

Nepal Electricity Authority Act, 2041 (1984)

Date of Authentication and Publication

27 Kartik 2041 (Nov.12, 1984)

- | | |
|---|-----------|
| 1. Administration of Justice Act, 2048 (1991) | 2048/2/16 |
| 2. Nepal Electricity Authority (First Amendment) Act, 2049 (1984) | 2049/7/6 |

Act number 18 of the year 2041 (1984)

An Act made to provide for the Establishment and Management of Nepal Electricity Authority

Preamble : Whereas it is expedient to enact legislation for the establishment and management of the Nepal electricity Authority to make arrangements for power supply by generating, transmitting, and distributing electricity in an efficient, reliable and convenient manner.

Now therefore, His Majesty King Birendra Bir Bikram Shah Dev has enacted this Act on the advice and with the approval if the National Panchayat .

Chapter 1

Preliminary

- Short Title and commencement** : (1) This Act may be called the Nepal Electricity Authority Act, 2041(1984).
(2) It shall come into force from such date as may be prescribed by Government of Nepal by notification in the Nepal Gazette.[^]
- Definitions** : In this Act, Unless the subject or the context otherwise requires:-
 - "Customer" means a person who consumes electricity.
 - "Authority" means the Nepal Electricity Authority established under Section 3.

[^] It came into force on 2042.5.1 (August 17, 1985) by a notification published in the Nepal Gazette dated 2042.5.1 (August 18, 1985).

- (c) "Electricity" means electric power generated by means of water, diesel, coal, or through any other technology.
- (d) "Fee" means the electricity fee to be collected from customers in consideration of supply of power by the Authority.
- (e) "Board" means the Board of Directors formed pursuant to Section 8.
- TM(e1) "Unauthorized consumption" means consumption of electricity from the power system of the Authority without obtaining its permission or in violation of the conditions to be compelled with by consumers while consuming electricity, or pilferage of electricity
- (f) "Prescribed" or "as prescribed" means prescribed or in the manner prescribed in Bye-laws framed under this Act.

Chapter 2

Establishment, cabinet and Management

- 3. **Establishment of the Authority** : (1) The Nepal Electricity Authority has been established for the purpose of making appropriate arrangements to supply power by generating, transmitting and distributing electricity in an efficient and reliable manner and in such a way that it is available to all.
 - (2) In English language, the Nepal *Vidyut Pradhikarana* shall be called the Nepal Electricity Authority.
 - (3) The head office of the Authority shall be located in Katmandu.
- 4. **Corporate Body** : (1) The Authority shall be an autonomous corporate body with perpetual succession.
 - (2) The Authority shall have a separate seal of its own.
 - (3) The Authority may acquire, possess, sell or otherwise dispose of movable and immovable property like an individual.
 - (4) The Authority may sue or be sued in its own name like an individual.

TM Inserted by First Amendment.

5. **Share Capital and Shareholders** : (1) The initial authorized share capital of the Authority shall be as prescribed by Government of Nepal by notification in the Nepal Gazette, and such capital shall be divided into shares in the number as prescribed therein.

(2) The Authority may increase or reduce its initial authorized share capital with the permission of Government of Nepal and in case the Share Capital of the Authority is reduced, the nominal value of the Share Capital, shall also be reduced in proportion to the Share Capital.

(3) Only the shares left unsubscribed after the purchase of shares by Nepal Government from among those issued by the Authority shall be offered for public sale.

(4) The liability of shareholders of the Authority shall be limited.

(5) Each share shall be indivisible, and each shareholder shall be entitled to cast one vote for each share subscribed by him/her at the general meeting of shareholders,

TM 5A. **Power to purchase shares** : The Authority may purchase share of industries connected with Electricity in accordance with the resolution passed by the general meeting after arrangements have been made for such meeting, and with the approval of Government of Nepal until arrangements are made for such meeting.

6. **Debentures** : The Authority may issue debentures according to the resolution passed by the general meeting have been made, and, until then, with the approval of Government of Nepal.

7. **Loans or Grants** : The Authority may obtain necessary loans in cash or in kind or accept grants for use as working capital according to a resolution adopted by the general meeting after arrangements have been made for such meeting, and, until then, with the approval of Government of Nepal.

