

Army Act 2006

Act designed to provide for the amendment and unification of the laws regarding Nepalese Army

Chapter-1

Preliminary

Preamble: Whereas the sovereignty of Nepal is inherent in the people of Nepal as the result of the historical movement and the source of sovereign authority is vested in the people of Nepal,

Whereas it is desirable to make apt amendments and consolidate the existing laws regarding the establishment, arrangement, control, use and mobilization of the Nepalese Army for making the Nepalese Army accountable to the people of Nepal,

Be it enacted by the House of Representatives in the first year of the issuance of the Declaration of the House of Representatives 2006.

1. Short title and commencement:

- 1) This Act shall be called the "Army Act, 2006".
- 2) This Act shall come into force immediately.

2. Definition: In this Act, unless the subject or context otherwise requires:

- a) "Nepalese Army" means the collective organization of the persons recruited in the Nepalese Army under this Act or any part thereof.
- b) "Force" means an organized group formed with a particular objective.
- c) "Engagement in military operation" means any of the following situations:
 - i. Working as a part of or in affiliation with the Nepalese Army during engagement in an operation against an enemy,
 - ii. Engagement in an military operation in a territory or area controlled by an enemy in whole or in part, or working as a part of or affiliated with the Nepalese Army moving towards such territory or area,
 - iii. Engagement as a part of or affiliation with the Nepalese Army which is taken hostage by the Military of a foreign country, or
 - iv. Involvement in the maintenance of internal security as a part of or affiliated with the Nepalese Army engaged against any individual or group who are involved or are suspected to be involved in destructive or violent activities with or without arms.
 - v. Declaration as "engagement in military operation" by the Nepal Government in accordance with Section 135.
- d) "Chief of the Army Staff" means the Commander in Chief of the Nepalese Army appointed by the Nepal Government.
- e) "Officer" means an officer of the Nepalese Army above the rank of junior commissioned officer, and this term also includes similar officers of the reserve force.
- f) "Junior commanding officer" includes Subedar-Major, Subedar, and Jamadar, and this term includes the reserve forces of similar rank.
- g) "Commanding officer" means any of the following officers:
 - i. the head of the Unit, Subunit, or
 - ii. the officer who commands the Unit or Subunit during the period of deployment respectively, or
 - iii. the Commanding officer of any Corps, Detachment or Department in respect to the person under Clause (b) of Subsection (1) of Section 3 who is affiliated therein,
 - iv. the officer who is nominated or prescribed by the officer who commands the force in which the person is currently working at the time when he has no involvement elsewhere as prescribed in Sub-Clause (iii).

- v. the officer who commands the relevant force if no officer has been prescribed or nominated in accordance with Sub-Clause (iv).
- h) "Non-commissioned officer" (*Billadar*) shall include Sergeant (*Hudda*), Corporal (*Amaldar*), Lance Sergeant (*Pyuth*), and the person of similar rank of an organized force established for a particular purpose;
- i) "Corps" (*chamu*) shall mean the separate Unit specified as a corps within the Nepalese Army.
- j) "Battalion" shall mean a separate Unit specified as a "battalion" within the Nepalese Army.
- k) "Brigade" shall mean a separate Unit specified as a "brigade" within the Nepalese Army.
- l) "*Gar*" shall mean a separate Unit specified as "*Gar*" within the Nepalese Army.
- m) "*Pat*" shall include the officer to non-commissioned officer.
- n) "Senior officer" means the senior officer closest in rank, and it shall also include Junior Commissioned Officer (*padik barg*) and Non-Commissioned Officer (*billadar*) for the purpose of this Section.
- o) "Offence" shall mean the acts defined under Chapter-7.
- p) "Enemy" shall include an armed mutineer, armed person who committed treason, armed person involved in disorder or armed burglar and any armed person who is subject to action by a person to whom this Act is applicable.
- q) "Court Martial" shall mean the General Court Martial, District Court Martial, Summary General Court Martial, Summary Court Martial formed in accordance with Section 67 and the Special Court Martial formed in accordance with Section 119.
- r) "Committee" means the Military Welfare Fund Operation and Management Committee formed under Section 29.
- s) "Welfare acts" means acts of providing insurance, medical treatment, health, scholarship, residence, operating canteens for the wellbeing of current and past military personnel and their families, and this term shall include the establishment and operation of schools and universities.
- t) "Welfare planning" means income generating acts which support welfare acts, and this term shall include infrastructure and service oriented projects, financial institutions and provisions of loans or shares as prescribed in the industrial profession.
- u) "Income generating acts" means acts of generating money for the purpose of supporting welfare acts by investing money in any institution after obtaining permission in accordance with existing law.
- v) "Chief of Army Police" shall mean the Chief of Army Police who is appointed in accordance with Section 78, and this term shall include any person who exercises power, under his supervision, in accordance with law on his behalf.
- w) "Prad Viwak" shall mean the person who is present in the Court Martial as the Prad Viwak in accordance with Section 81.
- x) "Other court" shall mean other courts established in accordance with prevailing laws except the Court Martial.
- y) "Departmental action" shall mean departmental actions to be imposed in accordance with Section 105.
- z) "Prison" means a prison established in accordance with laws regarding prisons, and this term shall also include a military prison established in accordance with Section 136.
- aa) "Order" shall mean the order issued by an officer authorized in accordance with this Act and the Regulation framed hereunder.
- bb) "Prescribed" or "as prescribed" shall mean prescribed or as prescribed in accordance with this Act or the Regulation framed hereunder.

3. Persons under the jurisdiction of this Act:

- 1) The following persons shall fall under the jurisdiction of this Act:
 - a) Persons recruited in the Nepalese Army under this Act;

- b) Other persons assigned for some acts by, or persons in the service of the Nepalese Army staying in a camp or in a march for military operation, or staying in an area declared by the Nepal Government as a military operation zone; or civilian persons who assist in the works of the Nepalese Army,
 - c) Persons selected for recruitment in the Nepalese Army.
- 2) Persons under Subsection(1) (b) shall be under the command of the commanding officer of a department, formation or unit in which he is engaged.
 - 3) If a person prescribed in Subsection (1) (b) is not engaged under the command of a commanding officer of any department, formation or unit, he shall fall under the command of an officer who is prescribed or nominated by the commanding officer of the force in which he is currently engaged for the time being, or of a commanding officer of the relevant force if such officer is not prescribed or nominated.
 - 4) The commanding officer shall not keep a person prescribed in Subsection (1)(b) under the command of an officer junior to him as long as an officer senior to him is available.
 - 5) The person prescribed under Subsection (1) shall fall under the jurisdiction of this Act even if he commits an offence outside Nepal.
 - 6) Offences committed by persons under Subsection (1) against citizens of a country in which he has been deployed while engaged with a peace-keeping force of the United Nations shall fall under the jurisdiction of other courts.

Chapter-2

Establishment and management of Nepalese Army

4. Establishment and arrangement of the Nepalese Army:

- 1) The Nepalese Army shall be established for the protection and defence of the independence, sovereignty, territorial integrity and national unity of the state of Nepal.
- 2) The Nepalese Army existing at the commencement of this Act shall be deemed to have been established in accordance with this Act.
- 3) The management of the Nepalese Army shall be regulated in accordance with this Act and the Rules made pursuant to this Act, and other matters shall be dealt with in accordance with the instructions issued by the Nepal Government.

5. Control, use and mobilization of the Nepalese Army:

- 1) The Nepal Government shall control, use and mobilize the Nepalese Army on the recommendation of the National Defence Council.
- 2) Decisions of the Nepal Government regarding the mobilization of the Nepalese Army in accordance with Subsection (1) shall be submitted, within thirty days, before the Defence Special Committee of the House of Representatives for approval.

6. National Defence Council:

- 1) There shall be a National Defence Council for the control, use and mobilization of the Nepalese Army which shall be comprised of the Chairperson and members as follows:
 - a) Prime Minister -----Chairperson,
 - b) Defence Minister ----- Member,
 - c) Home Minister ----- Member,
 - d) Finance Minister ----- Member,
 - e) Foreign Minister ----- Member.
- 2) The National Defence Council may invite, as necessary, other Ministers, the Chief of Army Staff, the Chief Secretary of the Nepal Government, Secretaries and the Chief of other security agencies or experts to its meetings.
- 3) In addition to the functions mentioned in Subsection (1), the functions, duties and powers of the National Defence Council shall be as follows:

- a) Make policies, plans and programmes regarding the control, use and mobilization of the Nepalese Army and submit them before the Nepal Government,
 - b) Submit recommendations regarding the number and organizational structure of the Nepalese Army,
 - c) Submit necessary advice before the Nepal Government regarding the management of the Nepalese Army,
 - d) Submit necessary advice before the Nepal Government regarding the management of arms, weapons and other military equipment of the Nepalese Army,
 - e) Perform other acts as prescribed.
- 4) The Secretary of the Defence Ministry shall act as the Secretary of the National Defence Council. In his absence, another officer as prescribed by the Prime Minister shall replace him.
 - 5) There shall be a Secretariat within the Ministry of Defence for the conduct of acts and proceedings of the National Defence Council. Other arrangements of the Secretariat shall be as prescribed.
 - 6) Procedures regarding the meetings of the National Defence Council shall be made by the National Defence Council itself.

7. Composition of organization:

- 1) The composition of the Nepalese Army shall be inclusive and patriotic.
- 2) The Nepal Government shall make necessary policies, plans and programmes for the implementation of the provisions of Subsection (1).
- 3) The organizational structure and number of positions in the Nepalese Army shall be as agreed by the Nepal Government.

Provided that there shall be only one position of *Maharathi* and the same *Maharathi* shall be appointed for the post of the Chief of Army Staff.

- 4) There shall be a Chief of Army Staff and positions as mentioned in Schedule-1 in the organization of the Nepalese Army.

Chapter-3

Appointment, functions, duties and powers of Chief of Army Staff

8. Chief of Army Staff:

- 1) The Chief of Army Staff shall be appointed by the Nepal Government and the Prime Minister shall provide him rank markings.
- 2) The Chief of Army Staff shall be the Chief of the Nepalese Army.
- 3) In a case of vacancy of the post of the Chief of Army Staff because of his leave or any reasons, the senior officer of the Nepalese Army as prescribed by the Nepal Government shall be the Acting Chief of Army Staff and perform his duties.

9. Responsibility to the Nepal Government:

- 1) The Chief of Army Staff shall be responsible to the Nepal Government for the functions and duties to be performed by him.
- 2) The Chief of Army staff shall, before assuming his office, take an oath of office in accordance with Schedule-2 before the Prime Minister.

10. Functions, duties and powers of the Chief of Army Staff:

- 1) The key function and duties of the Chief of Army Staff shall be to manage the Nepalese Army subject to instructions given by the Nepal Government and existing laws.
- 2) The Chief of Army Staff shall submit an annual report on the management of the Nepalese Army before the Nepal Government every year within the month of Baishakh (April - May), and the Nepal Government shall cause to present the report so received before the House of Representatives and the State Affairs Committee shall discuss such reports.

- 3) Other functions, duties and powers of the Chief of Army Staff shall be as prescribed by this Act and Rules framed under this Act.

11. Age bar and period of holding office:

- 1) The Chief of Army Staff shall hold office until the completion of 61 years of age.
- 2) Subject to Subsection (1), the term of office of the Chief of Army Staff shall be three years.
- 3) Notwithstanding anything provided by Subsection (2), the Nepal Government may, if it deems necessary, remove the Chief of Army Staff before the completion of such term, and an opportunity to defend himself shall be given prior to such removal.
- 4) The Chief of Army Staff who is holding office at the time of the commencement of this Act shall continue his office subject to the provisions of Section (2).

Chapter-4

Appointment and terms of service

12. Appointment and filling of vacancy:

- 1) For the purpose of making a recommendation to fill a vacancy of officer level of the Nepalese Army, a Vacancy Filling Committee chaired by the Chairperson of the Public Service Commission or a member of the Commission nominated by the Public Service Commission shall be formed, and for the purpose of making a recommendation to fill the vacancy of posts lower than officer level, a Vacancy Filling Committee including a representative nominated by the Public Service Commission as member shall be formed.

This notwithstanding, after completion of written examinations conducted by the Committee formed in accordance with Subsection (1), no provisions of this Section shall bar the taking of examinations other than such examinations under the supervision of a representative nominated by the Chairperson of the Public Service Commission.

- 2) Other functions, duties and powers of the Vacancy Filling Committee formed in accordance with Subsection (2)¹ shall be as prescribed.
- 3) Other arrangements regarding the filling of vacancies shall be as prescribed.
- 4) The qualifications required for the appointment to different posts of the Nepalese Army shall be as prescribed.

