

A bill made to amend and consolidate laws relating to electricity

Preamble: Whereas, it is expedient to amend and consolidate prevailing Nepali laws relating to electricity for the supply of clean, regular, reliable, qualitative, safe, and accessible electricity through the development and promotion of electricity generation, transmission, distribution, and trade;

the Federal Parliament has made this Act.

Chapter-1

Preliminary

1. **Short Name and Commencement:** (1) The name of this Act shall be “Electricity Act, 2077”.

(2) This Act shall come into force with immediate effect.

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

- (a) “License” means a license provided for electricity generation, transmission, distribution, trade, or consumer service as well as for the development and operation of dams.
- (b) “License Holding Entity ” means an institution, entity or company which has obtained license pursuant to this Act.
- (c) “Licensing Authority” means a licensing authority who provides license pursuant to Section 10.
- (d) "Commission" shall mean the Electricity Regulatory Commission pursuant to the Electricity Regulatory Commission Act, 2074.
- (e) "Generation" means the work performed for generating electricity and the term shall also denote the construction, operation, and maintenance of the infrastructure necessary for such work.
- (f) "Open access" means a situation whereby an institution licensed to generate or trade electricity, or for consumer service can without discrimination use the national transmission grid, transmission line, distribution system and the structures and facilities related thereto.
- (g) "Rural electrification" means providing electricity services in rural and remote areas through national transmission grid or separate system by constructing distribution lines and substations of 33kV or below capacity along with the required infrastructures. .
- (h) "Consumer" means a person or institution receiving electricity service from the entity holding distribution or consumer service license by installation of electricity lines and meters.
- (i) "Consumer service" means the act of supplying electricity service to one's home or premises as per the demand of the consumer.
- (j) "Grid" means a high voltage power network interconnected between transmission lines,

substations, and power plants.

- (k) "Hydropower" means the electricity generated from water resources.
- (l) "Prescribed" or "as prescribed" means prescribed or as prescribed in the regulations made under this Act.
- (m) "Transmission" means the process of transmitting power from one power plant to another power plant or substation or from one substation to another substation through the means of high capacity wires except distribution system.
- (n) "Wheeling charge" means the fee to be paid for using the national transmission grid or power transmission or distribution line.
- (o) "Ministry" means the Ministry of Energy, Water Resources, and Irrigation.
- (p) "Tariff" means the electricity tariff, fee and any other fee prescribed by the Commission which the consumer has to pay to distribution license holding institution for consumption of electricity service.
- (q) "National Transmission Grid" means the National Transmission Grid pursuant to Section 21.
- (r) "Distribution" means the act of providing electricity service to the consumer from the transmission line or substation.
- (s) "Distribution System" means the electricity distribution network or structure constructed for the purpose of providing electricity service to the consumer and the term shall also denote the machinery and equipment installed in such network or structure.
- (t) "Electricity" means electrical power generated from water resources, mineral oil, coal, gas, solar, wind, nuclear, biological substances, or any other source.
- (u) "Electricity Project" means construction, operation, reconstruction, and expansion of structures relating to electricity generation, transmission, distribution, trade, or consumer service.
- (v) "Right of Way" means the area required for underground or overhead installation of electrical wires including the minimum clearance that depends on the voltage required for the transmission and distribution of the electricity. The term also denote the right to enter into such land area to inspect, repair, maintain, alter or modify and to ensure safety of such electrical wires.
- (w) "Electricity trade" means the act of buying and selling electricity and the term shall also denote the act of cross-border import or export of electricity.
- (x) "Department" means the Department of Electricity Development.
- (y) "Structure" means the dams, reservoirs, waterways, entrances, power houses or stations, substations, transmission lines and distribution lines constructed for the generation, transmission or distribution of electricity and the term shall also denote the land occupied by the structures, along with the machinery and equipments installed.
- (z) "Local level" means village municipality, municipality, sub-metropolitan and metropolitan.

Chapter-2
General Provisions

3. **Authority to Develop and Operate the Project:** The Government of Nepal, the Provincial Government and the Local Level shall have the authority to develop and operate the following electricity projects subject to the Constitution of Nepal and this Act:
- a) The concerned Local Level for electricity generation projects having installed capacity up to 3 MW,
 - b) The concerned Provincial Government for electricity generation having installed capacity of more than 3 MW up to 20 MW,
 - c) Government of Nepal for electricity generation projects having installed capacity of more than 20 MW.
4. **Access to Electricity:** The Government of Nepal, through the collective efforts with the Provincial Government and the Local Level, shall ensure the access to clean, quality, safe, regular, and reliable electricity to every citizen.
5. **Rural Electrification:** (1) Rural Electrification will be carried out through individual or collective effort among the Government of Nepal; Provincial Government and the Local Level in the areas which do not have access to national transmission grid.
- (2) Pursuant to sub-section (1), for rural electrification purpose electricity can be generated and distributed utilizing the locally available hydro and renewable energy resources OR through developing and operating small scale electricity projects.
- (3) To carry out rural electrification pursuant to sub-section (2), the Provincial Government and the Local Level may enact and implement the provincial and local level laws, respectively.
- (4) Upon request from the Provincial Government and the Local Level to the Government of Nepal for providing them with technical assistance for rural electrification, the Government of Nepal shall provide necessary technical assistance in consultation and coordination with the concerned Provincial Government and Local Level.

