

Employee Provident Fund Act, 2019 (1962)

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2019.4.10 (25 July 1962)

Amendments:

1. Employee Provident Fund (Amendment) Act, 2019 (1963) 2019.12.30 (12 April 1963)
2. Some Nepal Acts Amendment, Repeal and Continuance Through Re-arrangement Act, 2019 (1963) 2019.12.30 (12 April 1963)
3. Employee Provident Fund (Second Amendment) Act, 2023 (1996) 2023.4.31 (15 Aug. 1966)
4. Employee Provident Fund (Third Amendment) Act, 2029(1972) 2029.6.5 (21 Sept. 1972)
5. Employee Provident Fund (Fourth Amendment) Act, 2030 (1973) 2030.5.15 (31 Aug. 1973)
6. Employee Provident Fund (Fifth Amendment) Act, 2042 (1985) 2042.6.23 (9 Oct. 1985)
7. Administration of Justice Reforms (Fourth Amendment) Act, 2043 (1986) 2043.7.24 (10 Nov. 1986)
8. Employee Provident Fund (Sixth Amendment) Act, 2047 (1991) 2047.10.27 (10 Feb. 1991)

9. Employee Provident Fund (Seventh Amendment) Act, 2048 (1992) 2048.12.30(12 April 1992)
10. Employee Provident Fund (Eighth Amendment) Act, 2053 (1997) 2053.9.17 (1 Jan 1997)
11. Income Tax Act, 2058 (2002) 2058.12.19 (1 April 2002)
12. Amending Some Nepal Acts to maintain Gender Equality Act, 2063 (2006) 2063.7.17 (3 Nov. 2006)
13. Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010)¹ 2066.10.7 (21 Jan. 2010)

Act Number 10 of the Year 2019 (1962)

An Act made to provide for the Employee Provident Fund

Preamble: Whereas, it is expedient to provide for the Employee Provident Fund for the employees of the Government of Nepal and corporate bodies and other employees.²

Now, therefore, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev in accordance with Article 93 of the Constitution of Nepal.³

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be called as the "Employee Provident Fund Act, 2019 (1962)."

¹ This Act came into force on 15 *Jestha* 2065, "*Prasati*" and the word "Kingdom" has been deleted.

² Amended by Fifth Amendment.

³ Amended by Some Nepal Acts Amendment, Repeal and Continuance Through Re-arrangement Act, 2019.

(2)⁴

(3) This Section of this Act shall come into force immediately, and the other Sections shall come into force on such date as may be appointed by the Government of Nepal, by publishing a Notification in the Nepal Gazette, from time to time.⁵

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

(a) "Fund" means the Employee Provident Fund established under Section 3.

(b)⁶ "Employee" means any civil employee, employee of Army, Police, Armed Police,⁷ Constitutional Body,⁸ and employee of the Fund and teacher who gets the amount to be deducted from his or her monthly salary deducted and paid to the Fund, and this term also includes any employee, labour or worker of a body who gets amount to be paid to the Fund pursuant to Section 12B. and such other class of employees as specified by the Government of Nepal, by publishing a Notification in the Nepal Gazette.

Explanation: For the purposes of this Act, the term "employee" means a permanent employee.

(c) "Board" means the board of directors of the Employee Provident Fund formed under Section 4.

⁴ Deleted by Fifth Amendment Act.

⁵ (a) The Sections, other than Sub-section (1) of Section 13, and Sub-sections (1), (2), (3), (4), (5), (6) and (7) of Section 17 commenced on 2019.6.1(17 Sept. 1962). (Date of publication of a Notification in the Nepal Gazette: 2019.5.29.

(b) Date of commencement of the Employee Provident Fund (Fourth Amendment), 2030: 2030.4.1 (16 July 1973)

(c) Date of commencement of the Employee Provident Fund (Eighth Amendment), 2053: 2053.10.18 (31 Jan. 1997)

⁶ Amended by Sixth Amendment.

⁷ Inserted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

⁸ Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

- (c1)⁹ "Chairperson" means the chairperson of the Board.
- (c2)¹⁰ "Director" means the member of the Board, and this term also includes the chairperson and administrator.
- (c3)¹¹ "Administrator" means the administrator of the Fund appointed pursuant to Section 6A.
- (d) "Bond" means a loan disbursed by the Government of Nepal under the Domestic Borrowings Act, 2059 (2002) and this term also includes a bond of a foreign government.
- (e) ¹²
- (f) ¹³
- (g) ¹⁴
- (h) ¹⁵
- (i) ¹⁶
- (j) "Debenture" means a bond of loan borrowed by a company against the security or guarantee of its assets.
- (k) ¹⁷
- (l) ¹⁸
- (m)¹⁹ "Salary" means only such a salary that is drawn by an employee according to the prevailing scale of the post in which he or she has a

⁹ Inserted by Sixth Amendment.
¹⁰ Inserted by Sixth Amendment.
¹¹ Inserted by Sixth Amendment.
¹² Repealed by Second Amendment.
¹³ Repealed by Second Amendment.
¹⁴ Repealed by Second Amendment.
¹⁵ Repealed by Second Amendment.
¹⁶ Repealed by Second Amendment.
¹⁷ Repealed by the Second Amendment.
¹⁸ Repealed by Second Amendment.
¹⁹ Amended by Third Amendment.

lien, in consideration for the service rendered by him or her in accordance with the conditions of service.

