

THE CIVIL SERVICE ACT, 2049 (1993)

Date of Royal Seal and Publication

2050-2-4

(May, 17 1993)

Amendment:

- | | |
|--|-----------------------------------|
| 1. Nepal Health Service Act, 2053 (1997) | 2053-11-15 (Feb. 16, 1997) |
| 2. The Civil (First Amendment) Act, 2055 (1998) | 2055-3-29 (July 13, 1998) |
| 3. Few Nepal Amendment Act, 2057 | 2057-4-26 (Aug. 10, 2000 A.D.) |
| 4. Parliament Secretariat Act, 2058 | 2058-8-28 (Dec. 13, 2001 A.D.) |

Act No. 2 of the year 2050 (1993)

An Act made to for the constitution, operation and conditions of service of the Civil Service.

Preamble:

Whereas, it is expedient to make provisions relating to the constitution, operation to make the Civil Service more capable, vigorous, service oriented and responsible;

Now. Therefore, be it enacted by Parliament in the twenty-second year of the reign of His Majesty Birendra Bir Bikram Shah Dev.

Chapter-1

Preliminary

- Short Title and Commencement:** (1) This Act may be cited as "the civil Service Act, 2049 (1993) "
(2) This Act shall come into force forthwith.
- Definitions:** Unless the subject or the context otherwise requires, in this Act, -
 - "Civil Service" means the Civil Service constituted Pursuant to Section 3.

- (b) "Civil Employee" Means any person holding a post of the Civil Service.
- (c) "Authority" means any official with powers to make appointments pursuant to Section 9.
- (d) "Family" means the husband, Wife, son, unmarried daughter, adopted son, unmarried adopted daughter, father, mother or step mother living together with a Civil Employee and whom he himself has to submit and this term also includes his grand father, grand mother in the case of a female Employee.
- (e) "Head of Department" means the prescribed official.
- (f) "Chief of the Office" means the chief Employee of the office prescribed.
- (g) "Permanent Post" means a post of the Civil Service which is pensionable and of which duration has not been specified.
- (h) "Expert Post" means a post that has functions, duties and responsibilities of special qualifications.
- (i) "Prescribed or as prescribed" means Prescribed or as prescribed the Rules framed under this act.

Chapter-2

Constitution Civil Services

2A. **Central Body vis -a-vis Personnel Administration:** (1) The Ministry of General administration shall act as a central body in regard to the constitution, operation and conditions of service of the Civil Employees, in n order to run the administration of the country.

(2) Any act pertaining to the administration of the civil employees save the acts mentioned in this Act or the Rules framed under this Act shall not be carried out without policy approval of the Ministry of General administration.

3. **Constitution of Civil Service:** His Majesty's Government shall constitute the Civil Services as follows:

- a (a) Nepal Economic Planning and Statistic Service.
- (b) Nepal Engineering Service.
- (c) Nepal Agricultural Service.

- Inserted by the First Amendment.

a Amended by the First Amendment.

- (d) Nepal Judicial Service.
- (e) Nepal Administrative Service.
- (f) Nepal Forestry Service.
- (g) Nepal Miscellaneous Service.
- (h) Nepal Education Service.
- (i) ×.....
- !(j) -----

4. **Class:** There shall be the following classes in the Civil Service:

| <u>Gazette</u> | <u>Non-gazetted</u> |
|----------------|---------------------|
| Special | First |
| First | Second |
| Second | Third |
| Third | Fourth |

5. **Post of the Service:** (1) There shall be technical and administrative posts of different levels including the Expert Post in different classes of the Civil Service.

(2) In addition to those mentioned in sub-section (1), there may also be classless posts as prescribed in the Civil service.

(3) His Majesty's Government shall prepare a job description and powers as well, of the concerned post shall be such a job description.

6. **Groups and Sub-groups:** (1) There may also be different groups and sub-groups prescribed in the Civil Service.

-(la.) Notwithstanding anything thing contained in sub-section (1), there shall not be service except in the post of Nepal Judicial Service.

(2) The minimum qualification required for different post in the groups and sub-groups of different Civil Services shall be as prescribed.

× Deleted by the Parliament Act, 2058
 ! Deleted by Nepal Health Service Act, 2053 (1997).
 - Inserted by the First Amendment.

Chapter-3

Fulfillment of Vacancy in Civil Service

-6A. **Creation of Positions:** (1) The number of the positions in the Civil Service shall be created as prescribed.

(2) No. position shall be created without the consent of the Ministry of General Administration and the Ministry of Finance.

(3) Any position created and fulfilled in contravention of sub-section (1) and (2) shall *ipso facto* lapse.

a7. **Fulfillment of Vacancy in Civil Service:** (1) The following posts of the Civil Service shall be fulfilled follows:

| | <u>Post</u> | <u>Promotion</u> | | | |
|-----|---|----------------------------|-----------------------------|---------------------------------|---------------------------|
| | | By internal of competition | By inter-service competency | By open competition competitive | By evaluation examination |
| (a) | Post of Non-gazetted Fourth class | - | - | - | - |
| (b) | Post of Non-gazetted Third Class | 60% | 40% | - | - |
| (c) | Post of Non-gazetted Second & First Class | 60% | 40% | - | - |
| (d) | Post of Gazetted Third Class | 75% | - | 25% | - |
| (e) | <u>Gazetted:</u> | | | | |
| | (1) Post of Second Class | 10% | 80% | 10% | - |
| | (2) Post of First Class | 10% | 80% | - | 10% |
| (f) | Post of Gazetted Special Class | - | 100% | - | - |

(2) Notwithstanding anything contained in clause (b) of sub-section (1), if the post of Non-gazetted Fourth Class is not held by any Civil Employee, that post shall

^a Amended by the First Amendment.

ipso facto lapse; and after the post of Non-Gazetted Fourth Class has been so lapsed the post of Non-gazetted Third Class shall be fulfilled cent by open competition.

(3) Out of 25 per cent posts allocated to be fulfilled by internal combative examination pursuant to clause (d) of sub-section (1), 10 per-cent posts shall be fulfilled by internal competitive examination and the rest 15 per-cent pots shall be fulfilled by election, through work performance evaluation and interview, from amongst the Civil Employees who have completed a service period of 10 years in a post which one class lower within the concerned service or group. The weight age of marks of interview shall be as specified by the Public Service Commission.

(4) The Expert Post and classless posts shall be fulfilled in the manner as prescribed.

-7A. **Notification Upon Being a Post vacant:** If any post of the Civil Service falls vacant, a notice thereof shall have to be given to the Public Service Commission within seven days. Department action shall be taken against the Chief of the Office concerned Who does not give the notice within that period.

-7B. **Restriction on Fulfillment of Post:** (1) No post of the Civil Service shall be fulfilled in any manner other than that provided for in this Act.

(2) No salary shall have to be provided without having the salary report passed by the Civil Employees /records Office (*Nijamati Kitabkhana*), in the case of the Civil Employees serving in the Ministries, Secretariats, Commissions and Departments and Offices situated within the Valley, and by the Treasury and Accounts Comptroller Office concerned in the case of the Civil Employees of the District based Offices.

(3) If any Employee has been appointed in contravention of sub-section (1) or if it is found that salary has been provided without having the salary report passed pursuant to sub-section (2), the salary, allowances and amount for other facilities having been received by such an Employee shall be realised from the appointing official as government dues.

-7c. **Restriction on Appointment on Wages or Contract:** (1) No one shall, after the commencement of this Act, appoint any person on wages or contract for any work to be performed by the Civil Employee.

