

Right to Information Act, 2007

An Act as stated herein below made by the Legislature-Parliament has been published for the notification of general public

Act No. 4 of the year 2064 B.S. (2007 A.D.) made by the Legislature-Parliament

AN ACT TO MAKE PROVISION FOR RIGHT TO INFORMATION

Preamble,

Whereas; it is expedient to make the functions of the state open and transparent in accordance with the democratic system and to make responsible and accountable to the citizen; to make the access of citizens simple and easy to the information of public importance held in public bodies; to protect sensitive information that could make adverse impact on the interest of the nation and citizen, and for the necessity to have legal provisions to protect the right of the citizen to be well-informed and to bring it into practice, the 'Legislature-Parliament' has enacted this Act.

Chapter- one

Preliminary

1. Short title and commencement:

- (1) The name of this Act is 'Right to Information Act, 2064 B.S. (2007 A.D.).
- (2) This Act will come into force from the 30th (Thirty) day of certification.

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

- (a) By "Public Body" means the body and institution according to the following list:
 - (1) A body under the constitution,
 - (2) A body established by the Act,
 - (3) A body formed by the Government of Nepal,
 - (4) Public service providing institution or foundation established by the law,

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- (5) Political Party or organisation registered under the prevalent law.
 - (6) Organised institution under the full or partial ownership or under control of the Government of Nepal or organized body receiving grants from the Government of Nepal,
 - (7) Organised institution formed by the Bodies established by the Government of Nepal or the law entering into an agreement,
 - (8) Non-Governmental Organisation/Institutions operated by obtaining money directly or indirectly from the Government of Nepal or Foreign Government or International Organisations/Institutions,
 - (9) Other Bodies or Institution prescribed as Public Body by the Government of Nepal by publishing notice in the Gazette.
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- (b) "Information" means any written document, material, or information related to the functions, proceedings thereof or decision of public importance made by the Public Bodies.
 - (c) "Public Importance" means a subject related directly or indirectly with the interest of citizens.
 - (d) "Written Document" means any kind of scripted written document and the word shall also mean any audio visual materials collected and updated through any medium or that can be printed or retrieved.
 - (e) "Right to Information" means the right to request and obtain information of public importance held in the Public Bodies and this term shall also include the right to study or observation of any written document, material held in Public Body or proceedings of such Public Body; to obtain a verified copy of such document, to visit or observe the place where any construction of public importance is going on and to obtain verified sample of any materials or to obtain information held in any type of machine through such machine.
 - (f) "Information Authority" means a person appointed in accordance with Section 6.
 - (g) "Chief" means the Chief of Public Body.

- (h) "Commission" means the National Information Commission constituted in accordance with Section 11.
- (i) "Chief Information Commissioner" means the person appointed in accordance with Section 11.
- (j) "Information Commissioner" means the person appointed accordance with Section 11.
- (k) "Prescribed" or "As prescribed" means prescribed or as prescribed in Rules framed under this Act.

Chapter- Two

Right to Information and Provision Regarding the Flow of Information

3. Right to Information:

- (1) Every citizen shall have the right to information subject to this Act.
- (2) Every citizen shall have access to the information held in the public Bodies.
- (3) Notwithstanding anything provided in Sections (1) and (2), the information held by the Public Bodies on the following subject matters will not be released:
 - (a) which seriously jeopardizes the sovereignty, integrity, national security, public peace, stability and international relations of Nepal.
 - (b) which directly affects the investigation, inquiry and prosecution of crimes.
 - (c) having serious impact on the protection of economic, trade or monetary interest or intellectual property or banking or trade privacy.
 - (d) that jeopardizes the harmonious relationship subsisted among various cast or communities.

(e) that interferes on individual privacy and security of body, life, property or health of a person.

Provided that, public Body shall not refrain from the responsibility of flowing information without appropriate and adequate reason not to flow information.

(4) If a Public Body has both the information in its record that can be made public and that cannot be made public in accordance with this Act, the Information Officer shall have to provide information to the application after separating the information which can be made public.

4. Responsibility of Public Body:

(1) Every Public Body has to respect and protect the right to information of citizen.

(2) Public Body shall have following responsibilities for the purpose of Sub-Section (1):

(a) to classify and update information and make them public, publish and broadcast,

(b) to make the citizens' access to information simple and easy,

(c) to conduct its functions openly and transparently,

(d) to provide appropriate training and orientation to its staffs,

(3) Public Body may use different national languages and mass media while publishing, broadcasting or making information public in accordance with Sub -Section 2 (a).

