

The Social Security Act, 2075 (2018)

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Act Number 19 of the year 2075

An Act Made to Provide for Social Security

Preamble:

Whereas, it is expedient to make necessary provisions on the protection of the right to social security of the indigent citizens, incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who are unable to take care themselves and citizens belonging to the tribes on the verge of extinction, in accordance with the Constitution;

Now, therefore, be it enacted by the Federal Parliament.

Chapter-1

Preliminary

- 1. Short title and commencement:** (1) This Act may be cited as the "Social Security Act, 2075 (2018)."
(2) This Act shall commence immediately.
- 2. Definitions:** Unless the subject or the context otherwise requires, in this Act, -
 - (a) "Incapacitated and helpless" means those persons who are indigent economically and incapacitated to make labor physically or mentally, and have no family members for maintaining and taking care of them.
 - (b) "Citizens with disabilities" means those persons referred to in Section 8, who have long-term physical, mental, intellectual or sensory disabilities or functional impairments or existing barriers that may hinder their full and effective participation in social life on an equal basis with others.
 - (c) "Helpless single women" means the women referred to in Section 7, who have no basis, income source or property for making the life, are incapacitated and helpless having income less than that specified by the Government of Nepal by publishing a notice in the Nepal Gazette.
 - (d) "Indigent" means those persons who earn income less than that specified by the Government of Nepal by publishing a notice in the Nepal Gazette.
 - (e) "Citizens unable to take care themselves" means the persons who are certified by the medical doctor that they are in a condition of being unable to take care

themselves due to suffering from diseases such as Alzheimer's, Parkinson's, spinal cord injury, brain hemorrhage, mental retardation, paralysis, sickle cell anemia, mental unsoundness and autism.

- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.
- (g) "Tribes on the verge of extinction" means the tribes referred to in the Schedule.
- (h) "Persons entitled to social security" means the Nepali citizens who are entitled to social security allowance pursuant to this Act.
- (i) "Social security" means cash, allowance or support to be provided to the citizens entitled to social security pursuant to this Act.
- (i) "Local Level" means the Rural Municipality or Municipality.

Chapter-2

Social Security

3. Entitlement to social security: (1) The following Nepali citizens shall have the right to get the social security allowance:

- (a) Senior citizens,
- (b) Indigent,
- (c) Incapacitated and helpless persons,
- (d) Helpless single women,
- (e) Citizens with disabilities,
- (f) Children,
- (g) Citizens unable to take care themselves.

(2) The allowances to be distributed pursuant to sub-section (1) shall be distributed in the name of social security.

4. Senior citizen allowance: (1) The Dalit and single women senior citizens, after completing the age of sixty years, and other senior citizens, after completing the age of seventy years, shall get the senior citizen allowance as prescribed by the Government of Nepal, as the social security allowance.

(2) Notwithstanding anything contained in sub-section (1), the Government of Nepal may, by specifying any certain area, provide such allowance also the senior citizens who are living in such area and have not completed the age referred to in sub-section (1).

5. **Destitute citizen allowance:** The destitute citizens shall get the destitute citizen allowance in a sum as specified by the Government of Nepal as the social security allowance as prescribed.
6. **Incapacitated and helpless allowance:** The citizens who incapacitated and helpless shall get the incapacitated and helpless allowance in a sum as specified by the Government of Nepal as the social security allowance as prescribed.
7. **Helpless single woman allowance:** (1) The following helpless single women who have completed the age of sixty years shall get the helpless single woman allowance in a sum as specified by the Government of Nepal as the social security allowance as prescribed:
 - (a) Who have not had second marriage after getting divorced,
 - (b) Widows,
 - (c) Who are living upon getting legal separation,
 - (d) Unmarried.(2) Notwithstanding anything contained in sub-section (1), even the helpless single women referred to in clauses (a), (b), and (c) of sub-section (1), who have not completed the age of sixty years, have no source of income to make a living, have income less than that fixed by the Government of Nepal and cannot labor shall get such a facility.
8. **Disability allowance:** The citizens with total disability shall get the disability allowance in a sum specified by the Government of Nepal as the social security allowance.
9. **Child nutrition allowance:** (1) The children who are extremely destitute, on the verge of extinction and such children who have not completed the age of five years as specified by the Government of Nepal shall get the child nutrition allowance in a sum specified by the Government of Nepal as the social security allowance.
 - (2) The procedures for providing the child nutrition allowance pursuant to sub-section (1) to the children shall be as prescribed.
10. **Tribe on the verge of extinction allowance:** (1) The citizens belonging to the tribes on the verge of extinction shall get the social security allowance specified by the Government of Nepal.
 - (2) The procedures for providing the allowance to the tribes on the verge of extinction pursuant to sub-section (1) shall be as prescribed.

