

**A Bill Made to Amend and Consolidate Laws
relating to Functions, Duties and Powers of the
Election Commission**

Certification date: 2063/12/12(March 26, 2007)

**An Act No. 1 of the Year 2063 (2007) enacted by the Legislative-
Parliament**

Preamble:

Whereas, it is expedient to amend and consolidate laws relating to the functions, duties and powers of the Election Commission;

The Legislative-Parliament has enacted this Act.

Chapter-1

Preliminary

1. Short title and commencement:

(1) This Act may be cited as the "Election Commission Act, 2063 (2007)".

(2) This Act shall come into force at once.

2. Definitions: Unless the subject or the context otherwise requires, in this Act,-

(a) "Constitution" means the Interim Constitution of Nepal, 2063 (2007);

(b) "Commission" means the Election Commission referred to in Article 128 of the Constitution;

(c) "Commissioner" means an Election Commissioner of the Commission, and this expression also includes the Chief Election Commissioner;

(d) "Election" means an election to the members of the Constituent Assembly to be constituted pursuant to Article 63 of the Constitution or such other elections as to be held by the Commission pursuant to the laws in force, and this expression also includes by-elections;

(e) "Voter" means a person whose name is registered in the Electoral Rolls pursuant to the laws in force;

(f) "Returning Officer" means the Chief Returning Officer or Returning Officer appointed by the Commission, and this expression also includes the Assistant Returning Officer;

(g) "Political party" means a political party registered for the purpose of election pursuant to Article 142 of the Constitution;

(h) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act or in the order issued by the Commission by a notification in the Nepal Gazette.

Chapter- 2

Functions, Duties and Powers of Commission

3. Establishment of Central Secretariat and Local Offices

of Commission: (1) There shall be a Secretariat of the Commission at the central level for the functions to be carried out by the Commission.

(2) The Commission may, as per necessity, establish its offices at the local level for the functions to be carried out by the Commission.

4. Meeting and decision of Commission:

(1) All functions required to be carried out by the Commission pursuant to the Constitution and the laws in force shall be carried out by the Chief Election Commissioner in the case where he or she alone exist in the Commission and by a decision of a meeting of Commissioners where they also exist.

(2) The Secretary at the Commission shall duly maintain the records of the decisions of the Commission.

(3) The Secretary at the Commission shall authenticate, and implement, or cause to be implemented, the decisions of the Commission.

(4) The rules of procedures on the meeting of the Commission shall be as determined by the Commission.

5. Provisions relating to employees:

(1) The Commission may create such positions of Chief Name Registration Officer, Name Registration Officer, Assistant Name Registration Officer and Electoral Rolls Enumerator for the preparation of voters lists, such positions of Chief Returning Officer, Returning Officer, Assistant Returning Officer, Polling Officer and Assistant Polling Officer for any act of election as deemed necessary and may appoint or designate other positions in such number as may be required.

(2) The Commission may depute or engage any employees of the Government of Nepal or of institutions owned or controlled by, or operated with the grants of, Government of Nepal or of Local Authorities or any teachers of community schools in any electoral acts.

(3) Any employee engaged in any act of election pursuant to sub-section (1) or (2) shall be deemed to be an employee of the Commission until the completion of the act of election; and notwithstanding anything contained in the laws in force, no competent authority shall, without the consent of the Commission, do anything adversely affecting the terms and conditions of service of such employee or disallow such employee to carry out the functions of the Commission or transfer him or her.

6. Power to seek assistance: (1) The Commission may make direct contact with any Ministry, Department or Office of the Government of Nepal or any Constitutional Body or any body owned or controlled by, or operated with the grants of, the Government of Nepal or any Local Authority and seek any kind of assistance from such body or authority for act of election.

(2) The Commission may seek necessary assistance from any private or public body or organization for act of election or get any act of election performed by such body or organization.

(3) The concerned body or organization or authority shall have the duty to prove the assistance as sought by the Commission pursuant to sub-section (1) or (2).

7. Monitoring:(1) The Commission may form teams, as prescribed, consisting of officials or employees of the Commission, employees of the Government of Nepal or experts, and monitor, or cause to be monitored,

any polling related to election or vote counting or any other acts and actions pertaining to act of election.

(2) In forming a team pursuant to sub-section (1), the Commission shall, based on the prescribed grounds, determine, *inter alia*, the election constituency to be monitored, procedures to be followed in monitoring and the time within which such team has to complete monitoring.