In addition to the fund made available by the Government of Nepal for rural electrification, the Provincial Government and the Local Level shall also mobilize the fund received against electricity royalty.

- (5) Other provisions related to rural electrification shall be as prescribed.

Chapter- 3

Provisions related to Competition

6. **Competition to be done:** (1) After the commencement of this Act, the development and operation of electricity generation projects should be done on the basis of competition.
- (2) Notwithstanding anything contained in sub-section (1), there shall be no competition needed in the following cases:
- a) Entity or company which has obtained survey license before the commencement of this Act, and has applied for generation license in accordance with this Act within the license period,
If the generation license cannot be obtained in accordance with this Act within the period of survey license, project shall be developed and operated through competition pursuant to sub-section (1).
 - b) An electricity project identified to be developed and operated by an institution, authority or corporate body owned by Government of Nepal or having ownership of the Government by fifty-one percentage or more.
 - c) Electricity projects to be developed and operated by Government of Nepal, Provincial Government and Local Level in sole or joint investment,
 - d) Electricity projects to be developed and operated pursuant to Section 55.
7. **Call for Proposals to be Made:** (1) The proposal for development and operation of electricity generation project through competition pursuant to section 6 shall be called through public notice mentioning the basis of competition, required capital, technical and professional capacity, experience and qualifications.
- (2) Institution intending to develop and operate electricity generation project in accordance with the public notice pursuant to sub-section (1) may submit its proposal within the period mentioned in such notice
- (3) Other provisions related to inviting proposals by publishing public notice shall be as prescribed.
8. **Selection of Proposal and Agreement:** (1) Qualified candidate shall be selected after evaluation of the proposals received as per Section 7.
- (2) Project agreement shall be entered into with the candidate selected as per Sub-section (1).
- (3) Other provisions related to evaluation of proposal and project agreement shall be as prescribed.

Chapter-4

Provisions related to License

9. **License to be obtained:** (1) The development and operation of electricity project shall not

be carried out without obtaining a license in accordance with this Act.

(2) An institution and institution having an agreement according to Section 8 intending to obtain license for electricity generation, transmission, distribution, trade and consumer service shall submit an application to the licensing authority.

(3) For submission of application as mentioned in Sub-section (2), the necessary capital, technical and professional capacity, experience, application format, license fee, necessary documents, details, and other provisions shall be as prescribed.

10. **License to be provided:** (1) License shall be issued if it appears reasonable to grant a license upon necessary investigation of the application and the required documents and details submitted along with such application as per Section 9.

(2) For the license issued under sub-section (1), the terms and conditions to be followed by the license holding entity may be prescribed.

(3) While examining the application submitted under sub-section (1), if it appears that a license cannot be issued, then the concerned applicant shall be informed of the decision providing grounds and reasons for the same.

(4) The duration, format, and other provisions for issuing the license under this section shall be as prescribed.

11. **Authority to grant license:** (1) The authority to grant license for development and operation of electricity project shall be as follows:

(a) Concerned Local Level for electricity generation project with the installed capacity up to 3 Megawatt,

(b) Concerned Provincial Government for electricity generation project with the installed capacity above 3 Megawatt and up to 20 Megawatt,

(c) For the projects with installed capacity upto 3MW, provincial government will have authority to grant license if the river or stream to be used is located at the boundary of two or more Local Level

(d) Ministry Secretary will have authority to grant license if the river or stream for generating electricity with installed capacity above 3MW and upto 20MW falls in the boundary of two or more province.

(e) Other than the clause mentioned under a,b,c and d . ministry Secretary will have an authority to grant license for electricity generation, transmission, distribution, trade, or consumer service .

(2) While issuing license under Sub-section (1), electricity generation license shall be not be issued with the duplication of the source for electricity generation and the project area.

However, issuance of license shall not be restricted if the duplication of some of the project area will have no technical impact in the electricity generation.

Provided that, this shall not restrict grant of license where overlap of project area does not affect electricity generation from technical point of view.

(3) The Provincial Government and Local Level shall coordinate and consult with the Ministry to ensure that there is no duplication of the project area and source prior to

granting electricity generation license under their authority.

(4) Other provisions regarding granting of the license shall be as per Local Level law in case of right provided under part (a) of Sub-section 1 and Provincial law in case of rights provided under part (b) and (c) of Sub-section 1.

(5) Notwithstanding anything contained in Sub-section (4), the Ministry may exercise the power under this Section until law for Local Level and Province Level is enacted.

12. **Special provision related to multipurpose and reservoir projects:** (1) For construction, management, and operation of dam of multipurpose or reservoir project and electricity generation from such project, the License may as prescribed be granted to separate institutions.

13. (2) Due to the construction of reservoir projects at the upstream of any river basin, if there is additional benefit through increased water availability to the hydro projects located at the downstream, the benefit shall be shared as prescribed between the Government of Nepal and license holding entity.

14. **License shall not be granted for more than one activity:** (1) License shall not be granted for more than one activity to a body or institution for the purpose of development and operation of the electricity project.

