

Date Printed: 12/31/2008

JTS Box Number: IFES_14

Tab Number: 34

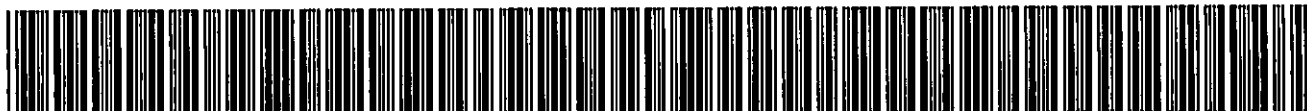
Document Title: HOUSE OF REPRESENTATIVES MEMBERS ELECTION
ACT, 2047, ACT NO 19 OF 2047, AN ACT MADE

Document Date: 1991

Document Country: NEP

Document Language: ENG

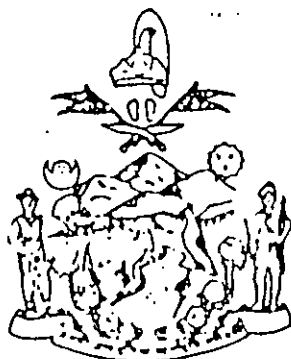
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SCHEDULE - III
(Relating to Clause (3) of Article 7)

THE COAT-OF-ARMS OF NEPAL



HOUSE OF REPRESENTATIVES MEMBERS
ELECTION ACT, 2047

The following Act was published in the Nepal Gazette, part II, Vol. 40, Extra-ordinary Number 53, dated 2047/10/28 (February 11, 1991)

Act No. 19 of 2047
An Act Made to Provide for Election of
the Members of House of Representatives

Preamble:

Whereas it is expedient to make legal provisions for election of the Members of the House of Representatives of the Parliament,

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - I
Preliminary

1. Short Title and Commencement:

(1) This Act may be cited as "House of Representatives Members Election Act, 2047" (1991).

(2) It shall come into force immediately.

2. Definitions:

Unless repugnant to the subject or context, in this Act--

(a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1991).

(b) "Election" shall mean the General Election, Mid-Term Election and By-Election to be held to elect Members of the House of Representatives in accordance with the provisions of this Act.

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(c) "Commission" shall mean the Election Commission as mentioned in Article 103 of the Constitution.

(d) "Voter" shall mean the voter as mentioned in Section 10 of this Act.

(e) "Candidate" shall mean the Candidate as mentioned in Section 31 of this Act.

(f) "Member" shall mean the Member of the House of Representative elected or to be elected pursuant to the provisions of this Act.

(g) "Returning Officer" shall include the Chief Returning Officer.

(h) "Polling Officer" shall include the Assistant Polling Officer.

(i) "Prescribed" or "as prescribed" shall mean prescribed or as prescribed in the Rules made pursuant to this Act or in the Order issued by the Commission published in the Nepal Gazette.

CHAPTER - II Constituency

3. Constituency:

(1) There shall be 205 Electoral Constituencies as provided in Article 45 of the Constitution for election of the Members of the House of Representatives of the Parliament.

(2) The Constituencies shall be as delimited by the Electoral Constituency Delimitation Commission constituted pursuant to the provisions of Article 105 of the Constitution.

(3) The boundaries of the electoral constituencies as determined pursuant to Sub-section (2) above shall, unless otherwise provided by law, remain valid until such boundaries are redefined after the next national census.

CHAPTER - III Registration Officer, Returning Officer and Polling Officer

4. Voter Registration Officer:

(1) The Commission may, for the purpose of preparing the electoral roll of each constituency, appoint or designate Voter Registration Officer.

(2) The Voters Registration officer may, subject to the provisions of the Rules made under this Act and the directives of the Commission, depute such number of employees or qualified persons as may be necessary for collecting the names of the Voters.

5. Appointment of the Returning Officer:

(1) The Commission shall, for the purpose of conducting election, appoint a Chief Returning Officer for each District and a Returning Officer for each constituency.

(2) The Returning Officer shall have the authority to depute employees of His Majesty's Government or of the corporations owned by His Majesty's Government for the election works.

(3) The Returning Officer may delegate all or some of its powers, as required, to such employees deputed for election works. However, no power relating to the scrutiny of nomination papers, its acceptance or rejection, or counting of votes, or declaration of election result may be delegated.

6. Duties of Chief Returning Officer:

(1) Subject to the directives of the Commission, the duty of the Chief Returning Officer shall be to supervise, control, direct and coordinate all election works of the constituencies within the district assigned to him.

(2) The Chief Returning Officer shall also perform the functions and duties of Returning Officer of the constituency assigned to him.

7. **Function and Duties of the Returning Officer:**
 (1) It shall be the duty of the Returning Officer to perform freely and fairly all his functions relating to election pursuant to this Act within the constituency assigned to him.
 (2) The Returning Officer shall, while performing his duties under Sub-section (1), observe the directives issued by the commission or the Chief Returning Officer. Other functions, duties and powers of the Returning Officer shall be as prescribed.
8. **Appointment of Polling Officer:**
 Except when the appointment has been made by the Commission, the Chief Returning Officer shall appoint Polling Officer or Assistant Polling Officers within his district from among the employees of His Majesty's Government or of the corporations owned by His Majesty's Government. The Returning Officer shall make such appointments within its constituency.
9. **Duties of the Polling Officer:**
 (1) It shall be the duty of the Polling Officer within a polling center or of the Assistant Polling Officer within a Sub-center to perform freely and fairly all his functions relating to election, as are assigned to him by this Act or the Rules made or Order issued pursuant to this Act.
 (2) Other functions, duties and powers of the Polling Officer and the Assistant Polling Officer shall be as prescribed.

CHAPTER - IV **Electoral Roll**

10. **Voter**
 (1) Any citizen of Nepal having a permanent residence within any constituency and who has attained or is about to attain the age of eighteen years on the date of maturity specified pursuant to Section 11 shall be a voter for election of the Member to be elected from that constituency.
 (2) Every voter whose name has been registered in the electoral roll of that constituency shall be entitled to cast his vote only in such constituency.

Provided that, in respect of any person temporarily residing in another constituency, the Commission may make provisions for inclusion of his name in the temporary electoral roll as a voter in the manner specified for the purpose.

11. **Date of Maturity for Voting:**
 The date of maturity for voting in any election to be held pursuant to this Act shall be as specified by the Commission.
 Provided that for the purpose of first election to be held after the commencement of this Act, the last day of the month of Aswin, 2047 shall be adopted as such date.
12. **Preparation of Electoral Roll:**
 (1) The Commission shall prepare the electoral roll for every constituency in the prescribed manner under its own supervision, control and directions.
 (2) The electoral roll prepared before the commencement of this Act incorporating the persons who have attained the age of eighteen years on the last day of Aswin, 2047 shall be deemed to have been prepared pursuant to this Act.
 (3) The electoral roll as prepared according to Sub-section (2) above shall be treated as the base document and shall be amended every year so as to include those voters who have attained the age of eighteen by the last day of the month of Chaitra of that year.
 Provided that nothing mentioned in this Section shall be deemed to prevent for continuing the validity of the existing electoral roll for the next year irrespective of failure to amend such electoral roll in any year.
 (4) It shall be the duty of every citizen of Nepal possessing qualification as a voter to have his name enrolled in the electoral roll.
13. **Publication of the Electoral Roll:**
 (1) During each general election, the Returning Officer shall publish the electoral roll of the constituency in the prescribed manner according to the program determined by the Commission. Such program shall also contain provisions of time-limit, as prescribed, for making claims by the omitted persons to be enrolled in the electoral roll, for correcting the entries thereof in respect of

name, age, place of residence or any other particular of such electoral roll, or for removal of name of any person contained therein.

(2) Where any claim for enrollment or any objection to the enrollment is filed pursuant to Sub-section (1) above, an inquiry shall be conducted in the prescribed manner for verification of such claim or objection and if any amendment is incorporated therein, a final electoral roll shall be prepared. The amended electoral roll shall be published in the prescribed manner.

14. Period of Validity of Electoral Roll:

After the publication of the final electoral roll of any constituency, no alteration or amendment therein shall be made and such roll shall remain effective for the concerned election.

15. Questions Not to be Raised in Court:

No question shall be raised in any court of law on the following matters:

(a) On matters of inclusion or the exclusion of any name or about the propriety of inclusion or removal of such name in the electoral roll of any constituency; and

(b) On matters of preparation of the electoral roll by Voters Registration Officer or by any person duly authorised by such Officer, or on matters of alteration in the electoral roll by the concerned officer pursuant to the provision of Sub-section (2) of Section 13.

Provided that nothing mentioned in this Section shall be applicable in respect of the Election Tribunal constituted in accordance with the existing law.

CHAPTER - V

Registration of Political Organisation or Parties

16. Petition for Recognition as the Political Organisation or Party for the Purpose of Election:

(1) Every Political Organisation or Party desirous of recognition as such by the Election Commission for the purpose of election as mentioned in Article 113 of the Constitution shall

submit a petition with the Commission observing the procedures specified in the notification published in the Nepal Gazette and within the time specified by the Commission in the same notification.

(2) The Political Organisation or Party submitting petition pursuant to Sub-section (1) above shall undertake in the petition that at least five percent of the Candidates contesting election in pursuance of this Act will be female Candidates as mentioned in Article 114 of the Constitution.

17. Registration of Political Organisation or Party:

(1) Upon receipt of petitions pursuant to Sub-section (1) of Section 16, if the Commission deems necessary to seek any further information from any Political Organisation or Party, it shall require such Organisation or Party to submit such information. After scrutiny of the formalities required to be satisfied under this Act and the Constitution, the Commission shall decide in favour of or against the registration of the Political Party or Organisation.

(2) If the Commission considers against the registration, it shall give a reasonable opportunity to the concerned Political Organisation or Party to submit its views thereon. Where such opportunity has been given, the Commission shall give due consideration to the explanations of the concerned Organisation or Party. The Commission shall decide thereafter whether or not to register such Organisation or Party and such decision of the Commission shall be final.

(3) Where it is found that two or more Political Organisation or Parties, filing petition pursuant to Sub-section (1) of Section 16 have applied under the same name, the Commission shall, after consultations with such Organisations or Parties, register them in such manner that they may be identified separately.

18. Non-Registration of Political Parties Under the Same Name:

No other Political Organisation or Party shall be registered bearing the same name one Organisation or Party has been registered.

19. Registration of the Splitter of Political Party:
If at least forty percent of the Members of the Central Executive Committee of a Political Organisation or Party submit a petition claiming their split or separation from the principal Political Organisation or Party with proof of their Membership and status and such splitter group requests for registration as such under separate name or as a splitter group under the same name, the Commission may, after making necessary inquiry, register such group as a Political Organisation or a Party. No such petition shall be entertained after the notice announcing the election programme pursuant to Sub-section (1) of Section 25 is published.