(2) If anyone appoints any person in contravention of sub-section (1), the salary, allowances and amount for other facilities having been received by the person so appointed shall be realised from the appointed shall be realised from the appointing office as government dues.

a8. **Appointment on Recommendation of the Public Service Commission:** (1) Appoints to the posts to be fulfilled by open competition or internal competition or

- Inserted by the First Amendment.

- Inserted by the First Amendment.

a Amended by the First Amendment.

inter-service competition shall be made on recommendation of the Public Service Commission.

(2) Notwithstanding anything contained in sub-section (1), appointments to the posts vacant in the Gazetted Second class or the class above, of the Nepal Judicial service, required to be fulfilled by the internal competition or inter-service competition shall be made on recommendation of the Judicial Service Commission.

9. **Appointment to the Post of Civil Service:** (1) His Majesty's Government shall make appointments to the Gazetted posts of the Civil Services, and a notice of such appointments shall be published on the Nepal Gazette.

(2) The head of Department may make appointments to Non- gazetted posts of the Civil Service.

(3) Notwithstanding anything contained in sub- section.(2), the Chief of the Office may make appointments to Non Gazetted and subordinated offices.

a10. **Disqualification's for Being Candidate:** (1) The following persons shall not be qualified to be candidates for the post of the Civil Service:-

- (a) In the case of Non-gazetted and classless posts, those who have not completed the age of 18 years,
- (b) In the case of Gazetted posts, those who have not completed the age of 21 years,
- (c) In the case of male candidates, those who have already completed the age of forty years,

Provided that:

- (1) Any persons who have not crossed the age of forty years may be candidates for such posts of the Civil Service as may be specified to be appointed ex-army or police thereto or for technical posts.
- (2) While making appointed to the Gazetted Second of First Class by open competition, any person b who have not crossed the age of forty -five years may be candidates therefore
- (3) The age bar shall not be applicable to the permanent incumbent Employees of the Civil Service.
- (d) Those who have been dismissed from the service, with being disqualified for the government service the future,
- (e) Those who are non-Nepalese citizens,

(f) Those who have been convicted by the court of an offence involving moral turpitude.

(2) In the case of the female Civil Employee who, having been temporarily appointed to any post of the Civil Service, has been serving continuously for a period of at least five years, the age bar shall not be applicable to her to become a candidate for one time in the advertisement of the Public Service Commission to be done after the commencement of this Act.

a11. **Provision relating to Temporary appointment:** (1) The Public Service commission shall, for the purpose of making temporary appointments, publish a separate list arranged in other of merit from amongst those candidates in the examination conducted by it, who have not been recommended for permanent appointment.

(2) If a temporary appointment is to be made to any vacant post of the Civil Service, the concerned Ministry shall have to write to the Public service commission.

(3) The Public Service Commission shall, if it has been written to it Pursuant to sub-section (2), recommend the person included in the list arranged in order of merit for temporary appointment on the basis of the demand of the concerned Ministry.

(4) The concerned Ministry shall temporarily appoint the person recommended pursuant to sub-section (3) for a period not exceeding six months.

(5) The concerned Ministry shall have to give information of temporary appointment made pursuant to sub-section (4) to the Ministry of General administration Within seven days.

(6) If any one makes temporary appointment in contravention of this section, the salary, allowances and amounts for other facilities having been earned and received by the Civil Employee so appointed shall be realised from the appointing Official as government dues.

12. **Retention of Lien:** The Civil Employee shall continue to have line of his post in the following circumstances:

(a) As long as he continues to function in that post.

(b) Until the period of time allowed for assumption of charge of another post, on being transferred to that post.

(c) While he is on leave.

(d) While he is under suspension.

(e) While he is deputed by His Majesty's Government on government or non-government business or while he is working in any other post in an acting capacity.

^a Amended by the First Amendment.

- a13. **Acting:** (1) No Action shall be designated in any post referred to in this Act.

Provided that if the post of the head of Department or Chief of the Office falls vacant or the Employee holding such post goes on leave for a period exceeding fifteen days or becomes subject to a legal proceeding, a Civil Employee of the same grade or of one level lower post who has already become a potential candidate for promotion may, for looking after the functions for the time being, be designated as acting in that post for six months in maximum. In cases where anyone has been so designated as Action in any post, that person or any other person shall not be again designated as acting in that post.

(2) If any Employee has been designated as Acting in contravention of sub-section (1), the salary, allowances and amount for other facilities having been earned and received by such Employee during his holding in that post shall be realised as government dues from the official designating him as Acting.

14. **Oath:** Each Civil Employee shall, before as assuming his office upon being appointed for the first time, swear an oath as prescribed.

- a15. **Provision relating to Posting:** The posting of a Civil Employee shall be made on the basis of his educational qualification, training and experience.

Provided that the posting on the post of Gazetted First class and of the Head of Department of up to Gazetted First class shall be made as per the recommendation of the Ministry of General administration. The Ministry of General Administration shall, while making recommendation for posting in such post recommended those from amongst the Civil Employees having capacity to bear the leadership in the post, in addition to the above matters, in coordination with the concerned Ministry.

16. **Probation Period:** While making fresh appointment to the permanent post of the Civil Service, appointment shall be made on probation for a period of 6 months in the case of a female Civil Employee, and one year, in the case of the male Civil Employee. If his performance is not satisfactory during the probation period, his appointment may be canceled. The appointment of a Civil Employee whose appointment has not been so cancelled shall be deemed to have *ipso facto* been confirmed upon the expire of the probation period.

Provided that any Civil Employee who has once undergone a probation period in any permanent post of the Civil Service shall not required again to undergo a probation period.

17. **Tenure of Chief Secretary and Secretary:** The tenure of the Chief Secretary and the Secretary shall be three and five years, respectively.

a Amended by the First Amendment.

a Amended by the First Amendment.

- Inserted by the First Amendment.

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Explanation: For the purpose of this Section, the term "Secretary" means a Civil Employee holding any post of the Special Class.

Chapter-4

Transfer and Promotion

^a18. **Power to transfer:** (1) The Civil Employees shall be transferred to provide them also with experience of different geographical regions of the country; and the Authority shall have the powers to make such transfer.

(2) While transferring the Civil Employees other than the Civil Employee who is holding the post rendering expert services and there is not any post and office relating to his service, group or sub-group anywhere else in the local level, the Official shall have to make transfer by indicating in the letter of the transfer the period of at least one year and not in excess of eighteen months in maximum, in the other geographical regions of category 'a' and the period of at least two years and not in excess of three years in maximum, in the other geographical regions.

Provided that if a Civil Employee posted in any office is to be transferred before the expire of that period in the following circumstances, he may be transferred with the consent of the Ministry of General Administration:-

- (1) In case where the Medical Board prescribed by His majesty's Government recommends that any Civil Employee in service in any place has been disabled and his treatment can't be done in that place,
- (2) In cases where departmental action is to taken against any Civil Employee,
- (3) In cases where it is not appropriate to keep on any Civil Employee in the Office where he is serving.

Explanation: For the purpose of this sub-section, one year means the continuous attendance on at least 233 days.

(3) While transferring pursuant to sub- section (2), The Civil Employee spouses, if both of them are in the government service, shall to the extent of availability of vacant posts, be sent to the same District.

(4) Notwithstanding anything contained in sub-section (2), priority shall be accorded to post the Non-gazetted and classless Civil Employees in the place convenient from their houses.

^s Proviso Clause deleted by the First Amendment.

^a Amended by the First Amendment.

(5) If any Civil Employee has been transferred prior to the expiry of the period referred to in sub-section (2) owing to other circumstances save the circumstances where departmental action has to be taken, the amount as prescribed shall be provided to such a Civil Employee to make arrangement in the place.