8. Permission for observation:(1) The Commission may give permission, based on experience in this field, reliability and the prescribed grounds, to any native or foreign person or organization to observe any polling related to election or vote counting or any other acts and actions pertaining to act of election.

(2) Any person or organization who has obtained permission pursuant to sub-section (1) shall make observation by fulfilling the procedures specified by the Commission for monitoring; and the Commission may cancel the permission of any person or organization who makes observation without fulfilling such procedures.

(3) Every person or organization who has obtained permission pursuant to sub-section (1) shall, on completion of the monitoring, submit a report thereof to the Commission.

(4) Every native or foreign person or organization having obtained permission for observation pursuant to this Section shall, in making observation, observe the code of conduct made by the Commission.

9. Power to use physical facilities:(1) The Commission may, as per necessity, and by giving a prior notice, obtain and use any land, building, conveyance, furniture or any other physical means and facilities belonging to the Government of Nepal or any body or

organization owned or controlled by the Government of Nepal or Local Authority, for the purpose of carrying out act of election.

(2) The Commission may, as per necessity, and by giving a prior notice, obtain and use any land, building, furniture or any other physical means and facilities belonging to any public organization or body or public or private school or college, for the purpose of carrying out act of election.

(3) The Commission may hire and use any land, building, conveyance, furniture or other physical means and facilities belonging to any person, non-governmental organization or body, for the purpose of carrying out act of election.

10. Power to remove from work: (1) If any employee who has been appointed or designated or deputed by the Commission to carry out an act of election pursuant to Section 5 commits any act prejudicial to the impartiality of election, the Commission may, assigning the reason for the same, remove such employee from the responsibility of carrying out such act.

(2) The Commission may give order to the security personnel deputed for security in connection with an election to do or refrain from doing any act, which is directly or indirectly related with the election. If the security personnel who have been so deputed in the act of election commit any act prejudicial to the impartiality of election, the Commission may, assigning the reason for the same, remove such personnel from the responsibility of carrying out such act.

11. Temporary positions and appointment of employees:

(1) The Commission may, in order to conduct and complete an act of election, create temporary positions giving facilities receivable by up to

the gazetted first class, in the required number for a period not exceeding six months.

(2) The Commission may extend the term of a position created pursuant to sub-section (1) for another period of up to six months at one time or at several times.

(3) The Commission may make appointment to any position created pursuant to sub-section (1) on permanent or contract or wages basis.

12. Power to procure service of expert: (1) The Commission may, as per necessity, procure the service of an expert in respect of an act of election.

(2) The terms of reference of, and remuneration for, the service of an expert procured pursuant to sub-section (1) shall be as determined by the Commission.

13. Power to provide facilities: (1) The Commission may provide the officials or employees involved in any act of election with such amount as may be determined by the Commission and also with such Tiffin and food allowance as well as overtime allowance in the event of getting them to work overtime.

(2) The Commission may, as per necessity, add such amount as may be determined by the Commission to the daily and traveling allowances receivable by the officials or employees engaged in any act of election, pursuant to the laws in force.

(3) The Commission may provide an addition allowance in such amount as may be determined by the Commission to the officials or employees engaged in any act of election until they are engaged in such act.

(4) The Commission shall procure insurance of such amount as specified by the Commission against accident of the officials, employees and security personnel engaged in any act of election during the election period.

Explanation: For the purposes of this sub-section, "election period" means the period from the date of filing of nomination papers by candidates to the date of declaration of election results.

14. Power to provide rent or compensation: (1) In cases where any land, building, conveyance, furniture or other physical means or facilities belonging to any person, organization or body has been used on hire basis pursuant to Section 9 by, or with the order of, the Commission in the course of any act of election, the Commission shall provide the rent of the land, building, conveyance, furniture or other physical means or facilities so used for that period.

(2) In cases where any land, building, conveyance, furniture or other physical means or facilities used by, or with the order of, the Commission in the course of any act of election has to be repaired due to wear and tear or compensation has to be provided for the same, the Commission may provide compensation in a reasonable amount according to the actual loss upon considering the amount that may be required for or has been incurred in doing such repair or required to be paid for compensation.

15. Power to make expenditure in election: (1) The daily allowances, traveling allowances, other allowances and facilities receivable under the laws in force by any employee deputed in any act of election may be credited and paid out at the very time of the deputation of such employee.

