

Nepal Trust Act, 2064 (2008)

Date of Authentication and Publication

2064-9-22 (Jan. 6, 2008)

Act Number 29 of the Year 2064 (2008)

An Act made to provide for provisions relating to the establishment and operation of the Nepal Trust

Preamble: Whereas, it is expedient to provide for legal provisions relating to the establishment of a Trust in order to manage and utilize the property remained in the name of King Birendra, Queen Aishwarya and their family members at the time of their demise and the property which falls or may fall under their title in the interest of the Nation.

Now, therefore, be it enacted by the Legislature-parliament.

1. **Short title and commencement:** (1) This Act may be called "Nepal Trust Act, 2064 (2008)".
(2) This Act shall come into force immediately.
2. **Definition:** Unless the subject or context otherwise provides, in this Act;
 - (a) "Trust" means the Nepal Trust instituted pursuant to Section 3.
 - (b) "Property of the Trust" means the property pursuant to Section 4.
 - (c) "Committee" means the Board of Trustees constituted as referred to in Section 7.
 - (d) "Property" means movable or immovable, tangible or intangible or corporal or incorporeal property.

- (e) "Member" means a member of Committee and this term also includes the chairperson and the Member-Secretary of the Committee.
- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.

3. **Establishment of the trust:** (1) After the commencement of this Act, a Trust called "Nepal Trust" shall be established in order to manage, operate and utilize the property remained in the name of King Birendra, Queen Aishwarya and their family members at the time of their demise in the interest of the Nation.

Explanation: For the purpose of this Act family means elder son Dipendra and younger son Nirajan of king Birendra and Queen Aishwarya.

(2) The Trust shall be an autonomous and a corporate body with perpetual succession.

(3) The Trust may acquire, possess, sell or otherwise manage any movable and immovable property as good as a person.

(4) The Trust may sue or be sued by or against its name as good as a person.

(5) The Trust shall be competent to make a contract and to exercise the right and to bear the obligation as per the contract.

(6) The Trust shall, for its functions and activities, have its own separate seal and such seal shall be as determined by the Committee.

4. **The property of the Trust:** (1) Except otherwise provided by the Government of Nepal through nationalization, the following property shall be held in the Trust:-

- (a) The property decided by the Government of Nepal (Cabinet of Nepal) to bring under the Trust which is remained in the name of King Birendra, Queen

Aishwarya and their family members at the time of their demise.

- (b) The property increased from the property pursuant to Clause (a) or the property obtained from such property before the commencement of this Act and/ or the property to be obtained after the commencement of this Act.
- (c) The property obtained by king Birendra, queen Ashiwarya or their family members by any means or the property which may be acquired by them or the property which falls or may fall under their title or the property which is put in the name of any one or a *benami property* (which is not remained in the name of any person) which falls or may fall under their title.
- (d) Any other property other than referred in Clauses (a), (b), (c) or (d) which may be acquired by king Birendra, Queen Aishwarya and their family members after the commencement of this Act.
- (e) Any property provided by the Government of Nepal from time to time.
- (f) Any property provided by a foreign government or any national or foreign national or institution.

(2) The property pursuant to clauses (a),(b),(c), (d) or (e) of Sub-clause (1) shall, *ipso facto*, be deemed to have been transferred in the name of the Trust or to have been entitled by the Trust after the commencement of this Act despite such property may have been remain in any condition (situation) either in the Country or abroad and in the name of any person or institution.

(3) Notwithstanding anything contained in the prevailing law, no person or institution shall entitle to, or claim the property pursuant to Sub-section (1) and no title or claim of any one shall be created upon such property pursuant to the law related to partition or inheritance of property.

(4) If the Trust forwards a letter to the authority authorized to effect the transmission of the property for transmission of the property which is entitled or to be entitled by the Trust pursuant to this Section, the said authority shall effect to transmit such property in the name of the Trust despite the property has been remained in the name of any person or institution.

(5) Notwithstanding anything contained in the prevailing law, no fee or charge shall be imposed upon the Trust in the course of transmission of the property pursuant to this Section.

5. **Utilization of the property of the Trust:** (1) The property of the Trust shall be utilized in the interest of the Nation which will serve greater and the best public interest.

(2) Without prejudice to the generality of Sub-section (1), the property of the Trust may be utilized for the following purpose:

(a) To establish and operate educational or academic institution like school, college, university etc. and to provide donation for the operation of such institution.

(b) To establish public medical institute such as Hospital or health post and to operate such institute in the manner as prescribed.

(3) The committee shall, for the preservation, protection and income generation of the property of the Trust, conduct the programme as prescribed.