Provided that in cases where any Employee has been transferred at his own request, such an amount shall not be provided him.

(6) Notwithstanding anything contained in sub-sections (1) and (2), the Ministry of General Administration may transfer a Civil Employee in any Ministry and Department or Office thereunder to other Ministry and Department or Office thereunder.

(7) A transfer made by the Authority and that made by the Ministry of General Administration in contravention of this Section shall be cancelled by the Ministry of General Administration and His Majesty's Government, respectively.

(8) Other provisions on transfer shall be as prescribed.

-18A. **Provisions on Deputation:** (1) A Civil Employee may be deputed in other place from the Ministry, Secretariat, Commission, Department or Office where he is serving only on the function of that body exceeding three months a year.

Provided that deputation may be made on a training, symposium etc. for a period more than that.

(2) While deputing any Civil Employee in service in the Civil Services to a body that does not have a post of the Civil Services or while withdrawing the deputation, consent of the Ministry of General Administration shall have to be obtained.

(3) If any Civil Services Employee has been deputed in contravention of sub-sections (1) and (2), salary, allowances and the amounts for other facilities earned and received by the Civil Employee so deputed during that period shall be realized from the deputing official as government dues.

-18B. **Restriction On Holding Without Entrusting Responsibility:** No. Civil Employee shall be held without entrusting to him the responsibility of the position for a period exceeding one month, except in the following circumstances:

(a) In case where he has gone on a leave,

(b) In case where he has been suspended,

(c) In case where he is to be retained on the line post owing to his deputation elsewhere.

-18C. **Act to be Completed within Time:** (1) The concerned body shall have to complete the act of making adjustment to be made under this Act on appointment, transfer,

deputation and acting after the commencement of this Act within two months, and give an information thereof to the Ministry of General Administration.

(2) If the concerned body fails to carry out that act within the period of time referred to in sub-section (1), the Ministry of General Administration shall carry out the act immediately.

a19. **Promotion:** (1) While making promotion to the Gazetted post of other Civil Services save the Gazetted post of Nepal Judicial Services, it shall be made on the recommendation of the promotion committee referred to in Section 20.

(2) Notwithstanding anything contained elsewhere in this Act, promotion to the post of Gazetted Special Class shall be made in the following manner: -

(a) His Majesty's Government shall, while making promotion to the post of Chief Secretary of the Gazetted Special Class, make promotion by making selection on the basis of seniority and executive from amongst the incumbent Secretaries.

(b) The promotion committee shall, on the basis of the Job performance competency, recommend additional candidates in fifty per cent of the vacant posts as far as available, for promotion to the vacant post of Secretary of the Gazetted Special Class the post equivalent thereof; and His Majesty's Government shall promote such candidate from amongst the candidates so recommended as it may deem appropriate on the basis of seniority and executive efficiency.

Provided that if the vacant post is in odd number, recommendation shall have to be made by adding one candidate to the additional fifty per cent number required to be recommended.

20. **Promotion Committee:** (1) There shall be the following promotion Committee to make recommendation for promotion to other Gazetted posts of the Civil Services except for promotion to the Gazetted post of Nepal Judicial Service and for promotion from the Non-gazetted post to the Gazetted post:

(a) Chairman of the Public service Commission or Member of the Public Services Commission designated by Him - Chairman

(b) Member of the Public Services Commission designated by the Chairman of the Public Service Commission - Member

(c) Chief Secretary - Member

(d) Expert in the concerned Subject nominated by the public Service Commission - Member

a Amended by the First Amendment.

- Inserted by the First Amendment.

(e) Secretary at the Ministry of General administration - Member

(2) There shall be a prescribed promotion committee to make recommendation for promotion to the Non-gazetted post of the Civil Service.

(3) The procedures to be followed by the promotion committee to make recommendation for promotion of the Civil Employee shall be as prescribed.

(4) The promotion committee shall, while publishing a promotion name list, also publish the marks obtained by the candidates

(5) The promotion committee shall have to prepare an annual plan of operations and carry out its functions as per that plan.

-20A. **Special Provision relating to Promotion:** (1) Notwithstanding anything contained else where in this Act, if any Civil Employee of the Gazetted third Class or of A Class below than that who has one month left to get retirement pursuant to Section 33, he shall be promoted to one level higher post.

(2) Notwithstanding anything contained elsewhere in this Act, if any Civil Employee of the Gazetted Third Class or of a class below than that who has in service in the same post for at least fifteen years intends to have voluntary. Retirement pursuant to section 35 and makes an application therefore, he shall be granted retirement by promoting him to one level higher post.

(3) A special post shall ipso facto be created to make promotion pursuant to sub-section (1) or (2), and that post shall *ipso facto* lapse upon the retirement of such a Civil Employee from the service.

^a21. **Minimum Services Period and Educational Qualifications Required to be Candidate for Promotion:** (1) In order to be candidate for promotion, one shall have to possess the educational qualifications as prescribed for the post which is one level below than the level of the post where to promotion is to be made and have completed the minimum services period as follows:

(a) Out of the non- gazetted posts:-

(1) Two years for the post of Third and Second Class,

(2) Three years for the post of First Class.

(b) Out of the Gazetted posts:

(1) Four years for the post of Third Class,

(2) Five years for the post of Second Class,

(3) Four years for the post of First Class,

- Inserted by the First Amendment.

^a Amended by the First Amendment.

(4) Five years for the post of Special Class.

(2) Notwithstanding anything contained in sub section (1), even though female Civil Employee have a service period less than one year in the above-mentioned services period, they shall be potential candidates for promotion.

22. **Ineligibility for Being Potential Candidate for Promotion:** Not with-standing anything contained in section 21, a Civil Employee shall not be eligible to be potential candidate for promotion in the following circumstances and during the following period:

- (a) In the event of suspension, during the period of suspension,
- (b) In the event of withholding of promotion, during the period of withholding;
- (c) In the event of withholding of increment in salary, during the period of with holding.

-22A. **Withholding and Sanction of Promotional Appointment:** If any Civil Employee is suspended or his appointment or increment in salary is withheld after he has been recommended for promotion but before he gets promotional appointment, his promotion shall then be withheld during the said period; and if he is acquitted of the suspension, or after the expire of the period of withholding, he shall be granted appointment, and only seniority shall be maintained as if he were not suspended or withheld.

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a24. **Criteria for Promotion:** (1) The promotion committee shall, while recommending the Civil Employee for promotion, make so on the basis of his competency.

(2) In evaluating the competency of the Civil Employee, a maximum of 100 marks shall be granted as followers:

- (a) For work performance evaluation - forty marks
- (b) For seniority of the present Class - Twenty-eight marks
- (c) For service in geographical region -fifteen marks
- (d) For educational qualification -fifteen marks
- (e) For training -two marks

- Inserted by the First Amendment.
q Repealed by the First Amendment.
a Amended by the First Amendment.

-24A. **Evaluation of Works Performance**: (1) The work performance evaluation from as prescribed shall be used to evaluate work performance of the Civil Employee.

(2) The allocation of the marks of the work performance evaluation of the Civil Employee shall be as follows:

- (a) Maximum marks that may be granted by the supervisor -twenty-five
- (b) Maximum marks that may be granted by the review - ten
- (c) Maximum marks that may be granted by the review committee -five

(3) The supervisor, reviewer and review committee shall, while granting marks for the work performance of the Civil Employee, have to grant marks in accord with the basis mentioned in this Section and the work performance evaluation from.

(4) The work performance evaluation of the Civil Employee shall be carry out on trig monthly and annual basis.