- (n)²⁰ "Office" means an office or institution²¹ with obligation to deduct the Fund amount from the salary of an employee and credit the same to the account specified by the Fund.
- (n1)²² "Institution" means a bank, financial institution, company, firm, industry or similar other governmental or non-governmental institution established as a body/institution pursuant to the laws in force, ²³and this term also includes a diplomatic mission or international institution situated in Nepal.
- (o)²⁴ "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules or Bye-laws framed under this Act.
- (p)²⁵ "Prescribed by the Fund" means as specified in the Bye-laws framed by the Fund under this Act or a notice of the Fund.

Chapter-2

Establishment, formation and provision

3. **Establishment of the Fund:** (1) There shall be established a Fund by the name of the "Employee Provident Fund". The following amounts shall be credited to the Fund; and expenses shall be chargeable on the Fund for all acts and activities as required to be done under this Act or the Rules framed hereunder:

²⁰ Inserted by Fifth Amendment.
²¹ Amended by Third Amendment.
²² Inserted by Sixth Amendment.
²³ Inserted by Eighth Amendment.
²⁴ Inserted by Fifth Amendment.
²⁵ Inserted by Fifth Amendment.

- (a) All amounts provided by the Government of Nepal or other persons for financial assistance to the Fund;
- (b) All amounts deducted from the salary of employees and amounts added thereto by offices²⁶ pursuant to this Act;
- (c) All amounts realized as interest and profits on and from the amounts of the Fund;
- (d) All amounts credited to the civil provident fund, military monetary fund and employee provident fund in operation by the Government of Nepal prior to the commencement of this Act; and
- (e) All amounts received by the Fund.

(2)²⁷ All amounts of the Fund shall be deposited in the *Nepal Rastra Bank* or any other bank specified by the Board.

Provided that, the amounts of the Fund shall be deposited in the Land Revenue Office or Fund and Recovery Office in a place where such a bank is not available.

(3) The Fund shall be an autonomous²⁸ and body corporate with perpetual succession. This body shall have a separate seal of its own for all of its activities. It may sue by its name and be also sued by the same name.

(4) The Fund may, subject to this Act and the Rules framed under this Act, acquire, use, sell and transmit any movable and immovable property, and do all such other acts as may be necessary for the accomplishment of the objects of this Act.

²⁶ Inserted by Fifth Amendment.

²⁷ Amended by Third Amendment

²⁸ Amended by Fifth Amendment.

(5) The head office of the Fund shall be situated in Kathmandu, and the Fund may, as and when it so wishes, open branches and Sub-branches in other places of Nepal for the operation of its business smoothly.

4.²⁹ **Formation of the Board:** (1) The Fund shall have one Board of Directors consisting of at least Five directors:

(2) The Board as referred to in Sub-section (1) shall have the following directors:

- (a) Person appointed by the Government of Nepal -Chairperson
- (b) Three persons nominated by the Government of Nepal from various services of the Government of Nepal -Director
- (c) Two persons nominated by the Government of Nepal from amongst banks, financial institutions and other corporate bodies -Director
- (d) The Administrator of the Fund -Director

(3) In nominating directors pursuant to Clauses (b) and (c) of Sub-section (2), the Government of Nepal shall nominate such directors by turn from amongst various services of the Government of Nepal, banks, financial institutions and various bodies corporate.

²⁹ Amended by Sixth Amendment

(4) The tenure of the directors other than the administrator shall be Three years, and upon the expiration of their tenure, they may be re-appointed or re-nominated for one more term.

(5) If the office of any director falls vacant prior to the completion of the tenure, the vacancy shall be filled for the remainder of term in accordance with the same process as was followed in the filling of the office previously.

(6) Notwithstanding anything contained elsewhere in this Section, the Government of Nepal may, at any time, alter the directors elected or nominated pursuant to Sub-section (2).

(7) The meeting allowance to which directors are entitled for taking part in the meeting of the Board shall be as specified by the Government of Nepal.

(8) An officer employee of the Fund shall act as the secretary of the Board.

5.³⁰ **Disqualification for director:** Any of the following persons shall be deemed to be ineligible to be a director of the Board:

- (a) Who has become insolvent;
- (b) Who is insane;
- (c) Who is convicted by a court of a criminal offense involving moral turpitude, and sentenced to imprisonment for a term exceeding Six months;
- (d) Who has obtained a contract from the Fund pursuant to Section 28 or has been a partner in such a contract;

³⁰ Amended by Third Amendment.

- (e)³¹ Who is an employee serving in a post below the Gazetted First Class of the Government of Nepal or the Tenth level of a body corporate or a level equivalent thereto; or
- (f) Who has been punished under Section 29.

6.³² **Fulfillment of vacancy:** (1) A director shall be relieved of the office of director in the following circumstance:

- (a) If he or she tenders resignation in writing and the resignation is accepted by the Government of Nepal;
- (b) If he or she absents from the meeting of the Board for more than Three consecutive meetings, without giving a notice, accompanied by the reason, to the Board, and the reason for such absence is not reasonable in the opinion of the Government of Nepal;
- (c)³³ If the directors nominated pursuant to Clauses (b) and (c) of Sub-section (2) of Section 4 ceases to serve in the concerned bodies or institutions;
- (d) If another person is appointed in his or her stead by the Government of Nepal prior to the completion of his or her term; or
- (e) If he or she suffers any disqualification set forth in Section 5.

(2) If the chairperson or any director is not able to perform the functions of the Board for some time because of illness or being on leave or other reason, the Government of Nepal may temporarily appoint another

³¹ Amended by Sixth Amendment.

³² Amended by Third Amendment.

³³ Amended by Sixth Amendment.

person in his or her stead for the performance of business during that period.