5. Updating and Publication of Information:

(1) Public Body has to keep update information related to them.

(2) Public Body, as long as possible, has to update at least of twenty years old information from the commencement of this Act related to them in accordance with Sub-Section (1).

- (3) Public Body has to publish following information relating to their Body after making list thereof:
- (a) structure and nature of Body,
 - (b) duties, responsibilities and powers of Body,
 - (c) number of employees and working details of Body,
 - (d) service to be provided by the Body,
 - (e) branch and responsible officer of the service providing Body,
 - (f) fee and time limit required for service,
 - (g) decision making process and authority,
 - (h) authority to hear appeal against decision
 - (i) description of functions performed
 - (j) name and designation of Chief and Information Officer
 - (k) list of Acts, Rules, By Laws or guidelines
 - (l) updated description of income and expenditures, financial transactions.
 - (m) other particulars as prescribed.
- (4) Public Body shall have to update information in accordance with Sub-Section (3) within three months from the date of commencement of this Act and every three months afterwards and publish thereof.

6. Provision of Information Officer:

- (1) Public Body will arrange for an Information Officer for the purpose of disseminating information held in its office.
- (2) For the purpose of disseminating information in accordance with Sub-Section (1), the Chief has to provide information held in the office regularly to the Information Officer.
- (3) Public Body shall set up an Information Section for the purpose of disseminating information as per necessity.

7. Procedures of Acquiring Information:

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- (1) Nepali Citizen, who is interested to obtain any information under this Act, shall submit an application before concerned Information Officer by stating reason to receive such information.
- (2) If an application is received in accordance with Sub-Section (1), Information Officer should provide the information immediately if the information by its nature could be provided immediately and has to provide within fifteen days from the date of application if the information by its nature could not be provided immediately.
- (3) If information cannot be provided immediately in accordance with Sub-Section (2), Information Officer should instantly give a notice with reason to the applicant.
- (4) Notwithstanding anything contained in Sub-Section (3), if information which is requested is related to security of life of any person, the information officer should provide information within Twenty Four hours of such request.
- (5) Information Officer has to provide information in the format as demanded by the applicant as much as possible.
- (6) Notwithstanding anything contained in Sub-Section (5), if any possibility subsist that the source of information may be damaged or destroyed or spoiled if it is provided in the format as requested by the applicant, the Information Officer shall provide such information in appropriate format with stating reason thereof.
- (7) If any person submitted an application to study or observe written document, materials or activities in accordance with Sub-Section (1), the Information Officer will provide a reasonable time to the applicant for the study and observation of such written document, materials or activities.
- (8) While examining the application received in accordance with Sub-Section (1), it is found that the information demanded by the applicant is not related to such Body, the Information Officer should give notification to the applicant immediately.

8. Fee for information:

- (1) Applicant has to pay fee as prescribed while requesting information in accordance with Section 7.

Provided that, the fees shall be in accordance with the provision of prevalent laws, if different fees are prescribed for any specific information.

- (2) While determining the fee in accordance with Sub-Section (1) that will be based on the actual cost of providing information.
- (3) If the fee prescribed in accordance with Sub-Section (2) is deemed more than actual price, the concerned person shall make appeal before the Commission.
- (4) While examining the appeal in accordance with Sub-Section (3), the commission may order to review the fee if it is found in contrary to the Sub-Section (2).

9. Complaint shall be made:

- (1) If Information Officer do not provide information, deny to provide information, partially provides information, provides wrong information or does not provide information by stating that the applicant is not stakeholder, the concerned person shall make a complaint to Chief within (7) days from the date of information denied or partial information received.
- (2) While investigating the complaint received in accordance with Sub-Section (1), the Chief shall order the Information Officer to provide information as demanded by applicant if it is found that the information was denied or partially provided or wrong information was provided and the Information Officer has to provide information to the concerned applicant if such order is issued.
- (3) While doing investigation in accordance with Sub-Section (2), if it is found that the Information Officer denied to provide information or partially provided the information knowingly or with malafide intention or

provided wrong information, the Chief may take departmental action against such Information Officer.

- (4) While investigating in accordance with Sub-Section (2), it is found that the information cannot be provided; the Chief shall make a decision accordingly and provide a notice stating the reasons to the applicant.

