

**TOWN DEVELOPMENT FUND  
ACT, 1997  
AND  
TOWN DEVELOPMENT FUND  
RULES, 1997**

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# **Town Development Fund Act -1997**

## **Preamble:**

Whereas it is expedient to establish Town Development Fund Act and make arrangements relating to carrying out its functions, in order to implement social infrastructure and revenue generating projects in towns as well as to carry out extension and development of towns in Nepal and to develop town properly by providing essential financial and technical support to an institution related to urban development which implement such services and programmes.

Now, therefore, the Parliament has made this Act in the twenty-fifth year of the rule of His Majesty's King Birendra Bir Bikram Shah Dev.

## **Chapter-1**

### **Preliminary**

#### **1. Short Title and Commencement:**

- (1) This Act may be called " Town Development Fund Act, 2053 " (1997).
- (2) This Act shall come into force at once.

#### **2. Definitions:**

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

- (a) "Fund " means the Town Development Fund established pursuant to Section 3.
- (b) "Basic Social Infrastructure" means the services of pavement, road, street lamp, bridge, drinking water, sewerage, garbage collection, public toilet, public library, school and other similar constructions made for the public utility including various services provided for the benefit of the residents of Town.
- (c) "Revenue Generating Project" means the public market, commercial center, bus park, slaughter house, godown house and other similar revenue oriented projects.
- (d) "Institution Relating to Town Development " means
  - \* the governmental and non-governmental institutions,
  - \* Town Development Committee, Municipality, Sub-municipal Corporation, Municipal Corporation,
  - \* a village among the villages categorised as village developing towards town by the Fund on the basis of the population and the development, established under prevailing laws to carry out works relating to land development and distribution, and other fundamental social infrastructure and revenue generating projects for the development of Town.
- (e) "Town" means the Municipal Corporation, Sub-municipal Corporation, Municipality and the Village Developing towards Town.
- (f) "Loan" means credit given either taking or not taking any security or mortgage of any movable and immovable property or against any kind of deposit or collateral or on terms and conditions determined by the Fund.
- (g) "Debtor" means institutions relating to urban development which has taken loan from the Fund.
- (h) "Debenture" means any bond-paper issued by the Fund with or without pledging any of its assets.
- (i) "Board" means the Board of Directors of the Fund constituted pursuant to Section 14.
- (j) "Chairman" means the Chairman of the Board.
- (k) "Member" means the Member of the Board and the term includes the Chairman and Member-Secretary of the Board as well.

- (l) "Executive Director" means the Executive Director of the Fund appointed pursuant to Section 18.
- (m) "Prescribed" or "As Prescribed" means prescribed or as prescribed in the Rule or the Bye-laws made under this Act.

## **Chapter-2**

### **Establishment , Objectives, Functions, Duties and Powers of the Fund**

#### **3. Establishment of the Fund:**

- (1) A Fund called Town Development Fund is established to provide essential financial, technical and institutional support to the institutions relating to the town development for the construction, development and expansion of Town.
- (2) The central office of the Fund shall be located at Kathmandu Valley and the Fund may open its branch and sub-branch offices at any places within the Kingdom of Nepal, if necessary.

#### **4. The Fund shall be an Autonomous Body:**

- (1) The Fund shall be an autonomous and corporate body having perpetual succession.
- (2) The Fund shall have a seal of its own for its activities.
- (3) The Fund may acquire, use, sale and otherwise manage movable and immovable property as a person under the provision of this Act or the Rule and the Bye-laws made under this Act.
- (4) The Fund may sue and may be sued from its name as a person.

#### **5. Objectives of the Fund:**

The objectives of the Fund shall be as follows:

- (a) to provide essential financial and technical support to the institutions related with town development.
- (b) to conduct or cause to conduct works necessary to keep town neat and clean.
- (c) to conduct or cause to conduct different kinds of revenue generating and basic social infrastructure projects.
- (d) to conduct or cause to conduct objective oriented research works to find out possible solutions for problems related to the development of town and the necessary improvements for its development.