13. Ineligibility:

- 1) The following persons shall be deemed ineligible for appointment to the posts of the Nepalese Army.
 - a) Non-Nepalese citizen,
 - b) Who is convicted of a criminal offence indicating him morally destitute,
 - c) Who is expelled from a Government job with ineligibility for any of Government service in the future,
 - d) Who was convicted of a human rights violation,
 - e) Who does not have the qualifications as prescribed in Subsection (4) of Section 12.
- 2) Nothing which is provided by Clause (a) of Subsection (1) shall be deemed to affect the receipt by the Nepal Government of technical and expert services from non-Nepalese citizens for a short term.

14. Authority to appoint: On the recommendation of the Vacancy Filling Committee in accordance with Section 12, the Nepal Government shall appoint posts of officer level and the prescribed authority shall give appointment to the posts of other levels.

15. Post of Commissioner may be granted: The Defence Minister shall, subject to the provisions in accordance with this Act and the Rules framed under this Act, grant the post of Commissioner to the officer of the Nepalese Army who is qualified.

¹ Translator's note: The Subsection (2) mentioned here should be Subsection (1).

16. Taking of oath: Any individual who is to be appointed to a post of the Nepalese Army shall take an oath in accordance with the format provided in Schedule².

17. Period of service:

- 1) Except as provided by Section 11, the age limit of officers working in the Nepalese Army shall be as prescribed in Schedule-1.
- 2) Subject to Subsection (1), the term of officers of the Nepalese Army shall be as mentioned in Schedule-4.
- 3) Notwithstanding anything provided by Subsection (2) the Nepal Government may extend the terms of officers in accordance with Schedule-5 on the recommendation of the Chief of Army Staff to the Nepal Government stating the reasonable grounds and causes that an officer who is physically capable after contributing long service is needed by the Nepalese Army.

18. Removing from the service and demoting from the rank:

- 1) The Nepal Government may remove or dismiss any person working in the Nepalese Army from their service.
- 2) The Commander-in-Chief may demote to a lower grade or rank or remove from service any person working with the Nepalese Army other than an officer.
- 3) The Commander of a Corps (*chamu*), Division (*pritha*) or Brigade or a commander of an equivalent rank or an officer vested with equivalent authority may remove from service and demote to a lower rank any person under his command other than an officer or junior commissioned officer.
- 4) The commanding officer of a Unit or Sub-unit may remove from service or demote to a lower rank a Sergeant (*hudda*) and other personnel of lower rank who are under his command.
- 5) The power conferred by this Section shall be exercised subject to this Act or the Rules framed hereunder.
- 6) While taking action in accordance with this Section, the opportunity to a hearing shall be provided.
- 7) If a person who falls under the jurisdiction of this Act is removed or is in the process of being removed from service, the commanding officer shall provide him a certificate that includes details as prescribed.

19. Prohibition on the establishment, conduct and participation in an organization and institution:

- 1) Any person who falls under the jurisdiction of this Act shall be prohibited to act as follows:
 - a) To establish, operate, become a member, assist a union, institution or organization, or participate in a programme organized by such union, institution or organization.
 - b) To participate in a meeting or deliver a speech, or participate in a demonstration organized for political or similar objectives by any individual or group.
 - c) To print any poster, pamphlet or other similar documents.
- 2) Notwithstanding anything provided by Subsection (1) (a) any person who falls under the jurisdiction of this Act shall not, unless with permission from the Nepal Government and subject to this Act, be prejudiced from helping any religious, social, cultural and entertaining union, institution or organization, or shall not be deemed to prejudice participation in programmes organized by such union, institution or organization.

20. Training:

- 1) Any individual who shall be included in the organization of the Nepalese Army shall be provided trainings on topics including military education, ethics, physical exercise, human rights and international humanitarian law.

² Translator's note: The original text does not provide Schedule number. However it should be Schedule-2.

- 2) The arrangements of trainings in accordance with Subsection (1) shall be as prescribed.

21. Promotion, leave and other terms of services: The appointment, promotion, leave and other terms of service and benefits shall be as prescribed.

Chapter-5 **Privileges and immunities**

22. Defending the acts performed in the discharge of duties: No case may be filed in any court against a person under the jurisdiction of this Act who commits any act in good faith, in the course of discharging his duties, resulting in the death of or loss suffered by any person.

This notwithstanding, the offences provided by Sections 62 and 66 shall not be deemed an offence committed in good faith in the course of discharging duties.

Explanation: For the purpose of this Section, the phrase "committing any act in good faith, in the course of discharging his duties," means acts performed during the performance of duties as well as any action taken for internal security or self-defence, including flag march, patrolling and sentry duty.

23. Immunity from arrest:

- 1) Any individual who is the chairperson or member of a Court Martial or legal section or any person who is relevant to the proceedings of a military court, his legal counsel, agent or witnesses who are attending in accordance with the summons issued by the military court, shall not be arrested by the order of any court or quasi-judicial authority at the time he is going to or coming back from attendance at the military court.
- 2) If the Court Martial having received information that a person in accordance with Subsection (1) has been arrested, it may request the relevant authority to release such a person immediately.
- 3) Any person under the jurisdiction of this Act, at the time he is engaged in military operations, shall not be detained according to the judgment, decision or order of any court or quasi-judicial authority, for a loan for which he is liable.
- 4) Upon receiving information that a person who is not to be arrested in accordance with Subsection (1) has been arrested, other courts or quasi-judicial authority shall immediately release such person.

24. Freezing or confiscation: No arms, clothes, military supplies, animal, vehicle, goods or luggage of any person to whom this Act is applicable used in the course of discharging his duties, or his full or partial salary or allowances may be frozen or forfeited by the decision, verdict or order of any civil or revenue court, or any authority vested with such powers except the Court Martial.

25. Immunity and privilege to the reserve force: Every person belonging to the reserve force shall be provided with all facilities mentioned in Sections 23 and 24 while going to and from any training or service to which he has been called by the Nepal Government or while serving in his job.

26. Priority in cases and disputes [of the Nepalese Army]:

- 1) If a case has been registered in a court in which a person working with the Nepalese Army is a party, and he is present before the court with the approval of his leave by his leave approving authority for the same purpose and if he submits his application to the court requesting the adjudication of his case before the end of the period of leave attaching the leave approval letter and details of his case, the relevant court shall list it in a priority hearing order to adjudicate it before the end of the period of his leave.
- 2) No fee shall be required for the application to be lodged in accordance with Subsection (1).

- 3) If the hearing of a case could not be completed before the end of the period of his leave, the court shall inform him of the same.
- 4) If a question is raised in regards to the leave approving authority, the decision of the Chief of Division or Brigade or officer of the similar rank shall be final.

27. Complaint regarding sufferings or injustice:

- 1) If an officer to whom this Act is applicable, is caused injustice on any matter by the commanding officer or any senior officer, he may complain against such injustice before his commanding officer.
- 2) If a person is not satisfied with the decision made by the commanding officer or the Brigade in regards to the complaint lodged in accordance with Subsection (1), he may lodge his application to the Chief of Army Staff.
- 3) Such person may lodge his complaint before the relevant Brigade if he is a person below the rank of officer.
- 4) If a complaint lodged in accordance with Subsection (3) is not heard, such person may submit his complaint to the commanding officer and if it is also not heard by the commanding officer or he [complainant] is not satisfied with his decision, he may lodge his complaint before a superior officer, and if such complaint is received, the commanding officer shall give a receipt thereof to such complainant and forward it to the superior level. If the commanding officer fails in forwarding such complaint to the superior level, he shall be subjected to disciplinary action.
- 5) The complaint hearing authority shall examine the complaint lodged in accordance with Subsections (1) and (4), and resolve the problem, and shall forward the complaint to the superior level if necessary.
- 6) If a complaint is to be lodged against a person who hears a complaint, it shall be lodged before the officer superior to such officer.
- 7) The decision made by the Chief of Army Staff on a complaint lodged in accordance with this Section shall be final.
- 8) The procedures for the hearing shall be as prescribed by law.
- 9) The Nepal Government, if it deems reasonable, may review decisions made in accordance with this Section.

28. No effect on privileges entitled in accordance with existing laws: The privileges in accordance with this Chapter shall not be affected by other privileges in accordance with other Acts.

Chapter 6
Army Welfare Fund

29. Establishment and conduct of welfare fund:

- 1) A welfare fund may be established for the welfare of current and past personnel of the Nepalese Army and their families.
- 2) The following sources of funds shall be kept in the Army Welfare Fund:
 - a) The percentage of funds deducted as prescribed from the fund received for the service of the Nepalese Army deployed in peace keeping operations in any part of the world at the request of the United Nations Organization,
 - b) The funds saved from the cost of welfare activities which are conducted from the interest of fund deposited in various banks and financial institutions,
 - c) The funds saved from carrying out welfare activities as prescribed.
 - d) The funds deposited as the principal amount in various banks and financial institutions from July 1975 to the date of commencement of this Act and the interest from those amounts.
 - e) The movable and immovable property kept in the name of the institutions prescribed by the Army Headquarters and the funds from their increased value.
 - f) The movable and immovable property currently being used by the Nepalese Army and the funds from its increased value.

- 3) There shall be a seven members' Army Welfare Fund Management Committee comprised as follows for the conduct of the welfare fund established in accordance with Subsection (1):
 - a) Chief of Army Staff ----- Chairperson,
 - b) Two persons nominated by the Patron from amongst current and past military officers ----- Member,
 - c) Two persons nominated by the Chief of Army Staff from amongst current and past military officers ----- Member,
 - d) Representative from the Ministry of Finance (gazetted first class officer) ----- Member,
 - e) Representative from the Ministry of Defence (gazetted first class officer) ----- Member,
- 4) There shall be a Welfare Planning Directorate in the Army Headquarters for assisting the daily works of the Committee. The functions, duties and powers of the Directorate shall be as prescribed.
- 5) The money as accumulated in the fund in accordance with Subsection (2) shall be invested for the welfare of current and past personnel of the Nepalese Army and their families.

Explanation: The term "family" for the purpose of this Section shall mean husband or wife, son, daughter and mother and father, if it is related to female employees mother-in-law and father-in-law to whom past and current employees of the Nepalese Army is responsible for taking care.

30. Patron of the welfare fund: The Prime Minister shall be the Patron and the Minister of Defence shall be the Joint Patron of the fund.

31. Functions, duties and powers of the Committee: The functions, duties and powers of the Committee shall be as follows:

- a) Formulate, implement, coordinate and monitor welfare acts, income generating acts as prescribed and welfare planning,
- b) Carry out welfare acts needed for the family of Army personnel who are killed or mutilated during the period of engagement in military activities,
- c) Reduce, add or remove facilities and concessions under the welfare acts,
- d) Formulate procedures and guidelines necessary for the conduct of welfare acts, income generating acts and welfare planning, and implement them,
- e) Reach agreement with Army Headquarters regarding the use of land and physical infrastructure under the possession of the Nepalese Army and carry out welfare activities,
- f) Form administrative, financial and technical units necessary for the conduct of welfare acts, income generating acts and welfare planning, appoint necessary manpower for such units and prescribe their terms of service and salaries,
- g) Appoint experts for the effective implementation of welfare acts, income generating acts and welfare planning, and prescribe their terms of service and salaries,
- h) Assign current military personnel as necessary for the security of the station where welfare acts, income generating acts and welfare planning are launched,
- i) Obtain, subscribe, rent, use and sell movable and immovable property subject to this Act,
- j) Carry out other activities as prescribed.

32. Account of fund and auditing:

- 1) Account of daily income and expenditure of the fund shall be maintained in accordance with existing laws, and the internal auditing of the fund shall be made as prescribed by the committee.
- 2) The final auditing of the fund shall be made by the office of the Auditor General.

33. Submission of annual report: The Committee shall submit a report including income, expenditure and progress details before the patron, and provide one copy to the State Affairs Committee of the House of Representatives every year.

34. Delegation of powers: The Committee may delegate as necessary some of the powers conferred on it in accordance with this Chapter to the Welfare Planning Directorate.

35. Situations for depriving facilities and concessions:

- 1) Current and past military personnel and their families may be deprived fully or partially of their entitlement to facilities and concessions relating to programmes conducted under the welfare acts in the following events:
 - a) If acts detrimental to the Nepalese Army are proved to have been committed,
 - b) If acts contrary to the Constitution and this Act are proved to have committed,
 - c) If the misuse of facilities and concessions entitled in accordance with this Chapter is proved to have been committed,
 - d) If a penalty for an offence against state is imposed.
- 2) Notwithstanding anything provided by Subsection (1), only those current or past military personnel or their families who committed acts mentioned in Subsection (1) shall be deprived of the entitlement of facilities and concessions relating to programmes conducted under the welfare acts.