8. **Formation of Board of Directors** : There shall be a Board of Directors to operate, supervision, and manage the entire business of the Authority. The

TM Inserted by First Amendment.

Board of Directors shall exercise all the powers and discharge all the duties of the Authority under this Act and the Bye-laws framed thereunder.

9. **Directors** : (1) The Board of directors shall consist of eight directors, who shall be elected by the general meeting. One person chosen by the elected directors from among themselves shall be the Chairperson of the Board of Directors.

(2) Government of Nepal or any corporate body may nominate directors in proportion to the shares subscribed by it and the rights and liabilities of such nominated directors shall be the same as those of elected directors.

*(3) Notwithstanding anything contained in Sub-Section (1) until arrangements are made for the election of directors by the general meeting, the

Board of Directors shall consist of the following members:

- | | |
|---|--------------------|
| (a) Minister or Minister of state of water resources, or a person designated by | - Chairperson |
| (b) Secretary, Ministry of Water Resources | - Member |
| (c) Secretary, Ministry of Finance | - Member |
| (d) A person nominated by Government of Nepal from among persons engaged in the fields of industry, commerce or finance | - Member |
| (e) A person nominated by Government of Nepal from among consumers of electricity | - Member |
| (f) Two person nominated by Government of Nepal from non-governmental persons specializing in the field of electricity | - Member |
| (g) Executive Director, Authority | - Member Secretary |

*(4) The nominated members of the committee shall have a tenure of four years.

Provided that, Government of Nepal may, if it becomes so necessary, remove such members before the expiry of their term or nominate other persons to replace them.

* Amended by First Amendment.

(5) The tenure of directors elected by the general meeting shall be four years, and they may be reelected as directors for a maximum of two consecutive terms on the expiry of their four-year term.

Provided that, the tenure of four out of the eight directors elected for the first time shall be fixed at two years by drawing lots.

10. **Disqualifications of Directors** : None of the following persons shall be or continue as a director:

(a) Any paid office bearer of the Authority,

Provided that, this Clause shall not be applicable to the executive Director appointed by the Government of Nepal,

(b) One who is insolvent,

(c) A lunatic,

(d) One who has convicted of a criminal offense involving moral turpitude,

(e) One who is a direct or indirect partner in any contract executed with the Authority.

11. **Power to Remove Directors** : (1) A director elected by the general meeting may be removed by a majority of the shareholders present at the general meeting in the following circumstances:

(a) In case he/she suffers from any of the disqualification mentioned in Section 10.

(b) In case he/she remains absent from three consecutive meeting of the Board without any reasonable explanation and without the permission of the Board.

(2)[∞]

(3) The directors shall *ioso facto* leave the Board in the following circumstances:

(a) In case their resignation from membership is accepted.

(b) In the event of death.

[∞] Deleted by First Amendment.

12. **Vacancies in posts of Directors to be filled up** : In case, the post of any director falls vacant by reason of his/her death, resignation or otherwise, it shall be filled up only for the remaining term of the predecessor.
13. **Action not to be invalidated** : In case, the Board has taken any action even though there had been any shortcomings in the formation of the Board, or the post of any director had remained vacant, such action shall not be invalidated merely by reason of such shortcomings or vacancy.
14. **Remuneration of directors** : The remuneration and facilities of directors shall be as prescribed.

Provided that, the members mentioned in Sub-Section (3) of Section 9 shall not be entitled to any remuneration rather they shall be paid meeting allowance.

15. **Meeting of the Board** : (1) Meeting of the Board shall be held at the prescribed date, time and venue.

(2) The quorum for a meeting of the Board shall be deemed to have been fulfilled if it is attended by more than fifty percent of the total number of directors.

(3) Meeting of the Board shall be presided over by the Chairperson of the Board, and, in his/her absence, by a person chosen by the attending directors from among themselves.

(4) The opinion of the majority shall be binding at meeting of the Board. In case there is a tie, director presiding the meeting shall cast the casting vote.

(5) Other procedural matters relating to meeting of the Board shall be as prescribed.

16. **Commercial principles to be followed** : while discharging the functions of the Authority, the Board shall follow commercial principles with due consideration to the convenience of the public as well.

