to Disabled Person: (1) The Government of Nepal, for the purpose of making arrangement of welfare, medical treatment and facilities and privileges of the disabled persons under this Act and making other arrangements also as found necessary, shall prepare planning of necessary policy and program by making consultation with the Social Service National Coordination Council. The Government of Nepal, for the purpose of such planning, may obtain opinion of other agencies and social organizations also. The social organizations and associations shall be encouraged to implement such plan.

(2) The concerned agency of the Government of Nepal shall have responsibility to implement and cause to be implemented the plan prepared under subsection (1) and the Ministry shall be responsible to supervise the same.

21. Relation with the Helpless Service Coordination Committee:

(1) The Ministry, while implementing the plan relating to the disabled person under Section 20, shall work by making close contact with the Helpless Service Coordination Committee.

(2) The Ministry, having contacted with the Helpless Service Coordination Committee if deems appropriate, may hand over some functions out of those as per the plan, to be implemented through the local bodies or social welfare organization or the organizations established in regard to the welfare of the disabled persons.

(3) The Ministry shall make necessary arrangement and effort so as to coordinate and collect the national or international resources needed or available for the function relating to the disabled persons. The

Ministry shall make available the cash or goods or service obtained from such resources to the Helpless Service Coordination Committee or the concerned organization or Office as per necessity.

22. **Delegation of Power:** The Government of Nepal may delegate some of the power conferred by this Act to the Social Welfare Officer or other staff or any organization to be used subject to the prescribed terms and conditions.
23. **The Government of Nepal may Issue Order or Direction:** The Government of Nepal, for the purpose of making arrangement of protection and welfare of disabled persons under this Act, may issue any order or direction to the Social Welfare Officer or other staff or any office or organization and all the concerned shall have duty to abide by such order or direction.
24. **Right to Frame Rules:** The Government of Nepal may frame necessary Rules to implement the objectives of this Act.
25. **Saving:** Matter written in this Act or the Rules framed under this Act or order or direction issued under Section 23 shall be carried on accordingly and other matters shall be carried under the prevailing law.