(4) The Committee shall, while conducting the programme pursuant to this Section, conduct the programme which is not in consistent with the

plan and policy of the Government of the Nepal and keep close co-ordination with respective Ministry or body.

6. **The patron of the Trust:** (1) The Prime Minister shall be the Patron of the Trust.

(2) The Patron may direct the Committee as per the necessity in order to implement the objectives of the Act.

7. **Committee:** (1) These shall be the following Board of the Trustees to manage and protect the property of the Trust and to operate the Trust.

(a) The Minister for Home Affairs - Chairperson

(b) Chief Secretary of the Government
Of Nepal - Vice-chairperson

(c) Secretary, Ministry of Home Affairs - Member

(d) Secretary, Ministry of Law, Justice
and Parliamentary affairs - Member

(e) Secretary, Ministry of Finance - Member

(f) Secretary, Ministry of women, Child
and Social Welfare - Member

(g) Secretary, Ministry of Education and Sports - Member

(h) Secretary, Ministry of Health
and Population - Member

(i) Four Persons including two women
nominated or designated by the
Government of Nepal - Member

(j) Executive Secretary - Member-Secretary

(2) A citizen of Nepal may be a member of the Committee if he/she:

(a) has acquired experience in the field of Management or
Social service.

(b) has not been sentenced in criminal offence amounting
moral turpitude.

- (c) has not been involved in any contract(tender) or commercial transaction with the Trust or has no interest with the property of the Trust.

(3) The tenure of office of a member shall be Four years from the date of appointment:

(4) Notwithstanding anything contained in sub-section (3), the Government of Nepal may relief any member from his/her office at any time if a member acts against the interest of the Trust or embezzles the property of the Trust.

Provided that, prior to removal of his/her office he/she shall be given a reasonable opportunity to defend him/herself.

8. **Meeting of the Committee:** (1) The meetings of the Committee shall be held as per necessity.

(2) The member-secretary shall call the meeting of the Committee as directed by the chairperson.

(3) It shall be deemed to have achieved the quorum for holding the meetings if more than Fifty percent members of total sitting members at that time are presented.

(4) The Chairperson shall preside over a meeting of the Committee and in his/her/absence the vice- chairperson shall chair the meeting.

(5) Normally, the decision at the meeting shall be taken unanimously and if a unanimous decision does not take place, the majority opinion shall prevail over the meeting. In case of a tie the person who presides over the meeting shall exercise his/her casting vote.

(6) The Member-Secretary shall authenticate the minutes of the Committee.

(7) Every decision made by the Committee shall be informed to the Patron.

(8) The Committee itself shall determine the other procedure related to the meetings of the Committee.

9. **Functions, duties and power of the Committee:** (1) The functions, duties and power of the Committee shall be as follows;

- (a) To preserve and protect the property of the trust with proper management.
- (b) To search the property to be remained under the Trust pursuant to Section 4, within or outside Nepal; to find out the whereabouts thereof and to maintain the record thereof with accurate particulars.
- (c) To cause to effect the transmission and registration of the property in the name of the Trust that should come under the ownership of the Trust pursuant to Section 4
- (d) To utilize the property of the Trust in the interest of the nation pursuant to Section 5.
- (e) To invest the property of the Trust in the activities of income generation to meet the objectives of this Act.
- (f) To perform or cause to perform other acts as prescribed.

(2) The Trust shall submit its periodical plan to the Government of Nepal for its approval.

(3) The Trust shall, while investing its property in commercial sector to earn profit, formulate a strategic plan thereof and submit it to the Government of Nepal for its approval.

(4) The committee shall, for the programmes to be conducted in the respective fiscal year, approve its annual programme within Thirty days from the commencement of each fiscal year, and make it public.

10. **Maintaining inventory of the property:** (1) The Committee shall maintain the up to date inventory of the property of the Trust.

(2) The Committee shall publish the up to date inventory pursuant to Sub-section (4) from time to time.

11. **The immovable property of the Trust shall not be registered in the name of any particular person:** (1) Notwithstanding anything contained in the prevailing law, the immovable property which is owned by the Trust shall not be registered in the name of the any particular person or institution except in the condition as referred to in Section 13.

(2) A registration made inconsistently with Sub-section (1) shall, *ipso facto*, be void.

12. **Provision of ceiling shall no be applicable:** Notwithstanding anything contained in the prevailing law, ceiling provision shall not be applicable in referred to the immovable property of the Trust.

13. **Prohibition against sell, transfer and the right of possession:** (1) No property of the Trust shall be sold or transferred, or given to any one by providing the right of possession.

(2) Notwithstanding any thing contained in Sub-section (1), for the purpose of Section 5, the Board of Trustees may, on the approval of the Cabinet of the government of Nepal and with the consent of the Committee pursuant to section 29, sell or transfer the property of the Trust accordingly.