36. Other arrangements: Other arrangements regarding the use, conduct and management of the Army Welfare Fund shall be as prescribed.

Chapter-7 **Offences**

37. That which shall be understood to be a committed offence: The committing any of acts mentioned under Sections 38 to 65 by any person under the jurisdiction of this Act, shall be considered an offence in accordance with this Act.

38. Enemy related Offences: Committing any of the following acts shall be considered enemy related offences:

- a) In abandoning or handing over in a cowardly manner to an enemy any garrison, fort, post or assigned place to guard; or in inspiring or compelling any commanding officer or other persons to do so; or
- b) In throwing down arms, ammunitions or equipment before the enemy shamelessly, or in behaving in a way that reflects a cowardly character; or
- c) In intentionally spreading false terror in the garrison, camp, or any other place where the battalion (paltan) is stationed, or in spreading propaganda with a view to undermining the morale or terrorizing the army during war or military operations; or
In exchanging any correspondence or confidential information traitorously with any person or enemy raising arms against the State of Nepal, or in committing any such other acts;
- d) In helping, directly or indirectly, the enemy by supplying arms, ammunition, explosives, cash, equipment or any other goods; or
- e) In acting to undermine the Nepalese Army or any of its forces or wings;
- f) In raising a cease-fire flag before the enemy by acting in a treacherous or cowardly manner;
- g) In knowingly working together with a detained enemy or providing assistance to an enemy;
- h) In providing shelter to or protecting any enemy who is not a prisoner of war;
- i) In sleeping or consuming medications or otherwise at post or on sentry duty during times of war or terror;
- j) In knowingly compelling or inspiring any person under the jurisdiction of this Act to take action, with the intention to discourage, that prevents acting against the enemy or that creates obstructions;

- k) In leaving his commanding officer, post, guard, picket, patrol or party at times when military operations are underway without being duly replaced or having leave sanctioned.

39. Mutiny: Committing any of the following acts shall be considered a mutiny offence:

- a) In being involved in mutiny;
- b) In staging or making arrangements for staging a mutiny together with any person belonging to the Nepalese Army or any force assisting it, or instigating others or conspiring to do so;
- c) In not attempting to, as far as possible, stop a mutiny when present at the place of a mutiny;
- d) In failing to report to a commanding officer or any other superior officer, knowledge of or having appropriate reason to believe that someone is intending or conspiring to stage a mutiny;
- e) In Deviating from patriotism and duty, or making any attempt to incite or to cause another to deviate from patriotism or duty.

40. Enemy-related other offences: Committing any of the following acts shall be considered an enemy related offences:

- a) In becoming a prisoner of an enemy through failure to remain alert in an appropriate manner in advance, through failure to obey orders, or through negligence of duties; or in the case of having become a prisoner of the enemy refusing to return despite the possibilities to do so;
- b) In engaging in correspondence or in otherwise exchanging intelligence with the enemy without proper authority, or not immediately reporting to a commanding officer or other superior officer knowledge of any such activities; or
- c) In raising a cease-fire flag without proper authority.

41. Offences against military operations: Committing any of the following acts shall be considered an offence against military operations:

- a) In forcefully acting against a security guard or sentry, or making him do so;
- b) In entering into any house or place with the intention of looting;
- c) In sleeping or becoming unconscious or otherwise under the influence of medications or intoxicants while working at post as a sentry;
- d) In leaving guard, picket, patrol or post without the permission of a superior officer;
- e) In intentionally or negligently giving signals or information about terror in the camp, garrison or quarters, or spreading unnecessary discouraging or terrorizing propaganda therein;
- f) In divulging any information about watch words and countersigns to any unauthorized person, or knowingly providing false or different signals to an authorized person.

42. Desertion-related offences:

- 1) Committing any of the following acts shall be considered an offence relating to desertion:
 - a) In deserting service after an order of military operation or after the start of such an operation;
 - b) In deserting service except for conditions as mentioned in Clause (a);
 - c) In knowingly providing shelter to any person under the jurisdiction of this Act deserting service;
 - d) In knowingly providing benefit, help or assistance to a deserter;
 - e) Any person under the jurisdiction of this Act in failing to immediately inform a superior officer or any higher ranking officer knowledge of any person deserting or about to desert service, or in not arresting when authorized to do so;
 - f) In not diligently searching for and arresting a deserter;
 - g) In not taking necessary action despite knowledge of desertion;
 - h) In deserting barracks, camp, or quarters.
- 2) A person confirmed absent not reporting himself/herself or not being found shall be considered a deserter.

- 43. Offence of Allowing Someone in Custody to Escape:** Releasing an individual in custody without proper authority or without reasonable grounds for release while on guard, picket, patrol, command of post or during duty; or not taking a prisoner to be taken into custody or not taking one's turn at duty shall be considered an offence of allowing someone in custody to escape.
- 44. Offence relating to assault or intimidation:** Committing any of the following acts shall be considered an offence related to assault or intimidation:
- a) In threatening a superior officer;
 - b) In assaulting or using criminal force against a superior officer;
 - c) In not respecting the dignity of a superior officer by speaking in an undermining way or treating him in a degrading manner.
- 45. Defiance-related offences:** Committing any of the following acts shall be considered a defiance-related offence:
- a) In knowingly defying a legal order issued through oral, written, signal or any other manner by an authority or an officer under the jurisdiction of this Act or by a superior officer during official work;
 - b) In demonstrating negligence to obey the general, local or any other type of order issued by a superior officer.
- 46. Offences related to loss or damage to property:** Committing any of the following offences shall be considered an offence related to loss or damage of property:
- a) In causing loss or damage to the property mentioned in Section 41(a) or the property of a military institution, of any person under the jurisdiction of this Act, of any person working for the Nepalese Army or of any other person involved in the Nepalese Army;
 - b) In setting fire to or causing loss or damage to government property;
 - c) In mistreating, causing injury to, killing, fleeing with or losing any animal for which one is responsible.
- 47. Offences relating to forgery or falsifying particulars:** Committing any of the following acts shall be considered an offences relating to forgery or falsifying particulars:
- a) In a person whose duty it is to confirm the authenticity or falsity of something written negligently examining any report, account, description, certificate or any other document prepared or signed by an authorised person, or in certifying false content of such document with the intention of betrayal or in being an accomplice in such an act;
 - b) In knowingly certifying a document mentioned in Clause (a), or in not writing that which is prescribed or in becoming an accomplice to such acts;
 - c) In knowingly distorting, hiding, fleeing with or leaving blank, with the intention of causing loss or betrayal to someone, any document for which one has the responsibility to protect or must submit when needed;
 - d) In knowingly making any false declaration by a person whose duty it is to keep information;
 - e) In anyone having knowledge about or reasonable grounds to believe that there are false particulars on any statement, document or record, falsify particulars of one's own or others on memoranda or statements which allow for the receipt of pension, allowances, other facilities, or special provisions.
- 48. Offence related to opposition and obstruction or use of criminal force:** Committing any of the following acts shall be considered an offence related to opposition and obstruction or the use of criminal force:
- a) In disobeying the order concerning one's arrest even when given by a lower ranking officer, in the case of being involved in any quarrel, riot, or disturbance; or in attacking such an officer giving the order of arrest, or in using criminal force against a higher ranking officer;

- b) In using force or attacking any person who placed him in custody according to law, irrespective of whether or not this Act is applicable to that person, or whether or not that person is a higher ranking officer;
- c) In opposing or obstructing any person or escort whose duty is to arrest or take one into custody;
- d) In obstructing the Chief of the Military Police, or his legal representative while engaged in the legal discharge of duties, or in not extending cooperation, when requested, in the discharge of his duty;
- e) In using criminal force or assaulting any person who supplies goods or rations to the Nepalese Army.

49. Offences against property: Committing any of the following acts shall be considered an offence relating to property:

- a) In using the public or governmental mess band in private interest or using property of any army or of any person under the jurisdiction of this Act with *mala fide* intent or misappropriating it or stealing or taking them in possession fraudulently and with *mala fide* intent;
- b) In fraudulently taking or keeping such property after having known or having reasonable grounds to believe that it was related with the commission of crime in accordance with Clause (a);
- c) In damaging or causing loss to governmental property under one's own responsibility.

50. Offences regarding cheating or coercion: Committing any of the following acts shall be considered an offence of cheating and coercion:

- a) In committing any acts with intent of cheating, causing unreasonable benefit or loss to any person;
- b) In obtaining forcibly or under coercion cash or goods of any person or forcing any person without authorization to labor.

51. Offences of desertion with arms and other items or their misuse: Committing any of the following offences shall be considered an offence related to escaping along with arms and ammunition or misusing them:

- a) In escaping along with arms and ammunition, supplies, equipment, tools, clothes or any other governmental property obtained by oneself for own use, or becoming an accomplice in any such escape;
- b) In losing any of property mentioned in Clause (a);
- c) In defacing, destroying, selling, or mortgaging any medal or decoration granted to him.

52. Offences against discipline and code of conduct : Committing any of the following offences shall be considered an offence related to discipline and code of conduct:

- a) In consuming drugs;
- b) In behaving in a hostile or unpredictable manner, demonstrating reprehensible character or behaving in a cruel manner;
- c) In causing one's own physical weakness or disease;
- d) In pretending to be suffering from any disease or weakness, while being healthy; or in deliberately prolonging or increasing the severity of disease or in not allowing healing;
- e) In causing injury to oneself or to any other person with the intention of causing disqualification from service;
- f) In mistreating through the use of criminal force an individual officer, junior commanding officer or non-commanding officer under the jurisdiction of this Act while stating that one is of lower rank;
- g) In not completing any act that maintains order or military discipline or in committing any act against order or military discipline;
- h) In using intoxicants;
- i) In not behaving in a manner suitable to the post;
- j) In establishing or operating an association or organization in contravention to Section 19 or in taking part in such activities.

- k) In using any Army personnel for any acts other than acts relating to the discharge of duties in accordance with this Act or Rules framed under this Act.

53. Offences related to the certification of incomplete documents: Committing any of the following acts shall be considered an offence related to the certification of incomplete documents:

- a) If a person responsible for the preparation and certification of documents upon which is written: salary, weapon, cartridge, goods, equipment, clothes, miscellaneous goods and stores, or government property deceives or certifies any such document or leaves a blank space therein.
- b) If a person responsible for the preparation and submission of any report or account refuses to prepare or submit such reports or account, or negligently avoids their preparation or submission.

54. Offence related to false statements or accounts: Any person under the jurisdiction of this Act, after taking the oath in a Court Martial, in recording false statements or accounts; or if there is no ground to believe that the statements or accounts given or believed to be false are true; shall be considered an offence related to false statements or accounts.

55. Offences of taking appointment by lying: Committing any of the following acts shall be considered an offence of lying and taking appointment:

- a) In taking an appointment in his usual Corps or Department or any other Corps or Department without fulfilling the conditions needed for one's recruitment or without being duly relieved of one's duty from one's Corps or Department,
- b) In being involved in the act of recruiting any person to any wing of the Nepalese Army while knowing that there are circumstances in which the person is suspected of having committed a crime under this Act or there are grounds to believe that such circumstances exist,
- c) In being proved that one has intentionally provided false information on the application for recruitment,
- d) In submitting fake or false certificate for purposes including recruitment, promotion and training.

56. Offences of escaping from custody: Escaping from custody while being held legally in custody shall be deemed committing an offence of escaping from custody.

57. Offences of false allegation: Committing the following acts shall be deemed to have committed offences of false allegation:

- a) Making a false allegation against any person to whom this Act is applicable even though he knows or has reason to believe that the charge was false; or
- b) Lodging a complaint in accordance with Section 26 or making a false statement knowingly or with reason to believe that the statement is false, in a manner that could threaten the character of a person to whom this Act is applicable or hides the actual facts related thereto intentionally.

58. Offences of absence: Committing any of the following acts shall be deemed committing an offence of absence:

- a) Being absent without approval of leave;
- b) Remaining on leave beyond the period of leave without sufficient cause;
- c) Failing, without sufficient cause, to join his formation, unit or any part thereof immediately after receiving notice from an appropriate authority about the order issued for his formation or unit or any part thereof to take military actions;
- d) Remaining absent from the place prescribed for his duty or exercise or from the parade at the prescribed time;

- e) Leaving the parade or march line without the permission of his superior authority or without sufficient cause;
- f) Being present at any place outside the one as prescribed through any orders of general, local level or other, or at any prohibited place, at a time of being stationed in a camp, garrison or any other place, without obtaining a pass or a written permission from his immediate superior officer;
- g) Remaining absent from any training institutions at a time when an order has been issued to attend a training institutions, without obtaining leave from an immediate superior officer or without appropriate reasons.

