

The Prevention of Corruption Act, 2059 (2002 A.D)

Date of Authentication and publication

3 Asadha, 2059 (June 17, 2002)

Act number 1 of the year 2059 (2002)

Preamble: Whereas, it is expedient to make timely legal provisions relating to prevention of corruption with a view to maintaining peace, convenience, financial discipline, morality and good conduct among general public;

Be it enacted by Parliament in the first year of the reign of His Majesty's the King Gyanendra Bir Bikram Shah Dev.

Chapter - 1

Preliminary

1. **Short Title, Extent and Commencement:** (1) This Act may be called the "Prevention of Corruption Act, 2059 (2002 A.D.)."

(2) It shall be extended throughout Nepal and applicable to all Nepalese citizens, public servants residing anywhere outside Nepal and to the non- Nepalese citizens residing in foreign countries having committed any act that may be deemed to be corruption under this Act.

(3) It shall come into force immediately.

2. **Definitions:** In this Act, unless the context otherwise requires-

(a) "Corruption" means offences punishable under Chapter -2.

(b) "Graft" means cash, goods or any type of gain or benefit and the term also includes bribe.

(c) "Public institution" means the following institutions:-

(1) A company, bank or a committee fully or partially owned or controlled by Government of Nepal; or a commission, organization, authority, corporation, academy, board, center, council or any other corporate body of such

nature established by Government of Nepal;

- (2) A university, college, school, research center and any other similar academic or educational institution run by Government of Nepal or on the full or partial donation from Government of Nepal;
 - (3) Local bodies constituted under the Local Self-Governance Act, 1999;
 - (4) An institution run on loan, grant or guarantee of Government of Nepal;
 - (5) An institution fully or partially owned or controlled by the institution referred to in Sub-clauses (1), (2), (3) or (4) or obtained grant from such institution; and
 - (6) Any other institution prescribed as public institution by Government of Nepal in a notification published by the Nepal Gazette.
- (d) "Public Servant" means the person holding a public office under the prevailing laws and the term also includes the following persons:-
- (1) person appointed, nominated or elected under an oath to Government of Nepal or to public institution, or under the terms, contracts or agreements concluded with Government of Nepal or with any public institution, or holding any office of public responsibility for salary or allowances or remuneration or benefit or position with or without any type of gain from Government of Nepal or any public institution;
 - (2) A person appointed as an arbitrator or any other person appointed in the same position pursuant to the prevailing laws to resolve or adjudicate any dispute;
 - (3) A person appointed, elected or nominated as liquidator,

surveyor or any other person working in the same capacity in accordance with the prevailing laws;

- (4) A person designated as public servant by Government of Nepal in a notification published in the Nepal Gazette.
- (e) "Revenue" means any type of tax, fee, charge, royalty, fine and other amount of this type to be paid or given to Government of Nepal or public institution, and the term also includes interest or fine to be charged on such tax, fees, royalty and other amount of this type.
- (f) "Degree of offence" means the degree of offence to be determined on the basis of circumstances and situation in which the offence has been committed or attempted to be committed, the gravity of such offence or the intention, qualification, position and capacity of the person who has committed or attempted to commit any offence punishable under this Act.
- (g) "Investigating Authority" means the body or official authorized to conduct inquiry, investigation and to file cases relating to corruption in accordance with the prevailing laws.

Chapter - 2

Provisions Relating to Offences of Corruption and Punishment

3. **Punishment to Giver and Taker of Graft:** (1) Whoever, being, or expecting to become, a public servant accepts or agrees to accept graft amounting as follows for him/herself or for any other person in consideration of his/her performing or having performed or of forbearing to perform or having forborne to perform any act pertaining to his/her office or the related act or in consideration of favouring or disfavouring or causing or not causing a loss or of having favoured or disfavoured or having caused or not caused a loss to any person while carrying out his/her official functions, shall be liable to a punishment of imprisonment as follows and of a fine as per the amount involved depending

on the degree of the offence. In case the graft has already been accepted, it shall be confiscated.

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| (a) | Up to twenty five thousand rupees. | Imprisonment for a term not exceeding three months. |
| (b) | More than twenty five thousand rupees to fifty thousand rupees. | Imprisonment for a term from three to four months. |
| (c) | More than fifty thousand rupees to one hundred thousand rupees. | Imprisonment for a term from four to six months. |
| (d) | More than one hundred thousand rupees to five hundred thousand rupees. | Imprisonment for a term from six months to one year and six months. |
| (e) | More than five hundred thousand rupees to one million rupees. | Imprisonment for a term from one year and six months to two years and six months. |
| (f) | More than one million rupees to two million and five hundred thousand rupees. | Imprisonment for a term from two years and six months. |
| (g) | More than two million and five hundred thousand rupees to five million rupees. | Imprisonment for a term from four to six years. |
| (h) | More than five million rupees to ten million rupees. | Imprisonment for a term from six to eight years. |
| (i) | Whatever amount above ten million rupees. | Imprisonment for a term from eight to ten years. |

(2) Whoever, other than a public servant, accepts or agrees to accept graft amounting as follows for him/herself or for any other person with the intention of convincing any public servant to perform or forbear to perform any function under his/her office or position or for convincing

to perform or forbear to perform any such act or with the intention of favoring or disfavoring any person or causing or not causing any loss or for convincing to perform or forbear to perform any such act while carrying out any function under his office or position, shall be liable to a punishment of imprisonment as follows and of a fine as per the amount involved depending on the degree of the offence. In case the graft has already been accepted, it shall be confiscated.