20. Merger of Political Organisation or Party:
(1) If the Members of the Central Executive Committees of two or more political organisations or parties, registered with the Commission, decide by an agreement to unite or merge with or another and submit petition for registration either in a name already registered or under a new name, the Commission may, after making necessary inquiry, approve such unification or merger and register the Organisation or Party accordingly. No such petition shall be entertained after the notice announcing the election programme pursuant to Sub-section (1) of Section 25 is published.

(2) If, from amongst the Political Organisations or Parties seeking to unite or merge pursuant to Sub-section (1) above, at least forty percent of the Members of the Central Executive Committee submit a petition, prior to the publication of the notice announcing election programme pursuant to Sub-section (1) of Section 25, objecting to such unification or merger and desiring to retain the original status of the concerned political organisation or party, the Commission may, after making necessary inquiry if it finds the claims made in the petition as proper and reasonable, retain the original registration of Organisation or Party. Where the name of such Political Organisation or Party has been decided to be retained as earlier, the Members of the Executive Committee of such Organisation or Party shall be recorded by the Commission provided in the petition.

21. Notice of Amendment of Constitution or Other Description of Organisation or Party:
If any amendment is made in the Constitution, Manifesto or Rules of any Political Organisation or Party registered as such pursuant

to this Act, or any alteration or changes is made or has appeared in the particulars contained in the petition submitted in accordance with Sub-section (1) of Section 16 of this Act, the Commission shall be informed of such amendment or alteration within fifteen days thereof.

22. Name and Signature Specimen of Authorised Person:
(1) Where any information relating to the Political Organisation or Party registered under this Act is required to be furnished to the Commission pursuant to the provisions of this Chapter, such information shall be furnished in writing by the Chairman of the Central Executive Committee of such Organisation or Party, or the Chief Executive of the Secretariat.

(2) For the purpose of Sub-section (1) above, a certified specimen signature of such concerned official, together with his name, surname and address, shall be provided to the Commission.

23. Publication of the Names of Political Organisations and Parties:
The Commission shall from time to time publish in the Nepal Gazette a list of the Political Organization or Party registered pursuant to this Act.

CHAPTER VI Notification of Election

24. Election:
(1) The Commission shall, for the purpose of constituting the first House of Representatives after the commencement of this Act, and thereafter, on the expiry of the term of each House of Representatives or on the dissolution of House pursuant to the provisions of the Constitution, announce a general election to fill all the seats of the House.

(2) If any House of Representative is dissolved prior to the expiry of its term as mentioned in Sub-section (1) above, the Commission shall announce a Mid-term election.

(3) If any seat of a Member elected from any constituency falls vacant for any reason prior to the expiry of his terms, a By-

election shall be held to fill such vacancy for the remaining term of the vacating Member.

Provided that no such By-election shall be held, if the remaining term of such Member is of a period less than six months.

25. Notification of Election:

(1) The Commission shall fix the date and time of the election to be held for filling the seats of the House of Representatives and issue a notice to such effect. Such notification shall be published in the Nepal Gazette.

(2) The Commission may, in consideration of the geographical factors, climatic conditions and other situations, announce any one or different dates for election to be held in more than one constituencies. The election held on the same or different dates as per the Election Programme determined by the Commission shall be deemed to have held simultaneously.

26. Notice of Election Programme:

(1) After the publication of Election Notice under Sub-section (1) of Section 25, the concerned Returning Officer shall, issue notice in their respective constituency, conforming to the Election Programme determined by the Commission, for the purpose of filing of nomination papers, publication of the list of Candidates whose nomination papers have been filed, raising objection to the nomination of any Candidate, scrutiny of the nomination papers, publication of the list of duly nominated Candidates, publication of the final list of Candidates and the date, time and place for distribution of electoral symbols to the Candidates.

(2) While preparing the Election Programme as mentioned in Sub-section (1) above, due consideration shall be given to the day and time that may be required for the filing of nomination papers, objecting to such nominations, scrutiny of the nomination papers, publications of the name of the Candidates and the withdrawal of names etc.

(3) While issuing a notice pursuant to Sub-section (1) above, a period of at least thirty days between the date of publication of final list of Candidates and the Polling Date shall be allowed.

(4) The procedure as laid down in the Sub-section (1), (2) and (3) above shall be observed in respect of the Mid-term Election and By-elections to be held under Subsection (2) and (3) of Section 24.

CHAPTER - VII

Candidates and Nominations

27. Disqualifications:

(1) The following persons shall not be eligible as a Candidate for election;

(a) Who has not completed the age of twenty five years;

(b) Who is not a citizen of Nepal;

(c) Who is mentally deranged or of unsound mind;

(d) Who is declared financially insolvent or bankrupt;

(e) Who is an employee of His Majesty's Government, or of the corporate body owned or controlled by His Majesty's Government, or of any institution receiving grants from His Majesty's Government;

(f) Who is holding an office of profit for which salary or other benefits are paid from the government treasury, except a pensioner or a person engaged in a political position to be filled by election or nomination;

(g) Who is convicted and sentenced with imprisonment on an offence relating election by the Election Tribunal constituted under an existing law and a period of six years has not been elapsed from the date of completion of such sentence;

(h) Who has been convicted in a criminal offence of the nature involving moral turpitude and sentenced for a term exceeding two years and a period of six years has not elapsed from the date of completion of such sentence;

(1A) The qualifications as stipulated in Clauses (g) and (h) of Subsection (1) shall not be applicable in respect of the first election to be held after the commencement of this Act.

(2) For the purpose of Clause (f) of Sub-section (1), the following positions shall not be deemed to be the office of profit:

(a) Prime Minister, Deputy Prime Minister, Minister, State Minister, Assistant Minister;

(b) Speaker, Deputy Speaker and Member of the House of Representative;

(c) Chairman, Deputy Chairman and the Member of the National Assembly;

(d) Leaders of the Opposition on the House of Representative and National Council;

(e) Chairman and the Deputy Chairman of the various Committees of the Parliament;

(f) Chiefs, Deputy Chief, or Member of local bodies of Village, Town and District level;

(g) Office of Senate, Executive Committee or Executive Council of the University;

(h) Office of Members of delegation or Commission sent by his majesty's government to a foreign country for a specified purpose; or

(i) Such other office as are declared to be offices of non-profit by his Majesty's Government.

(3) Any person convicted in any Offence against State or who has been pardoned on political grounds as included in a notice

As amended by the First Amendment of the Act, 2047 as published in the Nepal Gazette, Part II, Vol. 40, Extraordinary Number 1, dated 2047/12/14 (March 20, 1991).

published in the Nepal Gazette shall not be deemed as disqualified for the purpose of Clause (h) Subsection (1).

28. Computation of Age of the Candidate:

For the purpose of computing the age of Candidate for being eligible to contest election, he must have completed the age of twenty five on the date of maturity specified in Section 11.

29. Removal from Membership:

(1) If the election of any Member is annulled by the decision of an Election Tribunal constituted under the existing law, the Membership of the concerned Member in the House of Representative shall be deemed to have terminated from the date of such decision.

(2) If a Member of the House of Representative is elected or nominated to the Membership of the National Assembly, his Membership shall be deemed to have automatically terminated from the date on which he is so elected or nominated.

30. Vacancy of Seat of Member in Multiple Constituencies:

(1) If a Candidate is elected in more than one constituencies, he shall opt within thirty days from the date of commencement of the session of Parliament one of the seats in which he intends to retain his Membership and resign in writing from the rest of the seats. Such resignation shall be submitted to the Speaker of the House.

(2) If such Member does not submit his resignation as mentioned in Sub-section (1), the Commission shall request the Speaker of the House of Representative for his decision as to the seat which the Member will be allowed to retain and the others which will be deemed as vacated. The Commission shall, on the basis of such decision, publish a notice in the Nepal Gazette indicating the constituencies in which the Membership of the concerned Member stands terminated.

31. Nomination of Candidate:

(1) Any person, who is qualified to become a Candidate according to the provisions of the Constitution and this Act and whose name is registered in the electoral roll of a constituency,

may be proposed in the prescribed manner to become a Candidate in the election for Membership to be held in his constituency.

(2) Any Candidate who has been nominated pursuant to Sub-section (1) above shall be seconded in writing by another voter of the same constituency.

(3) In respect of the Candidate set up by a Political Organisation or Party duly registered under this Act, such Organisation or Party shall provide to the concerned Candidate an official letter of nomination. The official of the Organisation or Party, who is duly authorised to issue such letter of nomination, shall also send a copy thereof to the concerned Returning Officer.

(4) Any person proposed in the manner mentioned in Sub-section (1) above, must express his consent in writing and sign it.

(5) A person may be proposed as a Candidate in any one constituency through nomination papers not exceeding five in numbers.

(6) A person may be nominated as Candidate in more than one constituencies.

32. Candidates Contesting Election as Party Candidate :

(1) The Political Organisation or Party registered under this Act shall provide to the Commission the name, surname and position, including the Specimen Signature, of its official authorised to issue Party Nomination Letter for contesting election as its Candidate. Such authorization shall be issued only by the Chairman of the Central Executive Committee or the Chief Executive Officer of the concerned Political Party or Organisation.

(2) Any Candidate set up by the Political Party or Organisation without observing the procedures mentioned in Sub-section (1) above or carrying the Party Nomination Letter not tallying to the specimen signature of the official submitted to the Commission, shall not be recognised as the Candidate of such Party and may be treated only as an independent Candidate.

(3) Not the Candidate of Party in the constituency.

(4) Not the Candidate of Party in the constituency.

(5) Not the Candidate of Party in the constituency.

33. Filing of Nomination Papers:

(1) The nomination paper of a Candidate shall be submitted either by the Candidate himself or by his representative or his Proposer to the Returning Officer of the concerned constituency.

(2) The concerned Returning Officer shall scrutinize the nomination papers filed pursuant to Sub-section (1), and, if found to have complied with the formalities, he shall record the nomination paper and issue a receipt thereof to the Candidate, his representative or his Proposer.

(3) If any nomination paper is found to be deficient of the name of the Proposer, or the Proposer is duplicated, or the receipt of deposit required under this Act is not enclosed, or lacks the signature either of the Proposer or of the Candidate, or does not comply with other formalities, the Returning Officer shall require to complete such formalities prior to recording thereof. If the person submitting such nomination paper still insists on filing thereof without complying to the required formality, such refusal shall be remarked on the concerned nomination paper and such person shall be informed of the remarks.