59. Offences related to Court Martial: Committing any of the following acts shall be considered an offence related to Court Martial:

- a) In failing either deliberately or without proper reason to present oneself before a Court Martial after receiving a legal summons or formal court order to present oneself as a witness;
- b) In refusing to take an oath before a Court Martial;
- c) In refusing to obey an order to submit or hand over any document in one's custody to a Court Martial;
- d) In refusing to reply to any question asked in accordance with law when in the capacity of witness;
- e) In disrespecting or ill-treating a Court Martial by speaking threateningly or disturbing or obstructing the proceedings of the Court Martial;
- f) In ignoring the execution of the decision or order of the Court Martial.

60. Offence of freezing salary illegally: A person who is responsible for providing salaries who refuses to pay or freezes illegally the salary of any person to whom this Act is applicable, instead of paying in due time shall be deemed to have committed the offence of freezing salary illegally.

61. Offence related to irregular arrest or detention: Committing any of the following acts shall be considered an offence related to irregular arrest or detention:

- a) In arresting any person or holding him in detention but failing to submit the case before the relevant officer for investigation or in delaying the proceeding of a case without reason;
- b) In holding any person in military custody, failing to submit an account making known the appropriate reasons for placement into custody, immediately or as soon as possible or regardless of condition within twenty four hours except in the event of reasonable grounds of those who have the right to place into military custody and the Prad Viwak.

62. Special provisions on offences of corruption, theft, torture and disappearance:

- 1) Committing any acts which are defined an offence of corruption, theft, torture and disappearance by existing law, shall be deemed to have committed offences of corruption, theft, torture and disappearance.
- 2) There shall be a committee comprised of the following for the purpose of conducting an investigation and inquiry into the offences provided by Subsection (1):
 - a) Deputy Attorney General prescribed by the Nepal Government - Chairperson,
 - b) Chief of legal section of the Ministry of Defence -- Member,
 - c) Representative of Prad Viwak not below the rank of Lieutenant--Member.
- 3) The representative mentioned in Clause (c) of Subsection (2) shall be a person who is not involved to the Court Martial of the related case.
- 4) The jurisdiction to try and proceed with cases mentioned under Subsection (1) shall be vested with a Special Court Martial formed in accordance with Subsection (1) of Section 119.

- 5) The committee formed under Subsection (2) shall have the power equivalent to the power conferred by relevant existing laws in relation to an investigating and inquiry officer in respect to those cases.

63. Miscellaneous Offences:

- 1) Committing any of the following offences shall be considered as miscellaneous offences:
 - a) If any person in command of any post or march misbehaves, beats or troubles by any other means any person in his command; or commits hooliganism in public places; or trespasses; or does not submit a complaint for compensation before the concerned authorities for having caused damage by trespassing; or does not provide compensation;
 - b) In disturbing the sacredness of a religious place or in knowingly disrespecting the religion of any other person by any other means or in causing disrespect to religious sentiments;
 - c) If any soldier below the level of junior commissioned officer (*jamdar*), carries weapons or explosives when not on duty, without the order of the relevant authority when coming and going around a camp or cantonment or the city or market;
 - d) In receiving or consenting to receive directly or indirectly any bribe or any other kind of benefits for recruitment or promotion within the Nepalese Army, in approving leave or in giving the impression of any benefit;
 - e) In causing any loss or damage to the body or property of any citizen or inhabitant of the country one is serving.
- 2) Except as mentioned in Subsection (1), a non-commissioned officer or any lower ranking soldier who commits, during military operations, any prohibited offences other than those mentioned in this Chapter, shall be considered to have committed a miscellaneous offence.

64. Attempt to commit offences: Attempting to commit an offence mentioned in this Chapter or any act for such purpose shall be deemed an attempt to commit such an offence.

65. Inducement to commit offences: Inducing to commit any offence mentioned in this Chapter shall be deemed the inducement to commit such an offence.

66. Offences under other laws:

- 1) Except in the event that a person under the jurisdiction of this Act commits offences mentioned in Sections 38 to 65 and those offences are committed by a military personnel against a military personnel, if the person under the jurisdiction of this Act commits the following offences, the cases which arise thereto shall fall under the jurisdiction of other courts:
 - a) Homicide,
 - b) Rape.
- 2) If the agency which is conducting an investigation and inquiry or if an investigating officer orders that the person who is alleged of being involved on offences mentioned under Subsection (1) shall be handed over to the commanding officer or Chief or relevant officer shall hand him over to the agency or officer issuing such order. The retirement or desertion of a person shall not be a bar to the conduct of an investigation and the taking of action in accordance with law.
- 3) The person under the jurisdiction of this Act who falls under the jurisdiction of other court and is under investigation shall ipso facto be suspended during the period of his custody until a final decision is reached if a case is lodged.
- 4) Even if an investigation into an offence under the jurisdiction of other courts is started in respect to a person under the jurisdiction of this Act, nothing in this Section shall be a bar to form a court of inquiry and conduct the investigation on the offence under the jurisdiction of this Act and subject such person to necessary action.

Chapter-8

Formation and jurisdiction of Court Martial

67. Formation of Court Martial

- 1) For the purpose of the trial and hearing on offences prescribed under Chapter-6, the following Court Martial shall be established:
 - a) A General Court Martial comprised of five officers, at least one Lieutenant General (*Rathi*), two Colonel (*mahasenani*) or Lieutenant Colonel (*pramukh senanani*) and two Majors (*senani*).
 - b) A Summary General Court Martial comprised of three officers including two officers of the rank of Major.
 - c) A District Court Martial comprised of at least three officers, officers who completed two years of the term of Commissioner.
 - d) A Summary Court Martial comprised of one officer who commands the Department, Formation or Unit of the Nepalese Army.
- 2) There should, to the extent available, be at least one officer who is a law graduate in a Court Martial under Clause (a) and (b).
- 3) For the purpose of assisting the proceedings of the Summary Court Martial, there shall be present two officers or two Junior Commanding officers or one from each rank.
- 4) A Court Martial shall not proceed with or hear the case if the Court Martial lacks a person therein as prescribed by Subsection (1).

68. Jurisdiction of Court Martial: The jurisdiction of a Court Martial shall, except on the cases mentioned in Sections 62 and 66, be as follows:

- a) The power of trial, hearing, action and adjudication for an offence committed by a person who falls under the jurisdiction of this Act and thereafter imposing a penalty on him shall be with a General Court Martial and a Summary General Court Martial.
- b) The power of trial, hearing, action and adjudication for an offence, in which maximum two years' imprisonment may be imposed, committed by a person who falls under the jurisdiction of this Act except a person of the rank of officer or Junior Commissioned Officer, and thereafter imposing penalty on him shall be with a District Court Martial.
- c) Subject to the provisions mentioned in the following Sub-clauses, the power of trial, hearing, action and adjudication for an offence, committed by the person who fall under the extent of this Act except a person of the rank of officer or Junior Commissioned Officer, and thereafter imposing penalty on him shall be with a Summary Court Martial.
 - i. a case for which one year of imprisonment may be imposed, if a Court Martial is convened by an officer of the rank of Lt. Colonel or more senior,
 - ii. a case in which six months of imprisonment may be imposed, if a Court Martial is convened by an officer of the rank below Lt. Colonel.

69. Decision as to whether a case falls under the jurisdiction of Court Martial or other court:

- 1) If there is a dispute whether a case which falls under the jurisdiction of this Act shall be filed with a Court Martial or other courts, it shall be filed with other courts.
- 2) If a case is to be filed with other court, the accused shall be suspended from service and handed over to the court in which the case is to be registered.

70. No double jeopardy: Any person under the jurisdiction of this Act, after being subjected to trial, hearing and adjudication of an offence mentioned in Section 38 to 65 of this Act by a Court Martial, or after being subjected to departmental action, shall not be subjected to action again for the same offence.

71. Statutes of limitation:

- 1) Except those offences described in Sections 39, 42, 46, 49, 55, 56 and 62, no case shall be filed with a Court Martial for an offence more than three years after commission.
- 2) When calculating the time period for the purpose of Subsection (1), the period of being held as a prisoner of war or of having been within the territory of the enemy or of having absconded without arrest after committing the offence shall not be included.

72. Case may be prosecuted:

- 1) If a person has committed an offence under this Act at the time this Act is applicable to him, he may be held in military custody and subjected to trial even if this Act ceases to remain applicable to him.
- 2) Notwithstanding anything provided by Subsection (1) except a case prescribed under Sections 39, 42 or 55, no case can be initiated six months after the applicability of this Act ceases.
- 3) After the imposition of imprisonment by a Court Martial on a person to whom this Act is applicable, even if such person is removed or dismissed from the service of the Nepalese Army or the applicability of this Act ceases in respect to him in any way, this Act shall remain applicable to such person until the completion of the penalty imposed on him and such penalty may be implemented.

73. Authority to convene Court Martial:

- 1) The following officers are empowered to convene a Court Martial:
 - a) Unless otherwise ordered by the Nepal Government, the Chief of Army Staff or an officer authorized by him shall convene a General Court Martial.
 - b) Unless otherwise instructed by the Nepal Government, the following officers shall convene a Summary General Court Martial:
 - (i) The officer who is authorized by the Chief of Army Staff,
 - (ii) The commanding officer who is engaged in a military operation or a person authorized by him.
 - (iii) The officer who commands any unit engaged in a military operation who decides that it is not practical to try a case by a General Court Martial taking into consideration Army disciplines and need.
 - c) The officer who is authorized to convene a General Court Martial in accordance with Clause (a) or an officer authorized by him shall convene a District Court Martial,
 - d) The commanding officer of a Department, Formation or Unit of Nepalese Army shall convene the Summary Court Martial.
- 2) The Court Martial Convening Officer shall convene the Court Martial within thirty days of the date of the cause of convening.
- 3) When giving authorization in accordance with Clause (a) and (b) of Subsection (1), the authority may lay down conditions as needed.

Chapter-9

Investigation, inquiry and filing of a case

74. To hold in military custody:

- 1) If a person to whom this Act is applicable is accused of an offence prescribed under Chapter-7, he may be detained in military custody.
- 2) A person who has been accused of an offence may be ordered to be detained in military custody by any officer whose rank is senior to him.
- 3) Notwithstanding anything provided by Subsection (2), a person who is engaged in a quarrel, rioting or causing disturbances may be ordered to detain in military custody by a junior officer even if he is an officer senior in rank.
- 4) If a person is alleged to have committed an offence outside the jurisdiction of this Act and is subject to the jurisdiction of other court, and it is necessary to detain him in custody for the period of investigation to filing of a case, he shall be suspended from service and may be held in military custody or police custody as per the order

of the court. If his presence in court is necessary, he shall be presented by the relevant military officer.

Provided that he shall not be held in military custody after the filing of the case.

- 5) He shall be sent to a Court Martial if a case is to be filed with a Court Martial and to other court if a case is to be filed with the other court.

75. Responsibility of the commanding officer during custody:

- 1) If the commanding officer receives a report that a person under his command has been held in custody, he shall make arrangements not to hold him in custody exceeding the period of twenty four hours without an investigation.
- 2) Notwithstanding anything provided by Subsection (1) if there is situation that the same [twenty four hours] is not possible because of the lack of transportation services, he may be held in custody for a reasonable period.
- 3) The commanding officer shall send all of the details of the person who is held in custody exceeding twenty four hours, and reports with reasons, to the Chief of Army Staff or the Prad Viwak.
- 4) If it is necessary to hold a person who is not engaged in a military operation for more than eight days due to the failure to issue an order to convene the court Martial for the proceeding of his case, the commanding officer shall submit reports with reasons for such delays to the officer prescribed by Subsection (3) every eight days until the formation of a Court Martial or the release of the accused person.
- 5) For the purpose of this Section, the calculation of twenty four hours shall not include the period of public holidays.

76. Request to arrest:

- 1) If it is necessary for a commanding officer to arrest a person alleged to have committed an offence, he may request the Chief District Officer of the district where the alleged person lives, and if the Chief District Officer receives such a request, he shall arrest the alleged person and hand him over to the relevant officer.
- 2) The commanding officer of the Formation, Unit, or Sub-unit to which a deserted person belongs may request the Chief District Officer to arrest him, mentioning his personal details, and if the relevant officer receives such request, he shall arrest such deserting person and shall hand him over to the relevant officer.
- 3) Notwithstanding anything provided by Subsection (1) or (2), if a police officer has reasonable cause to believe that a person has absconded and deserted his job or committed an offence, he may arrest such person without an arrest letter and shall forward him to the Chief District Officer for necessary action.