(2) Notwithstanding anything contained under Sub-section (1), a body or institution may be granted license for more than one activity on the basis of necessity and appropriateness in the following cases:

(a) Sell or distribution of electricity through electricity generation in the area where National Transmission Grid has not reached,

(b) If electricity generated cannot be supplied through National Transmission Grid due to technical reason,

(c) If electricity cannot be supplied through the National Electricity Transmission Grid even though National Transmission Grid is present,

(d) If transmission and distribution license has to be granted to the license-holding entity for the purpose of transmission and distribution of the electricity generated by itself.

(3) Prior to commencement of this Act, if an institution has been carrying out the activity of electricity generation, transmission and also distribution, then such institution shall incorporate separate institutions for electricity generation, transmission, and distribution within the prescribed duration.

(4) Notwithstanding anything contained in this Section, an institution may carry out the activity of electricity generation, transmission or distribution until separate institutions are incorporated as per Sub-section (3).

15. **Term of License:** (1) The term of license provided under this Act shall be as follows:

(a) Maximum 40 years for generation of electricity from water resources,

(b) Maximum 25 years for generation of electricity from resources other than water,

(c) Maximum 25 years for transmission and distribution of electricity,

(d) Maximum 25 years for trade and consumer service.

(2) Notwithstanding anything provided under part (a) of Sub-section (1), if there are any obstacles created in development and operation of electricity project due to occurrence of force majeure, or if the electricity is to be generated by constructing the a multipurpose or reservoirs structure, the term of the generation license may be extended for a maximum period of 5 years after considering the period of development and operation as well as cost benefit.

(3) Notwithstanding anything provided under Sub-section (2), if any generation license holding institution is to receive transmission or distribution license as per Sub-section (2) of Section 13, then the term of such transmission or distribution license shall be as of the generation license.

16. **Renewal of License:** (1) The license for transmission, distribution, trade or consumer service may be renewed.

Provided that, generation license shall not be renewed.

(2) Prior to commencement of this Act, if any person has received a survey license for less than 5 years, based on the work progress license may be renewed for the remaining period.

(3) Other provisions related to license renewal shall be as prescribed.

17. **Cancellation of License:** (1) If any license holder commits any act contrary to this Act or regulations formulated pursuant to this Act, or cannot complete the electricity project within the prescribed period under the license, then the licensing authority may issue an order to the concerned license holder to make necessary improvement .on such acts by specifying the period to make such improvements.

(2) Notwithstanding anything contained under Sub-section (1), licensing authority may cancel license in any or all of the following cases at any time:

(a) If the license holding institution does not complete the work to be completed with the duration prescribed by this Act, regulations formulated pursuant to this Act or the prevailing law,

(b) Violation of terms and conditions mentioned in the license,

(c) If there is satisfying ground or evidence to show that the license holding institution is unable to fully and effectively complete the activities mentioned under the license due to poor financial status or condition.

(3) If the order issued pursuant to Sub-section (1) is not followed within the prescribed period, licensing authority may cancel such license.

(4) Prior to cancelling license pursuant to Sub-section (2) or (3), the license holding institution shall be given reasonable opportunity to provide clarification.

(5) If there is clear and objective ground to cancel the license upon considering the clarification received pursuant to Sub-section (4), the license issuing authority may cancel such license.

(6) If a license is cancelled according to Sub-section (5) then the written information must be provided to such parties stipulating reason and ground for such cancellation.

18. **Transfer of Ownership:** (1) License holding institution shall transfer the following structures free of cost to Government of Nepal or body recognized by the Government of Nepal after the end of the license period in working condition:

a) Hydropower generation plant or structures related to such plant,

b) Electricity transmission line, distribution system and its related structure.

Provided that, ownership of Hydropower Generation Center, Transmission Line or Distribution System built, operated, or managed by an organization or institution fully owned by Government of Nepal is not required to be transferred.

(2) Transfer plan shall be made at least one (1) year prior to transfer of electricity project and structures pursuant to Sub-section (1), and skills and technology shall be transferred by involving the employees of the concerned body in project and operation of structure.

(3) The operation and management of Hydropower Generation Center, Transmission and Distribution Line, or Distribution System under the ownership of Government of Nepal or bodies specified by the Government of Nepal pursuant to sub section (1) shall be given to an institution selected through the competition.

(4) If an institution cannot be selected pursuant to Sub-section (3), the operation and management can be done by through an agreement with previously License holding Institutions based on the amount of profit, cost and operation cost.

(5) If an agreement cannot be concluded with previously License holding Institution pursuant to Sub-section (4), the operation and management of Hydropower Generation Center shall be done in the prescribed manner.

(6) Other than hydropower generation plant, the duty and responsibility of management of other electricity generation plant and other related structures as prescribed, shall be the responsibility of the concerned Licensee.

Chapter – 5

Arrangements Related to Electricity Generation

19. **Captive and Co-generation:** (1) Notwithstanding anything provided elsewhere in this Act, license is not required for captive generation and co-generation.

Clarification: For the purpose of this Section:

(a) “Captive Generation” shall mean energy generated by any institute, industry, firm, or company for its own consumption or to consume at least fifty one percent of the

generated power.

- (b) “Co-Generation” means the process of generating useful thermal and electrical energy from the same generation line.
- (2) If there is a surplus of the captive generation and co-generated electricity after internal consumption, it can be sold to an institution having distributor or trading license.