(3) Whoever gives a graft to a public servant or any other person in order to do or forbear to do any function pursuant to Sub-Section (1) or (2), shall be liable to a punishment pursuant to Sub-Section (1) depending on the degree of the offence committed.

(4) Whoever abates to commit an offence punishable under this Section shall, if he/she is a public servant, be liable to a punishment as same as the punishment prescribed for the same offence, and if he/she is any other person, shall be liable to half of the punishment for that offence on the basis of the degree of the offence irrespective of whether or not the offence has been committed because of such abetment.

4. **Punishment to Public Servants Accepting Goods or Service Free of Cost or at Lower Prices:** Whoever, being a public servant, accepts or agrees or attempts to accept, without a prior approval of Government of Nepal or public institution, any goods or service free of cost or at lower prices for him/herself or for any other person, from any individual, having knowledge that such individual is related to or is likely to be related to any act related to his/her office or any act carried out or to be carried out by him/herself is related to any function of his office, shall be liable to a punishment of imprisonment for a term from six months to one year depending on the degree of the offence and a fine equal to the amount involved and in case such goods is already accepted, it shall be confiscated and in case of the service, the price thereof shall be fixed and a fine equal to the price of such service shall be imposed.

5. **Punishment for Taking Gift, Present, Award or Donation:** (1) Whoever, being a public servant, accepts, without a prior approval Government of Nepal or a public institution, any type of donation, gifts, presents, awards or any type of benefit him/herself or through any member of his/her family or other person, so as to causing an impact in any way on any of his/her works which is supposed to be carried out by him/her according to the office he/she assumes; or any public servant who borrows from a person related to a work which he/she has to carry out according to the office he assumes, shall be liable to a punishment of imprisonment from three to six months depending on the degree of the offence and the amount shall be confiscated.

(2) Whoever, being a public servant, has received any present or gift in exchange of a gift or present brought from the amount of a fund belonging to Government of Nepal or a public institution, such gift or present shall be immediately submitted to his/her office. If not submitted, it shall be deemed to have committed the offence referred to in Sub-section (1) and such gift or present shall be confiscated having him/her punished accordingly.

6. **Punishment for Taking Commission:** In case any type of commission, remuneration, brokerage fee, benefit or advantage is liable to be paid while performing duties by a public servant or while purchasing or hiring or taking or giving on a lease any commodity or service necessary for Government of Nepal or a public institution or while awarding or accepting a contract by Government of Nepal or a public institution or while selling or hiring or taking or giving on a lease any commodity or service produced by Government of Nepal or a public institution, such commission, remuneration, brokerage fee, benefit or advantage shall be submitted to the concerned office within seven days from the date of receipt. In case not submitted as such, such public servant shall be deemed to have committed the offence referred to in Section 3 and the amount shall be confiscated having him/her punished accordingly.

7. **Punishment to Public Servants for Leaking Revenue:** Whoever, being a public servant under the duty of collecting revenues, causes revenue leakage or help or abets any person for its leakage having been involved him/herself in any of the following manners, shall be deemed to have committed the offence referred to in Section 3 with regard to the amount of revenue so leaked and he/she shall be liable to the same punishment of imprisonment, and double of the amount of revenue leaked shall be fined: -

- (a) To assist any person in the act of leaking revenue in any manner whatsoever, having accepted any cash or kind, fee, prize or donation or any type of other benefit or forbear to collect revenue or to assist or cause to assist to collect less revenue having caused loss to Government of Nepal or a public institution by taking or not taking any type of gain from any person;
- (b) To assess or assist to assess less revenue or to assess revenue to the effect of not charging revenue at all by not going through the documents or not investigating such documents or by not collecting necessary evidence while assessing revenue as required by the existing law;
- (c) To embezzle the revenue collected by not depositing it in accordance with the prevailing laws;
- (d) To release or assist to release goods, by making difference in the invoice, quality or quantity of such goods, and without collecting the prescribed revenue while assessing the revenue or carrying out valuation of such goods.

8. **Punishment to Public Servants for Getting Illegal Benefit or Causing Illegal Loss with *Mala fide* Intention:** (1) Whoever, being a public servant, commits any of the following acts with the *mala fide* intention of getting illegal benefits for him/herself or for any other person, or of causing loss to

Government of Nepal or public institution, shall be liable to an imprisonment of a term from three months to three years depending on the degree of offence, and in case the amount involving the offence is known, such amount shall be confiscated having him/her fined accordingly. In case such amount is not known, an imprisonment for a term from three months to three years and a fine from ten thousand to fifty thousand rupees shall be imposed.

- (a) To show more costs or works in an unnatural manner without any ground of justification while conducting physibility study of, or setting norms for, a project.
- (b) To use or allow to use the construction materials of lower quality than that of the prescribed quality, or to certify or to approve the use of such materials as the materials of prescribed quality;
- (c) To degrade the quality of construction work or to change the form or shape thereof or to carry out or cause to carry out construction works in contravention of the prescribed terms, conditions and standard; or to certify or to approve such construction work as qualitative and under the prescribed terms and conditions without any reasonable ground;
- (d) To carry out or cause to carry out construction works having increased or amended the costs estimate in an unnatural manner and without any reasonable ground;
- (e) To give or receive payment having prepared false bills or receipts or to give or receive double payment of bills;
- (f) To procure or cause to procure excessive quantity of goods in an unnatural manner than the quantity needed without reasonable

grounds;

- (g) To carry out or cause to carry out unnatural valuation of a government property, a property of a public organization or of public property;
- (h) To register, occupy or use or to cause to register, occupy or use a government or public property in one's own name or in the name of other in an illegal manner;
- (i) To value or cause to value a collateral security to be mortgaged in the name of a governmental or public organization in an excessive and unreasonable prices than the real prices;
- (j) To procure or cause to procure goods of degrading quality, date expired and to procure or cause to procure goods having paid higher prices in an unnatural manner.