(4) The Returning Officer shall, after the expiry of the time allotted for the filing of the nomination paper, publish the list of Candidates filing nomination papers on the date, time, and place as specified in the Election Programme.

(5) Any Candidate or his representative having reasons to object the nomination of another Candidate included in the list published pursuant to Sub-section (4), may file his objection on the date, time and place as specified in the Election Programme.

34. Scrutiny of Nomination Paper:

(1) The Proposer or the Candidate himself or his representative must be personally present on the date, time or place specified in the Election Programme for the purpose of scrutinizing nomination papers.

(2) The Returning Officer shall scrutinize all nomination papers in the presence of persons mentioned in Sub-section (1). Provided that nothing mentioned in this Sub-section shall be deemed to prevent from scrutiny of nomination papers and deciding

thereupon according to the law despite the absence of any Proposer or Candidate or his representative required to be present therein.

(3) The Returning Officer shall, during scrutiny of nomination papers, probe on the objections, if any, filed pursuant to Sub-section (5) of Section 33 and decide thereupon.

Provided that minor discrepancies in the nomination papers shall not render them invalid.

Explanation: For the purpose of this Section "minor discrepancy" shall mean the technical mistakes relating to the letters, numbers and vowel signs in writing or printing of the name, surname, address or serial number of the Candidate, Proposer and other person relevant thereto as contained in the voters list or nomination paper and which does not cause any material difference.

(4) Except under the following circumstance, the Returning Officer shall not suspend the works of scrutiny of nomination papers ;

(a) Where any mobbing or violence erupts at the time and place of scrutiny of nomination papers;

(b) Where any situation of natural calamity beyond control exists;

(5) If the scrutiny of the nomination papers is suspended under circumstances mentioned in Sub-section (4) above, the Returning Officer shall fix the time and place of such scrutiny for the following day and continue the scrutiny onwards.

35. Conditions for Invalidity of Nomination Paper:

The nomination paper shall become invalid in the following circumstance:

(a) If the Candidate does not possess the qualification required by the Constitution and this Act,

(b) If the consent of the Candidate does not exist, or the nomination paper does not contain signature of the Proposer or the Secunder or the signature is forged;

(c) If no deposit as required by the Section 74 is enclosed therewith;

(d) If the nomination paper is not filed within the time specified for the purpose pursuant to Section 26;

(e) If the nomination paper does not comply with the conditions mentioned in Section 32 and 33;

(f) If other requirements prescribed by this Act is not fulfilled.

36. List of the Candidates:

The Returning Officer shall, after the scrutiny of nomination papers, prepare in the prescribed manner a list of the Candidates whose nomination papers are found to be in order as required by the law and shall publish a copy thereof in his office.

37. Withdrawal of Names:

(1) If any Candidate desires to withdraw his name from the list of Candidates, he may so withdraw his name by giving notice in writing to the Returning Officer in the prescribed manner within the time mentioned in Sub-section (1) of the Section 26.

(2) The notice concerning the withdrawal of name pursuant to Sub-section (1) shall be submitted by the Candidate himself or his representative.

(3) A notice for withdrawal of name once submitted to the Returning Officer shall not be allowed to cancel or withdraw such notice.

(4) If the Returning Officer is satisfied about the genuineness of the notice submitted pursuant to Sub-section (1) above, he shall remove the name of the Candidate withdrawing his name from the list of the Candidates. The Returning Officer shall immediately publish in his office a notice announcing the removal of name of the concerned Candidate.

(5) If the official authorised by the concerned Political Organisation or Party to nominate any Candidate notifies, within the time specified in Sub-section (1) of Section 26 to the

Returning Officer, the withdrawal of the person set up as its Candidate, such person shall not be retained as the Candidate set up by that Political Organisation or Party. However, he shall have the status of an independent Candidate.

38. Final list of the Candidates:

(1) The Returning Officer shall, after the expiry of time specified in Sub-section (1) of Section 26 for withdrawal of name, prepare in the prescribed manner a final list of the remaining Candidates and shall immediately publish a copy of the list in his office. He shall also send a copy of such final list immediately to the Commission.

(2) In the list prepared pursuant to Sub-section (1), the names of the Candidates shall appear in the alphabetical order and the address of the Candidate, as mentioned in the nomination paper, as well as the name of the Political Organisation or Party, if the Candidate is set up by such Organisation or Party, shall also be mentioned therein.

39. Uncontested Election:

(1) If only one nomination paper has been filed in any constituency and such nomination paper is found to have completed the required formalities, or despite the filing of more than one nomination paper, all but one Candidates have withdrawn their names, or all but one nomination papers are declared invalid, the Returning Officer shall declare, in the prescribed manner, the remaining only Candidate as elected unopposed.

(2) If the number of Candidates in any constituency remains more than one, a poll shall be held in such constituency.

40. Election Symbol:

(1) The Commission shall determine election symbols to be allocated to the Candidates. The Commission shall, while determining the symbols, designate separate sets of symbols respectively for the Candidates set up by Political Organisations or Parties and for the independent Candidates.

(2) The election symbols, determined pursuant to Sub-section (1), shall be allocated to each Candidate in the prescribed manner.

(3) The Commission shall, while allocating election symbols pursuant to Sub-section (2), allocate to each Political Organisation or Party registered as such with the Commission one election symbols to be used by the Candidates of that Party in all the constituencies where the Party is contesting the election.

(4) No person other than the Candidate of the Political Organisation or Party to whom the symbol has been allocated shall be entitled to use the election symbol allocated by the Commission pursuant to Sub-section (3).

(5) The Political Organisation or Party shall provide to the Commission and the Returning Officer of the concerned constituencies, the list of its Candidates, who will be using the symbol allocated under this Section, within the time specified by the Commission.

(6) No alteration in the election symbol once allocated to a Candidate shall be permitted, despite the Candidate abandons the Political Organisation or Party and joins another Organisation or Party.

(7) If more than one Political Organisation or Party claim for same or similar election symbol, the Commission shall determine the symbol for each Organisation or Party in the prescribed manner and allocate such symbols accordingly.

(8) If it appears to the Commission that some mistake or inconsistency has occurred in the allocation of election symbol, it may make necessary alteration in such election symbols.

(9) The election symbols designated for the use of independent Candidates shall be allocated by the Returning Officer in the prescribed manner.

41. Death of a Candidate:

(1) If any Candidate, whose nomination paper has been found to be in order and who has not withdrawn his name, dies before the publication of the final list pursuant to Section 38, and the written information of such death is provided by the election agent or any other person, and if the Returning Officer is satisfied about such information, he shall immediately suspend the remaining programs of the concerned constituency and intimate, as soon as practicable,

to the Commission with complete details on the concerned event. A notice of suspension of programs shall be served by the Returning Officer in his office for information of the rest of Candidates.

(2) If any Candidate, whose name appears in the final list published pursuant to Section 38, dies after the publication of such final list and the written information of such death is provided by the election agent of the Candidate or by any other person, and if the Returning Officer is satisfied about such information, he shall immediately suspend the remaining programs of the concerned constituency and intimate, as soon as practicable, to the Commission with complete details on the concerned event. A notice of suspension of programs shall be served by the Returning Officer in his office for information of the rest of Candidates.

(3) The Commission, on receipt of information pursuant to Sub-section (1), shall prepare another program for such constituency with least effect upon the polling program thereof and with a view to accomplishing the procedures of nomination of Candidates as early as possible and shall send such program to the Returning Officer.

(4) The Commission, on receipt of information pursuant to Sub-section (2) above, shall reschedule the election program for such constituency according to the provision of this chapter, including the polling date in the constituency, and shall send such program to the Returning Officer.

(5) The Candidates whose names appear in the final list published pursuant to Section 38 shall not be required to re-submit their nomination papers and any Candidate who had withdrawn prior to suspension of program earlier shall be entitled to re-submit their nomination papers.

42. Identity Card to the Candidates:

The Returning Officer shall provide to all such Candidates, whose names appear in the final list published according to the provisions of this Chapter, necessary documents including an identity card.

CHAPTER - VIII
Polling Centers, Ballot papers
and Ballot box

43. Polling Center:

The Returning Officer shall, with the prior approval of the Commission, determine the requisite numbers Polling Centers and Polling Subcenters within his constituency. He shall thereafter publish the list of such centers in the prescribed manner.

44. Ballot Papers:

(1) The Polling Officer shall give the Ballot Papers to the voters present at the Polling Center after completing the procedures as prescribed.

(2) The design of the Ballot Paper shall be as specified by the Commission. The Ballot Paper shall show the election symbols of the Candidates.

45. Ballot Box:

Such Ballot Box as prescribed by the Commission shall be used for polling.

CHAPTER - IX
Polling

46. Polling Period :

The polling period on the polling date shall be as specified in the notice issued pursuant to Sub-section (1) of the Section 25.

47. Polling:

A voter, whose name is enrolled in the voters' list of a constituency, shall be entitled to vote only in the same constituency.

48. Polling Methods :

(1) The voter shall vote by marking on the Ballot Paper the sign or seal prescribed by the Commission.

(2) The voter shall vote indicating the choice of his Candidate confidentially by marking the sign within the box containing the election symbol of the Candidate box allotted in the Ballot Paper.

(3) No one shall falsely impersonate any genuine voter enrolled in the voters' list of a constituency. ^{2/}

(4) No person shall vote in any election without possessing the qualification required pursuant to the provision of this Act.

(5) No voter shall vote in more than one constituency.

(6) No voter shall cast more than one vote in any constituency.

(7) If any voter, prohibited from voting in any manner pursuant to Sub-section (4), (5) and (6), presents himself to receive Ballot Papers, the Polling Officer may refuse him to issue Ballot Paper.

49. Adjournment of Polling During Emergency:

(1) If the Polling Officer appointed in any Polling Center or the Returning Officer of that constituency is satisfied that due to violent mobbing or disruption or natural calamity or any circumstance beyond his control, the election proceedings cannot be continued, he may at once suspend all the proceedings of election in that center and publish a notice to that effect therein. If such suspension of the election proceedings is made by the Polling Officer, he shall immediately inform the Returning Officer on the facts and events thereof.

(2) The Returning Officer shall immediately despatch requisite information regarding the suspension of election proceeding under Sub-section (1) above to the Commission and all other concerned authorities.

(3) If no directives to the contrary is issued by the Commission upon receipt of information according to Subsection (2), the Returning Officer shall issue a notice of the date and time for repolling in such Polling Centers and shall conduct repolling therein accordingly.

* 2. Deleted by the First Amendment Act, 2047 - as mentioned in Footnote 1.