20. **Rights, Responsibilities and Obligations of Institution Holding Generation License:**

- (1) The Generation License holding institution is responsible for and obligated to conduct construction, operation and management of Electricity Generation Center and related structures as per this Act, Rules made pursuant to this Act and conditions mentioned in the License.
- (2) Where the Generation License holding institution is to generate electricity from water resources, it must ensure that important structures, including dams, are in a suitable location and that water resources are used optimally.
- (3) Generation License holding institution must fully comply with the permitted standards and principles regarding the design and safety of the dam.
- (4) Generation License holding institution must comply with the following:
 - (a) Provide technical details of the project and associated structures and information about the project to be developed to the licensing authority and commission,
 - (b) Keep the statistics of water and its usage in the licensed area for hydropower generation and provide such information to the relevant authority periodically,
 - (c) Maintain required co-ordination with the authority operating National Transmission Grid and Transmission Line,
 - (d) co-ordinate and consult with National Load Dispatch Center and comply with the directions received,
 - (e) comply with the standards and directions determined by the Commission in relation to the operation, repair and maintenance of Energy Generation Center and related structures,
 - (f) carry out all other prescribed activities.

21. **Approval for Electricity Transmission:** (1) Generation License Holding Institution shall obtain approval for transmission of the generated electricity.

- (2) Other provisions regarding approval for transmission of electricity pursuant to Sub-section (1) shall be as prescribed.

Chapter – 6

Provisions relating National Transmission Grid and Load Dispatch

22. **National Transmission Grid:** (1) Government of Nepal shall designate a transmission line

or grid as National Transmission Line or Grid by publishing a notice in the National Gazette.

(2) The operation and management of National Transmission Grid pursuant to Sub-section (1) shall be done by the body prescribed by Government of Nepal.

(3) The conditions relating to operation and management and use of National Transmission Grid pursuant to Sub-section (1) shall be as prescribed.

23. Functions, Rights and Duties of Institution Operating National Transmission Grid:

(1) The functions, rights, and duties of the Institution Operating the National Transmission Grid subject to this Act and the Regulations formulated pursuant to this Act shall be as follows:

- (a) To construct, operate and conduct repair and maintenance of electricity transmission line or system,
- (b) To implement the electricity transmission masterplan,
- (c) To make effective and cohesive provisions in order to ensure easy flow of the electricity generated from various electricity generation centers throughout the country,
- (d) To make provisions for energy efficient Transmission Line,
- (e) To keep the records of the electricity transmitted or supplied through National Electricity Transmission Grid,
- (f) To effectively implement and monitor the Grid Code and Grid standards,
- (g) To perform works in relation to supervision and control of Electricity Transmission System,
- (h) To provide open access to National Transmission Grid and Transmission Line to the licensee while taking transmission fee (wheeling charge).

(2) Institution operating National Transmission Grid shall follow set technical standards and National Grid Code while carrying out the operation, repair, and maintenance of electricity transmission line.

24. Access to National Transmission Grid: (1) The electricity produced by licensee can be transmitted within or outside Nepal through National Transmission Grid.

(2) To get an access to National Transmission Grid an application in prescribed format shall be submitted at the concerned body prescribed under Section 21 (2).

(3) Approval shall be provided by the body pursuant to Section 21 (2). upon the receipt of application submitted pursuant to Sub-section (2).

Wheeling Charge and other charges shall be imposed on transmission of electricity generated by licensee through National Transmission Grid or National Transmission Line.

(5) By paying the required wheeling charge , a License holding Entity, can transmit electricity through transmission line constructed or operated by any other licensee.

(6) Any other provisions relating to National Transmission Grid and its open access shall be as prescribed.

25. **National Load Dispatch Center:** (1) Government of Nepal can establish National Load Dispatch Center to manage and transmit electricity among Electricity Generation Centers, Transmission Lines and Distribution Centers.

(2) The responsibilities of National Load Dispatch Center pursuant to Sub-section (1) shall be as follows:

(a) To schedule and dispatch electricity load,

(b) To monitor the operation of National Transmission Grid,

(c) To keep the database of flow or supply of electricity through National Transmission grid,

(d) To present the details and statistics relating to electricity generation, demand, consumption, import-export, supply and sale of electricity to the ministry on monthly basis.

(e) To carry out other works as prescribed.

(3) Until the National Load Dispatch Center pursuant to Sub-section (1) has been established, work to be performed by such center will be carried out by the body as prescribed by the Government of Nepal through gazette notification.

26. **Right of Way to be Maintained:** (1) For developing and operating electricity transmission and distribution line, right of way on both right- and left-hand sides from the center point of such lines shall be fixed within the prescribed length.

(2) No house, shed, or structures shall be constructed on the land that falls under the right of way pursuant to Sub-section (1).

(3) Compensation as prescribed shall be paid by the licensee for any land or structure falling under the right of way pursuant to Sub-section (1).

(4) Notwithstanding anything mentioned in Sub-section (3), no compensation shall be paid for any land or structure falling under the right of way for distribution line with a capacity of 11 kilo volts or less.

