

NATIONAL LAWS

Act Made to Amend and Consolidate the Law Relating to Extradition Unofficial Translation

Preamble: Whereas, it is expedient to make the law timely relating to extradition by amending and consolidating it in order to make a proceeding of extraditable absconded accused or offender through extradition.

The President has authenticated this Act with the enactment of the Legislature Parliament Pursuant to the Interim Constitution, 2063.

1. **Short title and commencement:** (1) This Act shall be called as the Extradition Act, 2070 (2014).
(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires in this Act, -
 - a. "Offence" refers to offences in accordance with Section 4.
 - b. "Absconded Accused or Offender" shall refer to a person residing in Nepal accused for or already punished in foreign state for any offence or accused or offender residing in foreign state accused for or already punished in Nepal.
 - c. "Ministry" shall be known as Government of Nepal, Home Ministry.
 - d. "Requesting State" shall refer to foreign state requesting Government of Nepal for the extradition of any absconded accused or offender.
 - e. "Extradition" shall refer to the process of handover of absconded accused or offender to such state and this word shall also refer to the process of handover of such absconded accused or offender from foreign state to Nepal in the request of Nepal.
 - f. "Extradition Treaty" shall refer to the treaty held between Nepal and any foreign state relating to the extradition of any absconded accused or offender and this word shall also refer to any agreement made for the purpose of extradition purpose.
3. **Condition to offer extradition:** In case of any request made by any foreign state to Government of Nepal for the purpose of extradition of absconded accused or offender Government of Nepal may extradite such accused or offender in the condition hereunder in accordance with the provision of this Act:-
 - a. If there is extradition treaty,
 - b. If offence is extraditable in accordance with Section 4.

4. **Extraditable offence:** Extraditable offence shall refer to the offence mentioned hereunder:-
- a. Offence that entitles the punishment of at least three-year imprisonment in accordance with Nepalese laws in force,
 - b. Offence that entitles the punishment of at least three-year imprisonment in accordance with the laws of requesting state,
 - c. Notwithstanding the punishment entitled lesser than the provision of clause (a) and (b) offence related to taxation, revenue, banking transaction or similar nature other economic or financial offences,
 - d. Offences of attempting, participating or conspiring or offences of instigating or abetting other to commit such offence in accordance with Clause (a), (b) or (c).
5. **Condition to refuse extradition:** Notwithstanding anything is written in Section 3 no any absconded accused or offender shall be extradited on the condition mentioned hereunder:-
- a. If offence of absconded accused or offender is related to political nature,
 - b. If the offence is prosecuted or if there is the possibility of prosecution on the ground of race, ethnicity, caste, religion, nationality or political ideology
 - c. If case is heard or if there is the possibility of hearing the case prejudiced to the race, ethnicity, caste, religion, nationality or political ideology,
 - d. If there is the accusation of offence possible to death penalty or if the punishment of death penalty is already declared,
 - e. If he or she is Nepali national,
 - f. If the offence is related to military law of requesting state,
 - g. If there is sufficient ground of possibility of physical or psychological torture to the absconded accused or offender in requesting state,
 - h. If the Nepalese court has already issued the decision on same offence in which extradition is requested,
 - i. If there is the proceeding against absconded accused or offender in any criminal offence in Nepali Court or if punishment is not fully accomplished although the punishment is already justified,
 - j. If the competent authority of requesting state has already decided not to proceed offence or punishment or decided to offer parole to the punishment,
 - k. If the limitation of legal prosecution is already elapsed in accordance to the law of requesting state,
 - l. If the requested person has got immunity from punishment in accordance to the law of requesting state.

6. **It shall not be taken as political offence:** The offence mentioned hereunder shall not be taken as political offence for the purpose of Clause (a) of Section 5:-
- a. Corruption,
 - b. Human trafficking or transfer or abduction or kidnapping
 - c. Production, storage, trafficking or transaction of drugs and psychotropic substance
 - d. Taxation, revenue, banking transaction or similar other economic or financial offence,
 - e. Money laundering,
 - f. Rape,
 - g. Sexual abuse of child,
 - h. Offence related to wild life or resources of forest or illegal trafficking of it,
 - i. Offence related to genocide,
 - j. Crime against humanity,
 - k. Offence of organized crime or transnational organized crime,
 - l. Offence of aircraft hijacking or offence against the security of civil aviation,
 - m. Offence against diplomatically protected agency or person,
 - n. Offence related to the attempt, abetment or conspiracy in the offence mentioned in Clause (a) to (m) or accomplicing or involvement in any such offence.
7. **Request has to be furnished for extradition:** (1) Foreign State shall have to request Government of Nepal for the extradition of absconded accused or offender who is either in transit within Nepal while departing for third state or residing in Nepal.
- (2) While requesting in accordance with Sub Section (1) requesting state shall use diplomatic mechanism for request.
 - (3) Notwithstanding anything is written in Sub Section (2) if absconded accused or offender has the possibility to be escaped or disappeared in the absence of immediate controll and arrest requesting state may directly request through ministry to immediately arrest such absconded accused or offender.
 - (4) While requesting in accordance with Sub Section (3) prima facie evidence of accusation in terms of absconded accused and the decision of competent court in terms of offender shall have to furnished.
 - (5) If absconded accused or offender is arrested on the ground of evidence or decision in accordance with Sub Section (4) Ministry shall have to notify such information to requesting state within 3 days.