50. Unlawful seizure of Polling Centers:

(1) On occurrence of any of the following circumstances, the Polling Center shall be deemed to have been unlawfully seized;

(a) If any person by using force or coercion or threat seizes the Polling Center or any place designated for such polling, influences the election proceedings or allows only the voters supporting a particular Candidate to vote, or prevents other voters from voting;

(b) If any person, by or without use of force, threatens or coerces any voter to vote or not to vote for any particular Candidate or prevents such voter from going to or entering in the Polling Center;

(c) If any person, by or without use of force, prevents any official deputed to conduct election from carrying out his duties, or seizes the Ballot Papers, the ballot boxes, or other election material from the lawful custody of such official, or uses influence in the proceedings of the election by similar actions so that the election proceedings are not or cannot be held in a free or fair manner.

(2) If any situation, as mentioned in Sub-section (1) above, appears in any Polling Center, the Polling Officer shall immediately inform the Returning Officer who shall thereupon inform the Commission on the situation.

(3) The Commission, upon receipt of a report pursuant to Sub-section (2) above, may assign an Observer to make spot investigations. The Commission may, considering the report of such Observer and other circumstances prevailing therein, annul the election of that Polling Center. The Returning Officer shall, observing the directives of the Commission, re-schedule the date and time for repolling in such Polling Centers where the polling have been annulled.

(4) The Commission may, if it feels on the basis of report submitted pursuant to Sub-section (2) above and other circumstances relevant thereto that the illegal seizure of a Polling Center may adversely affect the result of election, annul the election of that Polling Center. The Returning Officer shall,

observing the directives of the Commission, re-schedule the date and time for repolling in such Polling Centers.

51. Damage to or Break of Ballot Boxes:

(1) If any Ballot Box used in any Polling Center for the purpose of election is damaged by accident or is broken intentionally, the Polling Officer shall immediately submit a report of the fact to the Returning Officer and the Returning Officer shall also immediately report the matter to the Commission.

(2) If any Ballot Box used for polling in any Polling Center, and being in the custody of Returning Officer himself, is seized in any manner or is accidentally damaged or intentionally broken, the concerned Returning Officer shall immediately submit a report to the Commission on the situation.

(3) The Commission, upon receipt of any report pursuant to Sub-section (1) or (2), may assign an Observer to investigate on the spot and inquire about the circumstances. The Commission may, upon consideration of the reports, including the report of the Observer, if any so assigned, annul the election of that Polling Center.

(4) The Returning Officer shall, observing the directives of the Commission reschedule the date and time for repolling in such Polling Center where polling had been annulled pursuant to Sub-section (3) and issue a notice to that effect.

52. Chief Returning Officer to be Informed:

The Returning Officer shall also inform the Chief Returning Officer in the district, if any, on the occurrence of any circumstance mentioned in Section 49, 50 and 51.

53. Objection on False Impersonation of Voter:

(1) If any person falsely impersonating any other voter presents himself to receive a Ballot Paper, any Candidate or his representative may, by making a deposit of the amount as prescribed, file objection with the Polling Officer.

(2) If any objection is received pursuant to Sub-section (1) above, the Polling Officer shall make summary investigation and

decide immediately. He shall record such objection and his decision in the Minute Book to be maintained in the prescribed manner.

(3) If the objection filed pursuant to Sub-section (1) above is substantiated, the deposit shall be returned to the concerned person and, if the objection is not sustained, the deposit shall be confiscated.

54. Entry to Polling Center:

(1) The Polling Officer shall prohibit entry to the Polling Center of all persons excepting the following:

- (a) Voters;
- (b) Candidate or one of his representative; and
- (c) Persons who are permitted by the Commission or the Returning Officer or the Polling Officer.

(2) No voter shall be permitted to enter the Polling Center after the expiry of the time allocated for polling.

55. Inspection by the Polling Officer:

If any voter stays for more than a reasonable time within the place allotted for the marking of votes or if the Polling Officer suspects of any mischief, the Polling Officer may enter the place allotted for the marking of votes.

56. Incapacitated Voter:

(1) If any voter for reason of his physical incapacity, or for any other reason, cannot cast his vote by himself and request for the assistance of a person of his choice and the Polling Officer finds the request reasonable, he shall permit such person to accompany the concerned voter to the place allotted for the marking of votes.

(2) If any voter cannot himself mark his vote and requests the Polling Officer to mark in the box containing the symbol of the Candidate of his choice in the Ballot Paper, the Polling Officer may assist him in marking the vote according to the wish of such person.

CHAPTER - X
Counting of Votes and Election Result

57. Chief Returning Officer to Coordinate the Counting:
In districts having more than one constituencies, the Chief Returning Officer of that district shall supervise, control, direct and coordinate the counting of votes in his district. It shall be the duty of every Returning Officer to carry out the directives of the Chief Returning Officer.
58. Notice About Vote Counting:
The Returning Officer shall, after the receipt of all ballot boxes from the Polling Officers used for polling in the Polling Centers of the constituency, publish a notice, as directed by the Chief Returning Officer, informing the Candidates about the place, date and time fixed for the counting of votes.
59. Counting of Votes:
(1) The Returning Officer shall commence counting of votes in the place and on the date fixed in the notice published pursuant to Section 58.
(2) The Candidates, his Election Agents and a required number of Counting Agents may attend at the place and on the date and time fixed pursuant to Subsection (1) for the counting of votes.
(3) If a repolling in any Polling Center of that constituency becomes necessary in pursuance of this Act, the counting of votes of other Polling Centers of that constituency shall be withheld until repolling in that Polling Center is completed.
60. Entry into the Counting Center:
(1) The Returning Officer may permit the Candidate of the concerned constituency, his Election Agent, Counting Agents, persons engaged in the counting work, employees deputed for the security and any other person assigned or deputed by the Commission, to enter the place where the votes are being counted.
(2) The Returning Officer may order any person obstructing the counting of votes to leave the place where the votes are being counted and the person so ordered shall be under obligation to leave such place. If the person so ordered does not comply with such

order, the security personnel shall, upon order of the Returning officer, expel the concerned person from such place.

61. Vote Counting to be Continuous:
(1) The Returning Officer shall, once the counting of votes is commenced, keep the process thereof continuous until completed.
(2) If for any reason the process of counting of votes cannot be continued and has to be adjourned, the Returning Officer shall keep the counted Ballot Papers, records concerning the counting of votes, the remaining Ballot Papers to be counted, and the list of Ballot Boxes of which votes have not been counted, in separate envelopes and seal the envelopes with official seal. The concerned Candidate or his Counting Agent or his Election Agent may also counter-sign or seal therein, if any of them so desire.
(3) The counting of votes which was adjourned pursuant to Sub-section (2) above, shall as far as possible, be resumed the following day. Notice about the resumption of counting of votes shall be given to the Candidate present in that place or his Election Agent or his Counting Agent. Such notice shall also be published in the place where the votes are being counted.
62. Loss of Ballot Papers Before Counted:
(1) If, prior to the completion of counting, either the Ballot Papers or the Ballot Box containing the Ballot Paper, used in any Polling Center, is unlawfully removed from the custody of the Returning Officer, or opened or damaged accidentally or intentionally destroyed, or is lost, the Returning Officer shall immediately report the matter to the Commission.
(2) The Commission shall, upon receipt of a report pursuant to Sub-section (1) above, after making inquiry, if deemed necessary, order the suspension of counting of the remaining ballots.
(3) The Commission shall, after suspension of the counting of votes pursuant to Sub-section (2) above, declare the annulment of polling of the Polling Center in respect of which the aforesaid incident had occurred. The Returning Officer shall, as per the directives of the Commission, publish a notice rescheduling the date, time and place of re-polling in the concerned Polling Center.

63. Unlawful Seizure of the Place of Vote Counting:

(1) On occurrence of any of the following circumstances, the place of vote counting shall be deemed to have been unlawfully sized:

(a) — If any person by using force or coercion or threat seizes the place of vote counting or takes in his possession the Ballot Papers or Ballot Boxes from the custody of any officer or employee engaged in the counting of votes or interferes or influences in the process of counting of votes or causes to interfere or influence thereupon through any similar conduct; or

(b) If any person engaged in the counting of votes act in any manner mentioned in Clause (a), or assists in or assents to the performance of such act.

(2) If any place of vote counting is unlawfully occupied as mentioned in Sub-section (1) above, the Returning Officer shall immediately report the matter to the Commission.

(3) The Commission shall, upon receipt of a report pursuant to Sub-section (2) above, after making inquiry, if deemed necessary, order the suspension of counting of votes of the remaining Polling Centers.

(4) The Commission shall, after suspension of the counting of votes pursuant to Sub-section (3) above, declare the annulment of polling of the Polling Center in respect of which the aforesaid incident had occurred. The Returning Officer shall, as per the directives of the Commission, publish a notice rescheduling the date, time and place of re-polling in the concerned Polling Center.

64. Invalidity of Ballot Papers:

In any of the following circumstances, a Ballot Paper shall be deemed invalid:

(a) if it does not bear any signature of the concerned Polling Officer;

(b) if it is not marked in the prescribed manner and is marked differently, or bears any other different mark;

(c) if it is mutilated or blurred or defaced beyond identification;

(d) if the mark is found elsewhere beyond the box of a Candidate;

(e) if the mark is found in the blank box in which no Candidate exists;

(f) if it is surrendered to the Polling Officer with intention of abstaining from voting;

(g) if the mark is unclear as to signify definitely the Candidate to whom the vote is intended;

(h) (deleted) 3/

(i) if the marks are placed in more than one box.

(j) if the Ballot Paper is other than the one allotted for that Polling Center;

(k) (deleted) 4/

(l) if it is a fake ballot paper.

65. Recounting of Votes:

(1) Any Candidate or his Election Agent or Counting Agent may, before the completion of counting, or if completed, before the announcement of result, demand with the concerned Returning Officer, stating the reasons therefor in writing, to recount all or any of the Ballot Papers.

(2) If a request pursuant to Sub-section (1) above is filed, the Returning Officer shall record the request immediately and recount the Ballot Papers if he feels that recounting is necessary.

3. *ibid.*

4. *ibid.*

(3) If the Returning Officer considers that recounting of votes pursuant Sub-section (2) is not necessary, he shall record his decision to that effect and shall, prior to the announcement of result, inform of his decision to the Candidate or his Election Agent or Counting Agent, whosoever is present on the spot.

66. Tie of Votes:

After the counting of votes in any constituency is completed, if two or more Candidates receive equal number of votes, the Returning Officer shall decide by drawing lots amongst the Candidates receiving equal number of votes. The Candidate in whose favour the lot is drawn shall be deemed to have received one additional vote.