6A.³⁴ Appointment of administrator: (1)³⁵ The Government of Nepal shall appoint as the administrator any one depositor (*Sanchayakarta*) employee serving in the First Class of the Government of Nepal, officer first class or the tenth class of the Fund or institution or a class equivalent thereto in order to perform the day-to-day functions in the capacity of the administrative chief of the Fund.

(2)³⁶ The term of office of the administrator appointed pursuant to Sub-section (1) shall be Five years and he or she shall hold office at the pleasure of the Government of Nepal.

(3) The remuneration, facilities and other conditions of service of the administrator shall be as prescribed.

7. Provision: (1) The Government of Nepal may, seeking opinion of the Board,³⁷ give such directions as it deems necessary to the Board from time to time.

(2) The Board shall abide by the directions given pursuant to Sub-section (1) and be responsible for performing all such functions of the Corporation as required to be performed by the Fund pursuant to this Act.

(3) The Board may so delegate the powers conferred to it under this Act to the administration or any Sub-committee as may be required. The administrator may so delegate the authority of functions vested in him or her as to be performed by his or her subordinate official and employee at

³⁴ Amended by the Sixth Amendment.

³⁵ Amended by the Sixth Amendment.

³⁶ Amended by the Sixth Amendment.

³⁷ Amended by the Sixth Amendment.

his or her responsibility for the smooth operation of the functions of the Fund.

8.³⁸ **Meetings of the Board:** (1) The meeting of the Board shall be held at such date, venue and time as specified by the chairperson.

(2) Meetings of the Board shall be held at least Six times in a year, and the interval between any two meetings shall not exceed Three months.

(3) Notwithstanding anything contained in Sub-section (2), the chairperson or the administrator in the absence of the chairperson shall call a meeting of the Board at any time when at least Three directors make a request, accompanied by the agenda intended to be discussed, for the same in writing.

(4) No meeting of the Board shall be held unless it is attended by more than at least Fifty percent of the directors.

(5) Meetings of the Board shall be presided over by the chairperson. In the absence of the chairman, the meeting shall be presided over by a director selected by the directors from amongst themselves.

(6) The decision of a majority in the meeting of the Board shall be binding, and, in the event of a tie, the chairperson may exercise the casting vote.

(7) A director who has any personal interest in any resolution to be discussed at a meeting shall not be entitled to take part in that meeting.

³⁸ Amended by the Sixth Amendment.

(8) Minutes regarding the names of directors present in the meeting of the Board, the agenda and the decisions taken thereon shall be recorded in a separate book.

(9) Other Rules of procedures of the meetings of the Board shall be as determined by the Board itself.

9. **Power of the Government of Nepal to suspend the Board:** If the Government of Nepal considers that the Board is not capable of performing the functions required to be performed pursuant to this Act, it may, by publishing a Notification in the Nepal Gazette, suspend the Board and appoint any person or institution in the place of the Board to perform the functions of the Board pursuant to this Act and all acts and actions done and taken by such a person or institution under this Act and the Rules framed under this Act shall be recognized as if they were done and taken by the Board pursuant to this Act.

10.³⁹

11. **Relation between the Government of Nepal and the Fund:** In making correspondences by the Fund with the Government of Nepal on matters of obtaining opinion or approval of the Government of Nepal or of submitting any information to the Government of Nepal pursuant to this Act, such correspondences shall be made through the Ministry of Finance.

Chapter-3

Acts and Activities

- 12.⁴⁰ **Mandatory deduction of money from salary of employees and payment thereof to the Fund:** (1)⁴¹ Every office shall deduct the fund

³⁹ Repealed by Sixth Amendment.

⁴⁰ Amended by Third Amendment.

⁴¹ Amended by the Sixth Amendment.

amount at the rate as prescribed but not less than Ten percent from the annual salary of its employees, add such amount to be set by such percentage of that amount as prescribed and pay the same to the Fund.

(2) The amount of Fund deduction shall be deducted compulsorily. The consent of the concerned employee shall not be required for such deduction.

(3)⁴² The amount of Fund deduction of an employee and amount to be added thereto shall be as per the rules of the office paying salary to him or her.

(4) If any employee is suspended, his or her amount of Fund shall not be deducted. Provided that if the suspension of that employee is removed on the charge being not proved, amount shall be deducted proportionately from his or her salary of the period of his or her suspension, amount to be added shall be added thereto⁴³ and lump sum of the amount shall be paid to the Fund.

(5) The following provisions shall apply to the period while any employee is on leave without pay or with half pay:

(a) No Fund amount shall be deducted while on leave without pay;

(b) Fifty percent Fund deduction shall be made at the rate specified in Sub-section (1)⁴⁴ while on leave with half pay.

(6)⁴⁵ Every chief of office shall regularly deduct the Fund amount from the salary of the employees serving in his or her office

⁴² Amended by the Fifth Amendment.

⁴³ Inserted by the Fifth Amendment.

⁴⁴ Amended by the Fourth Amendment.

⁴⁵ Amended by the Fifth Amendment.

and add thereto such amount as to be added thereto and furnish the same, along with the statements, with such office within such period as prescribed by the Fund.

(7)⁴⁶ Nothing in this Act shall be deemed to bar the paying to the Fund of any other amount in the name of an employee of the office, in addition to the amount to be added pursuant to Sub-section (1).

12A.⁴⁷

12B.⁴⁸ **Fund deduction of employees of the Fund:** (1) An institution where Ten or more than Ten employees serve may deduct the Fund amount from the monthly salary of its employees pursuant to Section 12 and pay, or cause to be paid, to the Fund.

(2) If the Government of Nepal considers appropriate, it may, by publishing a Notification in the Nepal Gazette, order any institution to pay to the Fund the amount as referred to in Sub-section (1) from the monthly salary of the employees who receive monthly salary regularly.

