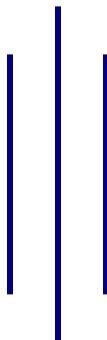
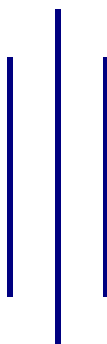


Disabled Welfare and Protection Act of Nepal



2039 (1982)



An Official English Translation

The Disabled Welfare and Protection Act, 2039

2039 (1982)

Date of Seal and Publication 2039 8-6 (2Nov.1982)

Act No. 13 of the year 2039 (1982)

An Act Made to Provide for the Protection and Welfare Provision of the Disabled persons

Preamble: Whereas, it is expedient to protect and promote the interests of the disabled persons: to prevent and abolish the circumstances leading one to be disabled; and to make the disabled persons capable members as well as actively productive citizens of the society, by making necessary welfare provisions for the health, education, care, training of the disabled persons and their right to equality and employment as well;

Now, therefore, His Majesty the King Birendra Bir Bikram Sha Dev has, on the advice and with the consent of the National panchayat, enacted this Act.

1. Short Title and Commencement:

1. This Act may be cited as " The Disabled persons protection and welfare Act, 2039 (1982)",
2. This Act shall commence at once.

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

- a. "***Disabled person***" means a Nepalese citizen who is physically or mentally unable or handicapped to do normal daily life-works. This expression also includes a blind, one-eyed, deaf dumb, dull, crippled, limb, lame, handicapped with one leg broken, handicapped with one hand broken, or a feeble-minded person.
- b. "***Helpless disabled person***" means a disabled person who does not have any assets or any person to attend and serve him and who cannot earn his living by doing a job himself.
- c. "***Disabled person Home***" means a home arranged also for the subsistence of the helpless disabled person.
- d. "***Social Welfare Officer***" means an officer appointed or designated by His Majesty's Government under Section 18.
- e. "***Prescribed***" or "***as prescribed***" means prescribed or as prescribed in the Rules framed under this Act.

3. Determination of disability:

- a. The definition of the disabled person set forth in clause a) Section 2 and the determination of disability shall be on the basis of the generally accepted principles of the Medicine and the criteria set in the context of the Kingdom of Nepal.
- b. With regard to the matter whether any person is a disabled one or not under sub-section 1), the decision of the doctor or committee designated or constituted by His Majesty's Government for this purpose shall be authentic.

Provided that nothing in this Section shall be deemed to bar His Majesty's Government from making alterations to the decision made by such doctor or committee designated or constituted, through an order published in the Nepal Gazette, by taking into consideration of international practice and the context of the Kingdom of Nepal.

4. Protection of the interests of the disabled persons: His Majesty's Government may make appropriate provisions as required to make available necessary medicines and health service to the disabled persons for the treatment of their disability, to make them have such accessories, equipment and tools as are required to minimize, to the maximum extent possible, the adversaries likely to occur due to their disability, and to have acquisition of capacity to work, to provide them with welfare assistance and services to rehabilitate them educationally, professionally, economically, physically, mentally and socially, and to make them fully participate in the community on the basis of equality.

5. Right to equality:

1. No disabled persons shall, solely on the basis of their disability, be denied entry into any association or club or community or function providing education or training or launching social or culture programmes within the Kingdom of Nepal.
2. No disabled persons shall be deprived of such political rights and the right to economic and social security, to spend life with dignity, employment, to have humanitarian dignity to engage in any useful, production and meaningful occupation, as others are entitled thereto.
3. No discrimination shall be made against any disabled person in the appointment of Government service or any other public service, and there shall not be deprived the disabled persons of being appointed for any post or promoted or upgraded or having equal treatment, merely on the ground of their disability.

Provided that this Section shall not be deemed to be a bar to do so in case it shall be inappropriate the appointment, promotion or upgrading or equal treatment of the disabled person of any type for work of any service of specific nature, according to the nature of the service or work.

6. Provisions for education and training:

1. In case any disabled person is to get admission to any educational institute to pursue education, he shall not be required to pay fees at such educational institute.
2. Necessary to the teachers teaching the disabled persons.
3. There may be made special arrangements for the education to the blind, deaf and feeble-minded persons.

7. Provisions for health and medical treatment:

1. His Majesty's Government may make necessary arrangements to prevent and abolish the disability which is preventable or abolishable, and to find out the factors leading to disability and to prevent, abolish, control, do away with and cure it.
2. His Majesty's Government may make necessary arrangements to provide health check-up and health service so as to make available the treatment required to reduce different adverse impacts to be occurred front the disability, as much as possible.

3. In order to abolish, as far as possible, the conditions leading to disability, His Majesty's Government may also make necessary arrangements for the increase in nutritious food, the control or abolition of viral diseases and prevention of accidents.