#### **6. Functions, Duties and Powers of the Fund:**

In addition to the functions, duties and powers mentioned in the other sections of this Act the functions, duties and powers of the Fund shall be as follows:

- (a) to formulate the policy relating to operation and management of the Fund and implement or cause to implement.
- (b) to approve the annual and periodic programmes and budget of the Fund and to manage or cause to manage the required amount.
- (c) to provide financial and technical support to institutions relating to town development to conduct revenue generating and basic social infrastructure projects, and to carry out extension, development and construction of the town.
- (d) to build-up technical and financial bases required for the construction, development, extension and expansion of the Town and to implement or cause to implement programmes related to the town development and encourage the participation of institutions relating to town development to the maximum extent in such programmes.
- (e) to assist in the training programmes required for the staff working in an institution relating to town development.

- (f) to provide consulting services to institutions relating to town development in the field of town development.
- (g) to monitor and supervise or cause to monitor and supervise the programmes and activities related to loan provided by the Fund.
- (h) to do or cause to do activities according to an agreement made by His Majesty's Government with any foreign Government or Organization or international Organization in relation to the Fund.
- (i) to invest resources of the Fund in shares, debentures or any other types of bond-paper of any other corporate body established under the prevailing laws without making any negative impact in the benefit of the Fund.
- (j) to approve plans and programmes presented in the Fund.
- (k) to carryout the annual audit of the Fund.
- (l) to make available annual report and audit report in relation to the annual activities of the Fund to His Majesty's Government.
- (m) to approve the organizational structure of the Fund and to create necessary posts accordingly.
- (n) to do or cause to do other activities for the achievement of objectives of the Fund.

**7. The Fund may Take Essential Services Charges:**

The Fund may take essential service charges from the institutions relating to town development for providing consulting services regarding urban development as prescribed.

**8. The Fund may Collect Financial Resources:**

The Fund may accumulate necessary financial resources including grant, loan, donation and gift from His Majesty's Government, Government owned organization, non-governmental organization, foreign Government, international organization or agency, to conduct programmes in accordance with its objectives.

However, the Fund must obtain an approval of His Majesty's Government before taking any financial assistance from any foreign Government, international organization or agency.

**9. Bond Paper may be Issued and Purchased:**

- (1) The Fund may issue and purchase debenture and other types of Bond after fulfilling the process provided by the prevailing laws.
- (2) The Fund shall adopt the process as prescribed while issuing and purchasing debenture and other types of Bond paper pursuant to sub-section (1).

**10. Power to lay down Terms and Conditions:**

- (1) The Fund shall, while granting loans or grants to any institution relating to town development, make agreement in writing incorporating necessary terms and conditions as it may deem necessary for the protection of its interest and for the proper utilization of the loans or grants.
- (2) While making agreements pursuant to sub-section (1), the Fund may specify any duration of payments, requirement of the pay-back of the principal and interest of the loan. In case of default in the terms and conditions laid down by the Fund, the Fund can specify conditions to realize the due amount through seizure of the property pledged in the document.
- (3) The Fund may, while granting loans to the debtor, incorporate conditions therein with gradual release or prescribed installments in the form of cash, cheque or letter of commitment, and the interest shall be computed from the date of payment of such installment by the Fund.

**11. Powers of the Fund Against Breach of Agreement:**

- (1) If any debtor breaches the conditions of agreement performed pursuant to Section 10 with the Fund, by refusing to pay any loan, interest thereon or amount due in advance

payments, the Fund may, despite that the time due for such payments under the conditions of agreement is still not matured, realize its dues either through seizure and use of the collateral property or any other properties, or by assigning such property in rent or lease or by selling them through auction or tender bids or mutual negotiations.