(2) In case any public servant does not return a vehicle or a facility available to him/her by virtue of his/her official position within the prescribed time after the expiry of the official position without any reasonable ground, he/she shall be liable to a fine from one thousand to five thousand rupees depending on the degree of the offense and such vehicle or facility shall be taken back.

(3) Whoever, being a public servant, causes any type of loss to a governmental or public property with *mala fide* intention having committed any act excluding the acts referred to in Sub-Section (1) and (2), shall be liable to a punishment of imprisonment not exceeding two years or of a fine equal to the amount of the loss or both depending on the degree of the offence.

(4) In case any person other than a public servant, with *mala fide* intention of making illegal gain to him/herself or to any other

person, does not abide by the terms and conditions of an oath, undertaking, agreement, contract, license, permit, promissory note or dealership entered into with Government of Nepal or a public institution or carries out business or misuses the facilities or powers of governmental or such institution violating the Rules or Procedures determined by or terms and conditions accepted by Government of Nepal or such institution in a manner prohibited by the prevailing law, he/she shall be liable to a punishment of imprisonment not exceeding two years and be fined according to the amount of loss and the amount of loss shall be confiscated.

9. **Punishment to Public Servants Preparing False Documents:** Whoever, being a public servant under the duty of preparing documents, prepares false documents with *mala fide* intention of causing loss to Government of Nepal or Government or public institution, shall be liable to a punishment of imprisonment for a term from three months to one year, and a fine from ten thousand to fifty thousand rupees.
10. **Punishment for Translating False Documents:** Whoever, either a public servant or any other person authorized or designated to translate documents, wrongly translates documents, translates documents incorporating therein false particulars or makes difference in the name, surname, date, facts or other particulars with the *mala fide* intention of causing loss to Government of Nepal, a Government or public institution; or with the intention of getting illegal benefit to him/herself or to any other person, shall be liable to a punishment of imprisonment for a term from three months to one year and of a fine from ten thousand to fifty thousand rupees, depending on the degree of offence committed.
11. **Punishment for Tempering Government Documents:** Whoever, either a public servant or any other person, corrects, adds, or changes in documents belonging to a government or public institution without authority or in an illegal manner, shall be liable to a punishment of

imprisonment for a term from three months to two years and a fine not exceeding fifty thousands rupees.

12. Punishment for Causing Damage to Government or Public Documents:

Whoever, being a public servant, conceals a document belonging to government or to a public institution or causes damage to, or destroys, such document, shall be liable to a punishment of imprisonment from six month to one year and shall be fined from ten thousand to fifty thousand rupees. In case any loss is incurred due to such concealment, damage or destruction, the loss shall also be recovered.

13. Punishment for Disclosing Secrecy of Question Papers or Altering the Result of Examination:

Save in cases where the authorized person discloses or causes to disclose question papers of an examination to be conducted by a government body or a public institution before the prescribed time having given reasons of special circumstances, whoever, being a public servant, discloses or causes to disclose the secrecy of such question paper in any manner whatsoever, or alters or causes to alter the results of examinations with the intention of making illegal advantage to him/herself or any other person, shall be liable to a punishment of imprisonment from three months to one year and shall be fined from five thousand to ten thousand rupees.

14. Punishment to Public Servants Engaging in Illegal Trade or Business:

Whoever, being a public servant, engages in trade or business in his/her own name or in the name of other person or in partnership with others, takes part in auction or bidding, or becomes a partner in any firm or company or a cooperative organization while being prohibited by law, shall be liable a punishment of imprisonment for a term from three months to six months and a fine from ten thousand to fifty thousand rupees, and the property earned in such a manner shall be confiscated.

Provided that, this section shall not be deemed to have hindered to

subscribe shares of a public limited company called for public subscription.

15. Punishment for Claiming False Designation: Whoever, either a public servant or any other person falsely claims that he/she holds any position, power, capacity or facility or enjoys such position, power, capacity or facility of a public servant which he/she is not entitled to or displays any symbol, dress or mark relating to a position of a public servant or wears or displays any object resembling to such symbol, dress or mark with the intention of leading others to falsely believe that these are the official symbols, dresses or marks of a public servant, shall be liable to a punishment of imprisonment for a term from one year to two years and with a fine from fifty thousand to one hundred thousand rupees, depending on the degree of the offence committed.

16. Punishment for Giving False Particulars: (1) Whoever, with the intention of securing a position of a public servant, or of being continue in such a position, or of securing any position or of getting any benefit or facility, gives false particulars regarding his educational qualifications, name, names of the father and grandfather, age, caste, surname, address, nationality or qualification, or gives false description in any other matters, or submits false certificate relating thereto, shall be liable to a punishment of imprisonment for a term from six months to one year and of a fine from ten thousand to twenty thousand rupees, depending on the degree of the offense committed.

(2) Whoever, being a public servant under the duty of giving statement of his/her property under this Act or any other prevailing laws, gives false statement either having increased or having concealed the actual property belonging to or registered in his/her name or under his/her share entitlement or belonging to his/her joint family, shall be liable to a punishment of imprisonment for a term from one month to three months and the fine not exceeding ten thousand rupees. The property,

which has been concealed in such a manner, shall also be confiscated.