Chapter – 7

Provisions relating to Electricity Distribution and Consumer Care

27. **Electricity Distribution:** (1) Pursuant to this Act and Rules enacted pursuant to this Act, Distribution License holding Institution shall without prejudice distribute electricity to all consumers within the area specified in the distribution license.
(2) The entity with distribution license pursuant to Sub-section (1) shall have following rights, responsibilities, and duties:
- a) To purchase electricity from entities with license for generation or power trading or captive generator or co-generator and distribute,
 - b) To develop, operate, repair, maintain and manage electricity distribution system,
 - c) To make safe, reliable and quality electricity services available/accessible as per the demand of consumers,
 - d) To adopt necessary and suitable measures for safe electricity supply,
 - e) To collect tariff determined by the Commission for the electricity services provided,
 - f) To carry out demand side management activities,
 - g) To submit details and statistics of the activities related to electricity demand, consumption, supply, details of consumers and energy efficiency annually.
28. **Relating to Consumer Service:** (1) License holding entities having consumer service license can also provide electricity services to its consumer by using distribution network of distribution Licenses by purchasing electricity from generation or trade Licenses.
(2) Provisions regarding use of electricity distribution system and the charge incurred as well as services provided to consumer using such network between the License holding Institution with electricity distribution license and consumer service license pursuant to Sub-section (1) shall be as prescribed.
29. **Electricity Service not to be Stopped:** (1) License holding entity shall not stop the electricity service being distributed or supplied to the consumer.
(2) Notwithstanding anything contained in Sub-section (1), the electricity services may be stopped or interrupted in following circumstances by providing prior notice whenever possible:
- a) If any consumer does not pay or fails to pay the electricity tariff or charges required to be paid as per the law,
 - b) To conduct repair, maintenance or carry out any other technical work of the electricity line,
 - c) In the event of a disaster or other unforeseen exceptional circumstances beyond control,
 - d) If any consumer consumes electricity in unauthorized manner or consumes electricity services against the terms and conditions.

Chapter – 8

Provision Related to Electricity Trade

30. **Electricity Trade:** (1) Entity holding trade license pursuant to this Act and Rules enacted pursuant to this Act may trade, import, and export electricity.
(2) Entity with trade license shall have the following rights, responsibilities, and obligations:
- Purchase electricity generated by entity with generation license either completely or partially,
 - Purchase and sell electricity among entities with trade license,
 - Sell the purchased electricity in part or in bulk,
 - Carry out intercountry electricity Trading,
 - To do other works as prescribed.
31. **Intercountry Electricity Trade:** (1) Approval shall be obtained by institution with trade license from the Ministry in order to trade electricity trans-country and to import and export electricity.
But separate approval shall not be required if the condition of export of electricity is mentioned in the generation license.
- (2) Approval pursuant to Sub-section (1) shall be granted on the basis of necessity and rationality of trans-country electricity trade.
- (3) An entity licensed pursuant to Sub-section (1) may trade electricity even in the international market.
- (4) Other provisions relating to trans-country electricity trade shall be as prescribed.

Chapter – 9

Provision related Royalty and Electricity Tariff

32. **Royalty:** (1) Entity with generation and distribution license shall pay following royalty to the Government of Nepal:
- Amount specified for installed megawatt and electricity sale (Kilowatt hour) after commencement of commercial generation from the power house.
 - Amount prescribed in exchange for receiving electricity transmission charges.
- (2) Entity with the generation license shall pay the royalty pursuant to Sub-section (1) in the same currency in which it sells electricity.
- (3) Royalty pursuant to Sub-section (1) shall be paid within the stipulated time. If the royalty is not paid in stipulated time it shall be recovered as per the prevailing law.
- (4) Other provisions relating to royalty shall be as prescribed.

33. **Electricity Tariff Policy:** (1) The Government of Nepal shall formulate necessary policy on electricity tariff from time to time to make the fixation of tariff contextual and practical.
(2) The Commission must fix the tariff taking into account the policy decided pursuant to Sub-section (1).
34. **To Recover:** License holding Institution may recover the amount in accordance with the prevailing laws from the consumer who has not paid the amount of the tariff, service charge, additional charge and fine for use of the electricity service.

Chapter – 10

Provisions Regarding Quality and Security of Electricity

35. **Quality to be Maintained:** (1) Prescribed quality shall be maintained by the License holding entity while generating, transmitting, or distributing electricity.
(2) License holding Institution shall supply reliable and safe electricity by adopting safety measures as prescribed while generating, transmitting, distributing, or maintaining electricity.
36. **Security of Structures:** (1) License holding Institution shall have the primary responsibility and duty to protect the electricity project and associated structures.

(2) In case of a written request from the License holding Institution for special security of the electricity project and related structures, the Government of Nepal and the Provincial Government shall provide special security.

Clarification: For the purpose of this Sub-section, "special security" means the situation where the structure has to be protected due to riot, insurrection, terrorist activity, attack or other similar reasons.

(3) If special security is provided at the request of the License holding Institution pursuant to Sub-section (2), all the expenses incurred for the same shall be borne by the License holding Institution.

(4) For the security of electricity generation, transmission and distribution activities and the associated structures, a district level security mechanism shall be formed under the coordination of the Chief District Officer of the concerned district as prescribed.

(5) The functions, duties and powers of the security mechanism constituted pursuant to Sub-section (4) shall be as prescribed.