10. Appeal shall be made:

- (1) A person who is aggrieved by the decision of the Chief made in accordance with Sub-Section (4) of Section 9 shall appeal before the Commission within Thirty Five (35) days of the notice of decision received.
- (2) Commission shall summon and take statement of the concerned Chief or Information Officer, order to submit written document, take statement of witness and evidence or demand any document from Public Body while investigating and deciding the appeal received in accordance with Sub-Section (1).
- (3) While investigating and deciding the appeal in accordance with Sub-Section (2), the Commission shall do the following:
- a. By giving time, may order the concerned Chief to provide information to the appellant without fee, if appeal is found reasonable.
 - b. Dismiss the appeal if it is found not reasonable.
- (4) The Commission has to give final verdict on the appeal within sixty days of appeal submission.
- (5) Other procedures to be followed by the commission during appeal pursuant to this Section shall be as prescribed.

Chapter- Three

Provision Regarding Commission

11. Provision Regarding Commission:

- (1) An independent National Information Commission will be established for the protection, promotion and practice of right to information.
- (2) A Chief Information Commissioner and two other Information Commissioners will be in the commission.
- (3) In order to appoint Chief Information Commissioner and Information Commissioners, there will be a committee comprised as follows:
 - a. The Speaker – Chairperson
 - b. Minister or State Minister for Information and Communication – Member
 - c. President, Federation of Nepalese Journalists – Member
- (4) The Government of Nepal on the recommendation of the Committee under Sub-Section (3), will appoint a Chief Information Commissioner and Information Commissioners; while appointing in this way, at least one female will have to be included.
- (5) The Committee in accordance with Sub-Section (3) will follow inclusive principles as much as possible while recommending for appointment of Chief Information Commissioner and Information Commissioners.
- (6) The procedures of recommendation in accordance with Sub-Section (3) will be as determined by the Recommendation Committee itself.

12. Qualifications:

To be appointed for the position of the Chief Information Commissioner and Information Commissioners should have following qualification:

- a. Nepali citizen,
- b. having received at least Bachelor Degree From a recognized University,
- c. having fifteen years of working experience in the field of Mass communication, law justice, public administration, information technology or management.

13. Disqualifications:

The following person will be disqualified for being appointed in the position of Chief Information Commissioner and Information Commissioners:

- a. Not having the qualification in accordance with Section 12,
- b. Convicted by a court on morally turpitude criminal offence,
- c. Incumbent employee of Government and Public institution,
- d. Incumbent in any political position,
- e. disqualified to be appointed under the prevailing laws.

14. Term of Office:

(1) The term of office of the Chief Information Commissioner and the Information Commissioners will be for 5 years and s/he shall not be re-appointed in the same Post.

(2) Notwithstanding anything contained in Sub-Section (1), the Information Commissioner shall be re-appointed in the post of Chief Information Commissioner under the provision of term of office stated in the same Sub-Section.

(3) The recommendation committee in accordance with Sub-Section (3) of Section 11 has to make recommendation for new appointment one month prior to the expiry of the term of Chief Information Commissioner and Information Commissioners.

15. Post to be Vacated:

The post the Chief Information Commissioner and Information Commissioner shall be considered vacant under the following conditions:

- a. In case of his/her death,
- b. In case of s/he has completed the age 65,
- c. In case s/he tendered resignation to the Prime Minister,
- d. In case his/her term of office is completed,
- e. In case of s/he is convicted by the court on morally turpitude criminal offence,
- f. In case of he is removed from the post in accordance with Section 16.

16. May Remove From Office:

If the meeting of the Legislature-Parliament endorse the recommendation of the information and communication related committee of the Legislature-Parliament, with the two third majority of meeting presented by at least two third members out of total members, for removing Chief Information Commissioner or Information Commissioner by the reason that s/he is not fit to hold office for the reason of incompetence or misbehavior or not carrying out the duties honestly, such Chief Information Commissioner or Information Commissioner will be removed from his/her office.

Provided that, the Chief Information Commissioner or Information Commissioner charged with such accusation will not be denied for reasonable opportunity of clarification.

17. Provision Regarding the Conditions of Service:

The remuneration, condition of service and facilities for Chief Information Commissioner and Information Commissioner will be as prescribed.

