

Bill formulated to amend and integrate the laws related to Public Service Broadcasting

The Bill is under consideration in Parliament

(Translated by Freedom Forum)



FREEDOM FORUM
"A Nepali CSO (civil society organization) dedicated to democracy, human rights and governance"

Bill formulated to amend and integrate the laws related to Public Service Broadcasting

Preamble: Whereas, it is expedient to amend and integrate laws relating to public service broadcasting for the establishment and operation of a public service broadcasting institution accountable towards the public so as to ensure the citizens' constitutional right to freedom of opinion, freedom of expression and the right to information, promote national unity and national interest, strengthen inclusive democracy through production and broadcasting of neutral, impartial, factual and objective information, news and education, health and entertainment-based programmes.

The federal parliament has framed this Act.

Chapter -1

Preliminary:

1. Brief name and commencement: (1) This Act shall be called "Public Service Broadcasting Act, 2077 (2020)".

(2) This Act shall come into force from the thirty-first day of its certification.

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

(a) "Executive committee" means executive committee constituted under Section 8.

(b) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.

(c) "Council" means the Council constituted under Section 6.

(d) "Chief Administrative Officer" means Chief Administrative Officer appointed under section 17.

(e) "Broadcasting" means broadcasting through radio or television under operation after being established with the objective of providing information, message and entertainment with the help of gesture, audio, audio-visual, video, photograph or text.

(f) "Ministry" means the Government of Nepal Ministry of Communications and Information Technology.

(g) "Public service broadcaster" means public service broadcaster established under Section 3.

Chapter-2

Provisions related to establishment of Public Service Broadcaster and functions:

3. Establishment of public service broadcaster: (1) Public Service Broadcaster Nepal shall be established to make public broadcasting qualitative and effective.

(2) The central office of the Public Service Broadcaster Nepal shall be located in Kathmandu and offices may be set upon other parts (of the country) as necessary.

(3) Radio Nepal previously established under Nepal Television and Radio Broadcasting Service Development (Committee) formation order, 2041 formed under Communication Corporation Act, 2028 will be transformed into public service broadcast agency.

4. Public Service Broadcaster to be autonomous: (1) The Public Service Broadcaster shall be an autonomous and organized institution with continuous succession.

(2) The Public Service Broadcaster shall have its own separate seal for its activities.

(3) The Public Service Broadcaster may, like an individual, acquire, use, sell movable and immovable assets or make other arrangements.

(4) The Public Service Broadcaster may, like an individual, sue or be sued in the same name.

(5) The Broadcaster may, like an individual, sign contract, exercise the powers and fulfill responsibilities as per the contract.

5. Functions of Public Service Broadcaster: The functions of the Public Service Broadcaster are as follows:

(a) Produce and broadcast news, information, message and programmes that maintain territorial integrity and national unity, and social and cultural harmony, promote national interest and nationality, and enhance good relations among the federal units,

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(b) Produce and broadcast programmes to maintain goodwill, tolerance and solidarity among people of various race, ethnicities, religion, language, culture and communities,

(c) Produce and broadcast programmes on issues of public concern and citizen's need,

(d) Develop broadcasting access in all parts of the country to ensure the citizens' right to information,

(e) Provide information, messages and entertainment at the national and international level through maximum usage of the advancements in broadcasting and new technology.

(f) Preserve and promote the country's national language, endangered mother tongue, arts, culture and heritage through dissemination of information,

(g) Create public awareness on public health, public interest, environment, climate change, disaster and other emergencies through dissemination of information and early warning,

(h) Produce and broadcast awareness-oriented and entertainment-based programmes.

(i) Produce and broadcast programmes that promote knowledge, science and technology,

(j) Produce and broadcast programs which contribute to the overall development of the country.

(k) Publish and broadcast its programs in online forms.

l) Disseminate programmes that contribute to consolidation of Nepal's economy by publicizing investigative facts on issues such as agriculture, tourism and natural resources and promoting employment-oriented programs,

(m) Undertake other functions as prescribed.

Chapter 3

Formation, functions, duties and powers of the Council

6. Formation of the Council: (1) A Council shall be constituted to make policies for the Public Service Broadcaster and provide policy guidance on the tasks of the Public Broadcaster.