17. **Punishment for Damaging Public Property:** Whoever, being a public servant, misappropriates, causes loss to or abuses or causes others to do so, or destroys or uses for personal purposes, while performing his/her duties pertaining to his/her office, shall be liable to be punished pursuant to Section 3 and the property which has been misappropriated, damaged, misused or destroyed or caused others to do so, shall be recovered from him/her.
18. **Punishment for Exerting Illegal Pressures:** Whoever, either a public servant or any other person, compels any public servant or any other person to commit any offence punishable under this Act by exercise of fear or threat of under, kidnapping, taking away of property, of causing adverse impact on prestige or by exerting any other type of illegal pressure, shall be liable to a punishment of imprisonment for a term from four to eight years and a fine from one hundred thousand to five hundred thousand rupees.
19. **Punishment for Giving False Report:** (1) Whoever, either a public servant or any other person authorized to carry out auditing in a government body or in a public institution, prepares auditing report with *mala fide* intention having shown the facts not done or happened in the transaction or having concealed the facts done or happened, shall be liable to a punishment of imprisonment for a term from three months to one year and to a fine from ten thousand rupees to fifty thousand rupees depending on the degree of the offence committed.

(2) Save as provided in Sub-section (1), in case any public servant or any other person under the duty of submitting report having conducted a study or investigation on any subject in connection with functions of government body or public institution, prepares report with *mala fide* intention having shown the facts actually not done or happened or having concealed the facts actually done or happened, such

persons shall be liable to a punishment of imprisonment for a term from three months to one year and to the fine from ten thousand rupees to fifty thousand rupees depending on the degree of the offence committed.

20. Property Deemed to be Acquired Illegally: (1) In case the statement of property submitted in accordance with prevailing laws by a public servant deemed to have held a public office in accordance with prevailing laws seems to be incompatible or unnatural or in case he/she maintains an incompatible or unsuitable lifestyle or it is proved that he/she has given someone a donation, gift, grant, present or has lent money beyond his/her capacity, he/she shall prove the sources from which he/she has acquired such property and if he fails to do so, such property shall be deemed to have been acquired in an illegal manner.

(2) In case it has been proved that a public servant has acquired property in an illegal manner as referred to in Sub-section (1), he/she shall be liable to a punishment of imprisonment for a term not exceeding two years as per the amount of the property acquired in such a manner, and a fine according to the amount of property and the illegal property acquired in such a manner shall also be confiscated.

21. Punishment for Committing Attempts: Except otherwise provided for in this chapter, whoever attempts to commit an offense punishable under this Act shall be liable to half of the punishment to be imposed on the public servant or any other person committing such offences.

22. Punishment to Accomplices: Except otherwise provided elsewhere in this Act, the accomplices to any offense punishable under this Act shall be liable to half of the punishment to be imposed on the public servant or any other person committing such offences.

Provided that, the accomplice who has given cash or kind or made available any other type of benefit to the public servant or any other person

committing an offence or who has taken such benefit shall be liable to the punishment as equal to the person committing the offence.

23. **Principal to be Deemed to have Committed the Offence in case a Corporate Body Commits Offence:** In case any firm, company or corporate body commits any act that is deemed to be an offence under this chapter, the partners at the time of commission of the act in case of a firm and the person acting as the principal official in case of a company or a corporate body shall be deemed to have committed the offence.

Provided that, in case it is proved that such act has been committed prior to the appointment of the person acting as the principal official, the person who has committed the act shall be deemed to have committed the offence.

Explanation: For the purpose of this Section, the "the person acting as the principal official" means the Chairman, Board Member, General Manager, Managing Director or the Official of a company or corporate body working in the same capacity.

24. **Additional Punishment:** In case the offences under this chapter have been committed by an office bearer of a constitutional organ or body to be nominated or appointed by officer belonging to the special class of Government of Nepal or officers of equivalent rank; Head, General Manager or officer of a public institution of equivalent rank, such person shall be liable to the punishment of imprisonment for a term of three years in addition to the punishment prescribed for such offence.

Chapter - 3

Investigations, Inquiries and Filing of Cases of Corruption

25. **Investigations and Inquiries:** (1) In case the investigating authority comes to know, through any information, source or a complaint lodged by any person, that any person has committed or is going to commit corruption, it shall initiate necessary investigations, inquiries and other actions in this regard.

(2) Notwithstanding anything contained in Sub-Section (1), in case the investigating authority has received information from any source that any person has committed or is going to commit corruption, such authority may take immediate actions including raid, seizure of documents or goods and materials or arrest of person.

26. **Preliminary Inquiry:** The investigating authority shall, upon having received a complaint or information that one has committed or is going to commit an offence under this Act, initiate preliminary inquiry confidentially as may be necessary.
27. **Seeking Explanation:** While conducting preliminary inquiry pursuant to Section 26, in case the investigating authority is of the view that the information received is based on facts, it may, having provided particulars relating thereto, seek for comment or explanation from the concerned body or person as may be necessary.
28. **Powers of Investigating Authority:** (1) The investigating authority may, while conducting investigations and inquiries into offenses of corruption under this Chapter, exercise the following powers: -
- (a) To order a government body, public institution, public servant or any other person to send or submit within a certain time any relevant document, documentary evidences or any other things before it;
 - (b) To conduct inquiry with, or to record the statement of, the public servant or any other person accused of corruption or the person to whom the investigating authority deems to having information on the relevant facts;
 - (c) The investigating authority may, upon having taken explanation from or upon completing inquiry or recording the statement of a public servant or any other person accused

of corruption, release such person having executed a bond from him/her to appear as and when required, or having required him/her to appear on the prescribed date or, in case there is a reasonable cause to believe that such public servant or person may abscond or there has been a loss of an amount, the investigating authority may ask from him/her to submit a deposit or guarantee and require him/her to appear in the prescribed date or in case no deposit or guarantee is produced, keep him/her in custody.