67. Publication of Election Result:

(1) As soon as the counting of the votes of all the Polling Centers in any constituency is completed, the Returning Officer shall prepare a result sheet of counted votes in the prescribed manner and, thereafter, publish the result of election in the prescribed manner. The Returning Officer shall immediately send the result sheet to the Commission.

(2) Together with the publication of the election result pursuant to Sub-section (1) above, the Returning Officer shall also declare as elected the name of the Candidate receiving highest number of valid votes in the election.

(3) The Returning Officer, after the publication of election result, prepare a detailed report containing other relevant facts about the election, and send it to the Commission.

(4) The Commission shall, upon receipt of result sheet of the election pursuant to Sub-section (1), prepare a list of the elected Candidates and forward such to the Secretariat of the Parliament. The Commission shall also publish such list in the Nepal Gazette.

68. Date of Election:

The date on which the Returning Officer declares the election result pursuant to the provision of Section 67 shall be deemed as the date of election of the concerned Candidate.

CHAPTER - XI
Agents of the Candidate

69. Election Agent:

(1) Whenever a Candidate appoints an Election Agent, he shall intimate such appointment in writing to the concerned Returning Officer.

(2) An Election Agent appointed under Sub-section (1) may be removed by the Candidate at any time and another Election Agent may be appointed therein. An intimation of such replacement shall be immediately given to the Returning Officer.

(3) The qualification for the Election Agent shall be as prescribed.

70. Duties of an Election Agent:

The duties of an Election Agent, appointed pursuant to Section 69, shall be to perform all such functions which are specified in this Act and the Rules made thereunder, as the function of the Election Agent.

71. Poll Agent and Counting Agent:

(1) Any Candidate or his Election Agent may appoint in the prescribed manner one or more Poll Agent for each Polling Center. An intimation in writing about such appointment shall be given to the Polling Officer and the Returning Officer.

(2) Any Candidate or his Election Agent may appoint in the prescribed manner one or more Counting Agent to be present at the Counting Centers. An intimation in writing about such appointment shall be given to the Returning Officer.

(3) Any Candidate or his Election Agent may at any time remove the Poll Agent or the Counting Agent appointed pursuant to Sub-section (1) or (2) above, and appoint another Poll Agent or Counting Agent. An intimation of such replacement shall be immediately given to the Polling Officer and the Returning Officer.

(4) The qualification of Poll Agent and Counting Agent shall be as prescribed.

72. Duties of the Poll Agent and Counting Agent:
 (1) The duty of Poll Agent shall be to perform all such functions as are prescribed in this Act or the Rules made thereunder.
 (2) The duty of Counting Agent shall be to perform all such functions as are prescribed in this Act or the Rules made thereunder.
73. Absence of the Candidate or Any Agent:
 Where no Election Agent or Poll Agent or Counting Agent is appointed pursuant to this Act or the Rules made thereunder, or where the Candidate or any of his Agents are not present for the purposes required by such laws, or where any of them does not perform his functions under such laws, no process of polling or counting of votes shall be adjourned simply on such grounds and nothing performed under such conditions shall be deemed illegal.

CHAPTER - XII Miscellaneous

- 73A. Provisions for Tendered Vote:
 (1) If any person by false impersonation has obtained the Ballot Paper of any voter or has already polled with such Ballot Paper and if the registered voter claiming such Ballot Paper afterwards is found, through the evidence submitted by him, as the genuine person, the Polling Officer shall grant him the "Tendered Ballot Paper". Where such Tendered Ballot Paper has been granted, the voter shall, after indicating his vote in the Ballot Paper, in stead of dropping it within the Ballot Box, place it in a separate envelope kept specially for the purpose.
 (2) The procedures for granting and placing of Tendered Ballot Paper, pursuant to Subsection (1), and other procedures relating thereto shall be as prescribed.
 (3) During the counting of votes according to Section 59, the Tendered Votes placed in a separate envelope pursuant to Subsection (1) shall not be counted at that time. If a complaint relating to election is filed and if the Election Tribunal constituted

under the existing laws decides as essential for the disposal of the Complaint, the Tribunal may order the counting of such Tendered Votes.^{5/}

- 73B. Special Provisions Relating to Polling by Persons on Election Duty: Notwithstanding anything contained elsewhere in this Act, if any civil servant or Agent of the Candidate qualified to vote and engaged in the election duty is not a voter registered in the electoral roll of that constituency, the Commission may enroll the name of such civil servant or Agent, as prescribed, in the electoral roll of the constituency.^{6/}
74. Security Deposit:
 (1) In order to contest election from any one constituency, a deposit of three thousand rupees is required as security.
 (2) If more than one Nomination Papers have been filed in any constituency in respect of the same Candidate, the security deposit for one nomination only shall be sufficient. If such nomination papers of the same Candidate is filed in more than one constituency, separate security deposits shall be made for each constituency.
 (3) During the filing of nomination papers for a Candidate, it shall accompany either the cash receipt issued by the office of the Returning Officer or a voucher of cash deposit in the account in the name of the office of the Returning Officer.
75. Forfeiture of Security Deposit:
 (1) Any Candidate receiving less than ten percent valid votes of the total valid votes polled in an election shall forfeit his security deposit.
 Provided that the provision of this Sub-section shall not apply in respect of an elected Candidate.

5. Inserted by the First Amendment Act, 2047 - as mentioned in Footnote 1.

6. Ibid.

(2) The security deposit of the Candidates, including rejected or withdrawn, excepting those forfeited pursuant to Sub-section (1) above, shall be refunded within thirty five days from the date of declaration of the election result.

(3) If the security deposit is not withdrawn within the specified time, such money shall eschew to the consolidated fund.

76. Election Expenses:

(1) The ceiling of election expenses allowed to be incurred by the Candidates shall be as specified by the Commission in a notice published in the Nepal Gazette.

(2) All Candidates or their Election Agents must maintain the records of all expenses incurred on election purposes during election period in the prescribed manner.

Explanation: For the purpose of this Section, the word "election period" shall mean a period beginning from the date of filing of nomination paper till the date of publication of election result.

(3) The total election expenses of a Candidate incurred in any election must not exceed the ceiling specified pursuant Sub-section (1).

(4) The Candidate or his Election Agent shall submit a Statement of Election Expenses, as prepared under Sub-section (2), to the Returning Officer within thirty days from the date of declaration of election result. The Returning Officer shall transmit such Statement to the Commission.

77. Secrecy of Documents Relating to Election:

(1) Among the election documents, only such documents which are required for counting of votes may be opened for such purposes and they shall be resealed after the counting is completed. All such documents shall be kept in custody of the officer designated by the Commission.

(2) Among the documents preserved pursuant to Sub-section (1), such envelopes containing the counter-foil of Ballot Papers, Voters List used during the election and the accepted and

rejected Ballot Papers may be opened and looked into only by a Court of law in connection with the election petition filed in accordance with the existing law.

(3) The Court shall, after the inspection of documents pursuant to Sub-section (2), replace the documents in original manner and reseat them. No official or institution other than a Court of law shall have the authority to open such sealed envelopes.

(4) The documents mentioned in this Section shall be preserved for a period of one year either from the date of final disposal of the suit, if any, or from the date of expiry of limitations period specified for filing election petition.

78. Maintenance of Secrecy :

(1) Unless authorised by law, no employee deputed in election duty or Candidate or Election Agent or Poll Agent or Counting Agent or any other person shall disclose orally or in writing or in any other manner, the vote as indicated by voter in the Ballot Paper or any other information relating thereto known to him or within his knowledge.

(2) Notwithstanding any thing mentioned in this Act or any other existing law, no witness or other person shall be asked, in any legal proceeding commenced under this Act, any question pertaining to how and to whom he or any other person has voted.

79. Powers to Issue Orders and Directives:

(1) In addition to the provisions made in this Act and in the Rules made thereunder, the Commission shall have powers to issue Orders as it may deem necessary. Such Orders shall be published in the Nepal Gazette.

(2) The Commission may, for the efficient conduct of the election, issue necessary Directives to the employees deputed on election duties.

(3) It shall be the duty of every Candidate, his Agents, any other persons engaged in election publicity duties and all other employees deputed on election duties, to abide by the Orders and Directives issued pursuant to Sub-section (1) and (2).

80. **Assistance:**

(1) The Returning Officer, Polling Officer or the Observer or any other official appointed by the Commission in election duties, shall be entitled to receive assistance from any government or security agency functioning at local level, including the Police personnel, in the carrying out of his election duties.

(2) If any assistance is sought pursuant to Sub-section (1) by the concerned official, it shall be the duty of the government and security agencies, including the Police personnel, to render such assistance.

81. **Power to Make Rules:**

His Majesty's Government may, in consultation with the Commission, make Rules to carry out the purposes of this Act.

82. **Saving:**

No question shall be raised in any Court of law, excepting the Election Tribunal constituted under the existing law in respect of any act relating to election performed in pursuance of the provisions of this Act or the Rules made thereunder or Orders issued by the Commission.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/10/28/2

ELECTION COMMISSION ACT, 2047

The following Act was published in the Nepal Gazette, part II, Vol. 40, Extra-ordinary Number 53, dated 2047/10/28 (February 11, 1991)

Act No. 20 of 2047

An Act Made To Provide For The Functions, Duties And Powers Of The Election Commission.

Preamble:

Whereas it is expedient to make provisions for the functions, duties and powers of the Election Commission:

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - I Preliminary

1. **Short Title and Commencement:**

(1) This Act may be cited as "Election Commission Act, 2047 (1991).

(2) This Act shall come into force immediately.

2. **Definition:**

Unless repugnant to the subject or context, in this Act--

(a) "Commission" shall mean the Election Commission as constituted pursuant to Article 103 of the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Commissioner" shall mean the Election Commissioner of the Commission.

(c) "Election" shall mean any election conducted by the Commission in accordance with the provisions of the Constitution of the Kingdom of Nepal, 2047.

(d) "Prescribed" or "as prescribed" shall mean anything prescribed or as prescribed by the Rules made under this Act or Orders issued by the Commission.

CHAPTER - II

Functions, Duties and

Power of the Commission

3. Power to Appoint:

(1) The Commission shall, for the purpose of election, have powers to appoint or designate Chief Election Officer, Election Officer, Polling Officer, Assistant Polling Officer, Voters Registration Officer and other personnel as required.

(2) The Commission shall have powers to depute or engage any employee of His Majesty's Government or any Corporation in the ownership of His Majesty's Government or any other person in any work relating to election.

(3) An employee, who has there been employed, designated or deputed under this Section, shall not be removed or transferred or deputed elsewhere till the completion of election, without prior consent of the Commission.