(2) Notwithstanding anything contained in the laws in force, the concerned employee shall not be required to submit bills and receipts showing expenditure of the amount which he or she has received pursuant to sub-Section (1).

(3) The expenditure required for the conduct of election shall be so credited as per the rate fixed by the Commission that the employee deputed in election may expend it.

(4) In respect of such amount, out of the amount referred to in sub-section (3), as may be specified by the Commission, the employee deputed in election shall not be required to submit bills and receipts, after his or her return upon the completion of the act for which he or she has been so deputed.

16. Power to procure goods: (1) Notwithstanding anything contained in the laws in force, if, while procuring goods in-kind or services required for an act of election, it is not possible to invite a tender in accordance with the laws in force, the Commission may procure the goods in-kind or services, through quotations and even directly from the market if it is not possible even to obtain quotations.

(2) Notwithstanding anything contained in the laws in force, if the Commission decides that it is not possible or practicable to invite tenders or quotations pursuant to the laws in force to procure the goods required for preparing Electoral Rolls, printing ballot papers required for the election or operating computers, printers or photocopy machines or spare parts thereof or software materials to be used therein and papers of special type, it shall not be required to invite such tenders or quotations.

17. Power to cancel election: (1) If a complaint is filed in the Commission claiming that any one has, by way of any kind of threat, intimidation, fear or terror or otherwise exercising undue influence, done any such act as to prejudice the freedom and impartiality of an act of election or polling in any election constituency or polling center or if the Commission receives information thereof from any source, the Commission may cause any Commissioner, Secretary or any other official authorized to inquire into the matter immediately.

(2) If the Commission is satisfied, from the report of inquiry held by the Commission pursuant to sub-section (1), that any act of election has not been free and impartial, it may, setting out the reasons for the same, cancel the election of that election constituency or the polling of any of or all polling stations of that election constituency.

18. To make decision as to disqualification of candidate:

(1) After the filing of nomination papers of candidates for an election but prior to the completion of the election, a complaint, accompanied by clear evidence, may be made with the Commission through the concerned Returning Officer that any candidate is disqualified or has become disqualified under Article 65 of the Constitution.

(2) If a complaint is received pursuant to sub-section (1), the concerned Returning Officer shall seek an explanation from such candidate in that respect, within a time-limit of seven days.

(3) On receipt of an explanation pursuant to sub-section (2), or where no explanation is received within the time limit, mentioning the same content, the concerned Returning Officer shall promptly send the complaint made pursuant to sub-section (1) and the documents pertaining thereto to the Commission.

(4) On receipt of the complaint and the documents pertaining thereto pursuant to sub-section (3), the Commission may, inquire the concerned candidates into any matter or require additional evidence from such candidate.

(5) The Commission shall hold necessary inquiries into a complaint and the attached documents received pursuant to this Section and make its decision as to the disqualification of a candidate no later than seven days from the date on which it receives the complaint from the Returning Officer pursuant to sub-section (3).

(6) Notwithstanding anything contained elsewhere in this Section, no proceedings of such election shall, in any case, be affected merely by the reason that the Commission has not made a decision as to the disqualification of any candidate pursuant to this Section.

Chapter-3

Provision for Registration of Political Party for Purposes of Election

19. Application required to be made for registration of political party for purposes of election: (1) Notwithstanding anything contained in the laws in force, any political party wishing to register its name for the purpose of election shall be required to submit to the Election Commission an application in fulfillment of the procedures specified by the Election Commission by a notification in the Nepal Gazette within the time limit specified in that notification.

(2) A political party making application pursuant to sub-section (1) shall also mention in the application that it has fulfilled or undertaken to fulfill the terms and conditions contained in the Constitution.

(3) While fulfilling the terms and conditions referred to in sub-section (2), a political party shall submit, *inter alia*, a memorandum bearing the signatures of at least ten thousand voters pursuant to clause (5) of Article 142 of the Constitution, and the Commission shall make verification of such signatures as prescribed.

Provided that this provision shall not apply to the parties representing to the Interim Legislative-Parliament.

(4) Notwithstanding anything contained elsewhere in this Section, a political party which has been registered once after the commencement of this Act shall not be required to get registered again for the purpose of an election to be held thereafter so long as its registration remains valid under this Act.