(2) In case the investigating authority has sent a letter having fixed a time limit to the concerned body, public servant or other person requiring to submit any document or any other material or to provide information on any matter or requiring a public servant or any other person to appear before it, it shall be done accordingly and in case not done, it shall be as follows:-

- (a) In case the concerned government body or public institution does not submit such document or material or does not provide information within the time prescribed, the investigating authority may send a letter to the concerned government body or a public institution to take departmental action against the chief officer of the concerned government body or a public institution and in case such a letter is received, the concerned government body or a public institution shall take actions immediately.
- (b) In case the concerned public servant or any other person does not submit the document or material or does not provide information or does not appear within the prescribed period, the investigating authority may impose a fine not

exceeding one thousand rupees on such person.

- (c) In case any government body, public institution, public servant or any other person does not do as required to do in writing by the investigating authority even after the departmental action or imposition of a fine pursuant to Clauses (a) or (b), the investigating authority may issue arrest warrant to get the chief officer of such body or institute or such public servant or other person appeared and get such document or material produced or acquired necessary information from him/her. In case the chief officer of a body or institution, public servant or any other person so arrested does not submit such document or material or does not give information relating thereto, the investigating authority may order for keeping him/her in custody for a period of up to seven days.

(3) After the investigating authority's order for departmental action or payment of the fine pursuant to Sub-section (2), in case the chief officer of the concerned body or the concerned public servant or any other person submits an application along with reasonable causes for being unable to do as required, and if the causes are satisfactory, such order or order of fine may be cancelled.

(4) The investigating authority may conduct or cause to conduct a search at any place and seize any necessary materials or document or Photostat copy thereof while conducting the search. A receipt of the material or document so seized shall be given to the concerned person.

29. Appointment or Designation of Investigation Officer: The investigation authority may, in order to conduct investigation and inquiries into the

offences punishable under this Act, appoint or designate any officer under it or any government officer or any officer of a public institution as the investigation officer.

Provided that, while appointing or designating any government officer, or officer of a public institution as the investigating officer, consultation shall be held with Government of Nepal or with the Chief Officer of the concerned body, depending on circumstances.

30. Functions, Duties and Powers of the Investigation Officer: (1) Functions, duties and powers of the investigation officer shall be as follows:-

- (a) To arrest the offender immediately and to take necessary actions;
- (b) To conduct or cause to conduct search at any office, house, building, godown, vehicle or any other places while conducting investigation and inquiries or while collecting evidence into offences punishable under this Act;
- (c) To exercise other powers conferred on the investigation officer.

(2) While conducting investigation and inquiries into offences punishable under this Act, the investigation officer shall have all such powers, duties, facilities and obligation as the police is having under the prevailing laws in respect to recording statements of the accused persons, and preparing reports of public inquiries.

(3) While carrying out functions under Sub-section (2), the investigation officer may exercise the powers equivalent to the powers of a court to require the accused to appear on prescribed date or to release him/her on deposit or on guarantee or detain him/her in case he is unable to furnish such deposit or guarantee as may be necessary.

31. Keeping Accused in Custody: (1) The investigation officer may, in case there is sufficient ground that any person having been taken action for an offence under this Act may lose or destroy any evidence or cause hindrance in the process of investigation or inquiries or cause adverse

impact thereon, keep him/her in custody having given him an order of detention in accordance with the prevailing laws.

(2) In case the investigation or inquiries with regard to a person is not completed within twenty four hours and it appears that the investigation needs to be continued having him/her detained, the investigation officer shall detain him/her after having him/her presented before the authority hearing the case and only after getting approval therefor from the authority hearing the case. While seeking for approval with the authority hearing the case, the charges against the person detained, its bases, the reason for continuing investigation having him/her detained and if his/her statement has been recorded, the contents of such statement shall be clearly stated.

(3) The person who has been presented before the authority hearing the case for approval of detention pursuant to Sub-section (2) may submit an application while being presented there requesting for his/her physical checkup.

(4) In case a permission for detention is sought pursuant to Sub-section (2), the authority hearing the case may, having considered whether or not the investigation has been carried out in a satisfactory manner and if it is found that the investigation is being carried out satisfactorily, give approval for detention for a maximum period of six months not exceeding thirty days at a time or time and again.

(5) While seeking for a permission for extension of time duration of detention pursuant to Sub-section (4), the person under the custody may, if he/she so wants, submit an application to the authority hearing the case mentioning the reason or basis for his/her not being in detention any longer.

32. Cooperation of Other Bodies May be Required: (1) The investigating authority may, in course of investigations and inquiries into offenses

punishable under this Act, ask any government body or public institution or any person for cooperation as may be necessary and it shall be the duty of such body, institution or person to cooperate as and when required.

(2) The investigating authority may, in course of conducting investigation and inquiries into offenses of corruption under this Act, take the help of police force as well. While engaging police personnel in the work, the order issued by the investigating authority shall, with regard to the police, be equivalent to the order of the concerned Inspector General of Police.