77. Inquiry as to absence: If any person to whom this Act is applicable remains absent for more than 30 days without permission, a Court of Inquiry shall be formed as soon as possible. The officer of the Court of Inquiry, while conducting an inquiry after taking an oath, shall conduct enquiries whether or not the person is absent without approval of leave or without any cause of leave, and on whether or not he lacks property, arms, ammunition, equipment, clothes or other baggage under his custody, and make a decision. The commanding officer shall submit the record of such decision to the record book of the Court Martial of the relevant Division or Corps.

78. Chief of Army Police:

- 1) Unless otherwise ordered by the Nepal Government, the Chief of Army Staff or any officer prescribed by him may appoint a Chief of Army Police.
- 2) It shall be the duty of the Chief of Army Police to take under his custody persons held in detention in consideration of any crime committed by them, maintain order and discipline in the Army, and prevent violation of order or discipline by persons who are enlisted or are serving in the Nepalese Army.
- 3) The Chief of Army Police may arrest any person who has committed or is accused of committing a crime, at any time for appearing at trial, and he shall implement the penalty ordered by a Court Martial or by any officer exercising the powers to order departmental action.

Chapter-10
Procedures of Court Martial

79. Duty station and bench of Court Martial:

- 1) A Court Martial may establish a duty station at any place inside or outside the State of Nepal during the proceeding of case.
- 2) Except in situations to protect national security, public order and the rights of victims, a Court Martial shall normally sit in open session.

80. Chairperson of Court Martial:

- 1) The senior officer amongst the officers of a Court Martial shall chair the Court Martial.
- 2) If the senior officer who chairs the Court Martial is absent, the second in seniority shall, subject to the provisions of Section 67, chair the Court Martial.

81. Presence of Prad Viwak:

- 1) The Prad Viwak or the Prad officer assigned or prescribed by him shall be present in every General Court Martial, Summary General Court Martial and District Court Martial as the Prad Viwak.
- 2) If a person who is accused of any offence submits a request for his defence by a Prad Officer of his choice in a Court Martial to the Defence Section of the Prad Viwak, the Prad Viwak shall assign a Prad Officer. The Prad Officer shall defend him in the Court Martial if he is so assigned.

82. Objection may be raised:

- 1) After the submission of case to a Court Martial for trial, the name of the Chairperson and members of the Court Martial shall be read to the accused, and he shall be asked whether he has any objection regarding the Chairperson or any member or not.
- 2) If the accused person raises any objection regarding the Chairperson or any member, the Court Marshal shall keep records of the reasons thereof and the reply submitted by the Chairperson and such member. The Chairperson and members who are not objected to shall discuss the objection and shall make a decision in the absence of the Chairperson and member.
- 3) If at least fifty percent of members agree with the objection, the seat of the Chairperson or member who is objected to will be vacated. The vacant seat shall be filled by nominating another officer, and the procedures of objection in accordance with Subsection (1) shall also apply to such new Chairperson or member.
- 4) After completion of procedures of objection in accordance with Subsection (1) and (2), the Court Martial shall begin the trial of the case.

83. Oath: Before the beginning of trial, the Chairperson, members, the Prad Viwak shall take an oath in the manner as prescribed.

84. Procedures for decision making:

- 1) A Court Martial shall make decisions on the basis of a majority vote. In the case of tie, the decision shall go in favor of the accused.

This notwithstanding, the following matters shall be decided as follows:

- a) The rendering of the penalty of life sentence along with confiscation of entire property by a General Court Martial shall require at least a two thirds majority vote.
- b) The rendering of the penalty of life sentence along with confiscation of entire property by a Summary General Court Martial shall require an unanimous vote.

- 2) Notwithstanding anything provided by Subsection (1), the opinion supported by the Chairperson shall prevail on the procedural matters other than the imposition of penalty and rendering of the judgment.
- 3) When determining the penalty by the Court Martial, the Prad Viwak sitting in the Court Martial or his representative may give a separate opinion.
- 4) In the course of an investigation and hearing of a case which falls under the jurisdiction of a Court Martial, the rights regarding criminal justice of an accused shall be protected and the opportunity to produce evidence in defence shall be given.

85. Taking judicial notice: A Court Martial may take judicial notice of military matters which are within the general knowledge of the Chairperson and members.

86. Summoning:

- 1) The officer convening a Court Martial or the Chairperson of a Court Martial or the Prad Viwak or the commanding officer of the accused may issue a summons to the relevant persons to produce any document or any item, and to attend at the place and at the time as prescribed for recording their statements as witnesses.
- 2) If it is necessary to order the production of a particular document or any item that is in the possession of a witness, the same shall be mentioned in the summons.
- 3) If a witness is a person under the jurisdiction of this Act, the summons shall be dispatched to the commanding officer and such officer shall dispatch the summons to such person.
- 4) If it is known that a witness is living under the jurisdiction of the Chief District Officer, the summons to such witness shall be dispatched to the Chief District Officer and he shall dispatch the summons to him.
- 5) Every person who records his statement in the Court Martial shall take an oath as prescribed before recording his statement.

87. Sealed questionnaire:

- 1) If a Court Martial believes that the summoning a witness will cause delays and add costs or difficulties unnecessarily, an order may be given to the Prad Viwak allowing him to ask sealed questions.
- 2) After receiving an order in accordance with Subsection (1) the Prad Viwak may request to the Chief District Officer to dispatch the sealed questions to the witness within his territory, and after receiving such request, the Chief District Officer shall dispatch the sealed questions in accordance with existing law.
- 3) The Court Martial shall include questions which an accused person or his legal counsel intends to raise and which are relevant to the case in the sealed questionnaire.
- 4) If an accused person is not held in custody, the legal counsel or agent of the accused person may cross-examine a witness by being present before the Chief District Officer.
- 5) After completion of recording statement in accordance with sealed questionnaire, the sealed questionnaire shall be sent to the Prad Viwak.
- 6) The Prad Viwak shall send the sealed questionnaire received in accordance with Subsection (5) to the concerned Court Martial. In case of the dissolution of the Court Martial, it shall be sent to the other court which is hearing such case. The Court Martial or other court shall include the sealed questionnaire so received to the file, and the accused person or his legal counsel shall be allowed to see such questionnaire.
- 7) A Court Martial may postpone the trial of a case until the period needed for dispatching the sealed questionnaire and obtaining a response.

88. Presumption as to signature: The signature contained, in the course of the proceeding of a case, on any application, certificate, arrest letter, response or any document by any officer of whatever rank of the Nepal Government, shall be deemed, unless otherwise proved, to be his own signature.

89. Documents admissible in evidence: The information contained in the following documents shall be admissible as evidence in a case adjudicated by a Court Martial:

- a) The information contained in the Sheet Role form by the relevant person when taking appointment;
- b) Original copy of a Sheet Role form or its photocopy indicating "copy is same as original" and signed by the officer responsible for it;
- c) Any letter, response or details of any document signed by the Chief of Army Staff or an officer prescribed by him regarding the service, removal or termination of service with the Nepalese Army;
- d) Registration in the registry of the Nepalese Army, the publication of the military order or status, rank of junior commissioned officer or non-commissioned officer published in the Nepal Gazette and military orders regarding appointment mentioned in the same registry or details mentioned in the Nepal Gazette;
- e) Information contained in the Regimental Book signed by the commanding officer or an officer responsible for keeping records;
- f) The information contained in the copy which is attested as "copy is same as original" and signed by the officer responsible for the Regimental Book;
- g) In case a person to whom this Act is applicable is under trial on offences under Section 42 and 58, and has surrendered himself before any officer or any person to whom this Act is applicable or any camp of the Nepalese Army, or in case such person has been arrested by any officer or any person to whom this Act is applicable; a certificate signed by such officer, such person or the commanding officer of such camp indicating the place and date of surrender or arrest and the clothes as worn;
- h) In case a person to whom this Act is applicable and who is under trial for offences under Sections 42 or 58 has surrendered himself during his trial before any police officer, in-charge of a police office or in case such person has been arrested by such police officer; information contained in a letter certified and signed by such police officer indicating the place and date of surrender or arrest and the clothes as worn;
- i) Information contained in the report received from a forensic expert or forensic laboratory prepared upon request for examination or investigation.

90. Requesting information from Governmental authorities:

- 1) A Court Martial may, upon request by the person charged with an offence in accordance with Sections 42 or 55, examine an officer of the Nepal Government or if a Court Martial itself deems it reasonable to examine him to obtain information about it [offence], question such officer as needed, and may postpone the trial of the case until the collection of such information.
- 2) The information recorded in accordance with Subsection (1) shall be recognized as equivalent to a statement recorded before a Court Martial.
- 3) In case a Court Martial is dissolved before receiving information in accordance with Subsection (2) or the Court Martial failed to observe the procedures in accordance with this Section, the officer convening the Court Martial may cancel the trial and issue an order to carry out a retrial.

91. Previous penalty and certificate of character:

- 1) In the course of making a decision regarding a person charged with an offence under Chapter-6, a Court Martial may collect information on whether such person was previously convicted or not, or whether he was subjected to departmental action or not, and may admit the decision in the case as evidence. For this purpose, a Court Martial may take judicial note of his character and his previous activities.
- 2) A copy may be made of the oral statement recorded in accordance with Subsection (1) or the information contained in a regimental book or any governmental book, and it shall not be necessary to give prior notice to the accused that the previous conviction or character of accused person or his previous activities shall be admitted as evidence.

- 3) A Summary Court Martial, if it deems reasonable, may keep records of information, without attestation, of the decision if any decision has been made in regards to a person, his character or previous activities.

92. Provisions of Evidence Act, 1974 to be applicable: A Court Martial, while examining evidence in the course of the trial for an offence under this Act, shall apply the procedures provided by this Act, and the procedures provided by the Evidence Act, 1974 to deal with other matters.

93. Defence of mentally abnormal accused person:

- 1) If it is found that a person is unable to defend himself due to mental insanity during trial by a Court Martial or he committed the alleged acts under circumstances during which he was unable to know the nature of the acts and that such acts were unreasonable and illegal, the Court Martial shall issue a notification in this regard.
- 2) The Chairperson of a Court Martial or investigating officer of a Summary Court Martial shall submit immediately the notification issued in accordance with Subsection (1) before the approving authority or an official mentioned under Subsection (3) of Section 115.
- 3) In case the approving authority does not approve the verdict of the report [notification] received under Subsection (2), necessary action may be taken to try the case in the same or another Court Martial.
- 4) If the approving authority approves the details of the notification submitted by a Summary Court Martial in accordance with Subsection (2), the approving authority shall issue an order to hold the accused person in custody and shall submit the notification to the Nepal Government Ministry of Defence for approval.
- 5) After receiving the report [notification] under Subsection (4), the Nepal Government Ministry of Defence shall give an order to hold such person in a mental hospital or in custody in any appropriate safe place.

94. Trial of a mentally abnormal accused person:

- 1) The Army, Army Corps, Divisional Headquarters, or the Brigade chief or any prescribed officer on his behalf may issue an order to proceed with a case in the same or other Court Martial on the grounds of the report of a doctor stating that the person detained under Section 92 is able to defend himself; or on the grounds of a certificate issued by the chief of a mental hospital or prison stating that the insane person is able to defend himself in case the person has been detained in mental hospital or prison. If the charge has been made for an offence under other existing laws except the offence under this Act, an order may be given to try the case in other courts.
- 2) The order issued in accordance with Subsection (1) shall be sent to the Ministry of Defence for notification.

95. A mentally abnormal accused person may be released: The Ministry of Defence may release a person who was held in detention in accordance with Section 93 or hold him in custody or send him to a mental hospital in case he was not already held in a mental hospital based on a Doctor's report in respect to a person who was held in detention, or if the chief of the mental hospital or prison ordered his release or a certificate stating that the person might not be harmful to himself or anyone after release in respect to the person who was held in detention.

96. A mentally abnormal accused person may be handed over to guardian: If a relative or guardian of a person held in custody under Section 93 lodges an application requesting that he be given them his caretaking or responsibility, and if the Ministry of Defence is satisfied that the same person shall be taken care of, and that he will not harm himself or others and shall be produced to the prescribed officer on the prescribed date and at the prescribed time, the Ministry of Defence shall hand him over to his relative or friend.

97. Seizure, sale and management of things relevant to an offence:

- 1) A Court Martial shall protect objects relevant to an offence and which is submitted to it in the course of a trial in a case.
- 2) In case the objects kept for protection in accordance with Subsection (1) are in a state of decay or has melted or been damaged, a Court Martial may give an order to auction such objects and provide any funds generated to the governmental account as income.
- 3) After completion of the trial by a Court Martial, the authority having power to approve a verdict and penalty of such Court Martial or an officer senior to such officer or if a decision of a Court Martial does not need approval for imposing penalty, the chief of Army, chief of Army Corps, chief of Divisional Headquarters or Brigade commander may issue an appropriate order to seize, destroy or to return such objects to the person who claims its ownership or to sell any goods, or documents related to an offence that are received in the court in the course of the trial in a case.
- 4) The official issuing the order under Subsection (1)³ shall send a copy of such order to the Chief District Officer of the territory where the objects were found if the case was not tried in the territory of Nepal, and the Chief District Officer shall also perform the acts in accordance with the order.