- (6) If absconded accused or offender is arrested in accordance with Sub Section (5) requesting state shall have to ask Government of Nepal through diplomatic mechanism for extradition of such absconded accused or offender within 7 days of notification of arrest.
- (7) If request is not furnished in accordance with Sub Section (6) Ministry shall have to release arrested absconded accused or offender within no time.
8. **Information required to disclose or appended while requesting for extradition:** (1) While requesting for extradition in accordance with Section 7 requesting state shall have to disclose the information mentioned hereunder:-
- a. Appearance, nationality, certificate number of nationality, including identifiable other real information of absconded accused or offender and the information of current address as far as possible,
 - b. Location and date of offence occurred and information of offence,
 - c. Provision of laws in force of requesting state on the issue of offence and maximum possible punishment if offence is already proved or so is possible to prove.
- (2) While requesting for extradition in accordance with Section 7 requesting state shall attach the document mentioned hereunder:-
- a. Evidential document related to offence,
 - b. Warrant notice issued by competent authority for the arrest of such accused or offender,
 - c. Copy of decision made by competent court or entity for extradition,
 - d. Assurance of not to execute proceeding in any other offence than the offence mentioned in the time of request of extradition,
 - e. Assurance of not to execute prosecution in the offence producing less punishment than the punishment specified in the offence in the time of extradition request,
 - f. Assurance of not to re-extradite absconded accused or offender to any other state,
 - g. Assurance to receive prior consent of Government of Nepal in case of extradition compulsory in accordance with Clause (F).
9. **Request of extradition has to be sent to Ministry:** If the request for extradition is received in accordance with Section 7 Government of Nepal, Ministry of Foreign Affairs shall have to dispatch this request with attached information, document and evidence to Ministry for necessary proceeding.
10. **Proceeding of extradition has to be prosecuted:** (1) If the request is received in accordance with Section 9 Ministry shall have to decide either the extradition proceeding is prosecuted or not after the analysis of investigation of received information, document, evidence and fact of offence within 15 days.
- (2) If the received information, document and evidence are not deemed sufficient to make the proceeding of extradition while investigating and analyzing it in accordance with Sub Section

- (1) Ministry shall have to notify foreign state through diplomatic mechanism to submit additional information, document and evidence.
- (3) If the decision is made for extradition in accordance with Sub Section (1) Ministry shall issue order to Chief District Officer to submit the report through concerned District Attorney Office to concerned District Court to get permission for extradition of absconded accused or offender from it.
- (4) While issuing order to concerned Chief District Officer in accordance with Sub Section (3) it shall have to request to apprehend absconded accused or offender by sending warrant notice issued by competent authority of requesting state to apprehend absconded accused or offender.
- (5) If the decision is made not to make a proceeding of extradition in accordance with Sub Section (1) Ministry shall have to notify the information of decision and the information either the absconded accused or offender is arrested or not to requesting state immediately.
11. **Issuance of warrant notice:** After the reception of warrant notice in accordance with Sub Section (4) of Section 10 concerned Chief District Officer shall have to issue warrant notice of arrest in accordance with laws in force to apprehend absconded accused or offender.
12. **Producing the absconded accused or offender to the court:** Arrested absconded accused or offender on the ground of warrant notice issued in accordance with Section 11 shall have to be produced in concerned District Court within 24 hours except the time of journey and shall have to be kept in custody with the decision of court.
13. **Report has to be submitted:** (1) Chief District Officer shall have to submit the report to concerned District Court through District Attorney Office within seven days of the custody of absconded accused or offender to get the permission of extradition of such absconded accused or offender who are on custody in accordance with Section 12.
- (2) While submitting the report in accordance with Sub Section (1) absconded accused or offender who is on custody shall also be produced in District Court.
- (3) Chief District Officer shall have to send a copy of report submitted in District Court in accordance with Sub Section (1) to Ministry.
14. **Jurisdiction of the court:** (1) If the report is submitted for the permission of extradition in accordance with Section 13 District Court shall examine the issues mentioned hereunder to decide either the absconded accused or offender may be extradited or not:-
- a. Either the requesting state has asked for extradition by disclosing the necessary information or attaching the required document in accordance with the procedure mentioned in Section 7 and 8 or not,
 - b. The warrant notice issued by requesting state to apprehend absconded accused or offender is used either to arrest same person or not,
 - c. Either the extradition of absconded accused or offender in accordance with Section 3 may be executed or not,