(2) The Council shall have following members:

- (a) Minister of Communications and Information Technology or Minister of state -Chairperson
- (b) Secretary, Ministry of Finance - Member
- (c) Secretary, Ministry of Law, Justice and Parliamentary Affairs - Member
- (d) Secretary, Ministry of Communications and Information Technology -Member
- (e) Secretary, Ministry of Federal Affairs and General Administration - Member
- (f) Seven persons with one person nominated by each of the seven provincial governments from among people representing professional fields and social service - Member
- (g) Seven persons including at least two women nominated by the Ministry representing backward classes, minority groups, peasants, workers, backward region, tourism and education sector- Member
- (h) Representative of Federation of district coordination committees, rural municipalities association and municipalities association - Member
- (i) Three persons including at least a female nominated by the Ministry representing the listener and audience group constituted as per section 21 - Member
- (j) Chairperson of Film Development Board - Member
- (k) President of the Federation of Nepali Journalists - Member
- (l) President of the Federal of Nepalese Chambers of Commerce and Industry -Member
- (m) President of the Nepal Advertising Association, Nepal - Member
- (n) Two persons including a female from among the professors or readers of journalism of accredited universities - Member
- (o) Chairperson of the Executive Committee - Member-secretary

(3) The nomination of the members of the Council will have to be done on the basis of principle of inclusion.

(4) The meeting of the Council shall take place at least once a year.

(5) Subject experts, as required, may be invited to the meeting of the Council.

(6) The term of the members as per clause (f) (g), (i), (l) of sub-section (1) shall be three years.

(7) Other working procedures of the Council's meeting shall be as determined by the Council.

7. Functions, duties and powers of the Council: The functions, duties and powers of the Council shall be as follows:

- (a) Provide guidance, as necessary, to the Executive Committee to achieve the objectives of the Public Service Broadcaster.

(b) Prepare and implement the code of conduct to be followed by the Chairperson, member and the employees of the Public Service Broadcaster.

(c) Review functions carried out as per the annual plan and programme of the Public Service Broadcaster.

(d) Advise the Government of Nepal on policies to be adopted for public service broadcasting.

(e) Undertake other functions as prescribed.

Chapter 4

Formation, functions, duties and powers of the Executive Committee

8. Formation of the Executive Committee: (1) The Public Service Broadcaster shall have an Executive Committee with following composition:

(a) A person appointed by the Government of Nepal -Chairperson

(b) A gazette First Class officer designated by the Ministry -Member

(c) Three person with at least one woman nominated by the Ministry -Member

(2) Chairperson of the Executive Committee shall be the executive head of the Public Broadcaster.

(3) The chief administrative officer shall be the secretary of executive committee

(4) The tenure of the Chairperson and the members as per clause (c) of sub-section (1) shall be five years.

(5) The remuneration, terms of service, conditions and benefits of the Chairperson shall be as prescribed.

9. Qualifications of Chairperson and members of the Executive Committee:

Qualifications of the Chairperson or members of the Executive Committee shall be as follows:

(a) Nepali citizen

(b) Above 35 years of age

(c) High moral standing.

(d) In the case of chairperson, a person who has completed a minimum Bachelor's degree from an accredited university with at least 15 years of experience in journalism, humanities, management, market management, information technology or broadcasting engineering sector.

(e) In case of member, s/he must have a minimum of ten years of experience in Television, Radio and broadcasting technology with at least a Bachelor's degree.

(f) Not a member of any political party at the time of the appointment.

(g) Not office bearer, board member or editor of a media house.

10. Ineligibility of Chairperson and members of the Executive Committee:- The following persons shall be ineligible to be appointed the Executive Committee Chairperson or member:

- (a) Someone who has acquired permanent residency or citizenship of a foreign country.
- (b) Someone who is sentenced by the Court for corruption, rape, gender-based violence, human trafficking and transportation, narcotics marketing or peddling, money laundering, misuse of passport, kidnapping, organized crime or for criminal offense amounting to moral depravity,
- (c) Someone who is not qualified as per Section 9.
- (d) Someone who is ineligible as per prevailing laws.

11. Position of Chairperson and member to fall vacant: Positions of the Chairperson and member shall become vacant, if:

- (a) The Chairperson tenders resignation, in writing, to the Government of Nepal and the member tenders resignation to the Ministry,
- (b) S/he completes tenure of the position,
- (c) S/he gets relieved of her/his position as per section (14),
- (d) S/he is considered ineligible as per Section 10,
- (e) S/he crosses age 60.
- (f) S/he dies.