- (2) Where any property of the debtor was seized and sold off in auction or in tender bids or in mutual agreement pursuant to sub-section (1), the amount received by the Fund in excess of the dues shall be paid to the concerned Debtor.
- (3) Where any property of the debtor could not be sold off in auction or tender bids or in mutual agreement pursuant to sub-section (1) despite repeated attempts thereof, or the sale thereof in the offered amount would not be in the interest of the Fund, the Fund can acquire such property the price of which will be fixed as prescribed.

**12. Powers of the Fund not to be exhausted:**

- (1) The rights of the Fund in respect of the collateral properties mentioned in the pledging document shall not be deemed to have exhausted merely due to the reasons that the Fund failed to seize the property or to initiate any proceedings for realizing the loan within the time limit specified in the conditions contained in such pledging document.
- (2) Where any collateral property has been seized by the Fund or used under possession or rented or leased to any person or assigned for operation with profit sharing arrangement, according to the condition mentioned in the pledging document, no such action alone in itself shall be construed to affect the rights of the Fund to realize interests and additional charges receivable for default in the payment of installments or to sell the collateral property.

**13. Protection of Loan Investment of the Fund:**

If any organization or an institution related to town development in which the Fund has made loan investment is dissolved, the Fund shall have first priority rights over the properties of such organization.

**Chapter-3**

**Constitution of the Board and Functions, Duties and Powers**

**14. Constitution of the Board:**

- (1) In order to operate or cause to operate the necessary programmes as prescribed for achieving objectives of the Fund and to monitor and manage all the functions and processes of the Fund, a Board of Directors shall be constituted.
- (2) The following members shall be consist in the Board:

(a)	Secretary, Ministry of Housing and Physical Planning or a person nominated by His Majesty's Government among those who has special knowledge in the field of town development	Chairman
(b)	Representative, Ministry of Finance (Gazetted First Class)	Member
(c)	Representative, Ministry of Local Development (Gazetted First Class)	Member
(d)	Five persons nominated by His Majesty's Government from among the Mayors of Municipalities representing five development regions	Member
(e)	Two persons nominated by the Board to be represented from among the financial experts having expertise in the operation of a financial institution or a technician working in the field of town development having a Bachelor degree in Engineering subject or representatives from	Member
(f)	Executive Director	Member-Secretary

- (3) The tenure of the members nominated pursuant to clause (d) and (e) of sub-section (2), shall be of two years. If the post of any Member falls vacant prior to the expiry of his terms, the post shall be filled for the remaining period in the same manner as it was earlier filled up.
- (4) The Board may, if it deems necessary invite any national or foreign expert, advisor or a dignified person concerned with town development to participate in the meeting of the Board as an observer.

**15. Meetings and Decisions of the Board:**

- (1) The meeting of the Board shall be held on such date and at such place as specified by the Chairman. But, the meeting of the Board shall be held at least six times in a year.
- (2) If one-third of the Members request in writing to call a meeting of the Board, the Member-Secretary of the Board shall, after seeking an approval from the Chairman, call the meeting of the Board.
- (3) The Member-Secretary of the Board shall have to make available the agenda of the meeting along with the notice of the meeting to the Members.
- (4) The Chairman shall preside over the meeting of the Board and in his absence, a Member chosen from among the Members themselves shall preside over the meeting.
- (5) The presence of more than fifty percent of the Members of the total number of Members shall be the quorum of the meeting.
- (6) A majority of votes shall prevail in the meeting of the Board, and in case of tie, the person presiding over the meeting shall have a casting vote.
- (7) A separate register containing the name of Members attending the meeting of the Board, the agenda discussed therein and the minutes of decisions made thereon shall be maintained, having signature of members present in the meeting.
- (8) The Member-Secretary shall certify the decisions taken by the Board.
- (9) Other procedures relating to the meetings of the Board shall be as determined by the Board itself.