20. Registration of party: (1) On receipt of an application pursuant to sub-Section (1) of Section 19, the Commission shall, if it considers necessary to inquire into other matters about the political party, inquire into such matters and examine whether the procedures as referred to in the Constitution and this Act has been met or not, and register that political party if such procedures are found to have been met; and the political party so registered shall be considered to have obtained recognition for the purposes of election.

(2) If there is any reason for not registering any political party pursuant to sub-section (1), the Commission shall, setting out such reason, provide the concerned political party with a reasonable opportunity to submit its statements. Also taking into account the statements

submitted by such party where such opportunity has been given, the Commission shall decide whether or not to register that party; and the decision made by the Commission shall be final.

(3) If the Commission decides not to register any political party pursuant to sub-section (3), the Commission shall give information to the concerned applicant.

(4) If it appears that the name of two or more political parties making application pursuant to sub-section (1) of Section 19 is the same, the Commission may, in consultation with the concerned political parties, and in consonance with the opinion and advice of such political parties, to the extent possible, so register such political parties that they can have distinct identification.

(5) If, failing a consensus between any political parties, the party cannot be registered in consonance with the opinion and advice of such political parties pursuant to sub-section (4), the Commission may so register such political parties that they can have distinct identification.

(6) After registering the name of any political party pursuant to this Section, no other political party shall be registered by the same name.

21. Application by split political party for registration: If any political party registered pursuant to this Article is divided or split and at least forty per cent of the members of the Central Executive Committee of main party make an application, accompanied by an evidence showing the status of their membership, to the Commission for registration by the name of a separate party or for registration in a manner that the name of the same party can be identified as a separate group, the Commission may hold necessary inquiry into the matter and register such political party as a separate party.

22. Amalgamation of political parties: (1) If any two or more political parties registered pursuant to this Chapter shall, by consent, be united or amalgamated in the name of any already registered party or in a new name, and the members of the Central Executive Committee of the parties to be so united or merged make an application, setting out that matter, to the Commission, the Commission shall hold necessary inquiries into the matter register the form/structure of such unification or amalgamation as a separate political party or cancel the registration of the other political party by confirming any one political party.

(2) If at least forty per cent members of the Central Executive Committee of any party out of the parties to be united or amalgamated pursuant to sub-section (1), disagreeing to such unification or amalgamation, make a decision to keep on the then party and make an application objecting to the action as referred to in sub-section (1) prior to the date of declaration of the date of election, the Commission may, if it thinks appropriate or reasonable upon making necessary inquiry into the matter, retain the registration of such party, subject to Section 21.

(3) Where the registration of the political party is retained pursuant to sub-section (1) or (2), the Commission shall maintain records of the office-bearers of the Central Executive Committee of such parties.

(4) While confirming the members of the Central Executive Committee of any political party for the purposes of sub-section (1) and (2), the central committee existing immediately before the division of such party shall be taken into basis.

23. Publication of name-list of political party: The Commission shall publish in the Nepal Gazette a name-list of the political parties registered pursuant to this Chapter.

24. Provisions relating to cancellation of registration of political party :

(1) The Commission may, in any of the following circumstances, cancel the registration of any political party registered pursuant to this Chapter:

(a) If the concerned political party itself makes an application to the Commission for the cancellation of its registration;

(b) If it fails to furnish such details as required to be presented under the laws in force to the Commission for three consecutive years; or

(c) If it fails to fulfill such requirements as required to be fulfilled under the Constitution or the laws in force for the registration of a political party.

(2) Prior to the cancellation of registration in any other circumstance except those referred to in clauses (a) of sub-section (1), the Commission shall provide the concerned political party with a reasonable opportunity to furnish its statements.

(3) If such party does not furnish its statements within the time of opportunity provided pursuant to sub-section (2) or if the furnished statements do not appear reasonable, the Commission may cancel such registration.

(4) The Commission shall publish a notice of the cancellation of registration pursuant to sub-section (1) in the Nepal Gazette.

(5) The registration of such political party shall be deemed to have been canceled after the publication of the notice pursuant to sub-section (3).

25. Restriction on taking part in election without being registered: Any political party which is not registered under this Act shall not be allowed to take part in an election in capacity of such party.

Chapter - 4

Disputes Relating to Recognition of Political Party

26. Decision by Commission: (1) If any two or more than two groups related with any political party once registered with the Commission, claiming the name, constitution, election symbol or flag of that political party, makes an application to the Commission for having recognition pursuant to this Act, the Commission shall settle such dispute.