Chapter – 11

Provisions related to House or Land Acquisition and Environment Protection

37. **Acquisition of House or Land:** (1) License holding institution shall make a written request to the Government of Nepal to use or acquire individual's house or land for the purpose of carrying out the work mentioned in the license, mentioning the details of the same if it requires assistance of the Government of Nepal.
- (2) The Government of Nepal may make such house or land available to the License holding Institution upon receipt of the request pursuant to Sub-section (1), after making necessary inquiries in this regard and deeming it reasonable, while the License holding Institution itself shall bear compensation and reparation in accordance with the prevailing law.
- (3) Notwithstanding anything contained in Sub-section (2), the land owned by the Government of Nepal or the land of the national forest area shall be made available on lease to the License holding Institution for the period of the license in accordance with the prevailing law.
- (4) The License holding Entity shall compensate the concerned house or land owner for the actual loss borne by such house or land owner due to Government of Nepal making the house and land available to the License holding Entity pursuant to this Section, in accordance with the prevailing laws.
38. **Regarding Rehabilitation and Resettlement:** (1) License holding Entity shall make arrangements for rehabilitation and resettlement for the people and their families who have been displaced due to the acquisition of their house or land made available by the Government of Nepal under the prevailing laws.
- (2) Rehabilitation and resettlement programs pursuant to Sub-section (1) shall be conducted in an integrated and coordinated manner.
- (3) The Government of Nepal, Provincial Government and the Local Level shall make available the necessary administrative and other assistance for the operation of the integrated rehabilitation and resettlement program pursuant to Sub-section (2).
- (4) License holding institution shall bear the amount required for the work pursuant to Sub-section (3).
39. **Power to Enter into the House or Land of Others:** (1) If an employee assigned by the License holding Institution has to enter into individual's house or land for the work related to the electricity project, such person shall enter such house or land by giving prior notice with the consent of the concerned person.
- However, if there is a valid reason to suspect unauthorized use or theft of electricity in a individual house or land, an employee assigned by a License holding Institution can enter into the house or land of others immediately without prior notice to investigate the matter, or to control other accidents.

(2) In case the concerned person does not give consent to enter the house or land pursuant to Sub-section (1), such house and land shall be entered in the presence of at least two local persons by providing prior notice.

(3) While entering the house or land of any person pursuant to Sub-section (1) or (2), if any loss or damage is caused to the concerned person or his property, the License holding Institution must pay appropriate compensation to such person for the actual damage or loss.

(4) If the License holding Institution does not provide proper compensation pursuant to Sub-section (3), the concerned person may file a complaint in the District Court with a claim for compensation.

40. **Environment to be Protected:** (1) While developing and constructing the electricity project, the License holding institution, its construction partner, and the consultant shall abide by the prevailing laws environmental laws of Nepal in order to protect the environment.

(2) In order to not cause adverse impact on the water environment of the river system, the License holding institution generating electricity from water resource must make necessary

arrangements and take measures to ensure prescribed flow of water from the dam site of the project to the lower part of the river while generating electricity from a water resource.

Chapter-12

Provisions relating Study, Research, and Inspection

41. **Provisions regarding study of Electricity Projects:** (1) Government of Nepal, Provincial Government and the Local Level shall have the responsibility and obligation to carry out or ask to carry out the feasibility study and survey works for electricity projects under their jurisdiction under this Act.

(2) The Provincial Government and the Local Level shall co-ordinate with the Ministry while performing their responsibilities as per Sub-section (1).

42. **Study and Research:** (1) While carrying out the study and research on the power sector, the Water and Energy Commission shall perform the following functions:

- a) Projection of demand of electricity,
- b) Prepare least cost electricity generation plan as per the river basin plan and prepare a list of projects to be developed in phases based on the same and submit it to the Ministry,

- c) Coordinate with National Transmission Grid to prepare electricity transmission masterplan and submit it to the Ministry,
- d) Coordinate with universities and bodies with similar objectives involved in study and research on subjects related to electricity,
- e) Update the solutions and learnings adopted with regard to problems and risks faced during construction, operation, reconstruction, or expansion of the electricity project, and resolution and management of such problems and risks.

(2) Conduct necessary consultations and discussions with the Ministry, Commission, federal government, and other concerned bodies while performing functions pursuant to sub-section (1).

43. **Coordination Committee:** (1) There shall be a one coordination committee as follows to decide on policy matters related to the development and operation of electricity projects and to conduct necessary coordination amongst the concerned bodies:

- (a) Minister or State Minister, Ministry of Energy, Water Resources and Irrigation - Chairperson
- (b) Member (overseeing Energy sector), National Planning Commission – Member

- (c) Secretary, Ministry of Energy, Water Resources, and Irrigation – Member
- (d) Secretary, Ministry of Finance – Member
- (e) Secretary, Ministry of Forest and Environment – Member
- (f) Secretary, Ministry of Home Affairs – Member
- (g) Secretary, Ministry of Land Management, Cooperatives and Poverty Alleviation – Member
- (h) Secretary, Ministry of Industry, Commerce and Supplies – Member
- (i) Three persons nominated by the Ministry, including a woman holding a master's degree and having at least 15 years of experience in the energy sector – Member
- (j) Joint Secretary, Ministry of Energy, Water Resources, and Irrigation –Member Secretary

(2) The term of office of the members pursuant to part (i) of Sub-section shall be 3 years.