11. Care allowance for those who are unable to take care of themselves: (1) The citizens who are unable to take care of themselves shall get the social security allowance specified by the Government of Nepal.

(2) The procedures for providing the allowance to the citizens who are unable to take care of themselves pursuant to sub-section (1) shall be as prescribed.

12. Application to be made: (1) A person who is entitled to get the social security allowance pursuant to Section 3 shall make an application to the Local Level concerned to get the social security allowance referred to in this Act.

Provided that, on behalf of the person who cannot make application himself or herself, his or her guardian curator or caretaker may make such application.

(2) While making an application pursuant to sub-section (1) for the social security allowance receivable by the children pursuant to Section 9, evidence of the record of birth registration shall also be submitted.

(3) In cases where an application is received pursuant to sub-section (1) or (2), the Local Level shall make decision by taking necessary action within seven days.

(4) While taking action pursuant to sub-section (3), if it appears that the applicant is not entitled to the social security allowance, information thereof in writing, setting out the reason, shall be given to the applicant.

(5) The format of application referred to in sub-section (1) and documents to be attached therewith shall be as prescribed.

(6) A person who does not wish to receive the social security allowance pursuant to this Section shall make a self-declaration that he or she will not receive the social security allowance and give information to the concerned Local Level.

(7) In cases where any citizen does not wish to receive the social security allowance pursuant to sub-section (6), the concerned Local Level shall honor such a person by maintaining the records thereof.

13. Not to get double social security: (1) In cases where any citizen is entitled to more than one kind of social security allowances pursuant to Section 3 of this Act, he or she shall get only one social security allowance chosen by him or her.

(2) In cases where any citizen is entitled to the same kind of facility pursuant to this Act and the prevailing law, he or she may get only one of the facilities chosen by him or her.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the children who have got allowances under the other prevailing laws may also get the allowance referred to in Section 9.

14. To get facilities under the prevailing law: (1) Notwithstanding anything contained in Section 13, this Act shall not bar the person who is entitled to the social security allowance pursuant to this Act from receiving other kinds of social security to be receivable under the prevailing law.

(2) Except in cases where the families of the martyrs who have sacrificed their lives, of the persons subjected to enforced disappearance, warriors of democracy, persons with disabilities, and those injured and victims, in the course of popular movement, armed conflict and revolution having taken place for a progressive democratic change in Nepal have got the social security pursuant to the prevailing law, they shall get the security or honor as prescribed.

(3) The Government of Nepal may adopt a unified system on the provision of the social security allowance to be provided pursuant to this Act and other social security to be provided pursuant to the prevailing law.

15. Not being entitled to social security allowance: The following persons shall not get the social security allowance referred to in this Act:

- (a) The persons who are appointed, elected, nominated for any government or public offices,
- (b) The persons who are receiving pension from a government fund,
- (c) The persons who are regularly receiving remuneration, pension, retirement facility and other incentives in any other manner.

16. Identity card: (1) The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance pursuant to this Act.

(2) The identity of the guardian, curator or caretaker of the person entitled to get the social security allowance shall also be set out in the identity card to be given pursuant to sub-section (1).

(3) The Local Level shall review, and update the records of, the identity cards relating to disabilities every year.

(4) Other provisions relating to the identity cards to be given pursuant to sub-section (1) shall be as prescribed.

(5) The citizens who have not got the identity cards pursuant to sub-section (1) shall not get the social security allowance.