4. Receiving of Cooperation :

(1) The Commission may, on matters relating to election, directly communicate with or seek cooperation from any Office, Department or Ministry of His Majesty's Government or from any Constitutional Body or any Corporation owned by His Majesty's Government.

(2) The Commission may, on matters relating to election, avail necessary cooperation or require performance of any work from any private, public or local organisation.

5. Appointment of Observers:

The Commission may appoint observers to observe, investigate or supervise on matters relating to election or polling or counting of votes in any constituency or polling station.

6. Requisition and Use of Physical Facilities:

(1) The Commission may, after giving prior information, requisition and use, as may be necessary, any land, building, vehicle, furniture or other physical facilities belonging to His Majesty's Government or any Corporation owned by His Majesty's Government for the purpose of election.

(2) The Commission may, after giving prior information, requisition and use, as may be necessary, any land, building, furniture or other physical facilities belonging to any public or local bodies or any private school or College for conducting election or polling works.

(3) The Commission may, for conducting any of the election or polling functions, use on rental basis any land, building, vehicle, furniture or other physical facilities belonging to any person, or private party or organization.

7. Power to Remove:

(1) The Commission, if it deems necessary to remove any employee appointed, designated or deputed pursuant to Section 3 to perform any of the election works, may remove him from such work.

(2) The Commission may, if it seems necessary, order any police personnel deputed on security service during the election requiring him to do or refrain from doing any act, directly or indirectly related to the election, or it may remove such personnel from such work.

8. Annulment of Election:

If any complaint is filed or an information is received in the Commission to the effect that the election or polling in any constituency has not been free and fair or has been disorderly conducted, the Commission may investigate it through the Commissioner, the Secretary of the Commission, or any Officer duly authorised by the Commission. If the Commission, based upon the findings of such investigation, is satisfied of the

allegation, it may annul the election as a whole of that constituency or annul the polling of any or all polling stations of that constituency.

9. Temporary Posts and Appointments:

(1) ~~The Commission may, in order to conduct and~~ accomplish the work concerning election, create such number of temporary posts as may be necessary, up to the rank of Class II Gazetted Officer for a maximum period of six months.

(2) The Commission may extend the tenure of the posts created pursuant to Subsection (1) above for another period of six months at a time or successively.

(3) The Commission shall be authorised to make appointments in the posts created pursuant to Subsection (1) above, on a temporary or contractual or daily-wages basis.

10. Additional Facilities:

(1) The Commission may grant such extra emoluments or facilities, as it may determine, to the Officers or employees engaged in the election works.

(2) The Commission may grant such additional amount in the per-diem and travelling allowances, which it may determine as necessary, over and above the existing rates thereof under prevalent law, to Officers or employees deputed in any work of the Commission or in any election work.

(3) The Commission may grant during the period of deputation such extra allowances, as it may determine, to the Officers or employees deputed on any work of the Commission or in any election work.

11. Rent or Compensation to be given:

(1) If any land, building, vehicle, furniture or other physical facilities belonging to a person, private body or public institutions have been used by the Commission or upon orders from the Commission for any election work on conditions of paying rent pursuant to Section 5, the Commission shall pay such rent for the duration of use of such land, building, vehicle, furniture or other physical facilities.

(2) In case of any damage to the land, building, vehicle, furniture or other physical facilities during its use by the Commission or upon orders from the Commission for the purpose of election work and if any maintenance work has to be done or compensation to be paid for that reason, the Commission may make payment, as compensation, a reasonable amount for actual damage considering the amount spent or required for such maintenance or an amount required in compensation.

12. Election Expenditures:

(1) The employees deputed for election works may be paid out in full all their per-diem and travelling allowances, other allowances and facilities which they are entitled under the existing laws. No returns of accounts of expenses and their supporting documents need to be submitted by the employees for the money received under this Subsection.

(2) Necessary amount of expenditures required to conduct election shall be paid to the concerned employees while being deputed to the election work at the rate determined by the Commission. The concerned employee shall have authority to expend such amount.

(3) The Commission may, in respect of the specified amount out of the amount paid pursuant to Subsection (2) above, issue orders exempting the concerned employees, being deputed on election work, from submitting the supporting documents of expenses after their return from deputation.

(4) The account of expenditures made in pursuance of the provision of this Section shall be audited in accordance with the existing law.

13. Purchase of Materials:

(1) In case where obtaining of tenders in accordance with the existing law to purchase materials or secure services in connection with election is not possible to the Commission, it may make such purchases or obtain services through quotations. If procurement of quotations also is not possible, the Commission may do such purchases or obtain services directly from the open market.

(2) If the Commission decides that the procurement of tenders or quotations, as required by the existing law, is not possible or is impractical in respect of materials required for the preparation of electoral rolls, printing of ballot papers or for the operation of computers, printers or photocopy machines, or for procuring spare parts or software goods for these machines or special types of paper to be used in such machines, the Commission shall not be required to obtain such tenders or quotations.

14. **Prior Approval not Required:**

(1) No approval of the Finance Ministry shall be required while expending the amount allocated as the contingency fund to the Commission by His Majesty's Government under the relevant budget head.

(2) All expenditures or approvals made in respect of the amount mentioned in Subsection (1) above shall be duly supported by respective decisions of the Commission.

15. **Audit:**

All expenses incurred for election works under this Act shall be formally audited.

**CHAPTER - III
Miscellaneous**

16. **Seeking Legal Advice :**

(1) The Commission may, if considered appropriate on any Constitutional or other legal question, seek the opinion of the Attorney General.

(2) The Commission, in respect of its functions, shall be at liberty to maintain direct relationship or to consult with or to seek counsel from any Constitutional Body or any Ministry, Department or Office of His Majesty's Government or with any other entity.

17. **Discussion and Consultations:**

The Commission or any Officer of the Commission may, for the purpose of conducting free and fair election, conduct discussions or consultation with any political organization or party or individual.

18. **Decisions of the Commission:**

(1) The function of the Commission, which are required to be done in pursuance of the provisions of the Constitution or the existing laws, shall be performed by the Chief Election Commissioner, if he is the sole member of the Commission, and if it consists of other members as well, such functions shall be performed by a collective decision of the Commission.

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

(3) The Secretary of the Commission shall attest and implement the decisions of the Commission or cause the implementation thereof.

(4) The Commission shall regulate the procedures of its meetings itself.

19. **Delegation of Power:**

The Commission may, as and when required, delegate any of its powers to the Chief Election Commissioner, Election Commissioner, Secretary of the Commission, Chief Election Officer, Election officer, Observer, Polling Officer, Assistant Polling Officer or any other Officers or employees engaged in the election work.

20. **Power to Issue Directives:**

(1) The Commission may issue necessary directives to the Chief Election Officer, Election Officer, Polling Officer, Assistant Polling Officer, Observer or Voters Registration Officer or to any person deputed in election work in respect of the works required to be performed by him.

(2) It shall be the duty of the concerned person to abide by the directives issued pursuant to Subsection (1).

21. **Government Attorney to Act and Plead :**

If the Commission or the Chief Election Officer, the Election Officer, the Polling Officer, the Assistant Polling Officer, the Observer, the Voters Registration Officer, appointed in pursuance of this Act, or any other employee deputed by the Commission sues or has been sued in respect of election works, the Government

Attorney shall act and plead on behalf of the Commission or such employees in such cases.

22. **Departmental Action:**

If any employee deputed in the Commission or in any election work commits any act in contravention of election law or directives of the Commission, the Commission shall have the authority to initiate departmental action against such employee in accordance with the laws pertaining to his service and shall either prescribe departmental punishment by itself or may cause to be punished by the competent authority relating to such employee.

23. **Framing of Rules:**

His Majesty's Government may, in consultation with the Commission, frame Rules in order to implement the provisions of this Act.

24. **Orders to be Issued:**

The Commission may, subject to the provisions of this Act or the Rules made pursuant to this Act, issue necessary Orders, published in the Nepal Gazette, for the purposes of conducting free and fair election and in order to promote healthy contest and maintainance morality. It shall be the duty of all political organization or parties or persons and such other persons who are engaged in the election propaganda to abide by such directives.

25. **Preparation of Manual:**

The Commission may prepare and enforce Manuals to provide guidelines to the officials engaged in election works and to conduct election works as well as to get them conducted efficiently.

26. **Repeal:**

Election Commission Act, 2024 (1967) and the Election Commission (Internal Functions) Rules, 2025 (1968) are hereby repealed.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/10/28/2

ELECTORAL CONSTITUENCY DELIMITATION ACT, 2047

The following Act was published in the Nepal Gazette, part II, Vol. 40, Extra-ordinary Number 43, dated 2047/8/23 (December 9, 1990)

Act No. 12 of 2047

An Act Made To Provide For The Function, Duties And Powers of Delimitation of Constituencies Commission.

Preamble:

Where as it is expedient to make provisions for the functions, duties and powers of the Delimitation of Constituencies Commission;

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, upon the advice and with the consent of the Council of Ministers, enacted this Act in accordance with Article 129 of the Constitution of the Kingdom of Nepal.

1. **Short Title and Commencement:**

(1) This Act may be cited as "Delimitation of Constituencies Commission Act, 1990".

(2) This Act shall come into force immediately.

2. **Interpretation:**

Unless repugnant to the subject or context, in this Act--

(a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Commission" shall mean the Commission constituted pursuant to Article 105 of the Constitution.

(c) "Election" shall mean the election held for the membership of the House of Representatives pursuant to Article 45 of the Constitution.

(d) "Member" shall mean a member of the House of Representatives.

3. Function, Duties and Powers of the Commission :

(1) The functions, duties and powers of the Commission shall, in addition to those specified in the Constitution and elsewhere in this Act, be as hereinafter mentioned:

(a) To demarcate the territorial boundary of each electoral constituency after allocating 205 constituencies throughout the Kingdom of Nepal.

(b) To establish, for the purpose of first election after the commencement of the Constitution, electoral constituencies in any district on the basis of population existing according to the national census held preceding to such election.

(c) To establish, for the purpose of other elections to be held after the first election, conducted pursuant to clause (b) above, electoral constituencies on the basis of population existing according to the national census held preceding to such election.

Provided that nothing contained in this Section shall be deemed to prevent in establishing electoral constituencies on the basis of population as existing in the previous national census, till the results of the present national census held preceding the concerned election remains unpublished;

(d) To establish, while delimiting constituencies pursuant to clause (b) and (c) above, electoral constituencies within any district, in equal ratio, as far as possible, between the number of seats and the population existing in that district, if more than one membership is allocated for such district;

(e) To carry out all such functions as may be necessary for establishment of electoral constituencies and allocation of seats.