(2) While settling the dispute pursuant to sub-section (1), the Commission shall send a notice to the parties to such dispute to furnish their respective views within a time limit of fifteen days.

(3) The concerned parties to such dispute shall furnish their views within the time limit of the notice received pursuant to sub-section (2).

(4) While settling a dispute relating to any political party pursuant to this Section, the Commission may, in the event of an understanding reached following consultations with the parties to dispute, decide to give recognition to any party pursuant to such understanding and register the other party as a separate political party.

(5) If the parties to dispute fail to reach an understanding pursuant to sub-section (4), the Commission shall order such parties to submit to the Commission the grounds and evidence showing that they have been

using or are entitled to use the name, constitution, election symbol or flag as claimed by them.

(6) If, based on the grounds and evidence, if any, submitted pursuant to sub-section (5), there is adequate ground for giving recognition to any party, the Commission may decide accordingly; and if no such ground and evidence are submitted or if that matter cannot be ascertained from the grounds or evidence submitted, the Commission may give recognition to that party of dispute which has majority of office bearers and members out of the office-bearers and members of the Central Executive Committee whose names were submitted by such political party prior to making application pursuant to sub-section (1) and register the other party either as a separate political party or as a separate group of the same political party.

Provided that if there appears that none of the parties to dispute commands majority, no party shall be recognized.

27. Commission to make hearing: (1) Prior to settling a dispute relating to any political party pursuant to sub-section (6) of Section 26, the Commission shall establish a bench comprising the sitting Chief Commissioner and Commissioner of the Commission and hear the parties.

Provided that no act of hearing shall be deemed to be barred by the reason only that any Commissioner is not able to be present because of a reason beyond his or her control.

(2) The claiming party or opposite party may appoint its legal practitioner and make pleadings by such practitioner before the bench referred to in sub-section (1).

(3) In the course of conducting hearing pursuant to this Section, the Commission shall give a notice to the parties related with the dispute in advance of at least three days before the day for hearing. Where a notice is so given, representatives of the concerned parties can appear during hearing.

Provided that the act of hearing shall not be barred by the reason that no representative of the parties concerned is present.

(4) The Commission may procure such evidence as it considers necessary in the course of hearing pursuant to this Section.

(5) The Commission shall settle a dispute submitted to it within fifteen days after the date on which the concerned parties have furnished with the Commission their respective views pursuant to sub-section (3) of Section 26 or, where such views are not submitted, after the date on which the time limit for furnishing such views has expired.

(6) In hearing a dispute pursuant to this Chapter, the Commission shall exercise such powers as may be exercisable by a court.

(7) A decision made by the Commission pursuant to this Chapter shall be final.

Chapter - 5

Code of Conduct

28. Code of Conduct: (1) In order to maintain fairness, impartiality, transparency, and fearless environment, in any election, the Commission may make codes of conduct required to be abided by the Government of Nepal, offices and employees of governmental and semi-governmental bodies, employees engaged in the act of election, political parties,

candidates and persons related with them and the mass media at the governmental and private sectors. The Commission shall, while making such codes of conduct, make consultation with the concerned stakeholders.

(2) In making the codes of conduct under sub-section (1), the Commission may make such codes of conduct particularly on the matters restraining the Government of Nepal from declaring any new policy, plan and program, mobilizing human resources, means and resources and using governmental media for election canvassing in such a manner as to affect the fairness and impartiality of the election.

(3) The codes of conduct made by the Commission pursuant to sub-section (2) shall be published in the Nepal Gazette; and it shall be the duty of all the concerned to abide by such codes of conduct.

29. Implementation and monitoring of codes of conduct:

(1) The Commission shall make appropriate mechanism as prescribed at the district and election constituency levels, as required, and inquire into and monitor as to whether the codes of conduct to be made pursuant to Section 28 have been abided by or not.

(2) If, in the course of carrying out inquiry or monitoring pursuant to sub-section (1), it appears that any one has not abided by or has violated the code of conduct, the Commission shall order the concerned political party, candidate, person, organization, official or body to stop or invalidate such act immediately.

(3) The Commission may punish any political party, candidate, person, organization, official or body failing to stop or invalidate the act in pursuance of the order issued by the Commission pursuant to sub-section (2) with a fine not exceeding one hundred thousand rupees.