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

- (a) Approve the public service broadcaster's annual policies, plans, programmes and budget.
- (b) Present the public service broadcaster's annual report to the Council.
- (c) Issue code of conduct and standards, editing quality and the programmes directives of the Public Service Broadcaster.
- (d) Oversee, supervise and control the overall management of the public service broadcaster.
- (e) Undertake necessary functions for maintaining editorial independence and impartiality.
- (f) Formulate and implement action plan of the works to be executed by Public service broadcaster
- (g) Conduct or cause to conduct studies and investigations on subjects related to broadcasting.
- (h) Carry out necessary works to ensure the quality of the news and programmes.
- (h) Evaluate and monitor the performance of the Chief Administrative Officer.
- (i) Approve employee positions for the Public Service Broadcaster.

(j) Undertake other functions as prescribed.

13. Meeting of the Executive Committee and decisions: (1) The meeting of the Executive Committee shall take place at least once a month on the date, time and venue determined by the Chairperson of the Committee.

(2) The meeting of the Executive Committee shall be chaired by the Chairperson.

(3) Attendance of minimum fifty-one per cent members of the executive committee shall be considered a sufficient quorum for the committee's meetings to take place.

(4) The decision of the executive meeting shall be taken by a majority. If a decision cannot be reached through majority in the meeting, the deciding vote shall be given by the chairperson.

(5) The decisions of the meeting shall be certified by the Chairperson.

(6) Other working procedures related to the meeting of the executive committee shall be as determined by the committee.

14. Executive Committee Chairperson and members may be relieved of their positions: (1) Provided that nothing in Section 8 shall be deemed to prevent removal of chairperson and members of Executive Committee from their position by the Government of Nepal and the Ministry respectively on following grounds:-

(a). Lack of functional efficiency,

(b) Misconduct,

(c) Failure to carry out the functions required of her/his position with honesty.

(d) Failure to carry out the work as prescribed by the performance contract,

(e) If s/he acts contrary to the interest of public service broadcaster

(f) If s/he fails to carry out his/her function due to mental illness.

(2) Before relieving the Chairperson or member of her/his position as per sub-section (1) s/he should be given reasonable opportunity to present a defense.

15. Function, duties and power of the Chairperson: In addition to the function, duties and power of the Chairperson stipulated elsewhere in this Act, the function, duties and power of the Chairperson shall be as follows:

(a) Formulate annual policy, plan, programme and budget and present them to the Executive Committee for approval.

(b) Prepare or cause to prepare agenda of the executive committee meeting,

(c) Manage the meeting of Council,

- (d) Implement or cause to implement the decisions of the Council and executive committee meeting.
- (e) Establish relations with national and international governmental and non-governmental institutions for the growth of the Public Service Broadcaster by taking permission from the ministry.
- (e) Undertake functions as per the powers delegated by the executive committee of Public Service Broadcaster.
- (f) Undertake other functions as prescribed.

16. **Meetings and decisions in the absence of Chairperson of the Executive Committee:** (1) A member of the Executive Committee designated by the Ministry shall chair the Committee meeting when the position of the Chairperson is vacant.

(2) The member thus designated under sub-section (1) may call the meeting of the committee and carry out all the functions of the committee in her/his capacity as acting Chairperson.

Chapter-5

Appointment and terms of service and benefits of of Chief Administrative Officer:

17. **Appointment of Chief Administrative Officer:** (1) A Chief Administrative Officer shall be appointed in general guidance and control of executive committee chairperson for carrying out daily administrative functions of the Public Service Broadcaster.

(2) The executive committee shall appoint the Chief Administrative Officer of Public Service Broadcaster from among the senior employees of the Public Service Broadcaster.

(3) Tenure, terms of service and benefits of the Chief Administrative Officer shall be as prescribed.

18. **Function, duties and power of Chief Administrative Officer:** (1) The function, duties and power of the Chief Administrative Officer shall be as follows:

(a) Prepare annual policy, plan, programmes, annual budget of the Public Service Broadcaster and present them to the Chairperson.

(b) Prepare work plan for the implementation of annual programmes and present them to the Chairperson.

(c) Supervise, coordinate, control, monitor and evaluate the works of the employees of Public Service Broadcaster.