(3) All provisions of Section 12 shall apply to the employees who Fund amount has been deducted under this Section.

(4) In the event of the dissolution or liquidation of an institution deducting the Fund amount and paying the same to the Fund under this Section, the employees of such an institution shall be deemed to have been removed from service for the purposes of this Act.

⁴⁶ Inserted by Fifth Amendment.

⁴⁷ Deleted by Eighth Amendment.

⁴⁸ Inserted by Eighth Amendment.

(5) The Fund deduction amount paid by any corporate body to the Fund pursuant to Section 16⁴⁹ prior to the commencement of this Section shall be deemed to have been paid pursuant to Sub-section (1).

13.⁵⁰ Acts to be done by the Fund after payment of money to the Fund:

(1) After the payment of money to the Fund pursuant to ⁵¹Section 12.....
.....⁵² and 12B., the amount so paid by the name of every employee shall be paid to the account of that employee.

(2) Every year after the closure of the year, the Fund shall give an endorsement letter or annual statements to every employee, setting out, *inter alia*, the amounts deducted every month from the salary of the employee, amount added by the office and other deductions and additions⁵³ and interest⁵⁴ accrued on the amounts so paid.

(3) The Fund shall give an identity card to every employee.

(4) The Fund may prescribe fees for the giving of the identity card.....⁵⁵ pursuant to Sub-sections (2) and (3) or giving another identity card.....⁵⁶ in the event of loss, deface or torn out of such an identity card.....⁵⁷

14.⁵⁸ Entitled to withdraw amount: (1)⁵⁹ An employee who pays the Fund deduction to the Fund continuously for at least Five years may withdraw such an amount from the Fund as may not be in excess of the Sixty percent of the total amount deposited in his or her name.

⁴⁹ Section 16 has already been repealed by Sixth Amendment.

⁵⁰ Amended by Third Amendment.

⁵¹ Amended by Sixth Amendment.

⁵² Deleted by Eighth Amendment.

⁵³ Amended by Fifth Amendment.

⁵⁴ Amended by Fifth Amendment.

⁵⁵ Deleted by Fifth Amendment.

⁵⁶ Deleted by Fifth Amendment.

⁵⁷ Deleted by Fifth Amendment.

⁵⁸ Amended by Sixth Amendment.

⁵⁹ Amended by Eighth Amendment.

(2) Notwithstanding anything contained elsewhere in this Act, no employee may withdraw amount from the Fund while he or she is in service except in accordance with Sub-section (1).

(3) Once any employee has withdrawn amount pursuant to Sub-section (1), he or she may not again withdrawn amount prior to the completion of Two years after the date of such withdrawal.

14A.⁶⁰ Reconciliation of amounts: (1) Where any employee has taken an advance from the Fund prior to the commencement of this Section, the principal and interest due and payable by him or her out of the amount so taken as advance shall be deducted from the Fund deduction amount accumulated in his or her name and reconciliation of amounts shall be made accordingly.

(2) If reconciliation of amounts is made pursuant to Sub-section (1) and such an employee wishes to again withdraw amount from the Fund, only the remaining amount to be set by deduction the already withdrawn amount from the amount as referred to in Sub-section (1) of Section 14 shall be allowed for withdrawal.

Provided that, he or she shall not be entitled to again withdraw amount prior to the completion of Two years after the date of withdrawal of amount or taking advance from the Fund.

(3) If an employee who has borrowed the home loan from the Fund wishes to have the reconciliation of amounts from the Fund deduction amounts, he or she may have such reconciliation pursuant to Sub-section (1).

⁶⁰

Inserted by Sixth Amendment.

14B.⁶¹ Amount withdrawn from the Fund may be returned: An employee may at one time or at times return to the Fund the amount withdrawn pursuant to Section 14. Interest and profits shall be provided pursuant to Section 15 on the amount so deposited.

15.⁶² Interest and⁶³ profits to be provided: (1) The Fund shall provide interest on the amount deposited by the name of an employee at such a rate as may be determined from time to time pursuant to Sub-section (2).

(2) In determining the rate of interest, the Fund shall determine it on the basis of propriety having regard also to the total amount in his or her custody, total amount of investment made therefrom, total amount of interest or dividends receivable therefrom and administrative expenses.

(3).....⁶⁴

(4) If, on evaluating the assets and liabilities of the Fund according to the market value on the day of closure of the year in every fiscal year, it is not sufficient to provide interest by Three percent per annum, the shortfall amount as required to provide interest by that rate shall be chargeable on the Consolidated Fund of the Government of Nepal.

(5)⁶⁵ Even though an employee is relieved of office for any reason, the Fund shall continue to provide interest on the amount deposited in the Fund by the name of that employee unless and until the amount is withdrawn from the Fund.

(6)⁶⁶ The amount of profits that remains after setting aside the amount pursuant to Section 25 from the amount standing as profits in the

⁶¹ Inserted by Sixth Amendment.
⁶² Amended by Third Amendment.
⁶³ Inserted by Fifth Amendment.
⁶⁴ Deleted by Sixth Amendment.
⁶⁵ Amended by Fifth Amendment.
⁶⁶ Amended by Sixth Amendment.

already audited annual statements of the Fund shall be ascertained in accordance with the rate and procedures specified by the Board vis-à-vis the amount deposited in the name of depositors by the beginning of the financial year of the assessment of profits, and the ascertained amount shall be credited to their accounts.