(3) The investigation officer may ask the police officer or police personnel subordinate to him/her for help. It shall be the duty of the concerned police officer or personnel to assist him/her in case the investigation officer requires such assistance.

(4) In case the investigating authority deems it fit that because of the very nature of the offence under investigation and inquiry, it is necessary to consult an expert engaged in any agency to be involved in such investigation and inquiry; the investigating authority may ask the concerned body to make such expert available on a temporary assignment for a specific period of time, and in case such a demand is made, such body shall, notwithstanding anything contained in the prevailing laws, make available the concerned expert.

33. Automatic Suspension: In case any public servant is detained pursuant to Clause (c) of Subsection (1) of Section 28, Sub-section (3) of Section 30 and Section 31, he shall *ipso facto* be suspended until the period of detention and if a case is filed against him/her pursuant to Section 36, he/she shall *ipso facto* be suspended unless and until the proceedings of the case is over.

34. Accepting Services: (1) The investigating authority may, while conducting investigation, inquiries and taking any other actions

relating thereto, require services of experts of the concerned subject or of specialized agencies.

(2) The investigating authority shall, in order to get the services referred to in sub-section (1), appoint the concerned expert or specialized agency and while appointing as such, the investigating authority shall have to enter into an agreement having stated the functions to be carried out by such expert or specialized agency, the powers that may be exercised, the terms and conditions to be fulfilled, the procedures and remuneration and other benefits which such expert or specialized agency is entitled to.

(3) In case the investigating authority is in need of the service of employees of Government of Nepal or of a specialized agency, notwithstanding anything contained in the prevailing laws, such employees shall be deputed for a period required by the investigating authority.

- 35. Keeping in Postponement:** While inquiring and investing under this Act, in case it appears that the alleged offense could not be proved on the basis of the collected evidence, the investigating authority may keep the complaint in postponement issuing an order slip along with reasons thereof and in case of decision of postponement, the information thereof shall be given to the accused person and the complainant.

Provided that, nothing in this section shall be deemed to have prevented to investigate and re-inquire on such complaint if any new evidence is found later on.

- 36. Filing of cases:** In connection with an accusation of commission of corruption, in case there is a reasonable cause to believe that the accused has committed the said offence, the investigating authority shall file a case before the authority having powers to hear the case under the prevailing

laws.

Chapter - 4

Provisions Relating to Prevention of Corruption

37. National Vigilance Center: (1) Government of Nepal may establish a National Vigilance Center under the direct control and supervision of the Prime Minister in order to effectively control corruption-oriented acts and to promote people's awareness against corruption.

(2) Government of Nepal may designate a special class officer of the civil service as the chief of the Center referred to in Sub-section (1), and there shall be other officials of the services of Government of Nepal in the center as may be necessary.

38. Functions, Duties and Powers of the National Vigilance Center: The National Vigilance Center established under Sub-Section (1) of Section 37 shall have following functions, duties and powers:-

- (a) To collect information on whether or not the functions to be carried out by the Ministries, Departments, offices of Government of Nepal and public institution are being regularly carried out;
- (b) To alert Ministries, Departments, Offices of Government of Nepal, or public institution in case the functions to be carried out by them are not found to have been carried out;
- (c) To monitor the statement of property and income given by persons holding a public post as per the prevailing laws;
- (d) To make necessary provision for regular surveillance, surprise check and investigation in corruption prone places or works;
- (e) To make necessary recommendations to Government of Nepal with regard to the policies, strategies and reformation on laws to be adopted for corruption control;

- (f) To make provision of a complaint box in the Ministries of Government of Nepal, Departments, Offices or public institution;
- (g) To provide any suggestion or direction to the concerned bodies with
- (h) To collect necessary description or information concerning corruption from the body or authority working for investigation into offences of corruption and to maintain them updated;
- (i) To forward any information concerning corruption received to it to the concerned bodies;
- (j) To carry out or cause to carry out other incidental functions with regard to corruption control;
- (k) To carry out or cause to carry out other functions prescribed by the Government of Nepal.

Chapter - 5

Miscellaneous

39. Statement May be Taken or Transaction or Account May be Freeze: (1)

Notwithstanding anything contained in the existing law, if it appears from any source during the course of investigation into offences of corruption that there has been financial transaction or operation of an account in the name of any person with any bank or financial institution within the country or in any foreign country, the investigating authority may order to freeze such transaction or account. The concerned bank or financial institute shall freeze such transaction or account in accordance with the order of the investigating authority.

Provided that in case such transaction or account to be freeze is with a bank or financial institution in a foreign country, the investigation authority may cause to freeze the operation of transaction or account through the diplomatic channel.

(2) The investigating authority may impose a fine of fifty thousand rupees

in maximum to the chief of the concerned bank or financial institution located in Nepal not freezing transactions or accounts pursuant to Sub-section (1).

(3) The investigation authority may, if it deems fit in the course of investigation, according to the need, ask for the statement of property belonging to persons holding an office of public responsibility or freeze such property.

40. **Banning to Issue or Freezing Passport:** Notwithstanding anything contained in the prevailing laws, the investigating authority may, on the basis of the gravity of the offence, the condition, circumstances in which the accused committed the offence, degree of the offence and the punishment in case of conviction of the offence, issue an order to the concerned bodies for not issuing passport to any accused or for withholding it if it has been already issued.
41. **Restriction to Leave Places:** In case an action has been taken against any person under this Act, the investigating authority may, on the basis of the gravity of the offence, the condition and circumstances in which the accused committed the offence, the degree of the offence and the punishment in case of conviction of the offence, issue an order to any accused not to leave any place or not to go any particular place without the approval of the investigating authority.
42. **Provision Relating to Service of Summons:** (1) Notwithstanding anything contained in the existing law, while servicing summon in the name of a foreigner in any offence under this Act, the summon may be served to the office or representative of such person within of Nepal, if any, and service of summon in that manner shall be deemed to have duly made.