(4) If the Commission is satisfied that the election cannot be held in a free, fair and impartial manner by the reason that a candidate has frequently violated the code of conduct made by the Commission, the Commission may, assigning the clear reason and ground therefor, cancel the candidacy of such candidate. Prior to cancelling the candidacy, the concerned candidate shall be provided with a reasonable opportunity for defense.

Chapter - 6

Provisions Relating to Election Expenses

30. Power to specify ceiling of election expenses: (1) The Commission may specify the ceiling of expenses allowed to be incurred by political parties or candidates.

(2) The Commission shall publish in the Nepal Gazette the ceiling of expenses specified pursuant to sub-section (1).

(3) No political party or candidate taking part in the election shall make, or cause to be made, expenses in excess of the ceiling specified by the Commission.

(4) A person who has the obligation to submit returns of election expenses referred to in sub-section (1) shall submit the returns of election expenses to the concerned District Election Office, in the format prescribed by the Commission, within thirty-five days after the date of publication of the final results of election.

(5) The returns of election expenses submitted pursuant to sub-section (4) may be got audited by a recognized auditor on such conditions as specified by the Commission.

31. Punishment for making expenses in excess of specified

ceiling: (1) If any person makes expenses in excess of the ceiling specified by the Commission pursuant to sub-section (1) of Section 30 or fails to submit the returns of expenses within the period prescribed pursuant to sub-section (4) of the same Section, the Commission may punish such person with a fine of a sum which is equal to the election expenses made by such person or the ceiling of expenses specified by the Commission, whichever is the higher.

(2) If it appears from the audit report of the auditing, under sub-section (5) of Section 30, of the returns submitted pursuant to sub-section (4) of that Section, that the concerned person has made expenses in an unsuitable manner or in such a manner to prejudice the fairness of the election or in an undue or illegal manner for illegal purposes, the Commission may make a decision to disqualify such person for being a candidate in any election for a maximum period of six years with immediate effect.

(3) Prior to imposing a fine pursuant to sub-section (1) or making a decision pursuant to sub-section (2), the Commission shall provide the concerned person with a reasonable opportunity to defend him or herself.

(4) If the Commission makes a decision pursuant to sub-section (2), the election of such person, if he or she is an elected member, shall *ipso facto* be canceled.

(5) An appeal may be made to the Supreme Court against a decision made by the Commission pursuant to sub-sections (1), (2) and (4) within thirty five days after the making of such decision.

Chapter-7

Budget Management and Auditing

32. Approval not required: (1) Notwithstanding anything contained in the laws in force, while making expenditures chargeable on the amount under the budget heading of casual expenses allocated by the Government of Nepal for the Commission, pursuant to this Act, the Commission shall not be required to obtain approval of the Ministry of Finance, Government of Nepal.

(2) While making expenditures of the amount as referred to in sub-section (1), such expenditures shall be made as prescribed in the manual and as decided by the Commission.

33. Power to collect financial resources: For the purpose of completing the act of election, the Commission may, with the consent of the Government of Nepal, collect separate financial resources or receive assistance, in addition to the amount allocated under the regular budget heading.

34. Accounts and audit: (1) The accounts of the expenses made by the Commission in the act relating to election shall be maintained in accordance with the laws in force.

(2) The accounts maintained by the Commission pursuant to sub-section (1) shall be audited in accordance with the laws in force.

Chapter- 8

Miscellaneous

35. Power to seek advice and make consultation: (1) If the Commission considers it appropriate to seek advice prior to making decision on any constitutional or legal question regarding the act of election, it may seek advice of the Attorney General, government attorney, legal practitioner or any other expert.

(2) The Commission may, in relation to its functions and duties, make direct contact and consultation with, or seek advice of, any constitutional body or any Ministry, Department, Office of the Government of Nepal, political party or governmental or non-governmental organization or any other body.

36. Power to hold discussion or consultation: In the course of holding an election in a free, fair and riggingless manner, the Commission or Official of the Commission may hold discussion or consultation with any political party or representatives of the civil society, election experts or other related persons or organizations.

37. Voter awareness program: In order to provide voters with information about the collection and updating of Electoral Rolls, method of polling in an election and the rights of voters, the Commission may operate, or cause to be operated, voter awareness program, as per necessity.