(7)⁶⁷

15A.⁶⁸ Fund deduction to be refunded: (1) Any employees shall get refund of lump sum of all amounts including the principal and interest deposited in his or her account immediately when he or she is relieved of service for any reason. If he or she dies, his or her nominee or nominees shall obtain the amounts according to the will. If he or she has not nominated any person or if his or her nominee is also dead, the surviving relative of the employee shall receive such amounts and if there are more than one such surviving relatives in the same order,⁶⁹ they shall receive such amounts on the *pro rata* basis:

- (a)⁷⁰ Husband or wife living in the same family;
- (b) Son, daughter, widow daughter-in-law living in the same family;
- (c) Father, mother (father-in-law, mother- in-law in case of a married woman) living in the same family;
- (d) Grandfather grandmother to be taken care of by oneself and grandson, granddaughter on the line of the son;
- (e) Husband or wife living separately;

⁶⁷ Deleted by Seventh Amendment.

⁶⁸ Inserted by Third Amendment.

⁶⁹ Inserted by Amending Some Nepal Acts to maintain Gender Equality Act, 2063.

⁷⁰ The Clauses (a) to (o) have be substituted for the existing Clauses (a) to (j) by Amending Some Nepal Acts to maintain Gender Equality Act, 2063.

- (f) Son, daughter, widow daughter-in-law living separately;
- (g) Father, mother living separately;
- (h) Step son, daughter living in the same family;
- (i) Step mother living in the same family;
- (j) Elder and younger brother and elder and younger sister living in the same family;
- (k) In case of a married woman, father-in-law, mother-in-law living separately;
- (l) The grandson and unmarried grand-daughter in the line of the son;
- (m) The step mother living separately;
- (n) Step son, daughter living separately;
- (o) In case of a married woman, elder and younger brother-in-law and sisters-in-law living in the same family;
- (p) Nephew, niece living in the same family;
- (q) Uncle, widow aunt, elder sister-in-law, younger sister-in-law;
- (r) Elder and younger brother and elder and younger sister living separately;
- (s) Grandfather, grandmother, granddaughter-in-law, nephew, niece living separately;
- (t) The person taking of the employee being close to him or her until the last hour.

(1a)⁷¹ Any employee may nominate any person for the purposes of Sub-section (1). The procedure of so nominating any person by the employee shall be as specified by the Fund.

(2) If a person nominated by an employee dies or if the employee so wishes despite he or she is alive, the employee may nominate another person in his or her stead or alter the contents set forth in the letter of nomination.

(3) If, after the discontinuation of the service of an employee, the employee does not show up to get refund of the Fund amount or does not give any notice to the Fund in relation to the refunding, his or her nominee shall be entitled to his or her Fund amount. If even the nominee does not show up to receive that amount until Two years Nine months after the date on which he or she may get it, the Fund shall arrange to publish a notice for information to the people generally. If the nominee does not show up to receive the amount even within Three months of the date of publication of the notice,⁷² the heir to the employee as referred to in Sub-section (1) shall be entitled to get that amount.

(3a)⁷³ Notwithstanding anything contained in Sub-section (5) of Section 15, if a person who is entitled to have the refund of the deposited amount even until Six years after the original date on which such amount has stood refundable, the amount shall be deposited in a separate account, and after the amount is so deposited in a separate account, no interest shall be payable on that amount.

(4) Notwithstanding anything contained in Sub-section (1), the Fund shall⁷⁴ deduct and recover such principal borrowed by an

⁷¹ Inserted by Sixth Amendment.

⁷² Amended by Fifth Amendment.

⁷³ Inserted by Fifth Amendment.

⁷⁴ Deleted by Sixth Amendment.

employee from the Fund and interest accrued thereon as may be due and payable by the employee.

15B.⁷⁵ To give notice to the Fund about the condition of employee: (1) In the event of fresh appointment, transfer and promotion of employees, the office issuing letter of such fresh appointment, transfer and promotion shall give a notice thereof to the Fund immediately.

(2) If any employee is to get retirement due to age bar, the concerned office or employee records office⁷⁶ shall, in advance of Six months of retirement, give a notice thereof to the Fund, setting out the date on which the employee gets retirement.

(3) If any employee gets retirement or is relieved of office for any other reason, the then office shall give a notice to the Fund, also setting out the date of getting retirement or relieving of office for the purpose of refunding the Fund deduction amount of the employee.

16.⁷⁷

17. Transfer of capital: (1) The capital and liabilities of the civil provident fund, military monetary fund and employee's provident fund operated by the Government of Nepal by the date prior to the commencement of this Act shall be deemed to have been transferred to the Fund after the commencement of this Act. The Government of Nepal shall hand over the records, documents relating to the capital and liabilities of these funds and the business to be carried out under this Act to the Fund within Six months after the commencement of this Act; and after so receiving the capital, liabilities and concerned records and documents, moneys already in deposit in the name of employees prior to the commencement of this Act shall be

⁷⁵ Inserted by Third Amendment.

⁷⁶ Amended by Sixth Amendment.

⁷⁷ Repealed by Sixth Amendment.

deemed to have been deposited in the name of employees, and such moneys shall be operated under this Act.

(2) In receiving the capital and liabilities pursuant to Sub-section (1), if the Fund finds that all or some of the principal or interest or both out of the capital invested by the civil provident fund, military monetary fund and employee's provident fund cannot be recovered, the Fund shall be deemed to have received such capital investment only by the price/value as valued by the Fund in relation to the capital and investment. Despite receipt by the Fund of such capital, investment, such money as remaining shortfall in that capital, investment shall be available to the Fund from the Consolidated Fund of the Government of Nepal.

(3) Prior to receiving the capital, investment as held to be of lesser value or unrecoverable pursuant to Sub-section (2), the Fund shall give a report indicating the actual statements, condition of such capital, investment and valuation thereof according to the market value, to the Government of Nepal.