8. Provisions for training and employment:

1. Necessary arrangements may be made for appropriate trainings and employment for making the disabled persons economically independent. Arrangements may be made to provide them with such type of training as may enable them have proper reward of labor in an environment commensurable to their condition.
2. Arrangements may be made engage the disabled persons, by way of labor supply system, in labor of employment scheme such as open and self-help industry or rural employment.
3. Arrangements may be made to provide the disabled labors with additional facilities needed at least for the maintaining of normal livelihood.
4. A factory which appoints more than 25 labors may be so required that it should appoint the disabled persons in a number not less than five person of the total number of the labors to the appropriate works, to the extent available, on the basis of their physical capability, training, qualifications and experience. Such labor shall receive such remunerations as is equal to that payable to other labors. Their terms of service and career development opportunities shall also be the same as are of the labors.

Provided that where any factory, having shown the fact that in appointing a disabled person by the factory there exists a possibility of injury to his health or other condition, has obtained prior approval of the Social welfare Officer, such factory may be granted exemption from the mandatory provision of this sub-section.

5. Arrangements may be made to provide basic facilities, availability of raw materials, loans, market management etc. and protection, so as to operate cottage and rural small-scale industry for providing private employment to the disabled persons only.
6. Arrangements shall be made to do study or cause to be done study as to employment and ways and mean of livelihood for the disabled person, only and the feasibility of the facilities and concessions that may be granted and ought to be granted thereto.
7. Arrangements may be made to require the use of such security equipment as is to secure a disabled person while engaging him in work with equipment.

9. Priority of disabled person: In providing the facilities and concessions which are provided for in this Act and other available ones, such facilities and concessions may be provided in consideration of the condition of those who are more disabled than other disabled persons.

10. Facilities and concessions:

1. In case any disabled person who is homeless needs land to build his house or any disabled person needs land to engage him in agricultural occupation, His Majesty's Government may subject to the terms and restrictions prescribed make

available the land to be distributed or granted for cultivation at present under the prevailing law.

2. In case any disabled person desires to take part in sports, entertainment or cultural exhibition/show etc. he may be given priority in regard to the provision of appropriate training, teaching and the making of arrangements for that act in the concerned organization.
3. While travelling by bus, train, plane, any disabled person and in case he shall be in need of continuous help of any other person, such one other person as well may be granted concession of half of the passenger fare.
4. His Majesty's Government may wholly or partly exempt accessories, equipment or tolls to be used by the disabled persons and goods, machinery, part and raw materials to be used for the training of the disabled persons or the employment of the disabled persons, from customs, excise-duties, sales-tax, local taxes, surcharge and other levies as well.

Provided that such employment shall exclusively be the employment of the disabled persons.

5. His Majesty's Government may exempt the disabled persons or the organizations established for the rehabilitation of disabled persons or used for the execution of that work, from income tax and all other types of taxes. After the disabled persons and such organizations so exempted have submitted a certificate showing their engagement in the service of their own disability and in that service respectively, they shall not be required to submit the returns of income.
6. His Majesty's Government may exempt a factory, which provides employment to the disabled persons from income tax by the rate as prescribed in proportion to the disabled persons appointed by that factory. The expenses incurred for the special replacement in the equipment of own factory or the spare-parts equipped therewith so as to appoint the disabled persons may be permitted to be added to the sum exemptible from income tax, in such a quantum as prescribed.
7. Arrangements may be made to make available loans on normal interest from banks and financial institutions to social association, trade or industrial enterprise, which provides training or employment or makes arrangements for employment to the disabled persons only.
8. Arrangements may be made for the disabled person homes for aged disabled and helpless disabled persons to live in and for instruments for entertainment and spending time with comfort in such disabled person homes.
9. Such unemployment allowances, living allowances, aged person pension as prescribed for the disabled persons and special allowance for the disabled persons unable to earn and maintain themselves may be arranged.
10. Arrangements may be made to have reservation of some seats in the mean of public transportation for the disabled persons.
- 11. Maintenance of the disabled persons:** The family member, guardian of or heir to a disabled person shall take care of and maintain him.
- 12. Duty of guardian and doctor:** It shall be the duty of the guardian of and the doctor examining any person, who, in their opinion, has become disabled or been in a position to become disabled, to notify or take such person to the nearby hospital or the place prescribed by His Majesty's Government as soon as possible. It shall be the

duty of such hospital or doctor to treat such person on the priority basis and to recommend and send him to the place where his treatment can be done in case his treatment cannot be done there.