18. Oath of Office:

Before taking charge of the office, the Chief Information Commissioner will take the oath of office before the Prime Minister and the Information Commissioner before the Chief Information Commissioner respectively in the format as laid down in Schedule.

19. Functions, Duties and Powers of the Commission:

In addition to the functions, duties and powers stated elsewhere in this Act, the functions, duties and powers of the Commission will be as follows:

- a. To observe and study the records and documents of public importance held in Public Bodies,

- b. To order for maintaining list of information related with document and records held in such Body orderly,
- c. To order concerned Public Body to make information public for citizen's notification,
- d. To prescribe timeframe and order concerned Public Body to provide information demanded by applicant within such timeframe.
- e. To order concerned party to fulfill liabilities in accordance with this Act.
- f. To provide necessary suggestions and recommendations to Government of Nepal and various other bodies related to information and communications regarding the protection and maintenance of right to information.
- g. To issue other appropriate orders regarding the protection, promotion and exercise of right to information.

20. Power Delegation:

The commission may delegate any of the functions, duties or powers except the power to hear and decide on appeal under Section 9, to the Chief Information Commissioner, Information Commissioner or any other body or official, subject to prescribed terms and conditions by this Act.

21. Office of the Commission:

The central office of the Commission will be placed in Kathmandu Valley and the Commission shall open its offices in various places of the country as per its necessity.

22. Staffs of the Commission:

- (1) Necessary number of staffs will be there at the Commission.
- (2) The Government of Nepal will provide staffs necessary for the Commission.

23. Expenditure of the Commission:

- (1) The Government of Nepal will arrange budget necessary for the Commission.

- (2) The Commission shall also obtain financial resources necessary for it from other sectors after getting prior permission of the Government of Nepal.

24. Cooperate with the Commission:

Public Bodies have to provide necessary cooperation in the activities of Commission.

25. Annual Report:

- (1) The commission will have to submit Annual Report on its activities to the Legislature-Parliament through Prime Minister each year.
- (2) The Commission will publish the Annual Report in accordance with Sub-Section (1) publicly for the purpose of public notification.

26. Contact With the Government of Nepal:

The Commission should maintain contact with the Government of Nepal through the Ministry of Information and Communication.

Chapter- Four

Provision Regarding Protection of Information

27. Provision Regarding Classification of Information:

- (1) For the protection of the information related to Sub-Section (3) of Section 3, held in public Body, there will be a committee as following to classify the information in policy level.
- a. Chief Secretary of the Government of Nepal- Chairperson
 - b. Secretary of Relevant Ministry – Member
 - c. Expert of concerned subject assigned by the Chief of Office or Chairperson – Member
- (2) The Committee in accordance with Sub-Section (1), regarding the classification of information under Section 3 (3), has to inform the

Commission by determining the number of years the information should be kept confidential and method for the protection of information.

- (3) Person who is not satisfied with the recommendation made by the Committee under Sub-Section (2) may appeal before the Commission for review by demanding such information to be made public.
- (4) During the course of reviewing of an appeal in accordance with Sub-Section (3), if the Commission finds that certain information need not be kept confidential, shall order to make such information public.
- (5) The information classified in accordance with the Sub-section (2) may be kept confidential for maximum period of 30 years, according to the nature of the information.
- (6) Notwithstanding anything contained in Sub-section (5), the Committee should review in every ten years that any information classified as confidential is necessary to keep it up confidential or not.
- (7) While reviewing in accordance with Sub-Section (6), the Committee, if finds necessary to keep such information confidential for additional period, may decide the duration and classify as confidential for that period or may classify as non-confidential if finds not necessary to keep confidential.

28. Protection of Information:

- (1) Public Body shall protect the information of personal nature held in for preventing unauthorized publication and broadcasting.
- (2) Personal information held in public Body, except in following situation, shall not be used without written consent of concerned person.
 - a. In case of preventing a serious threat to life and body of any person or public health or security.
 - b. If required to be disclosed in accordance with prevailing laws.
 - c. If related to investigation of offence of corruption.