(5) The Chief of the Office shall, while evaluating work performance on trig-monthly basis pursuant to sub-section (4), have to consult with the supervisor and reviewer and determine the marks to be secured by the Civil Employee. The Chief of the Office shall have to prepare two copies of the evaluation so carried out and one copy of which shall be filed in the personal file of the concerned Employee and the other copy shall be provided to the concerned Employee within the seventh day of the month of evaluation. Three marks shall be deducted from the work performance evaluation of the Chief of the Office who does not carry out evaluation or who does not provide of the evaluation carried out by him to the concerned Employee within that period, and in the case of an official whose work performance evaluation is not required to be carried out, His Majesty's Government shall subtract three salary increments.

(6) The Chief of the Office shall evaluate the work performance required to be evaluated annual, prepare three copies therefore and send a copy each to the Public Service Commission and the secretariat of the promotion committee and retain the other copy in the concerned office. Three marks shall be deducted from the work performance evaluation of the Chief of the office who does not evaluate the work performance within that period or does not provide the evaluation from to the secretariat of the promotion committee within the performance evaluation is not required to be carried out, His Majesty's government shall subtract three salary increments.

(7) If the supervisor or reviewer grants marks more than 95 per cent or less than 75 per cent the work performance evaluation to be carried out annually, he shall have to set out clear reasons therefore, and where he has granted marks less than 75 per cent, he shall have to inform the concerned Employee thereof and submit it to the review committee along with the reactions, if any, made by such Employee. The review committee may, if it is not satisfied with the evaluation indicated in the work performance evaluation carried out by the supervisor or the reviewer or by both, return it also setting out the clear reasons therefor. In cases where it has been so returned, the concerned evaluator shall forward out justifiable reasons therefore, if it is not necessary to amend the evaluation carried out previously.

(8) While calculating the marks for the purpose of work performance evaluation, the marks shall be calculated on the basis of the average figure of the work performance evaluation from of such last year as the service for which is required to become a potential candidate for promotion.

Provided that:

- (1) Marks due for the work performance evaluation from for the period of training and study undergone shall be granted in proportion of the marks secured in the year immediately preceding the departure for such study or training.
- (2) The potential candidacy shall be calculated only by deducting the period of era-ordinary leave undergone, and the work performance evaluation from in respect of the period of such extraordinary leave shall not be filled up. While evaluating the work performance for a period less than one year but more than six months or above, the marks shall be calculated pro rate of marks prescribed for one year.

(9) Except the period the last day of Ashad (mid-July) required to become potential caudate, the marks of promotion shall calculated only up to the last date for making application.

(10) Other provisions relating to work performance evaluation shall be as prescribed.

-24B. **Evaluation of Seniority**: While granting marks to the Civil Employee for seniority, a maximum of twenty-eight Marshall be granted at the rate of two marks for each year of service in the class in which he is presently serving.

Provided that-

- (1) While calculating marks for seniority, marks shall be calculated on a proportional basis for a period of more than one year by months or days.

(2) For the purpose of this clause, no marks shall be granted for the period of absence or extra-ordinary leave undergone.

-24C. **Evaluation of Experience of Work in Geographical Region:** (1) While granting marks to the Civil Employee for experience of work in different geographical regions, the different geographical regions of the country shall be categorized into five categories viz. 'a', 'b', 'c', 'd' and 'e' respectively, and the marks shall be granted as follows not in excess of fifteen marks for the work in one or more categories thereof: -

- (a) At the rate of 3.25 marks for each year of service in category 'a',
- (b) At the rate of 2.75 marks for each year of service in category 'b',
- (c) At the rate of 2.25 marks for each year of service in category 'c',
- (d) At the rate of 1.75 marks for each year of service in category 'd',
- (e) At the rate of 1.25 marks for each year of service in category 'e'.

(2) For the purpose of sub-section (1), the description of different geographical regions shall be as prescribed.

(3) If a Civil Employee service in any categorized region by continuously attending the office for more than three months, three months, there shall be granted marks obtainable pro rate. The marks to be obtained for the services in the geographical region shall be calculated only in cases where the marks have been obtained in the Class bearing held currently.

(4) The marks equivalent to that of category 'e' shall be granted to the Civil Employee who serves in a Royal Nepalese Diplomatic Mission or other office aboard and who goes on deputation for a foreign training.

-24D. **Evaluation of Educational Qualifications and Training:** While granting marks to the Civil Employees for educational qualifications, marks shall be granted for the minimum educational qualifications, required to join any post of the concerned subject higher than that.

| | <u>Marks</u> | | |
|---|-----------------------|------------------------|-----------------------|
| | <u>First Division</u> | <u>Second Division</u> | <u>Third Division</u> |
| (a) For the minimum educational qualifications prescribed for joining the service - | 11.5 | 11 | 10.5 |
| (b) For any one additional educational degree in the concerned subject higher | | | |

than the minimum educational
qualifications prescribed for joining

the service - 3.5 3 2.5

(2) Only the marks referred to in clause (a) of sub-section (1) shall be granted to the Civil Employee who has received only degree higher than the educational Qualifications required for the service.

For Example: In case where the minimum educational qualifications have been prescribed as bachelor degree or equivalent thereto, and any Employee has, following obtained Master's degree or equivalent thereto, only the marks for the minimum educational qualification (1), and in such case the marks indicated the same qualifications.

(3) Save the minimum education qualifications set for the posts of Gazetted Second and First Classes (d) and (e) of Section 7, the minimum educational qualifications set for joining the Service of Gazetted Third Class shall be considered to be the minimum educational qualifications also for promotion to a post higher than Gazetted Second Class.

(4) In the case of the educational qualifications of which division has not been specified, the division determined by the Tribhuvan University on the basis of the marks secured shall be fixed.

(5) For the in services training, marks, 1.5 marks and 1 mark shall be granted for the first, second and third division respectively.

(6) While granting marks to the Civil Employee for training, marks shall be granted for the in - service training of a period of one month or above in the subject relevant to the services. In calculating the marks for training, the marks shall be calculated for that class only, while in which class he has been nominated for the training.

(7) The Civil Employee shall have to submit certified copies of the educational qualifications and the in-service training. Marks shall not be granted therefor if he fails to submit them.

-24E. **Requirement of Accurately Maintaining Sheet Roll:** It shall be the responsibility of the Chief of the Office to accurately maintain the sheet Roll of the Civil Employees serving in his office Even in case where the application forms of the Civil Employees who have already become potential candidates have not become available, they shall not be deprived of bearing potential candidates for promotion. Marks shall be granted on the basis of the description provided by the concerned office in lieu of their application forms.

-24F. **Complaint on Promotion:** (1) The concerned Civil Employee, who is not satisfied with the recommendation made by the promotion committee for promotion, pursuant to Section 20, may file a complaint at the Public Service commission within thirty-five days from the date of such recommendations and the complaints filed shall be within sixty days of the expiry of the time limit for filing the complaint.

(2) If upon the settlement of the complaint filed pursuant to sub-section (1) the previously published promotion name-list is to be amended, the official hearing the complaint shall have to give a notice thereof to the promotion committee.

(3) If, while examining the complaint pursuant to sub-section (1), It appears that erroneous evaluation was carried out intentionally, the Public Service commission may warn the evaluator.

(4) If a complaint filed pursuant to sub-section (1) is held to be false, two marks and three marks of such a complainant shall be deducted on the promotion to be made Following the complainant if he has made such a complaint for the first and second time, respectively.

(5) A noticed of the action taken pursuant to sub-section (3) or (4) shall have to be forwarded to the secretariat of the promotion committee, to the office where the concerned Employee is in service and to the concerned Employee, as well.

(6) Other provisions on complaint on promotion shall be as prescribed.