(4) Upon receipt of a report pursuant to Sub-section (3), the Government of Nepal may send a directive to the Fund within Three months that the Government of Nepal shall take over such capital, investment, and that moneys of such capital and investment shall be immediately available to the Fund from the Consolidated Fund of the Government of Nepal. The Fund shall abide by such a directive.

18. Security of fund: Notwithstanding anything contained in the Nepal laws in force, the following matters shall be governed by the following:

- (a) No coparcener of an employee shall, in consideration for his or her partition share, be entitled to the moneys deposited with the Fund in the name of the employee. The employee shall not also be bound to

partition such moneys. Despite a judgment by a court, no creditor shall be entitled to claim the moneys deposited with the Fund in the name of the employee. No moneys deposited with the Fund in the name of the employee shall be confiscated for any offences including those punishable with confiscation of entire property pursuant to the Nepal laws. Such moneys shall not also be deducted or confiscated also for any government dues or arrears.

- (b) No tax of any kind other than income tax⁷⁸ shall be levied on the moneys deposited with the Fund in the name of any employee and on profits of the Fund and on the moneys deposited by the employee upon drawing the same from the Fund out of the moneys so deposited with the Fund.
- (c) In distributing the assets of a company in which any amount of the Fund has been invested or which has borrowed a loan from the Fund, upon the liquidation of the company, the Fund shall have the first and foremost right in the assets of such a company for the investment by the Fund, dividends thereon and outstanding and recoverable amount of the loan. Even in cases where any amount of the Fund is due and recoverable from any other person and such person becomes insolvent, the Fund shall have the first and foremost right in the assets of such a person for the amount to be recovered by the Fund. Only after the recovery of the amount due and payable to the Fund, other persons shall have the right in the remaining assets of such a company or person.

⁷⁸ Amended by Income Tax Act, 2058.

⁷⁹Provided that, this provision shall not apply to loans disbursed by the Fund on the basis of co-financing pursuant to Clause (c2) of Section 19.

- (d)⁸⁰ If any industry, enterprise, body corporate or employee fails to pay in time such advance, loan or interest as required to be paid to the Fund in accordance in the deed, the Fund may recover the amount of the Fund by foreclosing⁸¹ and auctioning the house and land or other property furnished by such an industry, enterprise, body corporate or employee as a security or wealth guarantee⁸² in favor of the Fund after Thirty Five days of the expiration of that time. If no one buys such house and land on the auction sale, the Fund may take over the ownership of that property. In such a circumstance, the government offices responsible for maintaining the records of such property or recovering the land revenue thereon shall do action whatever required, including transmission, on the records maintained in these offices, without charging any fee.
- (e)⁸³ After the Fund has taken a property as a security or wealth guarantee⁸⁴ pursuant to Clause (d) or Section 19A., the borrower shall not furnish such a property as a security in favour of, or usufruct it or otherwise transfer his or her title in it, to another person, and if the registration making office is requested by the Fund to withhold that person, the office shall withhold it.

⁷⁹ Inserted by Eighth Amendment.

⁸⁰ Inserted by Third Amendment.

⁸¹ Inserted by Fifth Amendment.

⁸² Amended by Fifth Amendment.

⁸³ Inserted by Third Amendment.

⁸⁴ Amended by Fifth Amendment.

- (f)⁸⁵ The rate of interest to be taken and given by the Fund shall be as specified by the Fund.
- (g)⁸⁶ In lending a loan or advance against the security of an immovable property to any industry, enterprise, body corporate or employee, the Fund may specify the repayment period of more than Five years.
- (h)⁸⁷ In lending a loan to an employee against a security or wealth guarantee, the Fund shall lend the loan only after ascertaining that the security or guarantee in any place within Nepal has been furnished in its favor. The method of valuating the property so furnished as a security or wealth guarantee shall be as determined by the Fund.
- (i)⁸⁸ If it is required to attach and auction the property furnished as a security or wealth guarantee in the event of non-repayment of the installments of principal and interest of a loan or advance lent or paid by the Fund, the Fund may publish a notice in a local newspaper, giving a time-limit of at least Thirty Five days and attach and auction such a property after the expiration of that time-limit.
- (j)⁸⁹ The Fund shall not be required to pay revenue stamp fee or registration fee with respect to a deed of any kind of transaction to be done with it.

19.⁹⁰ Powers of the Fund: The Fund shall have the following powers in relation to the mobilization of its balance/inventories and assets:

⁸⁵ Amended by Fifth Amendment.

⁸⁶ Inserted by Third Amendment.

⁸⁷ Amended by Fifth Amendment.

⁸⁸ Inserted by Fifth Amendment.

⁸⁹ Inserted by Fifth Amendment.

⁹⁰ Amended by Third Amendment.

- (a) To make investment in bonds of the Government of Nepal and purchase and sell such bonds;
- (b) To make investment in cash certificate fixed deposits of banks within Nepal;
- (b1)⁹¹ To make investment, against appropriate bank guarantee in cash certificate fixed deposits of financial institutions within Nepal;
- (c) To lend moneys to any industry, enterprise or body corporate, against the guarantee of the Government of Nepal on such terms and interest as specified by the Fund;
- (c1)⁹² To make investment in shares of banks and financial institutions;

Provided that, in so making investment in shares, investment shall be so made as not to exceed Twenty Five percent of the issued capital of such a bank or financial institution.