**16. Functions, Duties and Powers of the Board:**

- (1) Subject to this Act, Rules and Bye-Laws made thereunder, it shall be the duty of the Board to carry out all functions to be carried out by the Fund and to use all rights conferred on the Fund.
- (2) In addition to the functions, duties mentioned in sub-section (1), it shall be the duty of the Board to carry out other functions necessary to achieve the objective of the Fund.

**17. Sub-Committee May be Formed:**

- (1) The Board, may form sub-committees according to the needs for the operation of its functions.
- (2) The functions, duties, powers, jurisdiction and working period of the sub-committees formed pursuant to sub-section (1) shall be as specified by the Board.

## **Chapter-4**

### **Provision Relating to Executive Director and Employees**

**18. Executive Director:**

- (1) The Board shall appoint a person to the post of Executive Director from open competition among the qualified persons to carry out day to day functions of the Fund as an administrative chief.
- (2) Notwithstanding anything written in the Sub-section (1), until the appointment of the Executive Director, HMG in consultation with the Board can appoint the senior most staff of the Fund as the Executive Director for a period of not more than three months.

- (3) The term of office of the Executive Director shall be four years.
- (4) The remuneration, facilities and other conditions of services of the Executive Director shall be as prescribed.
- (5) Notwithstanding anything contained in the Sub-section (3), the Board may dismiss the Executive Director from his post by completing the process as prescribed if the Executive Director is involved in any action against the interest of the Fund causing damages and loss to the Fund or has not performed the duties in accordance with the policy and directives of the Board.

**19. Functions, Duties and Powers of the Executive Director:**

- (1) The functions, duties and powers of the Executive Director shall be as follows:
  - (a) to implement or cause to implement the decisions of the Board,
  - (b) to prepare long-term and short-term plan, annual programme and budget of the Fund and present to the Board for approval.
  - (c) to implement or cause to implement the plans and programmes approved by the Board.
  - (d) to monitor and supervise the regular works of the Fund and to perform other necessary functions to achieve the objectives of the Fund as an administrative chief of the Fund.
  - (e) to monitor the projects and programmes carried out from the resources of the Fund and submit a progress report thereof to the Board.
  - (f) to prepare and submit annual and periodic reports to the Board, relating to the activities carried out by the Fund.
- (2) Other functions, duties and powers of the Executive Director than those mentioned in sub-section (1), shall be as prescribed.

**20. Provision Relating to Employees:**

- (1) In order to carryout the functions of the Fund smoothly, necessary number of employees will be employed in the Fund.
- (2) The appointment, remuneration, facilities and other conditions of services of the employees shall be as prescribed.

## **Chapter-5**

### **Fund and Audit of Accounts**

**21. Fund:**

- (1) The Fund shall have its own separate fund and following amounts shall be deposited in the fund:
  - (a) Amounts received from His Majesty's Government.
  - (b) Aid, grant or loan received from a foreign Government or national or international institution and organization.
  - (c) Donation or gift received from a national or foreign institution, organization or person.
  - (d) Fees obtained from the consulting and other services provided to the institution relating to town development.
  - (e) Amount received from income invested by the Fund.
  - (f) Amount received from issuing of debenture and other types of bond-paper.
  - (g) Amount received from the income of movable and immovable property of the Fund.
  - (h) Amount made available to the Fund from any other sources.
- (2) All amount received by the Fund pursuant to sub-section (1), shall be deposited by opening an account in any Commercial Bank within the Kingdom of Nepal.



- (3) All expenditures to be incurred on behalf of the Fund shall be borne out of the amount deposited into the fund pursuant to sub-section (1).
- (4) The operation of the fund shall be as prescribed.

**22. Account and Audit of Account:**

- (1) The account of income and expenditure of the Fund shall be kept as prescribed.
- (2) The accounts of the Fund shall be audited by the auditor appointed by the Board from among the auditors registered in the office of the Auditor General in consultation with the Auditor General.
- (3) The Fund, if it deems necessary, may conduct its internal audit by any auditor.
- (4) His Majesty's Government may inspect or cause to inspect the annual accounts of the fund at any time.