(2) The Commission shall notify decisions relating to delimitation of electoral constituencies and allocation of seats through notice published in the Nepal Gazette.

(3) The Commission shall, in order to carry out its functions, have the power to depute any of its member, employee or expert to any part of the Kingdom of Nepal.

(4) The Commission shall have power, in connection with its function, to take on deputation any government or corporation employee or to appoint on temporary basis any person as its employee.

4. Allocation of Seats and Delimitation of Constituencies:

(1) The Commission shall, for the purpose of electing one member from each electoral constituency pursuant to Clause (a) of Subsection (1) of Section 3, delimit the territory of administrative districts of the Kingdom of Nepal into one or more such constituencies.

(2) While delimiting electoral constituency pursuant to Subsection (1) above, the territory of the constituencies shall, subject to the provision of Section 3, be so fixed as to have at least one constituency in each of the administrative districts. In case any district is to have more than one constituency, the maximum and minimum number of population to be apportioned for each constituency in such district shall be as fixed by the Commission.

Provided that no electoral constituency shall be so delimited that any part of an administrative district is annexed to the territory of another administrative district.

(3) The Commission, while demarcating the constituencies in any district pursuant to this Section, shall take into consideration the nature of the boundaries of that district, geographical features, density of population, transportation facilities and homogeneity and heterogeneity of the community residing in such district.

(4) While demarcating the territories of electoral constituencies pursuant to Subsection (3), the existing boundaries of any Village Development Committee or any Ward of a

Municipality, as a whole and without causing any alteration thereon, shall be included in the concerned constituency.

(5) The boundaries of the electoral constituencies, as determined pursuant to the provision this Act, shall not be modified except in consultation with the Commission.

5. Consultation:

(1) The Commission may seek the opinion of local residents and political organization or parties in respect of delimiting the electoral constituencies under this Act.

(2) The Commission may, as and when required, summon any person or any official of His Majesty's Government and ask for his opinion on matters under its consideration.

(3) No question shall be raised in any court in respect of the consultation made or not with anyone by the Commission.

6. Duty to Assist :

(1) His Majesty's Government shall provide such personnel and other facilities to the Commission as may be required to carry out its functions.

(2) All concerned governmental officials or private persons or institutions shall be under obligation to render necessary assistance to the Commission in the fulfillment of its function.

7. Secretary of the Commission:

(1) His Majesty's Government shall appoint the Secretary of the Commission.

(2) The powers, functions and duties of the Secretary shall be as specified by the Commission.

8. Financial Arrangements:

(1) His Majesty's Government shall provide for the expenses required to be made by the Commission.

(2) The Commission shall be entitled to incur such expenditures which may be required to carry out its functions.

9. Additional Facilities:

The Commission may provide to the persons or the employees working for the Commission such extra monetary allowances as may be determined by the Commission.

10. Coordination with Election Commission:

The Commission shall, while carrying out its functions, remain in close contact and work in coordination with the Election Commission.

11. Delegation of Power:

The commission may, as and when required, delegate any of its powers to its Chairman, Member, Secretary or any employee of officer level of His Majesty's Government.

12. Decisions of the Commission:

The functions of the Commission shall be performed by its Chairman, if consisting of sole membership, and by a collective decision of the Commission if it consists of a Chairman and other members.

13. Procedure of the Commission:

(1) The Chairman shall preside over the meetings of the Commission.

(2) The decision of the Commission shall be made by a majority vote of the members of the Commission

(3) The decision shall be authenticated and implemented by the Secretary of the Commission.

(4) Other procedural matters of the Commission shall be as laid down by the Commission itself.

14. Documents of the Commission:

After the expiry of the term of the Commission, the Secretary of the Commission shall deposit all records and other documents of the Commission with the Election Commission.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/8/23/1

ELECTION (OFFENCES AND PUNISHMENT) ACT, 2047

The following Act was published in the Nepal Gazette, part II,
Vol. 40, Extra-ordinary Number 54, dated 2047/11/2 (February 14, 1991)

Act No. 21 of 2047

An Act Made To Provide For The Electoral Offences and Punishment

Preamble:

Whereas it is expedient to make provisions for the electoral offences and punishment;

Now, therefore, His majesty King Birendra Bir Bikram Shah Deva has, upon and with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - I Preliminary

1. Short Title and Commencement:

(1) This Act may be cited as "Election (Offences and Punishment) Act, 2047 (1990).

(2) It shall come into force immediately.

2. Definitions:

Unless repugnant to subject or context, in this Act-

(a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Election" shall mean election of the members of the House of Representatives or the National Council or the Local Organisations of village, town, and district level pursuant to the provisions of Article 104 of the Constitution.

(c) "Election period" shall mean the period commencing from the date of filing of the nomination paper upto the date of declaration of the election result.

(d) "Candidate" shall mean a person contesting as candidate in any election pursuant to the existing laws.

(e) "Voter" shall mean a voter who has been registered as a voter in the Electoral Roll for election to be held in pursuance of the existing laws.

(f) "Right to Vote" shall mean the right of a person to vote in the concerned election pursuant to the existing laws.

(g) "Election Commission" shall mean the Election Commission constituted pursuant to the Constitution.

(h) "Constituency" shall mean electoral constituency delimited for the purpose of electing a member in any concerned election pursuant to the existing laws.

(i) "Polling Station" shall mean the polling station established for the purpose of casting of votes in any concerned election pursuant to the existing laws, and shall also include the sub-stations.

(j) "Election Officer" shall mean the election officer appointed by the Election Commission pursuant to the provision of prevailing laws, and the term shall also include the Chief Election Officer.

(k) "Polling Officer" shall mean the polling officer appointed by the Election Commission pursuant to the provisions of prevailing laws, and the term shall also include the Assistant Polling Officer.

CHAPTER - II
Election Offences.

3. Prohibition to Make False Declaration of Name, Surname Age etc.:

(1) No one shall falsely register his name, residence, age or citizenship in the Electoral Roll to be prepared in connexion with any election. Neither any false petition nor any false objection against an entry, shall be filed.

(2) No one shall obtain a ballot paper by false impersonation in order to cast vote. Neither shall any person caste a vote in such, nor shall he aid or attempt or abet to do so.

4. Undue Influence Prohibited:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person shall in connexion with any election, shall unduly influence, or abet or attempt to do so, to any candidate of an election or a voter, or any person who has any privy or interest in such candidate or voter by performing any of the following acts :

- (a) Cause any kind of damage;
- (b) Threaten to excommunicate socially;
- (c) Coerce through making belief of befalling divine displeasure on him or bear consequence of impiety;
- (d) Cause to undertake any kind of oath or promise; or
- (e) Boast or flaunt or demonstrate any kind of threat .

5. Prohibition on Character Assassination :

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person, shall with a view to prejudice the results of any election, wreck the character by making any accusation on the character or conduct of any candidate or of his family member to appear as true which he himself knows or believes to be false, or which is likely to make others to believe that such accusations is true.

6. Prohibition on Publicity:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person, while campaigning on his own or on any candidate's policies and programs in connexion with any election, shall not campaign or cause to campaign, with any of the following intentions:

- (a) Which affects the independence, sovereignty or territorial integrity of the Kingdom of Nepal; or
- (b) Which promotes or causes hatred, enmity or contempt on the basis of religion, community, caste, creed, language or region; or
- (c) Which appeals to or causes such appeal to vote or refrain from voting on the basis of religion, community, caste, creed, language or region.

7. Prohibition on Accepting or Giving Gratification in Cash or Kind:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person shall, during election period, give or agree to give a voter any gift, reward, prize, contribution or donation in cash or kind with a view to induce him to vote or refrain from voting. The voter shall also not accept or agree to accept such gratification for himself or on behalf of the person.

8. Prohibition on Employees on Influencing the Process of Election:

The Election Officer, Polling officer or any other officer or employee deputed at the polling stations, security guards or the Observer deputed by the Election Commission or any other official or employee while performing his functions, shall not conduct himself in a manner which may promote or prejudice the winning of a candidate in any election or cause others to do so except for exercising his right to cast vote.

9. Prohibition on Disturbance:

No person shall disturb the peace by perform any of the following acts in any building, house or premises occupied by the polling station or in any private or public house or building or premises

around thereof on the election day, within the period from three hours prior to the commencement of polling till the completion thereof, with a view to creating nuisance or causing obstruction in the performance of his duty of any person or official engaged in the polling station:

(a) Use loud speaker, megaphone or similar other device;
or

(b) Play musical instruments, organize group dance, organize any kind of assembly or function, make rowdy gestures or create disturbance.

10. Prohibition on Carrying of Arms and Ammunition, their Use or Firing thereof:

No person, except the Government employee deputed on security functions, shall carry or use or fire or explode any arms or poisonous and explosive material in the Polling Station or Vote Counting Center and around these places.

11. Prohibited Behaviours:

No person shall perform or cause others to perform or attempt or assist or abet the performance of any of the following acts:

(a) Insert, delete, correct, or remove the Electoral Roll prepared or published or used in the election work, or tear, deface in any manner, or destroy or damage such electoral roll;

(b) Insert, delete, correct or remove any list, notice or any document affixed or caused to be affixed any person or employee engaged in the election work, or tear, deface in any manner, destroy or damage such document;

(c) Deface, delete, rectify, forge, damage or tear the Ballot Paper of any signature appearing therein of the Election Officer or polling officer, or any official stamp or mark;

(d) Handover his Ballot Paper obtained by him in accordance with law for the purpose of exercising his right to vote, to another person, or place inside the Ballot box

anything other than the Ballot Paper obtained for casting his vote;

(e) Take in possession with or without the use of force, grab, steal, tear or deface in any manner or destroy or damage Ballot Paper or any document to be used or which has been used in the election work;

(f) Take in possession with or without use of force, grab, steal, damage or destroy any Ballot Box to be used or which has been used in the election work;

(g) Take out of the polling station or to any other place, without approval of the polling officer, any Ballot Paper, stamp for use in Ballot Paper, stamp pad, ink or any other material used or to be used in the election.

(h) Obstruct in any manner any employee engaged in the election work in the performance of his functions.

12. Prohibition on Illegal Supply or Receipt of Ballot Paper:

(1) No person shall, for the purpose of casting vote, illegally receive from any person or make arrangement for such procurement, or attempt or cause such attempt to be made for such procurement or abet or cause abetment for the procurement of the Ballot Paper to be used in any election by giving or agreeing to give gratification in the form of cash, kind, service or benefit of any kind, or by applying coercion, fear or undue influence, or by the use of or without force.