17. **General Manager or Executive Director, Adviser, and Other Staff :**

(1) For the purpose of managing the business of the Authority, the Board may appoint, a General Manager to function as chief Administrative officer and advisers, and employees as *per* necessity.

Provided that, Government of Nepal may appoint an Executive Director to function as chief Administrative officer until arrangements are made for holding the general meeting.

(2) The remunerations, facilities, and other conditions of service of the General Manager or Executive Director, advisers, and other employees of the Authority shall be as prescribed.

18. **Restrictions on General Manager or Executive Director :** No General Manager or Executive Director of the Authority shall become a partner directly or otherwise in any contract concluded with the Authority.

Chapter 3

Functions, Duties, and powers of the Authority

19. **Function and Duties of the Authority :** The functions and duties of the Authority shall be as follows:

- (a) To recommend to Government of Nepal for the formulation of long-term and short-term policies regarding power supply.
- TM(a1) To supply electricity by generating, transmitting or distributing it pursuant to the prevailing law.
- (b) To formulate projects relating to power generation, transmission, and distribution and other related functions and build, operate, protect, and consolidate necessary power generation centers, sub-stations, distribution lines, and related facilities for the implementation of such projects.

TM Inserted by First Amendment.

- (c) To make arrangements for generation, transmission, and supply of electricity of suitable standard in economically feasible areas for industrial and agricultural development and for the benefit of the people.
- (d) To determine electricity fees and other electricity related service charges.
- (e) To conduct or cause to conduct necessary research in power generation, transmission and distribution.
- (f) To make arrangements for advanced training and studies with the objective of preparing skilled human resource in respect to power generation, transmission and distribution of electricity.
- TM(f1) To provide technical advice and consultancy in matters connected with the work of generation, transmission and distribution of electricity.
- (g) To perform other functions necessary for the fulfillment of the objectives of the Authority.

20. **Power of the Authority** : (1) The power of the Authority shall be as follows:

- (a) To seek loans from local institutions, banks or individuals.
- (b) To seek loans from foreign government or foreign or international agencies.
- (c) To collect electricity fees and services charges from customers.
- (d) To sell electricity to the foreign countries or to purchase electricity from the foreign countries.
- (e) To invest the funds of the Authority.
- TM(e1) To control the unauthorized consumption of electricity distributed by the Authority.
- (f) To purchase electricity generated in the private sector.
- (g) To perform all such other functions as are indispensable and necessary for the performance of its functions and fulfillment of its duties.

TM Inserted by First Amendment.

(2) The Authority shall obtain the prior approval of the Government of Nepal while exercising its powers mentioned in Clauses (b) and (d) of Sub-section (1)

21. **Land Acquisition** : The Government of Nepal may acquire necessary lands and hand them over to the Authority according to the prevailing law in case the Authority requires such lands for the following purposes:

- (a) Construction of dams or embankments.
- (b) Construction of canals and channels.
- (c) **Construction of canals and channels.**
- (d) Construction of power generation, transmission and distribution centers and Sub-Sections.
- (e) Installation of electric cables or transmission lines either over or underground.
- (f) Erection of electricity poles.
- (g) Construction of other electricity-related facilities.
- (h) Performance of any other function to fulfill the objective of the Authority.

22. **Entry into the House of other persons** : In case it becomes necessary for any person authorized by the Authority to enter into the house or land belonging to any other person in connection with the business of the Authority, he/she may do so after giving advance notice to the person who is in possession of such house or land at the time.

Provided that, no such advance notice shall be necessary in case he/she has reason to suspect misuse or pilferage of electricity, or in case it becomes necessary for him/her to undertake urgent repair work or to avert any accident.

23. **Power to Cut off Electricity Lines** : (1) In case any customer fails to pay fees, fines, compensation, additional charges, other charges and any other amounts due to the Authority within the prescribed time-limit, TM or makes

TM Inserted by First Amendment.

unauthorized consumption of electricity, the Authority may cut off the Electricity Lines supplied to such customer.