38. Delegation of powers: The Commission may, as per necessity, delegate any of its powers to the Chief Election Commissioner, Election Commissioner, Secretary, District Election Officer, Chief Name Registration Officer, Name Registration Officer, Assistant Name

Registration Officer, Chief Returning Officer, Returning Officer, Official deputed in monitoring, Polling Officer, Assistant Polling Officer or official or employee or person engaged in the act of election.

39. Power to give direction: (1) The Commission may give necessary direction to the Chief Returning Officer, Returning Officer, District Election Officer, Polling Officer, Assistant Polling Officer, Official deputed in monitoring or Voters Name Registration Officer or any other official or employee deputed in election in respect of the functions to be performed by him or her.

(2) It shall be the duty of the all the concerned to abide by the direction given by the Commission pursuant to sub-section (1).

40. Pleading: (1) If the Commission has to make a petition to, or institute a case being as a plaintiff in, any office or court with respect to any legal right or dispute, it may, on the basis of necessity or propriety, cause the government attorney or a legal practitioner or both to prepare such a petition, file such case and make pleading therein or to prepare and file an affidavit, statement of defense, or plead and defend, in cases where anyone has instituted any proceedings, or filed any case against the Commission.

(2) In any case or legal action filed or instituted against any officials and employees as well persons appointed, deputed, designated or engaged by the Commission for or in any or all of the acts of election including the preparation of Electoral Rolls, in the course of their discharging such functions as required to be discharged by them under the laws in force in good faith, the Commission shall, on the basis of necessity and propriety, arrange for their defense through any governmental attorney or legal practitioner.

41. Departmental action and punishment: (1) If any civil employee or security personnel or any employee of an organization or body owned or controlled by, or operated with the grant of, the Government of Nepal, who has been appointed, deputed or designated in the act of election, including the preparation of Electoral Rolls, or who has the duty to abide by the orders and directions of the Commission does any act deliberately violating the laws in force or orders or directions of the Commission or with any mala fide intention or does any act prejudicial to the impartiality of election in the course of discharging such act, the Commission may, in exercise of the powers of the competent authority under the laws in force relating to the conditions of service of such employee or security personnel take departmental action against, and impose punishment on him or her in accordance with that law.

(2) If any employee or official other than that mentioned in sub-section (1) does any act in regard to the act of election contrary to the laws in force or directions given by the Commission, the Commission shall write to the concerned body for departmental action against such an employee or official in accordance with the laws in force relating to the conditions of his or her service.

(3) The concerned body shall, if so written to it by the Commission pursuant to sub-section (2), take departmental action against such employee or official and give information thereof to the Commission.

(4) Any employee who is not satisfied with a decision on departmental action and punishment made by the Commission pursuant to sub-section (1) may make an appeal to the Appellate Court located in the area where the concerned employee is in service within thirty five days after

the date or receipt of the time-limit for appeal against the decision or information of such decision.

42. Publication of annual report: The Commission shall publish details of the activities done by it, in the form of an annual report each year.

43. Liaison with Government of Nepal: While making contact with the Government of Nepal, the Commission shall make such contact through the Ministry of Home Affairs.

44. Powers to frame rules: The Commission may frame necessary rules in order to carry out the objective of this Act.

45. Issuance of orders: (1) The Commission may issue necessary orders for the purpose of conducting, monitoring, directing and controlling elections pursuant to the Constitution and the laws in force; and such orders shall be published in the Nepal Gazette.

(2) It shall be the duty of the following bodies, institutions, organizations or persons to abide by the orders referred to in sub-section (1):

(a) governmental, semi-governmental or non-governmental institutions;

(b) political parties and office bearers thereof;

(c) voters;

(d) candidates and their agents;

(e) persons who are involved in the canvassing, and monitoring of election.

(3) The Commission may punish any political party, candidate or any other concerned body, institution, organization or person violating any order issued by the Commission pursuant to this Act with a fine not exceeding one hundred thousand rupees.

46. Power to prepare manuals: The Commission may prepare and enforce manuals for the purpose of conducting, or causing to be conducted, the act of election in a smooth manner; and it shall be the duty of all the concerned to abide by such manuals.

47. Repeal and saving: (1) The Election Commission Act, 2047(1991) is hereby repealed.

(2) All acts done and actions taken under the Act referred to in subsection (1) shall be deemed to have been done and taken by this Act.