## **Chapter-6**

### **Miscellaneous**

**23. Exemption for the Fund:**

No revenue ticket or registration fee shall be levied on any transaction while accepting the collateral property from the debtor or from surety in the ownership of the Fund or purchasing or selling any immovable property by the Fund.

**24. Exemption on the Income Tax:**

His Majesty's Government can partially or fully exempt the income tax on the income earned by the Fund with due notification on the Nepal Rajpatra.

**25. Prohibition in the Participation of Decision making:**

The members and the employees of the Fund shall not participate in any decision making process which constitute a conflict of interest.

**26. Activities shall not be dismissed:**

Activities of the Fund shall not be dismissed just because a member of the Board is not nominated.

**27. Oath of Secrecy and Honesty:**

The members and employees of the Fund shall take oath of secrecy and honesty as prescribed prior to assumption of their respective posts.

**28. Annual Report:**

- (1) The Executive Director shall submit an annual report on the functions and process of the Fund to the Board within six months of the expiration of fiscal year and one copy of the report approved by the Board shall have to be made available to His Majesty's Government as well.
- (2) The Executive Director shall publish publicly every year the annual report of the Fund with due approval from the Board pursuant to sub-section (1).

**29. Provisions made in this Act shall be according to this Act:**

Whatsoever mentioned in the prevailing laws provisions made in this Act shall be according to this Act.

**30. Meeting Allowance:**

Members shall be entitled to meeting allowance as prescribed for their participation in the meeting.

**31. His Majesty's Government may Issue Orders or Directives:**

His Majesty's Government may issue necessary orders or directives to the Fund to discharge its functions in accordance with the objectives of the Fund, after making an

inquiry regarding performance of the Fund. It will be the duty of the Fund to obey the order or directive made by His Majesty's Government.

**32. Delegation of Power:**

- (1) The Board may delegate some of the power conferred to the Board to any member, sub-committee formed pursuant to Section 17 or Executive Director, if required.
- (2) The Executive Director may delegate some of the power conferred to him to any officer level employee of the Fund, if required.

**33. His Majesty's Government may dissolve the Fund:**

His Majesty's Government may dissolve the Fund under the following circumstances:

- (1) if His Majesty's Government thinks that the Fund is not able to return the loan to His Majesty's Government, foreign Government or any other organisation which it had obtained from His Majesty's Government, any foreign Government, national or international organization or agency,
- (2) if the Fund is not able to discharge its functions in accordance to this Act.
- (3) in case, the Fund violates the orders or directives issued by His Majesty's Government pursuant to Section 31, and if His Majesty's Government deems necessary to dissolve the Fund.

**34. Properties and Liabilities shall be Transferred:**

All properties and liabilities of the Fund shall be transferred to His Majesty's Government, in case the Fund is dissolved pursuant to Section 33.

**35. Liaison with His Majesty's Government:**

The Fund shall contact with His Majesty's Government through the Ministry of Housing and Physical planning. But, the Fund may directly contact with any concerning office in relation to discharging its day-to-day administrative functions.

**36. May Make Rules and Bye-Laws:**

- (1) To implement the objectives of this Fund, His Majesty's Government may frame necessary rules.
- (2) The Fund may, subject to this Act and Rules made thereunder, frame Bye-laws to carry out its functions.

**37. Repeal and Saving:**

- (1) The Town Development Fund Board (formation) order, 2045(1989) is repealed.
- (2) All movable and immovable properties, entitles and liabilities of the Board constituted under the Formation Order pursuant to sub-section (1), shall be transferred to the Fund established under this Act.
- (3) All transactions and functions conducted by the Board constituted under the Formation Order pursuant to sub-section (1), shall be deemed to have been done by the Fund established under this Act.
- (4) The Executive Director and the employees working in the Board constituted under the Formation Order pursuant to sub-section (1), shall be transferred to the Fund established under this Act.