(2) In case there is no office or representative referred to in sub-Section (1), the summon shall be served to the main place of transaction, or to the address of such person where he resides permanently, or to the address of correspondence given by such person in connection with his business transaction through the

means of telex, fax or any other means of telecommunication in written form or through registered post, and the summons served in any of such manners shall be deemed to have been duly made.

(3) Notwithstanding anything contained in Sub-sections (1) or (2), this Section shall not be deemed to have hindered the service of summons according to the provisions of a treaty in case there is a separate provision for service of summons in the name of persons living in a foreign country in any treaty to which Government of Nepal or of Nepal is a party.

43. Publication of Notice: Notwithstanding anything contained in the prevailing laws, in case it has been reported that no notice could be served while sending a notice or servicing a summon in the name of any person in accordance with this Act or other prevailing laws for not finding the address of such person or for any other reasons, a public notice shall be published least for twice in a national level newspaper (in case of a foreigner in a English Daily) having given him/her a time limit of 30 days and having given short description as to whether the investigation is underway or the case is already filed at the authority hearing the case; and in case a notice has been published in such a way, the notice shall be or summon deemed to have been duly delivered or served to such person notwithstanding anything contained in the prevailing laws.

44. Obligations of government bodies and public institutions: The chief of a government body and public institution shall, in case any information has been received that corruption has been committed at his office or any other office under him, immediately take the related documents or file under his custody and keep it safe, and upon having inquired with the persons and officials related to such subject and upon having known the reality, if there appears any reason of commission of corruption, he shall forward such documents to the concerned body for investigation and inquiry.

45. **Case May be Filed against Retired Person:** Nothing in this Act shall be deemed to have prevented filing of a case against a retired public servant in connection with commission of corruption having embezzled or causing loss to government or public property or the property belonging to an organization owned by Government of Nepal even after such public servant is retired from the service.

46. **No Hindrance to Initiate Proceedings and Finalize Case:**

Notwithstanding anything contained in the prevailing laws, there shall be no hindrance to initiate proceedings and finalize a case even if the accused or defendant dies before or after a case under this Act is filed.

47. **Confiscation of Property:** In case it is proved that any person has earned property having committed any act which is deemed to have committed corruption under this Act or other prevailing laws and has kept such property and the property accrued therefrom in his/her own name or in the name of anybody else such property shall be confiscated.

Provided that, in case the ownership of such property is transferred to any person and in case the price of such a property is quoted, the transaction involving such amount shall be treated as a simple loan deed.

48. **Order to Freeze Property of a Foreigner:** (1) In case any foreigner who does not appear before the investigating authority in pursuance of a notice sent by the investigating authority or summon served pursuant to Section 42 is having any property, entitlement, interest or concern within of Nepal, the investigating authority may order to maintain a *status quo* with regard to them or not to allow to take such property, entitlement, interest or concern outside of Nepal unless and until such a person appears before the investigating authority, and it shall be the duty of all concerned to abide by such an order.

(2) The investigating authority may impose a fine of one thousand rupees in maximum to the person who does not abide by the order made pursuant to Sub-section (1) and in case any type of loss or damage is caused to Government of Nepal or a public institution because of non-observance of such an order, such loss shall also be recovered from him/her.

49. Punishment for Filing False Complaint: In case it is found that any person has filed a false complaint against any public servant or person without having any reasonable ground for filing a complaint and with the intention of causing any type of loss, damage or harassment, the investigating authority may impose a fine not exceeding five thousand rupees on him.

50. Provision Relating to Statement of Property: (1) Whoever joins a public office shall, within sixty days from the date of joining the public office, and whoever is engaged in a public office on the date of commencement of this Section shall, within sixty days from the date of commencement of this Act, and thereafter within sixty days from the date of completion of each fiscal year, submit the up dated statement of property in his/her name or in the name of his/her family members along with the sources or evidence thereof to the body or authority prescribed by Government of Nepal having published a notification in the Nepal Gazette.

(2) In case the person assuming a public office who is unable to submit the statement of property within the time limit referred to in Sub-section (1) makes a request for extension of the time limit having stated therein the reasons for his/her not being able to submit such statement, the concerned body or authority may extend the time limit for a period of thirty days in maximum.

(3) The person assuming a public office who does not submit the

statement of property within the time limit extended pursuant to Sub-section (2) shall be liable to a fine of five thousand rupees and the concerned body or official may investigate having suspected that there is illegal property in his/her and his/her family member's names.

(4) The statement of property submitted under this section Shall be confidential.

Provided that, if statement of property is required in connection with investigation and inquiries under this Act, such statement may be made available to the concerned authority.

51. Punishment to Persons Causing Hindrance and Obstruction: The authority hearing the case may, on the basis of the report of investigating authority, impose a punishment of imprisonment of a term of six months in maximum or a fine up to five thousand rupees in maximum or both to a person who causes hindrance or obstruction in actions relating to investigation and inquiries under this Act.

52. Confidentiality of Information: (1) No notice, information or evidence received to, collected by, the investigating authority in connection with investigation and inquiry in an offence of corruption shall be publicly notified before filing of case.