(2)[∞]

TM23A. **Power to collect compensation, Extra-charges or Fines** : In case a customer or any other persons consumes electricity in an unauthorized manner, or a customer fails to pay the electricity charges within the prescribed time-limit, the Authority may collect fines, compensation or extra-charges as prescribed from such customer or person consuming electricity in an unauthorized manner.

24. **Prohibition to Dispose of property** : The Authority shall not be entitled to sell or otherwise transfer any immovable asset, and any movable asset worth more than One Hundred Thousand Rupees to any other person without the prior approval of the Government of Nepal.

Provided that, it shall not be necessary to obtain the prior approval of Government of Nepal for the auction of such goods as are deemed obsolete or otherwise unserviceable.

25. **Power to issue Directives** : (1) Government of Nepal may issue the following directives to the Authority:

- (a) To operate any power service or perform any other function, specifying or without specifying any area for the purpose.
- (b) To suspend, or make any change in, or fully stop any work being done or action being taken by the Authority in any area.
- (c) To refrain from taking any action which the Authority intends to take.

(2) It shall be the duty of the Authority to comply with the directives issued by Government of Nepal under Sub-Section (1).

(3) In case, the Authority suffers losses as a result of compliance with the directives issued by Government of Nepal under Clause ^{*}(a) and (b) of

[∞] Deleted by First Amendment.

^{*} Amended by First Amendment.

Sub-Section (1), Government of Nepal shall pay compensation to the Authority to the extent of such losses.

26. **Annual Report** : Every year, after audit is completed, the Authority shall submit to Government of Nepal its Annual Report containing the following particulars, along with the auditor's report:
- (a) Particulars regarding plans for the implementation of policies relating to power supply,
 - (b) Detailed particulars about the status of projects being operated by the Authority,
 - (c) Financial particulars of estimated expenditure and sources of income of the Authority for coming five years,
 - (d) Particulars regarding implementation of directives received from Government of Nepal,
 - (e) Such other particulars as the Authority may deem appropriate.
27. **Delegation of Authority** : The Authority may delegate any of its powers to the Chairperson of the Board, any director or member, a sub-committee, or to the General Manager or Executive Director, or any other employee of the Authority.

Chapter 4

General Meeting

28. **General Meeting** : (1) After shares worth at least ten percent of the total issued share capital of the Authority have been subscribed by the public, the annual general meeting shall be held at the head office of the Authority within three months from the date when the audit report is received after the annual audit of accounts.
- (2) An extraordinary general meeting of the Authority may be held at any time if shareholders who have subscribed to the shares worth at least ten percent of the total paid capital request in writing, or if the Board so deems necessary.

(3) The quorum for a general meeting shall be deemed to have been fulfilled if twenty-five percent of the total number of shareholders' registered in the such Register attend it personally or by proxy.

(4)The annual general meeting shall discuss the profit and loss account and the balance-sheet of the Authority, the auditor's report, and the Board's report in relation to the business of the Authority during the year.

(5) Any shareholder whose name is registered in the shareholders' Register may cast his/her vote at the general meeting either personally or through another shareholder whom he/she has dully designated as his/her proxy for the purpose.

Provided that, no shareholder who has failed to pay the amount due on shares in respect to which calls have been made by the Authority shall be entitled to cast his/her vote in this manner.

(6) The general meeting shall be presided over by the chairperson of the Board, and if absent, by a person elected by the majority of the attending shareholders from among themselves.

Chapter 5

Fund and Audit

29. **Fund of the Authority** : (1) The Authority shall have a separate fund of its own. The capital of the Authority and all other amounts received by it including loans and grants shall be credited to this Fund.

(2) All expenses of the Authority shall be borne from the Fund.

(3) The Fund of the Authority and its financial administration shall be operated as prescribed.

30. **Accounts and Audit** : (1) The accounts of the Authority shall be maintained according to the procedure approved by the Board.

(2) Until the preliminary meeting is held, the accounts of the Authority shall be audited by the Auditor-General, or by an auditor designated by

him/her After arrangements have been made for the general meeting, the accounts shall be audited by an auditor, designated by the general meeting.

31. **Formation of advisory committee** : (1) The Authority may form an Advisory Committee in the prescribed manner.

(2) The function and duties of the Advisory Committee formed under Sub-section (1) shall be as prescribed.