25. **Alteration in the Conditions of Promotion:** While amending any provision of Sections 21, 22, 24, 24A, 24B, 24C and 24D^a the rules framed thereunder, it shall be arranged that such amendment shall come into force only after one year of such amendment.

a26. **Change of Service, Group or Sub-groups:** If His Majesty's Government deems it necessary, it may move any one type to the post of the civil Services of another type or from one type to the post of Civil Service of another type or from one group or sub-group within one Civil Services to another group or sub-group in consultation with the Public Service commission and as per the criteria prescribed. In changing the service or group of the Gazetted Employee of the judicial Service, consent of the Judicial Service Commission shall also be obtained.

Chapter-5

Salary, allowance, Dashain Expenses and Other Facilities

27. **Salary and Allowances:** (1) Each Civil Employee shall be entitled to his salary and allowances from the day of his joining the post.

- Inserted by the First Amendment.

a Amended by the First Amendment.

(2) The Salary and allowances to be received by the civil Employee for his Civil Services shall be as prescribed by His Majesty's government from time to time by reviewing it in every two years⁻.

(3) Except on conditions stipulated in Section 29 or 60, each Civil Employee shall, upon the commencement of this Act be entitled to increment in salary in a sum as prescribed, upon completion of one of service. *Provided that the increment in the salary of the official shall be adjusted and be not less than his receiving scale. If the increment in salary of any civil Employee has been withheld, the concerned official shall record in writing the date from which such increment in the salary is to be released.

28. **Receiving of Earned Salary and Allowance:** (1) Each Civil Employee shall receive his earned salary and allowances as well if any receivable^a, upon completion of each month.

(2) Each Civil employee shall receive his earned salary and allowances as well, if any receivable^a even if he has been relieved of the Civil Service for any reason whatsoever.

(3) Except as otherwise provided in this Act or the Rules framed there under, no salary of any Civil Employee shall be deducted.

(4) The Salary to which any civil Employee is entitled shall not be withheld during the period he is serving or is on leave.

29. **Crossing of the Efficiency Bar:** No Civil Employee shall be deemed to have crossed the efficiency-bar until the Secretary of the concerned ministry in respect of a Gazetted Employee and the writing that such Civil Employee is fit to cross the efficiency-bar.

30. **Salary Receivable in the event of suspension:** (1) If any Civil Employee is suspended in connection with any governmental business or as a result of an action initiated on behalf of His Majesty's Government, he shall received only one-half of his salary during the period of such suspension.

Provided that if he is acquitted of the charge against him as a result of not being the change proved, he shall receive only one-half, and the full amount of salary (increments, if any), if none was received during the period of suspension If he is found guilty, he shall not receive the remainder of the salary from the date of suspension.

(2) If any Civil Employee has been suspended for any reason other than those mentioned in sub-section (1), he shall not be entitled to any salary for the period of such suspension.

- Inserted by the First Amendment.

* Amended by the few Nepal Amendment Act, 2057.

^a Amended by the First Amendment.

31. **Deposit of Contribution to Employees' Provident Fund**: An amount at the rate of ten per cent of the monthly salary of the Civil Employee shall be deducted, and His Majesty's Government shall, adding the amount of one hundred per cent thereof to such amount, deposit the total amount in the Employees' Provident Fund.
32. **Dashain Expenses and Other Facilities**: (1) A Civil Employee shall receive an amount equivalent to the monthly salary being currently earned by him as the Dashain expenses in every year.

-(1a) Any Employee having got retired with entitlement to pension shall be provided with sum equivalent to the pension of one month payable to him, as the Dashain expenses.

(2) The provisions relating to medical expenses disability pension, facilities payable on grounds of deformities, extra-ordinary family pension and gratuity, educational allowances, pension to the offspring or other facilities shall be as prescribed.

Chapter-6

Retirement, Gratuity and Pension

33. **Compulsory Retirement**^a: (1) Any civil Employee who has completed the age of fifty-eight years or has completed the tenure as referred to in Section 17 shall *ipso facto* retire from the civil Service.

a(2) Even the Civil Employees in service, whose tenure was completed owing to thirty years of service but was extended prior to the commencement of Sub-section (1), may hold office in the Civil Service until the completion of the age of fifty-eight years.

Provided that in respect of the Employees whose Tenure of service has been specified pursuant to Section 17, that Section shall be applicable.

(3) For the purposes of this Section, the age of a Civil Employee shall be calculated in the following manner:

- (a) The age as set from the date of birth or the year inscribed in the certificate of the educational institution submitted by him at the time of joining the service,
- (b) In absence of the record referred to in clause (a), the age set from the date of birth or the year inscribed by him in the Sheet Roll at the time of joining the service.

- ^a34. **Power to Award Retirement**: His Majesty's Government may, in the following circumstances, retire any Civil Employee from the service:

- Inserted by the First Amendment.

^a Amended by the First Amendment.

- (a) If it is proved that any Civil Employee has provided or attempted to provide secret governmental documents, deeds or information under his custody or obtained by him in any manner to any unauthorized person or body,
- (b) If it is proved that any Civil Employee committed irresponsible conduct not compatible with the honour of his office by maintaining undesirable contact with any foreign country, organization or national contrary to the national interests.

-34A. **Special Provision in Respect of unable Employee:** If it is certified by the Medical Board constituted by His Majesty's Government that any Civil Employee is unable to serve regularly owing to a physical or mental disease, His Majesty's Government may retire him by adding a service period of seven years in maximum to his service period.

a35. **Voluntary Retirement:** Any Civil Employee who is eligible to receive pension and his completed the age limit of fifty years may voluntarily retire from the service on such terms and within such periods set forth and specified in the notice published by His Majesty's Government in the Nepal Gazette A grace service period of seven years in maximum shall be so added and the total service period shall be fixed for a pension that the age of the Employee, out of the Employees who so retire voluntarily, who joined the Civil Employees who so retire voluntarily, who joined the Civil service before 21st Kartik voluntarily, who joined the Civil Employee who joined the Civil Service on or after that date does not exceed fifty-eight years.

36. **Gratuity:** (1) If any Civil Employee, who has served for five years or more but has not been eligible to a pension, has retired or has been removed from the post without being disqualified for government service in the future, he shall received gratuity at the following rate:-

- (a) In the case of the Civil Employee who has served from five years up to ten years, one-half of the last month's salary for each years of his service,
- (b) In the case of a Civil Employee who has served for more than ten years up to fifteen years, the last one months salary for each year of his service,
- (c) In the case of a Civil Employee who has served for more than fifteen years but less than twenty years, the Last one and -half month's salary for each year of his service.

(2) Notwithstanding anything contained in sub-section (1), no gratuity shall be paid to any Civil Employee who is proved to have deceived in respect of citizenship or age or qualifications with intention to enter into or continue to hold the government service.

^a Amended by the First Amendment.

- Inserted by the First Amendment.

37. **Pension:** (1) A Civil Employee who has been in government service for a period of twenty years or more than that shall be entitled to a monthly pension at the following rate.

Total years of service X amount of the last salary

50

Provided that-

- (1) No Civil Employee who has been dismissed from the service with being dis-qualification for government service in the future shall be entitled to the pension as provided for in this Section.
- (2) No pension shall be paid to any Civil Employee if he is proved to have deceived in respect of citizenship or age or qualifications with intention to enter into or continue to hold government service.

(2) Notwithstanding anything contained in sub-section (1), the minimum amount of pension shall not be less than half of the amount of initial figure of salary of the incumbent Civil Employee of the same post nor more than the initial scale of the salary of the incumbent Civil Employee of the same post.