(2) No official, who is duly authorised to receive Ballot Paper for use in the election, shall supply any Ballot Paper to any unauthorized person by accepting any gratification in the form of cash, kind, service, or any benefit of any kind, or even without accepting any gratification.

13. Restriction on Publicity and Broadcasting :

(1) Posters, pamphlets, bills, advertisements etc. printed for the purpose of publicity in relation to any election shall bear the name and address of the printing press and the political organisation or party or the person concerned.

(2) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or nothing shall be written or caused to be written on any religious, archaeological, historical building, memorial or structure for the purpose of publicity in relation to any election.

(3) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or caused to be affixed, or nothing shall be written or caused to be written on the private residential building, shop or other structures for the purpose of publicity in relation to any election without the approval of their owner.

(4) No person for the purpose of getting or persuading to give vote for or against any candidate convene or organize meetings, processions or raise slogans or make any kind of publicity within a period commencing forty eight hours prior to the day of polling and until its completion.

14. Prohibition on Causing Obstruction in Election Works or in the Counting of Votes :

No candidate or his representative or any other person shall during the counting of votes in any election shall snatch, loot, damage or destroy in any manner the Ballot Box, Ballot Papers or any document relating to election work by use of or without force, or remove, attempt to remove or abet such removal from the site where the votes are being counted, the Ballot Box, Ballot Paper or any document relating to the election work without the approval of Election Officer or any employee engaged in election work, or cause obstruction in any manner in the vote counting or other works relating to the election.

15. Secrecy to be Maintained:

No Election Officer, Polling Officer, Observer deputed by the Election Commission or any other official or employee engaged in the election work, candidate or his representative, or any voter or any other person shall communicate or write or express to any one or cause such communication, writing or expression to be made, abet the fact of casting or noncasting of vote by any voter, or the fact of his giving vote to a particular candidate or other facts relating to the counting of votes. Nor shall make any indication or sign or inscribe similar things in the Ballot Paper which may disclose the identity of the voter.

Provided that nothing mentioned above shall be deemed to prohibit the Election Officer or any official duly authorised by him to notify publicly the number of votes received by the candidates in any election.

16. Power to Make Arrests:

(1) The Election Officer or the Polling Officer shall have the power to issue order to any person who causes any obstruction on any work relating to election or the counting of votes, or attempts or abets prohibiting him from causing such obstruction or expelling such person from such place.

(2) The Election Officer or the Polling Officer shall have the power to order the Security Personnel deputed therein to arrest any person defying such order issued pursuant to Section 3(2), Section 9, Section 10 or Section 14, or any person who does not comply with the order issued by the Election Officer or the Polling Officer under Sub-section (1).

(3) It shall be the duty of the security personnel deputed therein for the maintenance of security to execute the orders of the Election Officer or the Polling Officer issued pursuant to Sub-section (2).

17. Details of Election Expenses to be Submitted:

(1) The elected candidate himself or any person acting behalf of such candidate shall submit to the Election Commission the detail accounts of expenses incurred during the election time within one month from the date of declaration of the election result.

Provided that nothing mentioned in this Section shall be deemed to authorize to incur any expense which is otherwise prohibited by the existing law.

(2) The Election Commission may impose a fine upto five thousand rupees to any candidate not submitting the accounts of expenses under Subsection (1).

CHAPTER - III
Penalty

18. Penalty

(1) Any person contravening the provisions of Section 6, Clause (e) of Section 11 or Section 14 shall be liable to punishment of

fine upto two thousand rupees or an imprisonment upto two years or both.

(2) Any person contravening the provisions of Section 4, Section 5, Section 7, Section 8, Clauses (a), (b), (c), (d), (g), and (h) of Section 11, Section 12 or Section 15 shall be liable to punishment of fine upto one thousand rupees or an imprisonment upto one year or both.

(3) Any person contravening the provisions of Section 10 shall be liable in addition to the confiscation of the arms, poisonous or explosive material found in possession, to the punishment of fine upto one thousand rupees or an imprisonment upto six months or both.

(4) Any person contravening the provisions of Section 3, Section 9 or Section 13 shall be liable to punishment of fine upto one thousand rupees or of an imprisonment upto three months or both.

(5) If the Election Officer, Polling Officer or any other person or employee deputed on election work defaults in his duties, the Election Commission departmental punishment by itself, or the Commission may forward to the concerned authority for initiating departmental action such employee in according with the existing laws relating to his conditions of service. The concerned authority shall, upon receipt of such written request, take necessary departmental action against such employee.

CHAPTER - IV

Circumstances of Void Elections

19. Election to be void:

If any concerned candidate files an election petition on any of the following grounds and, if such allegation is proved, the election shall be declared void:

(a) That the election has not been fair due to rampant violation of the provisions of Section 3, Section 4, Section 5, Section 6, Section 7, Section 8, Section 10, Clauses (c), (d), (e) or (f) of Section 11, Section 12 or of Section 14;

(b) That the nomination paper submitted by any person standing as becoming a candidate was wrongly accepted or was not rejected or invalidated and as a result of which the election result has actually been altered; or

(c) That the elected candidate has incurred election expenses beyond the limits permitted by the existing law.

(2) Notwithstanding any thing mentioned in Sub-section (1) above, the election of an elected candidate shall not be annulled, if the following facts are proved--

(a) that the acts mentioned in Section 4, Section 5, Section 6, Section 7 or in Clause (c) of Subsection (1) were carried out without the knowledge of the elected candidate or his representative, or without his approval or despite his orders against such act, or that he had done his best to prevent occurrence of such act,

(b) that such act as mentioned in Clause (a) of Subsection (1) has not actually prejudiced the election result.

20. Circumstances for Recounting

(1) In case any candidate concerned in any election files a petition for the declaration of an election as void on any of the following grounds, the Election Tribunal may order recounting of votes:

(a) That the petitioner candidate or other candidate has legally obtained majority of votes; or

(b) That the votes liable to be declared void or valid in accordance with law were not done so.

(2) During the recounting of votes pursuant to Subsection (1), if the petitioner or other candidate is proved to have lawfully obtained majority of votes, the result of the elected candidate shall be declared void and the Election Tribunal shall in such case declare the petitioner or any other person obtaining majority as the duly elected candidate.

21. Procedure for Tie in Votes:

(1) While recounting the votes in connexion with the petition filed pursuant to Section 20, the Election Tribunal shall recount all the votes obtained by all the candidates of the concerned constituency.

(2) During the recounting of votes pursuant to Sub-section (1) above, if the votes obtained validly by two or more candidates in the concerned election appears to be in equal number, the Election Tribunal shall decide by drawing lots amongst the candidates obtaining such equal number of votes. The candidate in whose favour the lot is drawn shall be deemed to have obtained one more vote and declared elected.

CHAPTER - V
Miscellaneous

22. Jurisdiction of Cases:

(1) The Election Tribunal shall have the jurisdiction to try and decide cases under this Act.

(2) An appeal may be filed against the decisions of the Election Tribunal in the Court prescribed by His Majesty's Government in the notice published in the Nepal Gazette. The decision of the prescribed Court shall be final.

(3) Notwithstanding any penalty imposed pursuant to the provisions of Clauses (e) and (f) of Section 11 or Section 14 after having been convicted for the offence, such conviction shall not affect the election held in that constituency or polling station in pursuance of a decision of the Election Commission.

(4) The Election Tribunal shall, in course of decision on the election petitions filed with itself, have the power to make decisions according to the existing laws on the issue of forgery or fraud involved in the concerned case.

23. Constitution of Election Tribunal:

His Majesty's Government shall, on the recommendation of the Election Commission, constitute Election Tribunal by notice published in the Nepal Gazette.

24. Power to Investigate:

The Election Officer or the person authorised by the Election Officer shall have powers to investigate and inquire on the offences punishable under this Act.

25. Right to file Petition:

Any person or candidate, who has any cause to file any complaint in respect any election, may file his complaint with the Election Tribunal through the concerned Election Officer. The concerned Election Officer shall thenceforth forward such complaint to the Election Tribunal.

26. Limitation Period for Petition:

Any complaint to be filed under this Act shall be filed within thirty five days from the date on which the case of action have arisen.

27. Submission of Deposits:

(1) Any person intending to file a complaint pursuant to the provision of this Act shall, in respect of election to Parliament, submit a deposit of one thousand rupees and, in respect of election to Local Authorities, a sum of two hundred rupees.

(2) If the complain is found to be false, the amount thus deposited shall be forfeited.

28. Petition to be Rejected:

If a complaint filed pursuant to the provisions of this Act is found not to have complied with the required procedure, or is filed after the expiry of the limitation period, such complaint shall be rejected.

29. Time Limitation for Decision and Procedure.

(1) The Election Tribunal shall complete the trial and decide the cases within one year from the date of filing of complaint.

(2) In respect of the trial and decision on the complaint under this Act, the procedure as laid down in the Summary Procedures Act, 2028 shall be applied.

30. Power to Dismiss Petitions:

In the event of death of complainant or the defendant, complaints filed pursuant to section 19 and 20 of this Act may be dismissed.

31. Withdrawal of Petitions

Complaint filed pursuant to Sections 19 and 20 of this Act may be withdrawn by the Complainant with the approval of the Election Tribunal.

Provided that if the Election Tribunal considers that the withdrawal is motivated by some ulterior benefit, the Tribunal may refuse permission for such withdrawal.

32. Obligation to notify:

The Authority or the official trying the Case pursuant to this Act shall notify its decision to the Election Commission, Parliament Secretariat and all other concerned offices within fifteen days from the date of its decision. The notification shall be accompanied by a copy of the decision.

33. His Majesty's Government to be Prosecutor:

In cases punishable under this Act His Majesty's Government shall be responsible for their prosecution.

34. Evidence to be Inadmissible:

(1) Notwithstanding anything mentioned in this Act or the existing law, no witness or any other person shall, in connexion with any suit or proceedings in pursuance of this Act, be compelled to disclose the name of the person to whom he has given his vote.

(2) No statement made by any witness in response to the question asked by the Election Tribunal in connexion with the proceedings in pursuance of this Act shall be admissible against such witness in other cases in which he is a party. Such statement shall not be produced as evidence against the said witness.

35. Decision on the Question of Disqualification:

In petition filed pursuant to the provisions of this Act if a question arises involving Article 48 of the Constitution, the Authority or the Official hearing the complaint shall, after making the required investigation, submit the concerned file to the Chief Justice of the Supreme Court for final decisions. Cases thus received by the Chief Justice shall be decided in accordance with the provisions of the same Article of the Constitution.

36. Savings:

In matters provided in this Act, the provisions of this Act shall apply and in matters not herein provided for, the provisions of Nepal law shall apply.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/11/2