(d) Call meetings of the Executive Committee, as instructed by the Chairperson.

(f) Undertake other functions as prescribed.

Chapter-6

Financial provisions

19. Public Service Broadcaster Fund: (1) The Public Service Broadcaster shall have a fund to conduct its activities efficiently.

(2) The fund maintained as per sub-section (1) shall consist of following amount:

(a) Grants received from the Government of Nepal.

(b) Grants received from federation, province and local level.

(c) Amount received from foreign government and foreign organizations

(d) Earnings of the public service broadcaster.

(3) Before receiving the amount as per sub-section 2 (c) permission should be taken from the Government of Nepal, Ministry of finance.

20. Audit: (1) Audit of income and expenditures of the Fund shall be carried out as per the Government of Nepal-approved format.

(2) Internal audit of the Public Service Broadcaster Fund should be carried out as per federal laws.

(3) Final audit of the income and expenditure of the Public Service Broadcaster fund shall be carried out by the Auditor General.

Chapter 7

Miscellaneous:

21. Listener and audience groups may be formed: (1) The Public Service Broadcaster may, as necessary, form listener and audience groups to receive necessary feedback and suggestions about programmes and news content broadcast by the Public Service Broadcaster.

(2) Function, duties, power and operation of the group formed under sub-section (1) shall be as prescribed.

22. Provisions related to employees: (1) The Public Service Broadcaster may appoint officials required for carrying out its functions.

(2) After the commencement of the Act any experts or news reader may be appointed to the Public Service Broadcaster on a contract basis or daily wage service.

(3) Appointment, terms of service and benefits of personnel recruited under this Act shall be as prescribed.

23. Guarantee of broadcasting frequency: (1) Notwithstanding anything mentioned in the prevailing laws, the Public Service Broadcaster shall get first priority in broadcasting frequency rights.

(2) Frequencies provided to the Public Service Broadcaster by the Government of Nepal shall bear no cost.

24. Transitional provisions: Nepal Television and Radio Nepal will be transformed into public service broadcaster according to sub-section (3) of Section 3 as follows-;

a. The approved positions effective in Radio Nepal and Nepal Television at the commencement of this Act shall be reviewed and re-structured according to the needs and relevance of the Public Service Broadcaster

b. The permanent employee employed in Nepal Television and Radio Nepal at the commencement of this act shall be adjusted in similar position (status, level and class) as established under clause (a).

Provided that in case of employees employed under contract or agreement basis, the management shall be done only as per the necessity of the public service broadcaster.

c. Employees who cannot be adjusted in the corresponding position, level and class as per clause (b) shall be given retirement after calculating their remaining service period.

Provided that such period shall not be calculated exceeding their mandatory retirement age.

d. The service and benefit of the employees adjusted under clause (b) shall not be less than their current service and benefit.

e. The movable, immovable properties and liabilities of Nepal Television and Radio Nepal at the commencement of this Act shall be transferred in the name of public service broadcaster.

f. Until the formation of the Executive Committee of the Public Service Broadcaster as provided in this Act, the board of directors of Nepal Television and Radio Nepal shall continue to function in the present form.

g. The current assets, liability and management of Radio Nepal and Nepal television shall be as prescribed by the Government of Nepal.

25. Government of Nepal may give instructions: The Government of Nepal may give necessary instruction to the Public Service Broadcaster for enforcement of the objectives as per this Act.

26. Annual report: (1) The Public Service Broadcaster shall present its annual report to the Government of Nepal.

(2) The subjects to be included in the annual report as per sub section (1) shall be as prescribed.

27. Liaison with Government of Nepal:- The public service broadcaster shall liaise with the Government of Nepal through the ministry.

28. Power to frame rules: (1) The Government of Nepal may frame necessary rules for implementation of the objectives of this Act.

29. Power to frame working procedures and bylaws:- The Public Service Broadcaster may frame and implement necessary working procedures and bylaws in compliance with this Act as well as regulations framed under this Act.

30. Repeal and savings: (1) The Communications Corporation Act 2028 B.S and Radio Broadcasting Service Development (Committee) Formation Order 2041 B.S have been repealed.

(2) Activities carried out under the Communications Corporation Act 2028 B.S and Radio Broadcasting Development Committee Formation Order 2041 B.S shall be considered done under this Act.