32. **Exemption from local Taxes** : The business of the Authority shall be exempt from local taxes of any category.

TM32A. **Power to Realize dues as Government arrears** : The charges, fines, compensation and extra-charges due from any person or customer under this Act or the Bye-laws framed hereunder may be realized by the Authority as government arrears.

33. **Oath of Honesty and Secrecy to be taken** : Every director or member of the Authority, the auditor, the General Manager or the Executive Director, and other office-bearers and employees shall, before assuming charge, take oath of secrecy in the form indicated in the schedule.

34. **Dissolution of Authority** : (1) In the following circumstances, the Government of Nepal may order the dissolution of the Authority and appoint one or more liquidator to dispose its assets.

(a) In case shareholders subscribing to at least twenty-five percent of the paid-up share capital of the Authority demand in writing the dissolution of the Authority along with reasonable ground for doing so.

(b) In case Government of Nepal is satisfied that the business of the Authority is not being conducted smoothly, or that its assets are being misappropriated, or that the Authority has repeatedly flouted the directives of Government of Nepal.

(2) The order issued by Government of Nepal for dissolution of the Authority shall be final.

TM Inserted by First Amendment.

35. **Power to Frame Bye-laws** : For the purpose of managing its business, the Authority may frame necessary bye-laws without prejudice to this Act.
- *36. **Contact with the Government of Nepal** : The Authority may establish contacts with the Government of Nepal through the Ministry of Water Resources in connection with policy matters and with concerned agencies of the Government of Nepal directly in connection with other matters.
37. **Transfer of Assets and Liabilities** : (1) After the commencement of this Act, projects operated by Government of Nepal or by Development Boards formed under the Development Boards Act, 2013 (1956) shall be handed over to the Authority after an evolution of the assets of such projects.

Provided that, in case such projects are required to be handed over before they are completed, evaluation of their assets shall be done only after their completion.

(2) In case any project operated with a loan provided by a foreign government, or a foreign agency, or an international agency, has to be handed over to the Authority under Sub-Section (1), this shall be done on the condition that the Authority pays necessary funds to Government of Nepal on terms prescribed by Government of Nepal in consideration of the principal and interest to be paid by Government of Nepal in respect to such loan.

Provided that, the Authority has to make available the shares to Government of Nepal in consideration of the principal and interest paid and expenses incurred by the Government of Nepal.

(3) In case, projects operated with aid or grants obtained from a foreign government or a foreign agency, or an international agency have to be handed over to the Authority under Sub-Section (1), this shall be done on the condition that the Authority makes shares available to Government of Nepal in consideration of the assets of such projects.

* Amended by First Amendment.

38. **Repeal and Devolution of Assets and Liabilities** : (1) Nepal Electricity corporation Act, 2019 (1962) has been repealed, and the Nepal electricity corporation formed thereunder has been dissolved.
- (2) All movable and immovable assets and liabilities of the Nepal Electricity Corporation dissolved under Sub-Section (1) shall accrue to the Authority.
39. **Adjudicating Authority** : The original jurisdiction in respect to cases in which the Authority is a plaintiff or defendant shall vest in the [♥]Appellate court.
- [™]39A. **Immunity for Action taken in Good Faith** : The General Manager, the Executive Director, or other employees of the Authority shall not be held personally liable for any action taken by them in good faith while discharging their duties under this Act.
40. **Applicability of Other Current Laws** : In matters provided for in this Act, action shall be taken accordingly, and, in other matters, action shall be taken according to prevailing laws.

[♥] Amended by Administration Justice Act, 2048.

[™] Inserted by First Amendment.

Note : The words changed by The Act Amending Some Nepal laws, 2063 :-
"Government of Nepal" Instead of "His majesty's Government"

Schedule

Pertaining to section 33

Oath of Honesty and Secrecy

I swear that I shall discharge my duties to the best of my ability and faithfully in my capacity of director/member/auditor/officer/employee of the Authority, or in all matters connected with my post in the Authority.

I also swear that I shall not disclose or order the disclosure of any confidential information relating to the Authority to any unauthorized person, or let any such person inspect or accept any book or document in the possession of or relating to the Authority.