Explanation: the term "objects" used in this Section shall include not only the objects held in primary possession or ownership but also objects which have changed form immediately or after some time and goods obtained through exchange.

98. Recognitions of the actions of Court Martial: The proceedings conducted by a Court Martial in accordance with this Act shall be recognized as the proceedings of a court.

99. Postponement and dissolution of Court Martial:

- 1) A Court Martial shall be postponed in the following situations:
 - a) If, after the beginning of trial, the number of Chairperson and members determined in accordance with Section 67 decreases,
 - b) If, during the trial, it is impossible to continue the trial because the representative of the Prad Viwak or the accused person fall sick,
- 2) The authority convening the Court Martial may dissolve a Court Martial if it is deemed impossible or unreasonable to continue the Court Martial in view of military necessity or discipline.
- 3) If a Court Martial which is postponed in accordance with Subsection (1) returns to the original composition it may be re-continued.
- 4) The Court Martial dissolved of the reasons in accordance with Subsection (2) may be reconvened and the trial shall be continued.
- 5) After completion of all acts related to decision making a Court Martial shall ipso facto be dissolved.

100. Forwarding files:

- 1) After completion of the trial, proceeding and hearing of the case by a Court Martial except the Summary Court Martial, the file with the decision shall be forwarded to the Prad Viwak, and the Prad Viwak shall examine the file as necessary and shall forward it to the authority as prescribed in Sections 108, 109, and 110 for the approval of the decision or file.
- 2) After completion of the trial, proceeding and hearing, the file along with the decision shall be forwarded to the Prad Viwak, and the Prad Viwak shall examine it as necessary.
- 3) In case departmental action in accordance with Section 105 is ordered, the penalty ordering authority shall send a attested copy of the file to the authority prescribed in Section 118.

Chapter-11
Penalty

³ Translator's note: Subsection (1) should be Subsection (2).

101. Penalties by Court Martial

- 1) The Court Martial may impose the following penalties:
 - a) Life imprisonment along with confiscation of entire property;
 - b) Confiscation of his entire share of ancestral property;
 - c) Imprisonment of up to fourteen years;
 - d) Removal from service without prejudicing eligibility for any governmental service in the future, or dismissal with ineligibility for any governmental service in the future;
 - e) Demotion to a lower rank;
 - f) Freezing of promotion for five years;
 - g) Deduction of salary and allowances for three months in case the offence has been committed in the course of military operation;
 - h) Freezing of salary and allowances until the recovery of compensation;
 - i) Freezing of salary increments for a period not exceeding two years;
 - j) Warning.
- 2) The following penalties shall be imposed for the following offences:
 - a) Life imprisonment along with confiscation of entire property for the commission of offences prescribed under Sections 38, 39 or 42 (1)(a).
 - b) A maximum of fourteen years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 40,
 - (ii) Offences provided in Sections 41 and 45 (a) during a military operation,
 - (iii) Offences provided in Sections 43 or 46 if committed knowingly,
 - (iv) Offences provided in Section 44 (a) or (b) committed against a person while discharging his duties during a military operation.
 - (v) Offences provided in Section 47.
 - c) A maximum of ten years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences of Section 44 (a) or (b) committed against a person not during the military operation,
 - (ii) Offences provided in Section 48, 49 or 50,
 - (iii) Offences provided in Section 51 (a) or 52 (a).
 - d) The penalty of confiscation of entire property shall be imposed for the commission of offences provided in Section 42 (1) (b).
 - e) A maximum of seven years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 41 not committed during a military operation,
 - (ii) Offences provided in Section 46 that are committed unintentionally,
 - (iii) Offences provided in parts (b),(c), (d), (e), (f), or (g) of Section 52.
 - (iv) Offences provided in Sections 43, 54 or 63.
 - f) A maximum of five years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 44(c),
 - (ii) Offences provided in Section 45 (a) not committed during a military operation,
 - (iii) Offences provided in Section 51(b) or (c) or Sections 45, 56 or 57.
 - g) A maximum of three years of imprisonment shall be imposed for the commission of offences provided in Sections 42(1)(c) or (d), or Sections 58, 59, or 60.
 - h) A maximum of two years of imprisonment shall be imposed for the commission of the following offences:
 - (i) Offences provided in Section 42 (1) (e), (f), (g) or (h),
 - (ii) Offences provided in Section 45 (b),
 - (iii) Offences provided in Section 52(h) committed by personnel below the rank of officer while discharging duties during a military operation,
 - (iv) Offences provided in Section 43 that are committed unintentionally,

- (v) Offences provided in Section 61.
- i) A maximum of six months of imprisonment shall be imposed if personnel below the rank of officer commits offences provided in Section 52(h).
- j) A person who commits offences provided in Section 52(i) and (j) shall be removed from service.
- k) A person who commits offences provided in Section 62 (k) shall be barred from two salary increments or promotion for two years.
- l) A person who attempts to commit offences mentioned in Chapter-7 or induces another person to commit such offences shall, unless there is specific provision in this Act, be imposed the following penalties:
 - (i) A maximum of fourteen years of imprisonment for attempting to commit an offence for which a penalty of life imprisonment along with confiscation of property may be imposed, and half of the maximum imprisonment for other offences which have been attempted,
 - (ii) Equal penalty for inducement to commit an offence as is imposed for committing an offence,
 - (iii) A maximum of fourteen years of imprisonment for inducement to commit an offence which has not been committed, and half of the maximum punishment for inducement to commit a specific offence which had not actually been committed.
- 3) If a person who committed an offence provided in Section 42(1) (b) has absconded and is not found within thirty five days or does not present himself, his partition share to ancestral property shall be frozen from being transacted. If such person does not present himself or is not found by search within three years, his partition share to ancestral property shall be confiscated and auctioned, and the money thereafter shall be placed to the Government Account.
- 4) After confiscation of partition share to ancestral property, if the offender is found, he may be imposed life imprisonment along with confiscation of the entire property.
- 5) A person who is dismissed from service and disqualified for any governmental job in the future in accordance with Clause (j) of Subsection (2), shall not be paid his remaining salary or allowance and pension to which he is entitled and other facilities except the money accumulated in his provident fund.

102. Addition or reduction of penalty:

- 1) If a Court Martial convicts an accused of an offence mentioned in Chapter-7, the Court Martial, depending on the degree of penalty or offence mentioned in Subsection (2) of Section 101, may sentence a lesser penalty amongst the penalties mentioned in Subsection (1).
- 2) If a Court Martial imposes a penalty of removing from service without prejudicing eligibility for any governmental service in the future, or dismisses with ineligibility for any governmental service in the future in accordance with Clause (d) of Subsection (1) of Section 101, it may impose one or more of additional penalties mentioned in Clause (e), (f), (g), (h), (i) or(k) of the same Subsection.
- 3) The imposition of a penalty under Clause (d) of Subsection (1) of Section 101 shall be a prerequisite to imposing penalties in accordance with Clause (a), (b) or (c) of the same Section to a person of officer- rank.

103. A person accused of an offence may be convicted of other offences:

- 1) A person who has been accused of the following offences may be convicted and punished for the following offences by a Court Martial:
 - a) A person accused of deserting may be convicted for attempted desertion or absence;
 - b) A person accused of attempted desertion may be convicted for absence;
 - c) A person accused of using criminal force may be convicted for the offence of attacking;
 - d) A person accused of using threats may be convicted for the offence of using disrespectful language;

- e) A person who is accused of offences provided in Clause (a) and (b) of Section 49 may be convicted for the offence provided in Clause (c) of the same Section.
- 2) If a person is accused of serious offences which cannot be proved, a Court Martial may convict him for a lesser offence and punish him accordingly.
- 3) If a person is accused of an offence provided by this Act, he may be convicted and punished for attempting or inducing to commit the same offence even if he has not been accused of attempting or inducing to commit such offence.

104. Battlefield penalty:

- 1) If a personnel commits an offence provided in Subsection (2) of Section 63, he may be imposed a penalty for detention or fatigue, however he may not be physically injured.
- 2) If a Sergeant (*hudda*), Corporal (*Amaldar*) or Lance Sergeant (*pyuth*) is ordered a battlefield penalty, he shall be handed over to Military Police.

105. Departmental action:

- 1) Notwithstanding anything provided in Chapter-8 and this Chapter, if the persons of the following ranks who fall under the jurisdiction of this Act commit an offence under this Act, they may, without convening a Court Martial, be subjected, taking into consideration the gravity of the case, to the following departmental actions by the following officers:
 - a) The commanding officer or the commander of a similar rank or other officer assigned by the Chief of Army Staff upon approval from the Nepal Government may order one or more departmental actions mentioned below against persons who are other than the rank of Officer or Junior Commissioned Officer:
 - (i) to detain in military custody for up to thirty days,
 - (ii) to detain for up to thirty days,
 - (iii) to wait to be detained for up to thirty days,
 - (iv) to place on additional guard duty or duties,
 - (v) to remove the duties being performed by him or remove him from any acting posts in which he is serving,
 - (vi) freezing or removing the salary or allowances which were already awarded for good service, conduct or qualifications,
 - (vii) subjecting to warning,
 - (viii) subjecting to a fine up to an equivalent of fourteen days of salary per month,
 - (ix) freezing of salary or allowances up to the recovery of the loss,
 - (x) subjecting to thirty days' battlefield penalty during a military operation,
 - (xi) subjecting to battlefield penalties.
 - b) The Chief of Division or the Brigadier or other officer assigned by the Chief of Army Staff upon approval of the Nepal Government may order one or more departmental actions mentioned below against persons of the rank of Officer or Junior Commissioned Officer:
 - i. subjecting to reprimand,
 - ii. subjecting to warning,
 - iii. freezing of salary up to the recovery of losses,
 - iv. freezing of promotion for up to two years,
 - v. removal of seniority rank for up to one year.
 - c) A Major General or an officer of the similar rank or other officer assigned by the Chief of Army Staff upon approval by the Nepal Government may order one or more departmental actions mentioned below against persons of the rank of Lt. Colonel or below and Non-Commissioned Officers:
 - (i) subjecting to reprimand,
 - (ii) subjecting to warning,
 - (iii) freezing of salary up to the recovery of the losses,
 - (iv) freezing of promotion up to two years,

- (v) removing of seniority rank up to one year.
- d) The officer assigned by the Chief of Army Staff or the commanding officer upon approval by the Nepal Government may try an army personnel of the rank of non-commissioned officer who is accused of an offence under this Act, and he may freeze the salary or allowances until the recovery of loss if he is convicted.
- 2) Prior to the order of departmental action in accordance with Subsection (1), the concerned accused person shall not be denied the right to apply for trial by a Court Martial if he so seeks.

106. Limitation to departmental action:

- 1) When ordering a penalty provided in Clause (a) of Subsection (1) of Section 105, the battlefield penalty provided in Sub-Clauses (1), (2) and (3) shall not be added to it.
- 2) Amongst the penalties provided in Sub-Clauses (1), (2), (3) or (4) of Clause (a) of Subsection (1) of Section 105, if a person is imposed more than one penalty, the penalties provided in Sub-Clauses (3) or (4) shall be added only after the completion of penalties provided in Sub-Clauses (1) or (2).
- 3) If more than one penalty provided in Sub-Clauses (1), (2), (3) or (4) of Clause (a) of Subsection (1) of Section 105 is ordered, the total period of penalties shall not exceed forty five days.
- 4) Personnel who are below the rank of non-commissioned officer (*billadar*) shall not be imposed the penalty provided in Sub-Clause (7) of Clause (a) of Subsection (1) of Section 105.

107. Collective fine:

- 1) If any equipment, arms or ammunition, bullets, parts of arms of any company (*gulm*), squadron, battery or other such unites are lost or stolen, the Chief of Army Staff, Corps, Division or Brigade, after receiving the report of a Court of Inquiry, may impose a collective penalty on all non-commissioned officers (*padik*), Sergeants (*hudda*), Corporals (*amaldar*), Lance Sergeants (*pyuth*) of such unit or the persons whom he decides responsible thereto.
- 2) Such fine shall be reimbursed from the salary of personnel who are fined according to the proportionate amount.