- (c2)⁹³ Jointly supplying credits on the basis of co-financing, in such areas as the Fund considers appropriate, in collaboration with other banks or financial institutions established under the laws in force in accordance with the mutual agreement entered into for the division of the collateral *pari passu*;

- (c3)⁹⁴ To make investment in debentures issued by such companies or bodies corporate incorporated pursuant to the laws in force as the Fund considers appropriate;

Provided that, in so making investment in debentures, investment shall be so made as not to exceed Twenty Five percent of the issued debentures of such companies or bodies corporate.

⁹¹ Inserted by Eighth Amendment.

⁹² Inserted by Seventh Amendment.

⁹³ Amended by Eighth Amendment.

⁹⁴ Inserted by Eighth Amendment.

- (d)⁹⁵ To operate housing projects solely by the Fund or in collaboration with other institutions and directly or by installment sell, distribute or rent houses and housing plots;
- (d1)⁹⁶ To sell and distribute houses and housing plots or establish and operate companies or institutions for the operation of housing projects;
- (e) To construct buildings and rent them;
- (f)⁹⁷ To lend moneys to any companies or bodies corporate incorporated pursuant to the laws in force, by specifying terms and interest, against the guarantee of any banks or financial institutions established under the laws in force;
- (f1)⁹⁸ To make investment in such areas as the Fund considers appropriate, against adequate security or guarantee, by obtaining approval of the Government of Nepal;
- (f2)⁹⁹
- (f3)¹⁰⁰ In the event of receiving by the Fund of any assets belonging to any institution for any outstanding loan lent by the Fund, to operate that institution solely or in collaboration with any other institution or establish a new institution for the utilization of the assets;
- (g) To do any acts in the interests of the employees, taking into consideration of the security of the Fund, by obtaining approval of the Government of Nepal;

⁹⁵ Amended by Sixth Amendment.

⁹⁶ Inserted by Sixth Amendment.

⁹⁷ Amended by Eighth Amendment.

⁹⁸ Amended by Eighth Amendment.

⁹⁹ Deleted by Eighth Amendment.

¹⁰⁰ Inserted by Sixth Amendment.

- (h) To do all such other acts as may be incidental in the course of doing acts as required to be done under this Act.

19A.¹⁰¹

19B.¹⁰² **Investment Promotion Committee:** (1) The Fund shall have an Investment Promotion Committee to determine investment policies and make suggestions to the Board for making investment of moneys of the Fund in such sectors which are safe and yield more benefits/returns.

(2) The committee as referred to in Sub-section (1) shall consist of the following members:

- | | | |
|-----|---|----------------------|
| (a) | The Administrator of the Fund | -Chairperson |
| (b) | One person nominated by the Government of Nepal from amongst financial experts engaged in the service of the Government of Nepal | -Member |
| (c) | Two persons nominated by the Government of Nepal who have special knowledge and experience in the field of investment promotion, from the Tribhuvan University and public or private sector | -Member |
| (d) | One office employee of the Fund
¹⁰³ designated by the Board | -Member
Secretary |

¹⁰¹ Deleted by Sixth Amendment.

¹⁰² Inserted by Sixth Amendment.

¹⁰³ Amended by Eighth Amendment.

(3) The tenure of office of the members nominated pursuant to Sub-section (2) shall be Three years.

(4) Notwithstanding anything contained in Sub-section (3) the Government of Nepal may, at any time, alter the members so nominated.

(5) The meeting allowance to be received by the chairperson and members of the Investment Promotion Committee for taking part in meetings of the Investment Promotion Committee shall be as specified by the Board.

(6) The administrator shall call the meeting of the Investment Promotion Committee as required.

(7) Other matters relating to the meeting of the Investment Promotion Committee shall be as determined by the committee itself.

20. Prohibited acts: The following are prohibited from being done by the Fund:

- (a) To pay any advance from the Fund whether or not taking any security or guarantee, other than any advance to be paid in the course of daily and travel allowance for the purpose of the business of the Fund and any advance to be given to and taken from any director of the Board in accordance with the rules framed under this Act; to lend moneys against the guarantee of the residual of a trust land.

¹⁰⁴Provided that, nothing in this provision shall be deemed to bar the paying of the same loan and advance as may be lent to other depositor employees of the Fund.

- (b)¹⁰⁵

¹⁰⁴ Inserted by Eighth Amendment.

- (c)¹⁰⁶ To make investment in the shares or debentures of any bank, financial institution, company or body corporate incorporated pursuant to the laws in force or lend moneys against the security of such shares or debentures, in any other manner, except in cases as set forth in Clauses (c1), (c2) or (c3) of Section 19.

Chapter-4

Accounts and examination thereof

- 21.¹⁰⁷ **Annual accounts:** The Fund shall submit to the Government of Nepal the balance sheet and annual profit and loss account signed by the chairperson, any director or administrator and chief office and certified by the Auditor General within Nine months after the completion of each year, in such format and manner as specified by the Auditor General.
- 22.¹⁰⁸ **Annual report:** The Fund shall submit to the Government of Nepal an annual report on the activities carried out by the Fund throughout the year, within Nine months after the completion of each year.
- 23.¹⁰⁹ **Accounts and audit of the Fund:** (1) The accounts of the Fund shall be maintained in such form as specified by the Auditor General of Nepal, on the advice of the Fund.
- (2) The accounts of the Fund shall be audited by the Auditor General of Nepal.
- (3) On the completion of audit, one copy of a report setting out the following matter shall be submitted to the Fund and one copy thereof to the Government of Nepal:

¹⁰⁵ Deleted by Sixth Amendment.
¹⁰⁶ Amended by Eighth Amendment.
¹⁰⁷ Amended by Fifth Amendment.
¹⁰⁸ Amended by Third Amendment.
¹⁰⁹ Amended by Third Amendment.

