

# An Act Made to National Natural Resources and Fiscal Commission

**Preamble:** WHEREAS, it is expedient to provide necessary arrangements regarding the functions, duties and powers of the National Natural Resources and Fiscal Commission,

NOW, THEREFORE, the Legislature-Parliament as pursuant to Sub-Article (1) of Article 296 of the Constitution of Nepal has made this Act.

## **Chapter-1**

### **Preliminary**

1. **Short Title and Commencement:** (1) This Act may be called as “National Natural Resources and Fiscal Commission Act, 2074 (2017)”.

(2) This act shall come into force immediately.

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

(a) “**Chairperson**” means the chairperson of the Commission.

(b) “**Commission**” means the National Natural Resources and Fiscal Commission as pursuant to Article 250 of the Constitution.

(c) “**Plan**” means plan, project, program also.

(d) “**Member**” means the member of the commission and this term also means the chairperson of the Commission.

- (e) “**Constitution**” means the Constitution of Nepal.

## **Chapter-2**

### **Functions, Duties and Powers of the Commission**

3. **Functions, Duties and powers of the Commission** : In addition to the functions, duties and powers mentioned otherwise in the Constitution and in this act, other functions, duties and powers of the commission shall be as follows :-

- (a) to recommend fiscal equalization grants to be provided by the state to the Local Level in accordance with state laws,
- (b) to recommend the criteria of conditional grants to be provided by the state to the Local Level in accordance with the State law.
- (c) to facilitate and assist for resolving the dispute arises during the distribution of revenues among the Government of Nepal, State and Local Level necessarily,
- (d) to suggest the Government of Nepal relating to the grants to be provided by the Government of Nepal to States and Local Levels,
- (e) to provide necessary suggestion relating to revenue distribution as per the demand of the Government of Nepal or the State,
- (f) to provide necessary suggestion relating to the tax to be imposed by the Government of Nepal, the

State and Local Level as per the demand of the Government of Nepal, the State or Local Level,

- (g) to provide necessary suggestions relating to the conservation and use of natural resources to the Government of Nepal, the State or Local Level.

(2) The Commission also shall undertake the criteria of work performance of the State and Local level while providing suggestion or recommendation or preparing the modality in accordance with the constitution and this act.

4. **May seek consultation or opinion** : The commission shall seek consultation or opinion with other Constitutional Organs, Government offices under the Government of Nepal, State and Local level or Public Institutions relating to its functions and duties.
5. **May seek Expert Services** : If any function prescribed by the constitution and this Act cannot be performed by the manpower working in the commission, the Commission may seek services from the concerned experts or specialized agencies according to the prevailing federal law.
6. **May formulate committee or taskforce** : (1) The Commission may formulate any committee or taskforce by issuing procedure for the purpose of performing special nature of task related to the commission.

(2) The functions, terms of reference and procedure of the committee or taskforce as pursuant to sub-section (1), shall be determined by the commission while formulating such committee or taskforce.

7. **May coordinate or collaborate** : The commission may coordinate or collaborate with the constitutional Organ, Offices under the Government of Nepal, the State and Local Level or Public institutions as per the necessity.
8. **To assist in the Functioning of the Commission** : If the commission demands information, details or assistance with any agencies (bodies) or officials during performing it's task, it shall be the duty of the concerned agencies or officials to provide such information, details or assistance.

### **Chapter-3**

#### **Work Operations of the Commission**

9. **Office of the Commission** : The office of the Commission shall be in the Kathmandu Valley.
10. **Meeting of the Commission** : (1) The functions to be performed by the Commission as prescribed by the Constitution, this Act and the Prevailing law shall be as per the decision made by meeting of the Commission.

(2) The meeting of the Commission shall be held on such date, time and venue as prescribed by the Chairperson.

(3) The Secretary of the Commission shall have to avail information to all the members at least Forty eight hours in advance of the meeting citing the date, time, venue and agenda to be discussed in the meeting.

(4) If any member intends to discuss on any other agenda besides the agendas to be discussed as pursuant to Sub-section (3), shall have to avail information to the Secretary of the Commission at least Twenty Four hours in advance of the meeting citing the agenda and its reason. The Secretary of the Commission shall inform to all the members while obtaining such information at the time.

(5) Notwithstanding anything contained in Sub-Section (3) and (4), the Commission shall, by the consensus of all members, decide on any agenda that is not included in the agenda to be discussed.

(6) If more than fifty percent of the then members in the Commission are present in the meeting, it shall be deemed to constitute a quorum for the meeting.

(7) The Chairperson shall chair the meeting of the Commission.

(8) The decisions of the Commission shall be made by a majority and in case of tie; the person chairing the meeting shall cast a decisive vote.

(9) The Secretary shall prepare decision made by the Commission and keep its record with the signature of the Chairperson and members.

(10) The senior-most employee of the Commission shall work as a secretary in the meeting of the Commission.

(11) The other procedures relating to the meeting shall be as determined by the Commission itself.

11. **Work Division** : The commission shall determine the work division of Chairperson and Members.
12. **To work as an Acting** : The senior-most member of the Commission shall work as an Acting Chairperson if the post of the Chairperson is vacant, he or she is suspended, he or she is in foreign visits or on leave for more than seven days.
13. **No Obstruction in the Commission's Functioning** : It shall cause no obstruction in the functioning of the Commission merely on the ground that the post of any member is vacant.