Chapter-12

Approval of case and rehearing

- 108. Approval of the decision or penalty of General Court Martial:** The decision or penalty issued by a General Court Martial shall be approved by the Nepal Government or the officer authorized by the Nepal Government.
- 109. Approval of the decision or penalty of Summary General Court Martial:** The decision or penalty issued by a Summary General Court Martial shall be approved by the person who convened a Court Martial or the senior officer if he [who convened a Summary General Court Martial] ordered the submission of the decision or penalty to a senior level.
- 110. Approval of the decision or penalty of District Court Martial:** The decision or penalty issued by a District Court Martial shall be approved by the officer who is empowered to convene the General Court Martial or an officer authorized by him.
- 111. Procedures applicable on approval of case:** For the purpose of approval of a case in accordance with Sections 108, 109 and 110, the Court Martial which decided the case shall prepare, within seven days from the date of the decision, the full text of decision along with clear grounds and reasons, and shall send the relevant files for approval within thirty days. The agency or authority who has the authority for approval shall finalize his actions on the files so received within thirty days from the date of receipt.
- 112. Conditions may be laid down:** While giving authorization in accordance with Sections 108 and 110, the authorizing officer may lay down conditions.

113. Reduction of penalty: The officer who is authorized to approve the penalty imposed by a Court Martial, may, subject to the conditions laid down in accordance with Section 112, reduce the penalty imposed by the Court Martial or approve a lesser penalty amongst the penalties prescribed in Section 101.

114. Rehearing decision or penalty:

- 1) The endorsing officer may give an order to rehear the penalties imposed by a Court Martial.
- 2) If an order is issued in accordance with Subsection (1), a Court Martial shall examine additional evidence and proceed with and adjudicate the case.
- 3) If it is necessary to rehear a case, it shall be reheard by the same officers who issued the previous decision unless they are unable to be present for inevitable reasons.
- 4) If the officers who issued the original decision cannot be present, the documents indicating reasons thereto shall be attached to the file and the members equal to the number who fail to be present shall be added, and the case shall proceed.

115. Decision or penalty of Summary Court Martial:

- 1) The decision or penalty of a Summary Court Martial shall not be approved and it shall be implemented immediately.
- 2) Notwithstanding anything provided by Subsection (1), if the case is proceeded by an officer who has served less than five years, the penalty shall not be implemented, except during a military operation, unless approval from the Brigadier or officer senior to the Brigadier is obtained.
- 3) The decision or penalty by a Summary Court Martial shall be submitted to the head of Brigade or Division or the officer authorized by the Chief of the Army Staff, and such officer shall examine the case and may nullify or reduce the conviction or penalty.

116. Alteration of decisions or penalties:

- 1) If a penalty of a Court Martial which is approved or a decision or penalty which does not require approval, is not supported by evidence or cannot be recognized for any reason, and the officer who is empowered to reduce the penalty in accordance with Section 113 issues a new decision or penalty, the same penalty shall be implemented.

Provided that no new decision or penalty shall be issued except in the case if a Court Martial questions the jurisdiction in respect to such decision or penalty, or a Court Martial is not satisfied with reasons given in such decision or penalty.

- 2) Except if a new decision or penalty is issued in accordance with Subsection (1), if the penalty issued by a Court Martial which is approved or does not need approval is not recognized for any reason, the officer prescribed in Subsection (1) may, subject to the provisions mentioned in the same Subsection, issue a new penalty as he deems reasonable.
- 3) The penalty which is imposed in accordance with Subsections (1) or (2) shall not exceed the penalty imposed by a Court Martial.
- 4) The alteration or imposition of a penalty in accordance with this Section shall take effect as if imposed by a Court Martial.

117. Non-recognition of decision or approval: The decision or penalty issued by a Court Martial except by the Summary Court Martial shall not be recognized unless it is approved.

118. Reviewing order of departmental action: If the order of departmental action is deemed illegal or unjust or excessive, the following officers may review such order and nullify or alter or reduce such penalties.

- a) Any senior commanding officer in respect to the penalties ordered by the commanding officer,
- b) The Nepal Government, Chief of Army Staff or other officer as assigned by the Chief of Army Staff.

119. Appeal against decisions or orders of Court Martial:

- 1) There shall be an Army Special Court Martial which will hear appeals against a decision or final order rendered by a General Court Martial and Summary General Court Martial under Clause (a) of Section 68.
 - a) Judge of an Appellate Court nominated by the Nepal Government on the recommendation of the Judicial Council ----- Chairperson
 - b) Secretary of Ministry of Defence ----- Member
 - c) Chief of Prad Viwak ----- Member.
- 2) The party aggrieved by the decision or final orders rendered by a General Court Martial and Summary General Court Martial under Clause (a) of Section 68 may lodge an appeal before the Special Court Martial under Subsection (1) within 35 days of the date of such decisions or final orders.
- 3) The Special Court established under Subsection (1) shall have original jurisdiction to proceed with and adjudicate the cases mentioned in Section 62.
- 4) An appeal may be lodged to the Supreme Court against a decision made in accordance with Subsection (3) within 35 days of the decision.
- 5) The procedures applicable to the original proceedings and adjudication and appeal proceedings and adjudication shall be as prescribed.
- 6) The party aggrieved by a decision or final order of a Court Martial regarding offences mentioned under Clauses (b) and (c) of Section 68 may lodge an appeal before the Chief of Army Staff through the Prad Viwak within 35 days of the date of decision or final order.
- 7) There shall be an Appeal Hearing Committee which shall proceed with and adjudicate cases lodged in accordance with Subsection (6):
 - a) Brigadier General (*Sahayak Rathi*) nominated by the Chief of Army Staff- Chairperson
 - b) Colonel (*Mahasenani*) nominated by the Chief of Army Staff ----- Member
 - c) Representative of Prad Viwak who was not involved in the Court Martial of the relevant case ----- Member
- 8) The procedures applicable during the proceedings and adjudication of an appeal to the Committee under Subsection (7) shall be as prescribed.

Chapter-13

Implementation of penalties

120. Calculation of duration of imprisonment:

- 1) The term of imprisonment imposed on any person by a Court Martial in accordance with this Act shall be counted from the date he is taken into custody irrespective of whether such penalty has been reheard or not, and from the date the Chairperson signs the penalty in the first instance and an officer of Court Martial signs the penalty in case of the Summary Court Martial.
- 2) If a person convicted by a Court Martial for an offence during a military operation is imposed a sentence of imprisonment but not dismissal from the service, and such person could not be sent to the prison for any reason, the prescribed officer may give an instruction assigning him to continue carrying out the responsibilities of his post.
- 3) The period of service performed in accordance with Subsection (2) shall be counted in the period of imprisonment.

121. Implementation of the penalty of imprisonment:

- 1) An officer having authority to approve the penalty imposed on a person convicted by a Court Martial shall give an order to send to prison to serve the term of

- imprisonment or an officer of a Court Martial shall give such order in regards to a person who is convicted by a Summary Court Martial.
- 2) Upon the orders received in accordance with Sub-section (1), the commanding officer of the person subjected to a penalty or another prescribed authority shall send him to prison along with a detention letter.
 - 3) When transferring a prisoner from one place to another, arrangements shall be made to prohibit escape, flight or commission of other undesirable acts.
 - 4) If a new order is issued regarding a prisoner replacing a previous order, the ordering officer shall issue a detention letter accordingly to the relevant prison chief.
 - 5) Detention shall not be deemed illegal merely on the ground that there is/are some error/s in the detention letter or any document or it does not match with the prescribed format, in case a person has been held in prison as per the decision imposing imprisonment by a Court Martial or for any other reasons.
 - 6) If an order is issued to hold a convicted person in prison for the term of imprisonment, he may be held in custody at any appropriate place until he is sent to prison.
 - 7) In case the penalty does not exceed the term of three months, the officer prescribed under Subsection (1) may give an order to hold such person in military custody until the completion of term of imprisonment.
 - 8) During a security operation, the term of imprisonment may be completed by holding him in custody as prescribed by the commanding officer.
 - 9) No prisoner held in prison in accordance with this Act shall be subjected to corporal punishment during the period of imprisonment, and no imprisonment shall be imposed on him which is not in accordance with existing law.
 - 10) If the Army, Corps (chamu), Division or Brigade believes that it is not possible to execute any penalty in military prison or military custody, he may issue an order to hold the concerned person in any prison.

122. Period as prisoner of war: For the purpose of Section 131, a person shall be deemed to be a prisoner of war until investigations into his conduct are completed in accordance with Section 129 and until the day of his dismissal from service in case he is dismissed from service on grounds of his conduct after the completion of investigations.

123. Reduction in salaries and allowances:

- 1) For the purpose of implementing an order of penalty, the salary and allowances of an officer shall be deducted as follows:
 - a) The salary and allowances for the day of his absence, except when satisfactory explanations are given to the commanding officer and those explanations are approved by the Nepal Government,
 - b) The salary and allowances for the period held in custody or on suspension from duty as per the order given by any Court Martial or other court or any authority who has power to order departmental action,
 - c) The amount of the salary to be paid to any person whose salary is illegally frozen or who is refused the payment,
 - d) The amount required to reimburse the expenses resulting from an order issued by a Court Martial or an authority who has the power to order departmental action,
 - e) All such salaries and allowances subjected to confiscation or freezing as ordered by a Court-Martial or an authority who has the power to order departmental action of confiscation or freezing.
 - f) The amount required to pay the fine imposed by a Court-Martial or other court in accordance with Section 66.
 - g) The amount required to reimburse the stolen property or the loss to any property of the Nepal Government or the Nepalese Army which as found by the investigations conducted according to the

- rules to have been lost or damaged resulting from the negligence or mistakes of the officer,
- h) All such salaries and allowances forfeited through an order of the Nepal Government after a Court of Inquiry formed by the Chief of Army Staff has held that the concerned officer had cooperated with the enemy, or stayed with and served the enemy or helped the enemy as per the orders of the enemy or otherwise, or that he had been captured by the enemy negligently or intentionally while on duty and held under the custody of the enemy, or that he had failed to return to his side even when he could do so after being captured by the enemy,
 - i) The amount to be paid as per the order of the Nepal Government by the relevant officer for the maintenance of one's wife and children, or the amount being paid by the Government as maintenance for such children.
- 2) Subject to the provisions of Subsection (1), the salary and allowances of persons other than officers shall be deducted as follows:
- a) The salary and allowances payable for each day of absence, desertion, detention as a prisoner of war or while being held in custody by the Court Martial, other courts or an authority who may order departmental action or absence resulting from battlefield penalty ordered by a Court Martial or an authority who may order departmental action and the salary and allowance payable for each day of absence resulting from detention prior to imprisonment after being convicted of a crime by a Court Martial or other court,
 - b) The salary and allowances payable for the period of detention or suspension from duty on the charge of committing a crime for which the person concerned is subsequently convicted by any criminal court or other court or an authority who has power to order departmental action,
 - c) The salary and allowances payable for each day of hospitalization after falling ill for which the supervising doctor issues a certificate to the effect that the person concerned has fallen ill because of action taken by him which is deemed to be a crime under this Act,
 - d) The amount of salary and allowances payable for each day of hospitalization as determined by the officer prescribed or authorized by the Nepal Government after falling ill for which the supervising doctor issues a certificate to the effect that the person concerned has fallen ill because of his misconduct or negligence,
 - e) All such salaries and allowances as ordered for forfeiture or freezing by a Court Martial or an authority who has the power to order departmental action,
 - f) In case he is held as a prisoner of war or in custody by the enemy, the salary and allowances payable for the date of dismissal from service in consideration of the conduct of person concerned to the date of his release from the custody of enemy,
 - g) The amount needed to compensate as determined by his commanding officer for the loss or damage or destruction or unnecessary expenses caused by him to any building or asset of the Nepal Government,
 - h) The amount required to pay the fine imposed by a Court Martial or other court or any authority who exercises power under Sections 66, 105 or 107,
 - i) The amount to be paid as per the order of the Nepal Government by the relevant person for the maintenance of his wife and the children, or the amount being paid by the Government as maintenance for such children.

124. Calculation of period of absence or custody: For the purpose of Clause (a) of Subsection (2) of Section 123:

- a) No person shall be deemed to have been detained or remained absent for a full day except when he has been detained or has remained absent for six or more hours consecutively on a single day or during several days.
- b) If any person remains absent or is detained for less than a day and thereby fails to discharge his military duty, and in case any other person is assigned to discharge such duty, such absence or detention for less than a day shall be treated as absence or detention for a day.
- c) If any person remains absent or is detained for 12 or more hours consecutively on any day, the period of such absence or detention, irrespective of its duration, shall be taken as one day's absence or detention.
- d) If any person remains absent or is detained from before midnight and such absence or detention ends after midnight, the period of such absence or detention shall be taken as one day's absence or detention.

125. Salary and allowances during trial: If any person who falls under jurisdiction of this Act is detained or suspended on any charge, the prescribed authority may, for the purpose of implementing Clause (b) of Subsection (1) and Clause (b) of Subsection (2) of Section 123, issue a directive to freeze his salary and allowances as prescribed until the adjudication of the case.