- 13. Organ may be donated:** In case any person desires to donate any organ of his body, after his death, to any person or institution, he may donate it by making a deed.
- 14. To set assist funds:** The factories or industries, enterprise or religious associations shall in order to protect and promote the disabled persons set aside the funds, in the prescribed percentage, of their income.
- 15. Additional provision vis-a-vis leprous disabled persons:** Nobody shall reject any disabled person suffering from leprosy on the grounds that he is untouchable or on similar other reasons. In case any person rejects him in any way on that ground or so abuses or defames him as to destroy his mental disposition, such person and other persons, too, responsible for that act may be punished as prescribed in this Act.
- 16. Additional provision for disabled persons having mental disorder:**
 1. Arrangements may be made to keep and treat the disabled persons of mental disorder at a hospital or treatment home.
 2. No disabled persons suffering from mental disease, save those against whom proceedings are being taken or who have been punished in a criminal offence under the prevailing law, shall, notwithstanding anything mentioned in the prevailing law, be kept in a Jail except for treatment or security arrangements.
- 17. Crime relating to disabled persons and punishment:**
 1. No person shall intentionally so carry on transactions or prepare documents on behalf of any disabled person as is against his interests.
 2. No person shall make any person or attempt to make a disabled one with or without his consent, with a view to using him in begging or doing any immoral act or similar other act.
 3. No person shall engage any disabled person in begging or doing immoral act or similar other dealing.
 4. No disabled person shall be entitled to earn living by doing immoral profession or occupation.
 5. Any person who commits or attempts to commit or order to commit or aids to commit any act prohibited under this Act may be punished, in addition to the punishment, if any awarded to him, there for under the prevalent law, and if such punishment is not awardable, according to this Act, with imprisonment for a term in maximum of nine year or with a fine of up to five thousand rupees or both.
 6. In cases where by virtue of the commission of any act prohibited under this Act or omission to do any other act required to be done, a healthy person has become disabled one, there shall be provided, in addition to the punishment awardable under sub-section 5), a reasonable compensation for medical treatment of such person and also in consideration of the matter that in case such person has to become virtually incapable of earning livelihood in a normal manner.
- 18. Administrative provisions in regard to the disabled person**
 1. His Majesty's Government shall make arrangements regarding the administration of the disabled persons through the Ministry of Labor and Social Welfare (hereinafter referred to as the "Ministry")

2. For the purpose of sub-section 1), His Majesty's Government may, if it so deems necessary, appoint the Social Welfare Officer in a district or designate any officer to that effect.
 3. The Ministry shall register the names, of the disabled persons in the Kingdom of Nepal and maintain an inventory according to their nature. The Ministry may collect and publish the date relation there to in every five years.
 4. The Ministry shall coordinate the disability related programs of government agencies.
 5. The Ministry may do or cause to be done the research of various techniques in such matters as are to provide more facilities to the disabled persons and make them self-dependent.
- 19. Government to be the plaintiff:** In the cases under this Act, His Majesty's Government shall be the plaintiff, and the cases shall be deemed to be included in Annex-1 of the Government Cases Act, 2017 (1961).
- 20. Policy on disabled persons and scheme of programs:**
1. His Majesty's Government shall in consultation with the Social Service National Coordination Council formulate necessary policies and programmes in order to provide for the interests, treatment and facilities, concessions to the disabled persons under this Act as well to provide for such other arrangements as are deemed necessary. His Majesty's Government may also seek opinion of other bodies and social associations, so as to formulate such plan. Social organization/associations shall be encouraged to implement such plan.
 2. It shall be the responsibility of the concerned body of His Majesty's Government to implement or cause to be implemented the plan formulated under sub-section 1), and it shall be the responsibility of the Ministry to supervise it.
- 21. Relation with the Helpless Service Coordination Committee:**
1. While implementing the plan in regard to the disabled persons under Section 20, the Ministry shall act, in close contact with the Helpless Service Coordination Committee.
 2. The Ministry may, in case it shall in consultation with the Helpless Service Coordination Committee deem it proper entrust some acts out of those mentioned in the Plan to, and get them implemented through, the Local Panchayat or the Social Welfare Association of the organizations established in regard to the interests of the disabled persons.
 3. The Ministry shall make necessary arrangements and efforts to coordinate and collect national and international sources which are required or may be available for the acts relating to the disabled persons. The Ministry shall as per necessity make available the funds or goods or services received from such sources to the Helpless Service Coordination Committee or the concerned association or office.
- 22. Delegation of Power:** His Majesty's Government may delegate any of the powers conferred on it under this Act to the Social Welfare Officer or other personnel or any association, subject to the exercise of such delegated powers under the prescribed terms and restrictions.
- 23. His Majesty's Government to give order directions:** His Majesty's Government, for the protection of the disabled persons and the Welfare provisions under this Act, may give necessary orders or directions to the Social Welfare Officer or other

personnel or any officer or association, and it shall be the duty of all the concerned to abide by such orders and directions.

24. Power to frame Rules: His Majesty's Government may in order to carry out the objectives of this Act frame the Rules.

Saving: This Act or the Rules framed under this Act or the orders or directions under Section 23 shall apply to the matters set forth therein, and the prevailing law shall apply to the other matter.