29. Protection of Whistleblower:

- (1) It shall be a responsibility of employee of Public Body to provide information on any ongoing or probable corruption or irregularities or any deed taken as offence under the prevailing laws.
- (2) It shall be the duty of information receiver to make the identity of whistleblower in accordance with Sub-Section (1) confidential.
- (3) No harm or punishment is done to bear any legal responsibility to the whistleblower for providing information in accordance with Sub-Section (1).
- (4) If any punishment or harm is done to the whistleblower against the Sub-Section (3), the whistleblower may complaint, along with demand for compensation, before the commission for revoking such decision.
- (5) While investigating the complaint in accordance with Sub-Section (4), the Commission may order including to revoke the decision of removal from the office if he is removed from office and for the compensation if any damages occurred to the whistleblower.

30. Providing Personal Information:

- (1) Concerned Body will have to provide information related with the public post to the concerned person, if any person demands information of during his service in the public Body.
- (2) Information have to be provided to the concerned person if a person demands for information related with him held in Public Body.
- (3) The procedures for demanding and acquiring information in accordance with Sub-Section (1) will be as stated in Section 7.
- (4) Fees will be in accordance with Section 8 for acquiring information under the Sub-Section (1).

31. Information not to be Misused:

- (1) Any person who obtains any information from any public Body should not misuse the information by not using it for the purpose that was considered.

- (2) The concerned Public Body may complain to the Commission against any person who misuse the information against Sub-Section (1).

Chapter- Five

Provision Regarding Punishment and Cooperation

32. Punishment:

- (1) If the Commission finds that Chief of public Body or Information Officer has held back information without any valid reason, refused to part with information, provided partial or wrong information or destroyed information; the Commission may impose a fine to such Chief or Information Officer from Rupees 1,000 to 25,000 and if such Chief or Information Officer is in a Post to be punished by Department, it may write to the concerned Body for departmental action.
- (2) If the Chief of public Body or Information Officer delay to provide information which has to be provided on time without reason, they shall be punished with a fine Rupees 200 per day for the information is delayed to provide.
- (3) If the Commission writes to the concerned Body for Departmental action in accordance with Sub-section (1), the Public Body will have to take Departmental action against that Chief or Information Officer within three months and notify the Commission thereon.
- (4) The Commission may impose a fine between NRS 5000 to 25000 considering that seriousness of misuse of information if any person is found misusing the information acquired from public Body instead of using it for purpose it was obtained for.
- (5) The Commission may impose a fine up to Rupees 10,000 to the concerned person in case its decision or order in accordance with this Act is not obeyed.

33. Compensation:

- (1) If any person incur losses and damages due to not providing information, denying to provide information, providing partial or wrong information or destroy the information by the Chief or Information Officer of Public Body, such person may appeal before the Commission for compensation within three months from the date of not acquiring information, acquiring partial or wrong information or destroyed information.
- (2) If the application in accordance with Sub-Section (1) is found reasonable after the investigation, the Commission by considering the actual loses, may compensate the applicant from the concerned Body with reasonable amount.

34. Appeal:

Any person not satisfied with the decision rendered by the Commission in accordance with Section 32 may appeal before the Appellate Court within thirty five days of decision received.

Chapter- Six **Miscellaneous**

35. Information may be Corrected:

- (1) If anyone believed that the information in Public Body on a particular subject is wrong, s/he may appeal before the concerned Chief along with necessary evidences for the correction of the information.
- (2) The Chief shall conduct necessary investigation regarding the application in accordance with Sub-Section (1) and if the information held in such Body is found wrong during the course of investigation, s/he should inform the applicant within seven days from the date of application received by correcting thereon.

36. Save to Works done with Good Faith:

Notwithstanding anything contained elsewhere in this Act, no case shall be filed and no punishment shall be imposed against the Chief or Information Officer for his works regarding the information dissemination done in good faith.

37. To be in accordance with this Act:

All the matters written in this Act will be carried out in accordance with this Act, whereas other matters will be dealt in accordance with prevalent laws.

38. Right to Make Rules:

The Government of Nepal by consulting with the Commission shall make necessary rules to implement the objectives of this Act.

Schedule
(Related to Section 18)

Oath

I hereby faithful to the state and the people promise with truth and trust/take the oath in the name of God that highly respecting the will expressed by the people through the people's movement that Nepal's state authority and sovereignty is to be vested only on the people, professing allegiance to the constitution of Nepal and laws of the land, I will carry out my responsibilities with honesty and without any fear, sycophancy, partiality, malice or greed, by honoring citizen's right to information and for the effective implementation and practice of laws pertaining to right to information.

Verification Date: 5th Shrawan 2064 Bikram Sambat (Approximately July 21, 2007 A.D.)