- 17. Distribution of social security allowance:** (1) The Local Level shall distribute the social security allowance on the basis of the identity cards referred to in Section 16.
- (2) The process and modes for the distribution of social security by the Local Level pursuant to sub-section (1) shall be as prescribed.
- (3) The payment of the social security allowance shall be made only through the banking system in such area and from such date as specified by the Government of Nepal by publishing a notice in the Nepal Gazette.
- 18. To maintain records:** (1) The Local Level shall maintain records of social security distributed pursuant to this Act, in the prescribed format.
- (2) The Local Level shall send the description of the distribution of social security to the concerned body of the Government of Nepal in such format and with such period as prescribed.
- (3) Other provisions relating to the management of records referred to in sub-section (1) shall be as prescribed.
- 19. To delete the name of person entitled to social security:** (1) The Local Level shall delete the name of a person who has got the social security allowance from its records in any of the following conditions:
- (a) Where the person entitled to the social security allowance has migrated to elsewhere,
 - (b) Where the helpless single woman has got married,
 - (c) Where the person has been disqualified to get social security pursuant to this Act,
 - (d) Where the person has died,
 - (e) In such other conditions as prescribed.
- (2) In cases where the person entitled to the social security allowance pursuant to clause (a) of sub-section (1) is to migrate to another place, the Local Level concerned shall mention that description in the identity card.
- 20. To manage budget by the Government of Nepal:** (1) The Government of Nepal shall have the obligation of the social security allowance pursuant to this Act.
- (2) Additional social security allowance shall not be so distributed by the Provincial and Local Governments under the respective headings that it is in overlapping (duplication) with the social security allowance to be distributed by the Government of Nepal.

Chapter-3

Offences and Punishment

- 21. Offences and punishment:** (1) In cases where a person does any of the following acts, he or she shall be deemed to have committed the offence under this Act:
- (a) Taking the social security allowance by lying the description,
 - (b) Taking the social security allowance contrary to this Act or the Rules framed under this Act,
 - (c) Misusing the social security allowance received by any person or using it against his or her interest, by his or her guardian, curator or caretaker or other person,
 - (d) Misusing of the social security allowance by the official who distributes the social security allowance,
 - (e) Submitting a false description or making a false recommendation.
- (2) In cases where a person commits any of the offences referred to in clauses (a), (b), (c) and (e) of sub-section (1), the person shall be liable to a fine that is equal to the claimed amount, after recovering the amount taken by him or her who commits such offence.
- (3) In cases where a person commits the offence referred to in clause (d) or makes a false recommendation under clause (e) of sub-section (1), the concerned official shall be punished under the prevailing law.
- 22. To make complaint:** Any person may make a complaint on the offence under this Act to the Judicial Committee of the concerned Local Level.
- 23. To try cases:** (1) The Judicial Committee of the Local Level concerned shall try and settle the cases other than that referred to in clause (d) of sub-section (1) of Section 21 under this Act.
- (2) The Judicial Committee shall try and settle the case referred to in sub-section (1) within one hundred and twenty days from the date of its filing.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), in cases where a complaint related to the offence referred to in clause (d) of sub-section (1) of Section 21 is made, such a complaint shall be sent to the body concerned for necessary action.
- 24. Appeal:** A person who is not satisfied with the decision made by the Judicial Committee pursuant to Section 23 may make an appeal to the District Court within thirty-five days from the date of receipt of information of such decision.

25. **Punish imposable under the prevailing law:** In cases where any act deemed to be an offence under this Act is also deemed to be an offence under the prevailing law, nothing contained in this Act shall be deemed to bar from instituting and proceeding the case under the prevailing law on such an offence.

Chapter-4

Miscellaneous

26. **Provision relating to monitoring:** The provisions relating to the management of records of the persons who get social security and monitoring of the distribution of allowances shall be as prescribed.
27. **Power to establish care center:** The Government of Nepal, Provincial Government or Local Level may establish and operate care centers, as prescribed, for taking care of the orphan children, incapacitated and helpless persons, persons with disabilities and senior citizens.
28. **To make report:** Every Local Level shall provide description of the distributed social security allowance to the Government of Nepal and the concerned Provincial Government on a four-monthly basis.
29. **Power to frame Rules:** The Government of Nepal may frame necessary Rules in order to implement this Act.
- Provided that nothing herein contain shall prevent the provision of such social security allowances as being distributed by the Government of Nepal until the Rules have been framed under this Act.
30. **To make directives and procedures:** The Ministry of the Government of Nepal looking after the matters relating to federal affairs may make necessary directives and procedures, subject to this Act and the Rules framed under this Act, on the distribution of the social security allowance.
31. **Power to alter the Schedule:** The Government of Nepal may make necessary alteration in the Schedule, by publishing a notice in the Nepal Gazette.
32. **This Act to prevail:** The matters contained herein shall be governed by this Act, and the other matters shall be governed by the prevailing law.

Schedule
Relating to clause (g) of Section 2
Tribes on the verge of extinction

- Kusunda
- Raute
- Hayu
- Kisan
- Meche
- Bankariya
- Surel
- Raji
- Lopcha
- Kuswadiya (Pattharkatta, Silkat, Kushbadhiya and Kuchbadhiya)