126. Limitation of reduction: Except when the concerned person has been punished with dismissal, all deductions to be made from his salary and allowances according to the provisions contained in Clause (d), (f), (g), and (h) of Subsection (2) of Section 123 shall not exceed half of his salary and allowances for any month.

127. Reduction from funds other than provident fund, pension: Any amount to be deducted from the salary and allowances of any person in accordance with this Act may be deducted from any other amount payable to the person, excluding the army provident fund and pension, without prejudice to any other procedure for collecting such deductions.

128. Reimbursement of governmental dues: The relevant Chief District Officer may be requested to reimburse the fine imposed by action of Court Martial under this Act. The Chief District Officer, if so requested, shall reimburse the fine in accordance with existing laws applicable to governmental dues and shall refer to the relevant department.

129. Salary and allowances of Prisoner of War detainees during inquiry regarding conduct: If any person who falls under the jurisdiction of this Act becomes a prisoner of war or is captured by the enemy, and in case it becomes necessary under this Act or any other law to investigate his conduct during the investigation, the Chief of Army Staff or any officer authorized by the Chief of Army Staff, may issue an order to freeze his full or partial salary and allowances until the result of the investigations are known.

130. Reductions may be exempted: Any deduction to be made from salaries and allowances under this Act may be exempted up to the prescribed limit in the manner as prescribed.

131. Arrangement for the dependants of war detainees from the money exempted form reduction:

- a) The salary and allowances of a person, to whom this Act is applicable and who has been held a prisoner of war, subjected to forfeiture under Clause (h) of Subsection (1) and Clause (a) of Subsection (2) of Section 122, if exempted under Section 130, shall be used for the arrangement of rations and other essential materials for the dependents of such person. If such an arrangement is made, the

remaining balance out of the salary and allowances shall be deemed to have been exempted.

- b) If a person who falls under the jurisdiction of this Act has been held as a prisoner of war or is lost during a military operation, the arrangements for rations and other materials for the dependents of such person shall be made out of his salary and allowances.

132. Implementation of penalties during stay outside Nepal:

- 1) If a person who has been subjected to a penalty in accordance with this Act is staying outside the territory of Nepal, the penalty shall be implemented in the country where he is staying or he shall be brought to Nepal where it shall be implemented.
- 2) If a person working with the Nepalese Army is subjected to removal or has been removed at the time he is staying outside Nepal, he may be brought to Nepal.

Chapter-14
Miscellaneous

133. Control and responsibility on arms, weapons and military equipment:

- 1) The responsibility to control arms, weapons and other military equipment shall, subject to arrangements prescribed by the Nepal Government, remain with the Chief of Army Staff.
- 2) If it is necessary to buy arms, weapons and other military equipment for the Nepalese Army, the Chief of Army Staff shall submit the details including justification thereof to the Ministry of Defence. The details so received shall be submitted to the National Security Council for determining policies in this regard.
- 3) The Chief of Army Staff may give an order to provide such arms, weapons and other military equipment under his responsibility in accordance with existing laws and instructions issued by the Nepal Government to any unit of the Nepalese Army while taking control and responsibility for them.
- 4) The Chief of Army Staff may hand over or rent out, upon approval from the Nepal Government, the arms, weapons and other military equipment of the Nepalese Army to the organs other than a unit of the Nepalese Army.
- 5) The Chief of Army Staff shall submit updated details of arms, weapons and other military equipment of the Nepalese Army to the Ministry of Defence every six months, and in addition to this, the Chief of Army Staff shall have duty to submit updated details for them as demanded by the Ministry of Defence.
- 6) The power to grant exemptions for arms and ammunition used in the works and trainings shall remain with the Chief of Army Staff, except that the power to grant exemptions for arms and ammunition used for other purposes shall remain with the Ministry of Defence.

134. Salary and benefits to the Chief of Army Staff:

- 1) The monthly salary of the Chief of Army Staff shall be as prescribed by the Nepal Government.
- 2) The Nepal Government shall deduct ten percent from the monthly salary of the Chief of Army Staff for the provident fund, and shall add hundred percent of the deducted sum and deposit to the provident fund.
- 3) The Nepal Government shall arrange appropriate residence to the Chief of Army Staff who has no appropriate residence in Kathmandu.
- 4) The Nepal Government shall arrange a vehicle for the Chief of Army Staff.
- 5) After retiring from service, the Chief of Army Staff shall be entitled to pensions in accordance with existing rules on pensions of the Nepal Army.
- 6) The family of the Chief of Army Staff shall be entitled to a family pension as follows:
 - a) In case the Chief of Army Staff dies during his term, the total sum of money as determined by the Nepal Government,

- b) If he dies before completion of nine years of his pension period getting in accordance with Subsection (5), pension for the period remaining to nine years.
- 7) Notwithstanding anything provided by Subsections (5) and (6), a pension or family pension shall not be granted for the period while assuming the duties of Acting Chief of Army Staff.
- 8) The Chief of Army Staff shall be granted, along with full salary, the following leaves every year:
 - a) Casual leave 20 days,
 - b) Home leave 45 days,
 - c) Sick leave 15 days.
- 9) Casual leave which is not used within the same year shall not be accumulated for the next year. Home leave shall be accumulated for a maximum of 45 days and sick leave shall be accumulated for the whole period of his service. The Chief of Army Staff, when retiring, shall receive cash for the period of accumulated home leave and sick leave.
- 10) The Chief of Army Staff may grant casual leave himself, and home leave and sick leave shall be approved by the Defence Minister.
- 11) The Nepal Government may call the Chief of Army Staff to work before the expiry of the leave period.

135. Declaration of military operation: The Nepal Government may declare any person or force under the jurisdiction of this Act as engaged in military operations regardless of where they may be working, or whether other Acts are in effect.

136. Military prison: The Nepal Government may prescribe any building, or any portion of a building which has humanely physical facilities as the military prison for the purpose of imprisoning the person to whom the penalty of imprisonment is rendered by a Court Martial.

137. Applicability of this Act to another force:

- 1) The Nepal Government may establish a separate force for a specific purpose upon publishing a notification in the Nepal Gazette.
- 2) The Nepal Government, in the notification published in accordance with Subsection (1), may issue an order applying any or all Sections of this Act, either altering or not altering, or postponing any Sections for some period, and may prescribe necessary conditions in the same order.
- 3) The provisions of Subsection (2) shall be applicable in respect to the persons mentioned under Clause (b) of Subsection (1) of Section 3.
- 4) The Nepal Government may deploy military personnel of different ranks working with the Nepalese Army to the force established under Subsection (1).

138. Officer who exercises powers in special circumstances:

- 1) The Nepal Government may appoint an officer of any Army, Corps, Division and Brigade exercising the power of commanding officer to exercise power over persons to whom this Act is applicable and whose number is bigger than a number of army normally contained in any unit.
- 2) When appointing a person in accordance with Subsection (1) all or any powers, limitations, exceptions and conditions may be assigned under this Act.

139. Classification and inclusion:

- 1) The Nepal Government may classify any person or force of persons mentioned in Section 3 and to whom this Act is applicable into classes of officers and non-commissioned officers, and include any person into such classes and cancel the classification.

- 2) Any person who is not classified into the class of officer or non-commissioned officer in accordance with Subsection (2)⁴ shall be deemed below the rank of non-commissioned officer.

140. Formation of Commission of Inquiry:

- 1) The Nepal Government may form a Commission of Inquiry in accordance with the Commission of Inquiry Act, 1969 to inquire into a matter of public importance in which a person to whom this Act is applicable is engaged, and submit the report thereof.
- 2) The functions, duties, powers and other arrangements of a Commission of Inquiry formed in accordance with Subsection (1) shall be as provided by the same Act.

141. Powers may be delegated:

- 1) The Nepal Government may delegate the power conferred on it in accordance with this Act and Rules framed under this Act to the Chief of Army Staff and subordinate agencies or officials or any governmental agencies or officials .
- 2) The Nepal Government may, in extra-ordinary situations, delegate, as necessary, powers conferred on it or any agency or officials in accordance with existing laws to the Chief of Army Staff and units subordinate to him.
- 3) The power delegated in accordance with Subsection (1) and (2) shall not be barred from being resumed, during the period of delegation, by the Nepal Government, relevant agencies or officials.
- 4) The Chief of Army Staff may delegate the power conferred on him in accordance with this Act and existing laws to subordinate agencies or officials under his own responsibility.

142. Instruction may be issued:

- 1) The Nepal Government may issue necessary instructions to the Chief of Army Staff for pursuing the objectives of this Act.
- 2) It shall be the duty of the Chief of Army Staff to implement the instructions issued by the Nepal Government.

143. Powers to frame Rules:

- 1) The Nepal Government may frame necessary Rules pursuant to the objectives of this Act.
- 2) Without prejudicing the general application of the power conferred in accordance with Subsection (1), the Nepal Government may frame Rules in the following subjects:
 - a) Regarding the appointment, leave, promotion, demotion, retirement, dismissal and other terms of service,
 - b) Regarding immunities and privileges,
 - c) Regarding the conduct of the Welfare Fund,
 - d) Regarding the investigation, inquiry, detention of an accused and registration of a case,
 - e) Regarding the formation, dissolution, postponement, continuance, jurisdiction, procedures, approval and rehearing of cases, implementation of decisions or penalties,
 - f) Regarding the determination on the type of battlefield penalty,
 - g) Regarding the formation and procedure of the Court of Inquiry, the manner of taking the oath, and recording evidence,
 - h) Regarding the arrangement of assistance to dependants and its implementation,
 - i) Regarding the grant of concessions on military goods,
 - j) Regarding the salary, allowances and other privileges of an escapee.
 - k) Regarding the administration, supervision, and management of the Army prison and terms of service of prison officers,

⁴ Translator's note: Subsection (2) of the original text means Subsection (1).

- l) Regarding security, discipline, special service, work, penalty for offences and exemptions of penalties for prisoners,
- m) Regarding maintenance, handling of arms and ammunition and other military equipment,
- n) Regarding granting of concessions regarding the money invested in intelligence, money used from the rebuilding fund, and money used from emergency fund,
- o) Regarding entertainment subsidies,
- p) Regarding actions against escapees,
- q) Regarding arrangement of military hospitals,
- r) Regarding military donations and prizes,
- s) Regarding appointment of the Prad Viwak,
- t) Regarding air transportation and preservation of airplanes,
- u) Regarding women parachute folder,
- v) Regarding daily and travel allowances,
- w) Regarding pensions,
- x) Regarding short term services,
- y) Regarding military nurses,
- z) Regarding accounts,
- aa) Regarding Military Police,
- bb) Regarding army technicians,
- cc) Regarding appointment of former Army personnel.

144. Repeal and Saving:

- 1) The following Acts are repealed:
 - a) Act regarding handing over of Army Authority, 2015
 - b) Army Act, 2016
 - c) Functions, duties, powers and terms of service of the Chief of Army Staff Act, 2016.
- 2) Persons of all ranks working with the Nepalese Army at the time of entry into force of this Act shall remain in their respective posts and ranks of the Nepalese Army, and they shall remain in office until the period prescribed by the prevailing law related to the Army.
- 3) The acts performed in accordance with the Acts prescribed in Subsection (1), shall be deemed to have been performed in accordance with this Act.

145. Alteration: The following terms used in the existing laws shall be replaced as follows:

- a) "Royal Nepalese Army" by "Nepalese Army"
- b) "Armed Army of His Majesty" by "Nepalese Army".

Schedule: 1 (Positions in Army organization)

Schedule: 2 (Format of oath)

Schedule: 3 (Age limit of persons working with the Nepalese Army)

Schedule: 4 (Terms of officers of the Nepalese Army)

Schedule: 5 (Terms extendable to the officers of the Nepalese Army)

Date of Authentication: 28 September 2006 (2063/06/12 B.S.)

Schedule-1
(Related to Subsection (4) of Section 7)
Ranks in Nepal Army

- a) Maharathi (General)
- b) Rathi (Lieutenant General)
- c) Upa-Rathi (Major General)
- d) Sahayak-Rathi (Brigadier General)
- e) Mahasenani (Colonel)

- f) Pramukh Senani (Lieutenant Colonel)
- g) Senani (Major)
- h) Sahasenani (Captain)
- i) Upa-Senani (1st Lieutenant)
- j) Sahayak-Senani (2nd Lieutenant)
- k) Pramukh Subedar (Subedar Major)
- l) Subedar (Chief Warrant Officer)
- m) Jamdar (Warrant Officer)
- n) Hudda (Sergeant)
- o) Amaldar (Corporal) (Naik)
- p) Pyuth (Lance Sergeant) (Lance Naik)
- q) Sepahi
- r) Followers