#### **Chapter-4**

#### **Mobilization of Natural Resources, Distribution of Revenues and Grants**

14. **Criteria to be taken while Mobilizing Natural Resources** : (1) The Commission shall recommend to the Government of Nepal the amount of the investment of the mobilization of natural resources to be made by the Government of Nepal, the State and Local Level on the following criteria :-
  - (a) Condition of revenue and the capacity to levy,
  - (b) Capacity to invest,
  - (c) Portion of the achievement to be obtained,
  - (d) Portion of the consumption of the obtained achievement,
  - (e) Condition of Infrastructure and necessity,
  - (f) Economic condition and geographical structure.

(2) The Commission shall recommend to the Government of Nepal the amount of returns by determining on the following criteria as obtained from the mobilization of natural resources as pursuant to Sub-section (1):-

- (a) The location of the mobilized resources,
- (b) The affected area by the mobilization of natural resources,
- (c) Dependency upon the mobilized natural resources,
- (d) Benefited population by the returns,
- (e) Dependent population on the natural resources,
- (f) Conservation of natural resources and the participation in the sustainable management.

15. **Criteria to be taken while distributing revenues** : The Commission shall recommend to the Government of Nepal by determining the detail criteria and framework of revenue distribution among the Government of Nepal, the State and Local Level and between the State and Local Level on the following criteria :-

- (a) Demography and demographic details,
- (b) Area,
- (c) Human Development Index,
- (d) Necessity of expenditures,
- (e) The efforts made to collect revenue,
- (f) Infrastructure development,

(g) Special conditions.

(2) The detail criteria and the framework determined by the Commission as pursuant to Sub-section (1) shall be valid for five years and the Commission shall recommend to the Government of Nepal by reviewing in each five years.

(3) Notwithstanding anything contained in Sub-Section (2), after the commencement of this Act, the Government of Nepal, if it realizes, may, prior to five years, request to the Commission to review the detail criteria and the framework determined for the first time as pursuant to Sub-section (1) due to the special cause. The Commission shall, if the request of the Government of Nepal is found suitable, recommend to the Government of Nepal by reviewing the detail criteria and the framework determined as pursuant to Sub-section (1).

(4) Notwithstanding anything contained in Sub-Section (3), the detail criteria and the framework determined for the first time as pursuant to Sub-section (1), shall not be reviewed more than once in the five years.

16. **Criteria to be taken while recommending grants** : The Commission shall undertake the following criteria while recommending to the Government of Nepal and the State while availing fiscal equalization grants by the Government of Nepal to the State and Local Level and by the State to the Local Level under prevailing law :-



- (a) Human Development Index such as education, health, drinking water of the State and Local Level,
- (b) Status of balanced development of other States and Local Levels,
- (c) Status of economic, social or any other kinds of discrimination of the State and Local Level,
- (d) Status of infrastructure development and necessity of the State and Local Level,
- (e) The services to be provided to the people by the State and Local Level,
- (f) Condition of revenue and its capacity to be levied of the State and Local Level,
- (h) Necessity of expenditures the State and Local Level.

(2) The Commission shall undertake the criteria as pursuant to the Clause (c) of Sub-Article (1) of Article 251 of the Constitution and Sub-section (1), while recommending to the Government of Nepal and the State about the conditional grants to be availed by the Government of Nepal to the State and Local Level and by the State to Local Level under the prevailing law.

(3) The Commission, while recommending fiscal equalization grants as pursuant to the Sub-section (1), shall recommend fiscal equalization grants to be obtained by each state and Local Level in accordance to the criteria as pursuant to the Sub-section (1) and the minimum grants to be obtained by each State and Local Level.

## Chapter-4

### Miscellaneous

**17. Organizational Structure and employees of the Commission: (1)**

The organizational structure and posts of the employee of the Commission shall be as approved by the Government of Nepal.

(2) The Government of Nepal shall avail the employees needed for the work operation of the Commission.

**18. Professional integrity and ethics to be followed :** The Chairperson and the members of the Commission, while performing their duties, shall follow the professional integrity and ethics in accordance with the Constitution, this Act and the prevailing law.

**19. Annual Report :** (1) The Commission shall submit the annual report of its functioning to the President within three months by the end of fiscal year.

(2) Besides other matters, following matters shall be set out in the Annual report as pursuant to Sub-section (1) :-

- (a) The details and expenditures related to the implementation of the annual program of the Commission,
- (b) The details of recommendations and suggestions given to the Government of Nepal, the State and Local Level by the Commission,
- (c) The status of the implementation of recommendations and suggestions,

- (d) The economic and physical resources of the Commission and the situation of their uses,
- (e) The suggestions to undertake for the reformation in other matters about revenue distribution and natural resources,
- (f) The details of other functioning relating to the obligations to be fulfilled by the Commission in accordance with this Act.

(3) After the submission in the federal Parliament, the report as pursuant to Sub-section (1), the Commission shall publish such report for the information of public.

20. **Liaison with the Government of Nepal** : The Government of Nepal, Ministry of Finance, shall liaison the commission with the Government of Nepal.

21. **Delegation of Power** : The Commission, subject to the prescribed conditions, may delegate, some of the powers vested with it in accordance with the Constitution and this Act, to the Chairperson, Member, the Secretary of the Commission or any officer-level employee of the Government of Nepal, the State or Local Level.

22. **Power to Frame Rules** : (1) The Commission may frame necessary Rules to implement this Act.

(2) The Rules, to be framed as pursuant to the Sub-section (1), containing the matters of financial burden or liabilities on the Government of Nepal shall have to undertake the approval of Ministry of Finance.

(3) The Rules framed by the Commission as pursuant to Sub-section (1), shall come into force from the date publication in the Nepal Gazette.

**23. Power to Frame Directives or Procedures :** (1) The Commission may, to operate or make to operate the functions to be performed by the Commission smoothly, frame necessary directives or procedures subject to this Act or the rules framed under this act.