(3) The Trust shall not use the amount obtained from the sell or transfer of the property of the Trust for the administrative expenses of the Trust.

14. **No sell by auction:** (1) Notwithstanding anything contained in the prevailing law, no property of the Trust shall be sold by auction, or forfeited for recovery of any loan taken by any person by keeping the property of the Trust as a bond of security (guarantee) before the commencement of this Act.

Provided that, this provision shall not be applied in the case of the property kept under the bond of security (guarantee) before 2058 Jetha 18.

(2) A bank or a financial institution, which has provided a loan to any one by taking the property of the Trust as a bond of security (guarantee) pursuant to Sub-section (1), may recover its loan from any other property, other than the property of security bond, of the concerned person who has given such bond.

15. **The office of the Trust:** (1) The office of the Trust shall be located in Kathmandu valley.

(2) The Trust may establish its contact office in any place within Nepal or abroad.

16. **Executive Secretary:** (1) There shall be an Executive Secretary in the Trust from the Special class of Nepal civil service, to transact daily business of the Trust and to preserve or protect the property of the Trust.

(2) Executive Secretary of the Trust shall be the chief administrative official of the Trust to work full time in the Trust.

(3) Other functions, duties and powers of Executive Secretary shall be as prescribed.

17. **Fund of the Trust:** (1) There shall be a separate Fund of the Trust.

(2) The following moneys shall be deposited on the Fund pursuant to Sub-section (2);

(a) Money to be earned or received from the property of the Trust or from the increased property through such property.

(b) Money to be received from the Government of Nepal.

(c) Money to be received from any person or institution.

(3) The operation of the Fund pursuant to Sub-section (1) shall be carried out by the Executive Secretary or the officer prescribed by him/her and the Chief of the account section of the Trust.

18. **Staff of the Trust:** (1) The Government of Nepal shall, for the transaction of the business of the Trust, provide for necessary staffs to the Trust.
- (2) The Committee may appoint necessary expert staff for the Trust on the basis of contract in the manner as prescribed.
19. **Accounts and auditing of the Trust:** (1) The accounts of the Trust shall be maintained in the format which is being followed by the Government of Nepal.
- (2) The Trust shall manage its internal audit and control system in the manner as prescribed.
- (3) The account of the Trust shall be audited by the Auditor-General.
- (4) The Committee shall cause to audit the accounts of the trust in every year and shall make public the report thereof within Three months from the end of the fiscal year.
20. **Code of conduct:** The code of conduct to be abided by the members of the Committee shall be as prescribed.
21. **Remuneration and other facilities:** The remuneration and other facilities of the members of the Committee shall be as prescribed. Until so prescribed the remuneration and other facilities of the members of the Committee shall be as specified by the Government of Nepal.
22. **Administrative expenses of the Trust:** (1) The Government of Nepal shall, for the administrative expenses in the Trust, provide moneys as grant in single installment from its Annual Budget.
- (2) In the condition when it appears that the money provided pursuant to Sub-section (1) is not sufficient for the administrative expenses of the Trust, the Committee may, on the prior approval of the Government of Nepal, manage for necessary money from amount earned or increased through the principal property of the Trust.

23. **Liaison with the government of Nepal:** The Trust, while liaising with the government of Nepal, shall liaise with the Government of Nepal through the Office of the Prime Minister and Council of Ministers.
24. **To submit an annual Report:** The Trust shall submit its annual to the Patron including the works, activities, income and expenditure of the Trust, the problems faced by it and the ways of solutions thereof.
- (2) The Patron shall submit the report pursuant to Sub-section (1) to the State Affairs Committee of the Legislature-Parliament.
25. **Power to frame Rules and Bye-laws:** (1) The Government of Nepal may frame necessary Rules to implement the objectives of this Act.
- (2) The Committee may, subject to this Act and the Rules made under this Act, make necessary Bye-laws for the operation of internal business, preservation and protection of the immovable property and for financial administration.
26. **Effect of the inoperativeness of the Nepal Trust ordinance, 2064:** With the Nepal Trust Ordinance 2064, being inoperativeness, unless a different intention appears, the inoperativeness shall not;
- (a) Revive anything, not in force or existing at the time at which the ordinance became operative.
- (b) Affect the matter in operation as per the ordinance or anything duly done or any punishment suffered thereunder.
- (c) Affect any right, privilege, obligation or liability acquired accrued or incurred under the ordinance.
- (d) Affect any prevailing, punishment or forfeiture incurred under the ordinance.
- (e) Affect any action or remedy made or taken in respect of any such right, privilege, obligation, liability, penalty, or punishment

aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced as if the ordinance was in force.

NEPAL LAW COMMISSION