(3) Notwithstanding anything contained in sub-section (2), the Ministry may remove such person from the position any time if their work is not satisfactory.

Provided that, before dismissing such person, a reasonable opportunity to provide clarification must be provided.

(4) The functions, duties and powers of the Committee formed pursuant to sub-section (1) shall be as follows:

- a) Approve the list of electricity projects,
- b) Identify and recommend projects to be developed and operated by the public and private sectors on the basis of the list as per clause (a),
- c) Arrange necessary coordination between the Government of Nepal, Provincial Government and the Local Level regarding the development and operation of electricity projects,
- d) Hold necessary meetings and discussions with the Provincial Government and Local Level from time to time in order to resolve problems seen during the implementation of electricity development policy and operation of electricity projects,
- e) Arrange necessary coordination and facilitation amongst the concerned bodies,
- f) To perform any other works as prescribed.

44. **Monitoring and Inspection:**(1) The Ministry or the body designated by the Ministry may conduct necessary monitoring and inspection from time to time with regard to the construction and operation of electricity projects, and to ensure whether such activity is safe from a technical perspective and whether the environment report has been complied with.

(2) In the course of conducting monitoring and inspection pursuant to sub-section (1), the Ministry may give necessary instructions, the enforcement of which shall be the duty of the concerned License holding Institution.

(3) Other provisions regarding the monitoring and inspection of electricity projects shall be as prescribed.

Chapter-13

Provisions relating Offences and Punishment

45. **Offense:** Any person committing following actions shall be deemed as an offense under this Act:

- a) Development, operation, or trade of electricity projects without obtaining license in accordance with this Act,
- b) Non-compliance of orders and directions pursuant to Section 60,
- c) Committing any action causing adverse impact or loss or damage or demolish or destruct or attempting to do such activities or influencing others to perform the same on electricity projects and associated structures
- d) Except as mentioned in part (a), (b) and (c), acts in violation of this Act or the regulations formulated pursuant to this Act, or acts in violation or contrary to the provisions or conditions in the license or project agreement or approved report.

46. **Punishment:** (1) The person committing an offense under part (a) of section 44 shall be fined between Rs. 1,000,000 to Rs. 2,000,000 depending on the severity of the offense.

(2) The person committing an offense under part (b) of section 44 shall be fined between Rs. 500,000 to Rs. 1,000,000 depending on the severity of the offense.

(3) A person who commits an offense under part (c) of section 44 shall be liable to a fine equaling the amount of actual loss or damage done after recovering such amount or imprisonment for a term not exceeding two years or both.

(4) The officer punishing the offender of part (d) of section 44 may impose a fine of up to Rs. 500,000 and provide compensation in case anyone has suffered from any harm or loss due to such action and order to stop and improve any construction work.

(5) The Secretary of the Ministry shall have the authority to give punishments pursuant to Sub-sections (1), (2) and (4). Prior to imposing such punishment, the accused shall be given a reasonable opportunity to present their clarification.

47. **Investigating Officer:** The officer authorized by the Government of Nepal through publishing a notice in the National Gazette shall have the power to investigate and inquire about cases related to the offense under part (c) of Section 44.
48. **Government of Nepal to be the Plaintiff:** The Government of Nepal shall be the plaintiff in cases under clause (c) of section 44.
49. **Right to Initiate and Settle the Case:** (1) The District Court shall have the jurisdiction to initiate and settle the case under part (c) of section 44.
(2) The prosecution and settlement of cases filed under this Act shall be in accordance with the Summary Procedure Act, 2028 (B.S.).
50. **Appeal:** Any party dissatisfied with any punishment or order rendered pursuant to Section 45 may appeal to the concerned High Court within 35 days from the date of receipt of such punishment or order.
51. **No restriction to Prosecute under the prevailing law:** If any act committed under this Act also constitutes an offense under other prevailing laws, nothing contained in this Act shall be deemed to restrict prosecution in accordance with such laws.

Chapter-14

Provisions relating to Facility and Concession

52. **Priority to be given to the Local Residents:** (1) While developing and operating the electricity project, the entity holding the license shall give priority to the locals directly affected by the project in terms of employment, based on their skills and qualifications.

(2) If the local permanent residents who are directly affected by the electricity project want to invest in shares for the development of such a project, they shall be allowed to invest in shares as prescribed.
53. **Use of Electric Towers, Poles and Systems:**(1) The electric towers, poles and underground systems constructed or erected for transmission and distribution of electricity may be used for other suitable works or purposes on the basis of mutual agreement.

(2) Public and government lands shall be utilized for the construction of electricity poles, transformers, and underground systems as far as possible, and the Local Level and local people shall provide necessary assistance to look for such public and government lands.

(3) License holding institution shall not pay any compensation or rent amount for the lands

pursuant to sub-section (2).

(4) License holding institution shall have ownership and rights over the towers, poles, transmission and distribution lines of electricity and related structures during the term of the license.

(5) Using the power towers and poles in ownership of the license-holding institution for placing advertisement materials or any other purpose without permission from such institution would not be allowed.