^a(3) If any Civil Employee who has in the Civil service since prior to 21 Kartik 2049 (6 November 1992) has completed the service period of thirty years, he may retire from the service voluntarily. The total services, he may retire from the service voluntarily. The total services period of the Civil Employee who has so retired voluntarily from the service or who has ipso facto retired pursuant to Section 33 owing to the completion of 58 years of age upon having been in the Civil Services since prior to 21 Kartik 2049 (6 November 1992) shall be computed by adding the remaining period required to him for completing sixty years of age.

^a(4) If any Employee who has completed a service period of fifteen years dies, a maximum period of five years shall be added to his service period, and his family shall be allowed to receive either pension or gratuity whichever the letter chooses.

(5) Having been receiving pension on account of his earlier service in any government post is appointed to Civil Service later, he shall be entitled to the pension pursuant to this Section with addition of earlier period of his service to the subsequent period of his service to the subsequent period of his service.

38. **Increment in Pension:** Where the salary of the incumbent Civil Employee of the equal post shall also be increased at the rate of the incumbent's salary.

39. **Family Pension and Gratuity:** (1) If any Civil Employee dies while in service or within seven years of his commencing to receive the pension, a gratuity or pension as

- Inserted by the First Amendment.

a Amended by the First Amendment.

a Amended by the First Amendment.

provided for in Section 36 or 37 shall be pay to his family or his minor brother or unmarried sister.

Provided that in the case of pension, such pension shall not be paid for a period exceeding seven years If the death of the Civil Employee occurs within seven years of the commencement of pension, no pension shall be paid to the family of such Civil Employee beyond the seventh years.

(2) Notwithstanding anything contained in sub-section (1), if the recipient of such pension is a minor, he shall be entitled to such pension till becomes major:

(3) In respect of the widower husband or widow wife of any Civil Employee, who is entitled to family pension pursuant to sub-section (1) by reason of the death of her husband or his wife while in service within seven years of commencement of receiving the pension, the concerned widow or widower shall be entitled for life to receive one-half of the amount of such pension or from the date of termination of the period of family pension or from the date of death of the concerned Civil Employee, if no such family pension was entitled or of the demise of the Civil Employee husband or wife has occurred after the completion of seventh year of pension.

(4) Where the salary of any incumbent Civil Employee is increased, the amount of family pension of the person receiving family pension pursuant to sub-section (1), (2) and (3) shall also be increased at the rate of two-thirds of the total amount increased in the basis figure of the incumbent's salary.

(5) If any Employee dies prior to receiving any amount to which he is entitled under this Act, such amount shall be paid to the person among his family members who is held to be entitled to the gratuity or pension according to this Act.

(6) In providing gratuity or pension, if the deceased Civil Employee has nominated any member of his family or his minor brother or unmarried sister, it shall be provided to such person, and of for any reason it cannot be provided to such person or if nobody has been nominated, it shall be provided to such person among the members of his family as may be deemed appropriate by His Majesty's Government.

-39A. **Pension and Gratuity of Disappeared Employee:** (1) If any Civil Employee who has served in the Civil Service has disappeared, and whose whereabouts have not been traced and it can't be traced until the prescribed period whether he is dead or is alive, the amount of gratuity or pension which such Employee is entitled pursuant to Section 36 or 37 shall be provided to his family.

(2) Notwithstanding anything contained in sub-section (1), the full amount of the pension shall be provided to his family for up to Section 37 disappears prior to complete seven years if such person disappears after starting receiving the pension; and after that period, a half amount of the pension shall be provided to the husband or wife for life as a family pension.

(3) if the Employee disappeared has been traced subsequently, the gratuity referred to in Section 36 if not paid already, or the amount of pension receivable under Section 37 shall be provided to himself from the date on which he claims.

Provided that the person traced subsequently shall not be entitled to claim the gratuity, pension or family pension amount already paid pursuant to sub-section (1) or (2).

40. **Reference of Salary:** (1) Wherever in this Chapter or in Chapter 5, a reference of the salary is made, it shall indicate the amount of salary (including increments therein) for the time being of the concerned Civil Employee.

(2) For the purpose of sections 36 and 37, the expression "last salary" shall mean the salary of the concerned Employee at the time of his retirement, and if any Civil Employee happens to be on extra-ordinary leave suspension at the time of retirement, the amount of full salary shall be computed for such period also.

-40A. **Provision Relating to Insurance Facility:** The provision relating to insurance facility of the Civil Employee shall be as prescribed.

-40B. **Provision relating to study, Training or Study Tour:** (1) The concerned Ministry, Commission or Secretariat shall, so as to send the Employees under it for study, training or study tour, have to prepare description thereon and forward it to the Ministry of General Administration each year.

(2) The Ministry of General Administration shall, upon receipt of the description pursuant to sub-section (1), specify the number on subject-wise basis for study, training or study tour and forward a description thereof to the National Planning Commission.

(3) There shall be the committee as follows to allocate the opportunities concerning study, training or study tour received in the National Planning Commission in the name of His Majesty's Government to all the Services on a proportional basis:-

- | | | |
|-----|---|-------------------|
| (a) | Chief Secretary of His Majesty Government | - Chairman |
| (b) | Secretary at the Ministry of Finance | - Member |
| (c) | Secretary at the National Planning Commission | - Member |
| (d) | Secretary at the Ministry of General Administration | -Member-Secretary |

(4) The Ministry of General Administration shall distribute the opportunities as per the decision of the committee referred to in sub-section (3)

(5) The grounds for making nomination on study, training or study tour shall be as prescribed.

- 40C. **Period for Which Service to be Done upon Completion of Study, training or study Tour:** Any Civil Employee who pursues study, training or goes on study tourist the nomination of His Majesty's Government shall, upon completing such study, training or study tour, serve in the Ministry or Office where he was in service before going on study, training ministry or Office where he was in service before going on study, training or study tour for upto the period as mentioned below in a compulsory manner, subject to this Act:

| <u>Period of Study, Training of Study Tour</u> | <u>Minimum Period for which Service to be done</u> |
|--|--|
| (a) Up to three months | One year |
| (b) From three months up to six months | One and a half year |
| (c) From six month up to one year | two years |
| (d) From nine months up to one year | three years |
| (e) From one years up to two years | four years |
| (f) From two years up to three years | five years |
| (g) From three years up to four years | seven years |
| (h) From four years up to five years | eight years |

- 40D. **To Execute Bond:** (1) Any Civil Employee shall, before going for having study, training or study tour, have to execute a bond that he shall return upon completing such study, training or study tour and do services as referred to in Section 40C.

(2) If any Employee does not return to the service after completing the study, training or study tour or does not complete the service period required under Section 40C., the salary allowances received by him during the study, training or study tour another amounts mentioned in the bond as well shall be realised from such Employee as government dues if such amounts be not paid within the prescribed period.

Chapter-7

Conduct

41. **punctuality and Regularity:** Each Civil Employee shall attend his office regularly at the time appointed by his Majesty's Government and shall not absent himself from the duty without having prior sanction of the leave as far as possible.
42. **Discipline and Obedience:** (1) Each Civil Employee shall remain in discipline and shall accomplish his duties with honesty and promptness.

- Inserted by the First Amendment.

- Inserted by the First Amendment.

(2) Each Civil Employee shall expeditiously carry out the orders given by his superior officer on matters relating to government functions.

(3) Each Civil Employee shall show due respect to all the Employees superior to him and treat his subordinate Employees in due manner.

43. **Restriction on using political or Undue influence:** No. Civil Employee shall, with intention to satisfy his personal interests on matters relating to his services, exert or attempt to exert any political or other undue influences upon any other Civil Employee.