- (a) Whether the matters to be mentioned in the profit and loss account prepared by the Fund have been mentioned or not and whether the account reflects the actual financial condition of the Fund or not;
- (b) Whether accounts are in order in accordance with this Act or not, and whether responses to queries made are satisfactory or not.

(4) It shall be the duty of each director and employee of the Fund to render assistance to allow such accounts for inspection as intended to be inspected by the Auditor General in the course of audit and give responses to all questions asked.

Chapter-5

Miscellaneous

24. Provision of investigation: The Fund may provide for research in order to bring about reform in the economic condition of employees, and the Fund may submit a report, along with its opinion on the statistics obtained from such research, to the Government of Nepal.

25.¹¹⁰ Profits may be deposited in various funds to be established: (1) The Fund shall provide for depositing such amount out of the profits remaining balance at the end of every financial year as may be prescribed in a reserve fund, welfare fund, pension fund and similar other fund as prescribed.

(2) The procedures of spending the amount of profits deposited in the fund established pursuant to Sub-section (1) and other procedures from the operation of such funds shall be as prescribed.

¹¹⁰ Amended by Eighth Amendment.

26. **Saving of officials against loss and damage:** The administrator, assistant administrator, director, officer or other employees of the Fund shall not be held individually liable for any loss or damage caused or to be caused from any act done by them in the course of performing their duties in accordance with this Act, except for any act done with ulterior motive or in bad faith deliberately.
27. **Dissolution:** If the Board is of the opinion that the Fund has to be dissolved for any reason, the Board shall submit to the Government of Nepal a report setting out the reason for the same, and after such a report is made, the Government of Nepal may dissolve the Fund, upon assuming all liabilities of the Fund. The manner of dissolution shall be as specified by the Government of Nepal.
- 28.¹¹¹ **Restriction on director, administrator and other employee of the Fund:** No director, administrator and other employee of the Fund shall not be allowed to take any contract from or to be a partner in any contract with the Fund.

Explanation: The said officer and employee shall be deemed to be a partner in any contract:

- (a) If his or her name is included as a partner in any contract with the Fund, on behalf of him or her or of a company in which he or she is a managing director or agent, or
- (b) If he or she is a shareholder of any firm or private limited company which is a partner in any contract to be made with the Fund.

¹¹¹ Amended by Third Amendment.

29. Penalties: (1) If a person knowingly inserts any false matter or causes the insertion of such false matter in any document held in the Fund under this Act, that person shall be liable to the punishment of imprisonment for a term not exceeding Two years or a fine of up to Two Thousand Rupees or with both punishments, and if the Fund has suffered any loss or damage from the act of that person, the Fund shall also recover the amount of such a loss or damage from that person.¹¹²

(2)¹¹³ If any director, administrator or other employee of the Fund takes a contract from the Fund or becomes a partner in a contract with the Fund, such a director, administrator or employee shall be liable to the punishment of imprisonment for a term not exceeding Two years or a fine of up to Five Thousand Rupees or with both punishments.

(3) If any person obstructs the auditor designated by the Auditor General¹¹⁴ in the performance of his or her duties or does not provide such document as demanded by him or her pursuant to laws without any reasonable reason, such a person shall be liable to the punishment of a fine of up to One Thousand Rupees.

(4)¹¹⁵

30. Power to frame Rules: (1) The Fund may frame Rules in order to accomplish the objectives of this Act. These Rules shall not come into force without being approved by the Government of Nepal.

(2) Without prejudice to the generality of power conferred by Sub-section (1), Rules may be framed particularly on any or all of the following matters:

¹¹² Inserted by Third Amendment.

¹¹³ Amended by Third Amendment.

¹¹⁴ Amended by Fifth Amendment.

¹¹⁵ Repealed by Administration of Justice Reforms (Fourth Amendment) Act, 2043.

- (a) With respect to the manner of performance of functions by the Board and the Rules of procedures of the meeting of the Board;
- (b) With respect to the delegation of powers by the Board to the administrator and by the administrator to his or her subordinator officers and other employees;
- (c) With respect to the appointment, promotion, transfer, dismissal, salary, allowance, pension, gratuity, leave, conduct, discipline as well as conditions of service and formation of the service of the officers and other employees of the Fund;
- (d) With respect to the terms of lease and bond to be exercised on behalf of the Fund without contravening the Nepal laws in force;
- (e) With respect to the procedures of making the seal of the Fund;
- (f)¹¹⁶
- (g) With respect to the issuance of new identity cards to the employees in cases where their identity cards are lost, defaced or torn out or obliterated to be illegible;
- (h) With respect to the making of investment by the Fund;
- (i) With respect to the well-arrangement of all affairs to be generally carried out by the Fund under this Act.

30A.¹¹⁷ Power to frame Bye-laws: The Fund may frame necessary Bye-laws, without being prejudicial to this Act or the Rules framed under this Act.

¹¹⁶ Deleted by Seventh Amendment.

30B.¹¹⁸ **Saving:** Notwithstanding anything contained in the Lands Act, 2021(1964), the upper ceiling shall not apply to any land acquired for the operation of a housing project by the Fund.

31. When this Act is inconsistent with other Nepal laws:
Notwithstanding anything contained in the Nepal laws in force, the matters set forth in this Act or the Rules framed under this Act shall be governed by the same and the other matters shall be governed by the Nepal laws in force.

32.¹¹⁹

¹¹⁷ Inserted by Fifth Amendment.

¹¹⁸ Inserted by Fifth Amendment.

¹¹⁹ Deleted by Some Nepal Acts Amendment, Repeal and Continuance Through Re-arrangement Act, 2019.