54. **Use of land:** (1) The land obtained or purchased for the purpose of electricity project shall not be allowed to be sold through any means or its right be transferred or used for any other purpose.

(2) Development of solar projects in agricultural fertile land, national parks, and wildlife reserves shall not be allowed.

(3) Notwithstanding anything contained in the prevailing laws, there shall be no land-ceiling for land required for development and operation of electricity projects.

55. **National Priority Project:** (1) Projects related to electricity generation, transmission, and distribution shall be national priority projects.

(2) In addition to facilities and concessions available through this Act, the projects under Sub-section (1) shall obtain facilities and concessions available to national priority projects in accordance to the prevailing laws.

Chapter – 15

Miscellaneous

56. **Development and Operation of electricity projects through contract:** (1) Notwithstanding anything contained in this Act and other prevailing laws, the Government of Nepal may develop and operate the following hydropower projects by entering into a Unified Development and Financial Agreement with any foreign government or foreign incorporated institution, in accordance to terms of such agreement:

(a) Projects with large capacity requiring large investment,

(b) Projects which are not possible to be developed with technology, skill, and manpower available in Nepal,

(c) Projects which significantly contributes to economic development, employment generation, minimizing trade deficit, and maintaining balance of payment of Nepal.

Clarification: For the purpose of this section, “Integrated Development and Financial

Agreement” shall mean an agreement whereby engineering, procurement, contract and financial activities for development and construction of hydropower project will be undertaken by the same institution or body.

(2) Except where the Government of Nepal and any foreign government enters into Unified Development and Financial Agreement through negotiation, the Integrated Development and Financial Agreement in accordance to subsection (1) should be entered into with a competent institution or body selected through competition.

(3) Other provisions related to contract and Unified Development and Financial Agreement shall be as prescribed.

57. **Nationalization not to be done:** (1) The electricity project and its structures in ownership of the license holding institution shall not be nationalized during the term of license.

(2) Notwithstanding anything contained in Sub-section (1), if any multipurpose or reservoir project is to be developed or operated for greater public benefit and optimum utilization of water resource, the other projects under construction or operation in such area could be managed through prescribed compensation by buying or any other means.

Clarification: For the purpose of this Sub-section, “greater public benefit” shall mean a situation whereby more consumers are benefitted comparatively without substantially having negative impact on the already existing consumers.

58. **Government of Nepal to undertake management control:** (1) If a license holding institution does not follow the orders and directions given multiple times to comply with the provisions of this Act and regulation formulated under this Act and terms of the license, or such institution becomes fully incapable or unable of undertaking activities of electricity generation, transmission or distribution, or does any activity against the interest of general consumers, the Nepal Government can undertake the control of such project for some period.

(2) Other provision in relation to undertaking control of electricity projects in accordance to Sub-section (1) shall be as prescribed.

59. **Use of energy efficient equipment:** The license holding institution shall use energy efficient equipment, technology and process while doing activities related to the electricity project.

60. **Lights in the public location:** The Local Level shall be responsible to pay electricity tariff for lights installed in the roads, parks or any public locations.

61. **Power to give orders and direction:** The Government of Nepal may order the license holding institution to immediately provide electricity service to any location under any special situation if deemed necessary by the government of Nepal..

(2) The license holding institution shall be obliged to make the electricity service available as per the order given pursuant to Sub-section(1).

(3) The Government of Nepal shall make the necessary amount available by conducting financial and technical evaluation for activity conducted to comply with order given pursuant to Sub-section (1).

(4) Government of Nepal or prescribed authority may issue necessary direction to any license holding institution in relation to electricity generation, transmission, distribution, trade, or operation of consumer service, and it shall be the responsibility of all concerned to comply with such direction.

62. **Power to resolve obstacles**: The Government of Nepal may resolve any obstacles during the implementation of this Act by publishing a notice in the Nepal Gazette.

63. **Delegation of authority**: Except the authority regarding punishment, any or all authority provided to the Secretary under this Act or the regulation formulated under this Act may be delegated to Director General of Department of Electricity Development or officer stated in Nepal Gazette by Government of Nepal, if necessary.

64. **Act to prevail**: Notwithstanding anything contained in any prevailing laws, all provisions regarding electricity generation, transmission, distribution, trade or consumer service stated in this Act or regulations formulated under this Act, shall be done in accordance to this Act.

65. **Power to enact rules**: The Government of Nepal may enact necessary regulation for implementation of the objective of this Act.

66. **Power to issue and implement directives, procedures, or standards**: (1) The Ministry may issue and implement necessary directives in the following matters:

- (a) Regarding competition,
- (b) Regarding regulation and management of electricity trade (including cross-border),
- (c) Regarding use and open access of transmission and distribution lines,
- (d) Regarding rehabilitation and resettlement.

(2) The Ministry may issue standards regarding design, maps, and security solutions of electricity projects, tunnels, dams, and powerhouse structures.

(3) Notice shall be published for general public prior to implementation of the directives and standards pursuant to Subsection (1) and (2).

67. **Repeal and saving**: (1) Electricity Act 2049 (1992) and part (f) of Section 12 and part (j) of Section 14 of Electricity Regulatory Commission Act 2074 (2017) is hereby repealed.

(2) Any activity done in accordance to Electricity Act 2049 (1992) shall be considered to have been done in accordance to this Act.