44. **Restriction on Taking Part in politics:** No. civil Employee shall take part in the politics.

45. **Restriction on Criticising the Government:** (1) No. Civil Employee shall, on his real or fictitious name or anonymously, publish any feature article, provided any news to the press, make any public speech by radio or television etc., address publish any statement, which is contrary to the policies of His Majesty's Government or which may undermine the mutual relationship with any foreign nation.

(2) Notwithstanding anything contained in sub-section (1) , it shall not bar the publishing or broadcasting of any the policy of his Majesty's Government.

46. **Restriction on publishing any News Relating to Governmental functions:** No. Civil Employee shall, without being authorized by His Majesty's Government, inform or divulge directly or indirectly, to any other unauthorized Employee or non-governmental person or press about any confidential matter which was known to him in the course of performance of the governmental duty or about any matter prohibited by him This Restriction shall continue to be applicable also to the person irrespective that he is no more in the government service for any reason whatsoever.

47. **Restriction on Receiving Gift, Present, Donation etc. and Borrowing:** (1) No Civil Employee shall, without prior approval of is Majesty's Government, accept gift, charity, present or gratification of any kind either by himself or through any member of his family, or ask for donation or borrow any loan from any person concerned with any government work, in such a manner it may have on government function.

(2) If any Civil Employee happens to receive any present from any foreign government or any representative of such foreign government, he shall inform His Majesty's Government about it and shall Act according to the order received thereon.

48. **Restriction on Establishing and Operation a Company and Carrying on Trade or Profession:** (1) No. Civil Employee shall, without prior approval of his Majesty's Government, carry out the following acts:

- (a) To participate in the establishment, registration or operation of any bank or company,
- (b) To carry on any trade or profession requiring registration according to the prevailing laws,

(c) To accept any kind of services elsewhere.

(2) Notwithstanding anything contained in sub-section (1), a Civil Employee may carry out any literary, scientific or artistic works without contravening the policies of His Majesty's Government.

49. **Restriction on Taking Part in Election:** No Civil Employee shall take part in an election for any political post nor solicit vote for anyone, nor exercise influence of any kind in the election.

Provided that this shall not bar the exercise of his right to vote conferred under the prevailing laws, without revealing whom he has voted or intends to vote for.

50. **Restriction on Strike or Agitation:** No Civil Employee shall perform an agitation, participate in a strike or entice anyone to perform such act in a manner to undermine the sovereignty and integrity of the Kingdom of Nepal, the law and order situation or the external relations, or public decency or the provoke contempt of court, or to disseminate communal hatred or to harbour any crime.

51. **Restriction on Staging Strike, Detention and Gherao:** No Civil Employee shall stage any strike or pen-down action and exert any pressure inflicting physical or mental torture or to entice other persons to commit such acts, in a manner to cause hindrance or obstruction to any office or officer on the performance of the duty required by the law.

52. **Restriction on Making Representation:** No Civil Employee shall make representation on behalf of any person or group, except to petition to the concerned body or official either by himself or through his attorney in respect of by grievance caused to him.

Provided that nothing in this Act shall be deemed to prevent the making of representation on behalf of Civil Employees' organization recognized by His Majesty's Government and the performing of any act required to be performed on the basis of the duty of the office of Civil Employee.

- ^a53. **Provision Relating to Union of Civil Employee:** (1) The Non gazetted and classless Employees may form an Employees' union of national level for their professional rights and interests.

(2) Any Civil Employee shall not get concessions or exemptions of any kind by virtue of his being an office bearer of the union referred to in sub-section (1).

(3) Provisions concerning the formation and operation of the Civil Employees' union referred to in sub-section (1) shall be as set forth in the prevailing law.

54. **Statement of Property:** Each Civil Employee shall submit a statement of his property.

^a Amended by the First Amendment.

55. **To keep Conduct Compatible with Own Service and Post:** Each Civil Employee shall also keep his conduct compatible with his service and post.
- 55A. **Power to Warn:** If any Civil Employee be not punctual, does not carry out the order given by an Employee superior to him on matters relating to governmental functions or becomes reckless or slow on the functions relating to the office, the concerned supervisor may give a warning to such an Employee with setting out the reason therefor, and record thereof shall be maintained in the personal file of the concerned Employee.

Chapter-8

Safeguard of Service

56. **Safeguard of Service of Civil Employee:** Except the following Civil Employee, no other Civil Employee shall be removed or dismissed from the Civil Services without providing him with reasonable opportunity to furnish proofs his defense:
- (a) Who has been convicted by a court of a criminal offence involving moral turpitude,
 - (b) Who is holding temporary post,
 - (c) Who has disappeared and whose whereabouts are not known or there exists a sufficient ground that it is not possible to establish contact with him.
57. **Saving of Civil Employee:** (1) No. case can be initiated against any Civil Employee in respect of any governmental function performed by him considering it to be the carrying out of the duty of his post, without completing the process as mentioned in sub-section (2).
- (2) In order to initiate a case against any Civil Employee pursuant to sub-section (1), an approval of the Authority shall be required in the case of a criminal case and the following matters shall have to be observed in the case of a civil case:
- (a) a written notice stating the reasons for initiating the case and name and address of the plaintiff and of his attorney, if any, is served upon the Authority or the concerned Civil Employee or is posted through registered mail and two months have elapsed since a copy of such notice has been submitted to Majesty's Government.
 - (b) the case has been filed within eight months from the date of cause of action.
- (3) In respect of any act performed by any Civil Employee in the course of carrying out the duty of his post during the time he was holding office, no case may be

initiated against hi, even after termination of his service, without the approval of Hi Majesty's Government.

(4) If an approval Government for initiating the case has been granted by His Majesty's government pursuant to sub-section (3), His Majesty's Government shall defend on his behalf.

58. **Safeguard of Conditions of Service**: The conditions of service relating to salary, gratuity, pensioned other facilities of any Civil Employee prevailing immediately at the time of his appointment shall not be so altered that it causes adverse effect on him without his consent. If any subsequent amendment causes adverse effect by any means on such conditions of service of any Civil Employee who is in service prior to such amendment, such amendment provision shall not be applicable to him unless his written consent agreeing to the application of such amended provision is received.

Chapter-9

Punishment and Appeal

59. **Punishment**: A Civil Employee may, if there exist appropriate and sufficient reasons, be punished with the following departmental punishment:^a
- (a) **Ordinary Punishments**:
 - (1) Censure.
 - (2) Withholding of grades of salary not exceeding two increments.
 - (3) Withholding of promotion for up to five^ayears.
 - (b) **Special Punishment**:
 - (1) Removal from services without being disqualified for government services in the future.
 - (2) Dismissal from service being disqualified for government services in the future.
60. **Censure, or Withholding of Salary increment or Promotion**: A Civil Employee may be censured or his salary-increment or promotion may be withheld in any of the following circumstances:
- (a) if his performance is not satisfactory,
 - (b) if he does not attend the office to which he has been transferred within the required time,

^a Amended by the First Amendment.

^a Amended by the First Amendment.

- (c) if he absent himself from office frequently without prior approval,
- (d) If he commits an act of in discipline,
- (e) if he violates the matters relating to the conduct mentioned in this Act, or the Rules framed thereunder,
- (f) if he fails or hand over the charges pursuant to Section 74.
- (g) if he receives warnings for there times year under Section 55 A.
- (h) if he does not fulfill the duty of the post specified by the prevailing law in a responsible manner.