(2) Notwithstanding anything contained in Sub-section (1), the investigating authority may publicize particulars of inquiry and investigation of any matter of public importance which it deems fit as may be necessary.

53. Departmental Action to Employees Involved in Inquiries and Investigation: In connection with implementation of this Act, in case it is proved that the investigation officer or other employee engaged in investigation and inquiries has committed any act knowingly with the intention of causing harassment to any person, departmental action shall be taken against such employees.

54. **To be subjected to Imprisonment:** Notwithstanding anything contained in the prevailing laws, the person having been punished by a court with a term of imprisonment shall be subjected only to imprisonment.
55. **Remission in the Claim of Punishment:** The investigating authority may give complete or partial remission in the claim of punishment with regard to the accused who assists in the process of investigation carried out under this Act having him/herself presented as a witness on its behalf.
Provided that in case other evidences do not prove his assistance or in case he becomes hostile later on, the case may be filed against him again notwithstanding anything contained in this Act or in other prevailing laws.
56. **No Action to be Taken:** Notwithstanding anything contained in the prevailing laws, no action shall be taken against a public servant for disclosing confidentiality under the law relating to the terms and condition of his/her service who gives information for taking legal action in case of corruption committed or going to be committed or for preventing to be committed.
57. **Delegation of Power:** (1) The investigating authority may, by publication of a notification in the Nepal Gazette, delegate its all or any power conferred on it by this Act to any of the Government of Nepal's gazetted level officers.
(2) While delegating power pursuant to Sub-section (1), the territorial jurisdiction for the powers to be accountable by such officer shall be as prescribed in such notification.
(3) The officer exercising the power conferred on him under sub-Section (1) shall, for that purpose, be responsible to the investigating authority.
58. **Provision Relating to Rewards:** The investigating authority may give an appropriate reward to the person assisting it in connection with inquires, investigation or collection of evidences in the offences punishable under this Act.
59. **Special Provisions Relating to Cases of Corruption:** Notwithstanding anything contained in the prevailing laws, it shall be as follows in the following matters with regard to the cases filed under this Act:-

- (a) In case any public servant or any other person has, while committing or in connection with committing an act that is deemed to be an offence under other prevailing laws, there shall be no hindrance to file separate case in accordance with other prevailing laws.
- (b) In case there has been adverse impact caused on the rights, property or interests of any person while committing or in connection with committing an act that is deemed to be an offence under this Act by a public servant or any other person, there shall be no hindrance for such person to file a separate case.
- (c) In cases where a case has been filed against a person for an offence under this Act and it appears later on, after having examined the evidence, that the case must be filed against other person as well, there shall be no hindrance to file a separate charge sheet against such person.
- (d) Nothing shall be deemed to prevent filling of a separate case against any public servant or person for offenses to be liable under this Act, even if the separate case has been already filed against such person in order to recover loss and damages made by such person to Government of Nepal or public institution illegally;
- (e) In case, where a case has been filed under this Act against any public servant or other person, there shall be no hindrance to file a case under this Act or the case filed shall not be dismissed merely for the reason that there is a legal provision of recovery of the loss caused to Government of Nepal or a public institution from such public servant or other person.
- (f) No cases filed under this Act shall be withdrawn or compromised.

60. Informer and his/her details to be kept confidential: The name or address of an informer providing information that an offence under this Act has been committed or going to be committed shall be kept confidential in case he/she so requests.

61. Unclaimed goods to be entitled to Government of Nepal: (1) In case

no owner of the goods related to the offence punishable under this Act is traced, the investigating authority shall publish a public notice requiring the claimant, if any, of the goods so seized to claim the goods, within a time limit of thirty five days.

(2) In case, no claim is made within the time limit referred to in sub-section (1) or even if the claim is made but in absence of proof the claim is not tenable, such goods shall be the property of Government of Nepal having treated such goods as unclaimed goods.

62. Goods may be sold: (1) In case it appears that any goods seized in connection with an offence punishable under this Act would be damaged or broken for storing for a long time due to rust or for any other reason or would be rotten or damaged or price of such goods would go down for being old or would be useless or it could not be stored or maintained for lack of space, such goods may be sold having completed the process thereof in accordance with the prevailing laws.

(2) The amount received from the sale pursuant to Sub-section (1) shall be deposited to the deposit accounts. In case it has been decided that such goods has to be given to the concerned owner, he shall be entitled only to the amount received from the sale.

63. No Hindrance to Exercise Powers: Nothing in this Act shall be deemed to have hindered any authority or officer to exercise powers under other prevailing laws with regard to investigation, inquires, other actions and filing or cases relating to corruption.

64. Power to Frame Rules: Government of Nepal may frame necessary Rules for implementing the objectives of this Act.

65. Amendment, Repeal and Saving: (1) The following Sections of the Revenue (Investigation and Control) Act, 2052 have been repealed,-

- (a) Clause (c) of Section 2;
- (b) Sub-section (2) of Section 6;

- (c) The terms "or employee" appearing in sub-Section (4) of Section 9;
 - (d) Sub-section (2) of Section 18;
 - (e) Sub-section (2) of Section 21;
 - (f) Sub-section (2) of Section 23;
 - (g) The terms "or corruption" frequently used in place to place;
 - (h) Section 5, chapter 4 and Section 25.
- (2) The Prevention of Corruption Act, 2017 has been repealed.
- (3) All actions taken and proceedings initiated under the Prevention of Corruption Act, 2017 shall be deemed to have been taken or initiated under this Act.