61. **Removal or dismissal from Services:** (1) A Civil Employee may be removed from the serve in the future, in any of the following circumstances:

- (a) If the Civil Employee fails to perform the duty or responsibility his post due to his inefficiency.
- (b) If he frequently consumes alcoholic substances during the office hours;
- (c) If he frequently consumes alcoholic substances during the office hours;
- (d) If he frequently commits acts of in discipline.
- (e) If he takes part in politics.
- (f) If he frequently neglects the responsibilities of his post.
- (g) If he absent himself from his office continuously for ninety days without sanction of his leave.

(2) A Civil Employee may be dismissed from the service being disqualified for government services in the future in any of the following circumstances:

- (a) if he is convicted by a court of a criminal offence involving moral turpitude.
- (b) if he commits corruption.

62. **Departmental Punishment Awarding and Appeal Hearing official:** (1) The Authority shall have the powers to order punishment upon a Civil Employee.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the official to award punishment tot he Civil Employee and the official to here

appeals against orders of punishment other than the punishment referred to in clause (b) of Section 59 shall be as prescribed.

63. **Delegation of Powers to Award Departmental Punishment and to Hear Appeals:** His Majesty's Government may, by a notification published in the Nepal Gazette, delegate the powers of any official to order punishment pursuant to Section 62 to any other official specified in that notification, to be exercised the powers for such period as specified in that notification; and the official to here appeals against the orders of punishment other than the punishment referred to in clause (b) of Section 59 issued by the official empowered to issue orders of punishment in the said notification.

64. **Powers to Suspend:** (1) If an investigation of any charge mentioned in section 61 has to be conducted in respect of any Civil Employee, the official empowered to order punishment may suspend such a Civil Employee until the conclusion of the investigation.

Provided that generally suspension shall not be ordered unless the following circumstance exists-

- (a) There appears a possibility of collecting false evidence concealing the evidence against him if he is not suspended and is allowed to carry out the duty of his post, or
- (b) There appears a possibility of government loss or damage if he is not suspended and is allowed to carry out the duty of his post.

(2) The official empowered to order a punishment to a Civil Employee may give a notice of the charges to him on his removal or dismissal from service, and may also suspend hi.,

(3) In suspending a Civil Employee pursuant to sub-section (1), he shall not be suspended ordinarily for more than two months. The proceedings against the Employee shall be completed within that period. If such proceedings cannot be circumstance and the period of suspension has to be extended, the period of suspension may be extended for up to one month with the prior approval of the Authority.

(4) Any Civil Employee arrested and detained for a criminal charge involving moral turpitude shall be deemed to have *ipso facto* been suspended for the period of such detention.

65. **Termination of Suspension:** If any Civil Employee is reinstated in his post or the period referred to in sub-section (3) of Section 64 expires or he is removed or dismissed from the service, his suspension shall stand terminated.

66. **Providing Opportunity for Defense:** (1) The official empowered to order department punishment shall, prior to issuing an order for on any civil employee, give

an opportunity to the Employee to defend himself, by providing such Employee the reasons for such action, and a reasonable time to submit reasonable time to submit his defense. While giving such opportunity, the charge against him shall be clearly indicated and the facts and grounds on which each charge is based shall also be specified. In such case, the concerned Employee shall also have to submit his defense within the time specified, and the concerned official shall seriously consider the defense so submitted.

(2) The official empowered to order departmental punishment may, if he thinks it necessary, conduct an investigation either by himself or throughout any other officer. The officer conducting the investigation shall uphold the prescribed procedures.

67. **To Propose Punishment Prior to issuance of Order of Special Punishment:** If the concerned Employee does not submit defense under Section 66 or if the defense submitted by such Employee is not satisfactory, the official empowered to order departmental punishment shall, prior to issuing an order of special punishment, ask such Civil Employee to furnish an explanation punishment should not be imposed upon him.

68. **Seeking consultation of Public Service Commission:** If the defense submitted under Section 66 to the explanation finished under Section 67 by the concerned Civil Employee in course of proceedings on departmental punishment is not satisfactory, and it appears that such Employee has to be punished, the official empowered to order departmental punishment shall have to seek consultation of the Public Service commission by proposing the punishment intended to be imposed on the Employee.

69. **Constitution and Functions and Duties of Administrative Court:** (1) in order to here appeals against the decisions of the official empowered to order the departmental punishment declaring a Civil Employee either disqualified or not disqualified or not disqualified for government service in the future, an Administrative Court shall be constituted as prescribed under the chairmanship of a person who is a sitting or a retired judge of, the Appellate Court.

(2) The decision made by the Administrative Court shall be final.

(3) If, upon the final settlement of an appeal under this Section in regard to any Civil Employee, his service is to be reinstated by virtue thereof, but he does not appear within three months from the date of receipt of a notice of that decision, it shall not be mandatory to reinstate him in the service.

(4) Other functions and duties of the Administrative Court and the procedures to be followed by this Court while exercising its jurisdiction or while performing its other functions shall be as prescribed.

(5) The Appellant may, if he so wishes appear on the appointed days either in person or by his attorney and may have his case pleaded by legal practitioner.

70. **Decision Not to Be Affected:** Any Decision shall not be effects by any minor error which does not cause substantial effects on the proceedings in respect of a Civil

Employee conducted by the authorized official pursuant to this Act or the Rules framed here under.

Chapter-10

Miscellaneous

71. **Leaves to which the Civil Employee is Entitled:** The Civil Employees shall be entitled to the following leaves in a manner as prescribed-
- (a) Casual and Festival Leave
 - (b) Home Leave
 - (c) Sick Leave
 - (d) Maternity Leave
 - (e) Obsequies Leave
 - (f) Study Leave
 - (g) Extra-ordinary Leave
72. **Delegation of powers:** (1) His Majesty's Government may by notification published in the Nepal Gazette, delegate the power conferred to it under this Act, to the Civil Employee specified in such notification.
- (2) Any official may delegate the powers conferred to him by this Act to his subordinate Civil Employee to be exercised under his general supervision.
- ⁻72A. **Management Supervision:** Except in the matters within the domain of the Public Service commission, the Ministry of General Administration may give direction by supervising, monitoring and evaluating as to whether the Civil Employee in services in different bodies of his Majesty's Government have abided by the prevailing law and other administrative rules and procedures or not, and if, while making such supervision, it appears that departmental action is to be taken against any Civil Employee, May recommend such action too and shall submit an annual report thereof to his Majesty's Government.
- ^a73. **Full Salary and Allowances to be Received on Being Reinstated in Civil Services:** If any Civil Employee is re-instated in the Civil Service upon annulment by the Court of the order of his retirement, removal or dismissal from the Civil Services such Employee shall be entitled to the salary, allowances including the increment in salary,

- Inserted by the First Amendment.

^a Amended by the First Amendment.

if any, receivable, from the date on which he was given the retirement, removed or dismissed from the Civil Service.

(2) If any Civil Employee who was retired or removed or dismissed from the Civil Service prior to 4th Jestha of the year 2050 (17 May 1993) is reinstated in the Civil Service by an order of court made after that date, even such an Employee shall be titled to the salary, allowances and increment in salary pursuant to sub-section (1).

74. **Handing Over the Charge**: Any Civil Employee required to hand over the cash, goods in kind or documents to be handed over by hi shall have to hand them over to the concerned Employee within the prescribed time; limit, and the person required to take them over shall have to take them over within that time-limit.
75. **Power to Frame Rules**: His Majesty's Government may, in order to implement the objectives of this Act, frame Rules to be generally applicable to all the Civil Services or to be severally applicable to different services or groups.
76. **Repeal and Saving**: (1) The Civil Service Act, 2013 (1957) in hereby repealed.

(2) All the acts and actions carried out pursuant to the Civil Service Act, 2013 (1957) and the Rules framed thereunder shall be deemed to have been carried out under this Act.