- d. Either the absconded accused or offender is related to the extraditable offence or not in accordance with Section 4,
 - e. Either the absconded accused or offender may be rejected for extradition or not in accordance with Section 5,
 - f. Either the absconded accused or offender may be extraditable or not in accordance with the request of requesting state.
- (2) Notwithstanding anything is written in Sub Section (1) District Court may examine the statement of accused or offender and additional evidence associated with this offence before the decision of either this absconded accused or offender can be extradited or not.
 - (3) District Court shall have to issue the order of extradition if the extradition of absconded accused or offender can be extradited in accordance with the provision of this Act based on the examination in accordance with Sub Section (1) or (2) and the information, document and evidence submitted by requesting state.
 - (4) In case of absconded accused or offender is on custody while issuing the order in accordance with Sub Section (3) and if the arrangement of extradition is not fulfilled the court shall have to issue the order for the custody of such absconded accused or offender for not more than forty five days in this situation.
 - (5) If the extradition of absconded accused or offender is not possible based on the information, document and evidence submitted by requesting state concerned District Court shall have to issue the order refusing extradition procedure of such accused or offender.
 - (6) While issuing order in accordance with Sub Section (5) Court shall have also to issue order for the purpose of releasing such absconded accused or offender from custody if such persons are on custody.
 - (7) District Court shall have to inform Chief District Officer through concerned District Govt. Attorney Office about the decision on either the absconded accused or offender can be extradited or not made by the court.
 - (8) Chief District Officer shall have to inform the order received in accordance with Sub Section (7) to Ministry without any delay.
15. **Extradition has to be granted:** (1) If the decision in the support of extradition of absconded accused or offender is received in accordance with Sub Section (8) of Section 14 Ministry shall have to make an arrangement of extradition of absconded accused or offender within 3 days by the notification of this information to requesting state through diplomatic mechanism within 30 days of the reception of such decision.
- (2) While making the arrangement of extradition in accordance with Sub Section (1) Ministry shall have to notify the information about location, date and time of extradition to concerned requesting state.
 - (3) In case of the impossibility of extradition of absconded accused or offender in specified location, date and time in accordance with Sub Section (2) Ministry shall have to notify requesting state immediately by deciding next date, time and location of extradition.

16. **Notification has to be given if extradition is not granted:** If the information of decision is received about no extradition of absconded accused or offender is possible in accordance with Sub Section (8) of Section 14 Ministry shall have to notify this information to requesting state through diplomatic mechanism within 3 days.
- (2) If extradition of absconded accused or offender is impossible because of their Nepali nationality Ministry shall have to inform about the ongoing prosecution of such accused or offender in accordance with laws in force in Nepal to requesting state through diplomatic mechanism.
17. **Prosecution has to launch in accordance with law:** (1) Notwithstanding anything is written in laws in force if extradition of absconded accused or offender is not possible in accordance with Sub Section (2) of Section 16 or Sub Section (5) of Section 14 Ministry shall have to prosecute such accused person if the offence in which extradition request is made is also the offence in accordance with laws in force of Nepal.
- (2) Notwithstanding anything is written in laws in force Concerned District Govt. Attorney Office shall have to file case in court or other competent authority if prosecution of absconded accused is necessary in accordance with Sub Section (1).
- (3) While prosecuting against absconded offender in accordance with Sub Section (1), if the court or other competent authority of requesting state has already proved a person as offender, it shall be enforced in accordance with laws in force.
- (4) Ministry shall have to notify requesting state about the decision of court or other competent authority and its information of punishment made in the issue of absconded accused or offender in accordance with this section.
18. **Release from custody:** If requesting state does not receive any accused or offender is on custody under the decision of District Court in accordance to Sub Section (4) of Section 14 within 30 days from the date of notification of Government of Nepal Ministry shall have to release such absconded accused or offender unless otherwise the decision of court is.
19. **If request for extradition is made from more than one country:** In case of request made for extradition from more than one country in regard to the same absconded accused or offender Government of Nepal may extradite such absconded accused or offender to first requesting state if the decision of District Court is in favor of extradition in accordance with Sub Section (3) of Section 14.
20. **Request with foreign state is to be made for extradition:** (1) If any person, having committed an offence within Nepal, has absconded and is residing at any place or in transit while departing for any other state within the jurisdiction of any foreign country, Ministry shall request the government of such foreign state through diplomatic mechanism to extradite such accused or offender.
- (2) Notwithstanding anything is written in Sub Section (1) if there is the possibility of escaping or disappearing of absconded accused or offender in the absence of immediate arrest or control Ministry may directly request foreign state to arrest such absconded accused or offender.

- (3) While requesting in accordance with Sub Section (2) prima facie evidence in the case of absconded accused and the decision of court or other competent authority in the case of offender shall have to be appended.
 - (4) Ministry shall have to request concerned foreign state through diplomatic mechanism for the extradition of arrested absconded accused or offender as fast as possible within seven days from the date of notification of arrest of such person received from concerned foreign state on the ground of evidence or decision as specified in accordance with Sub Section (3).
 - (5) While requesting for extradition in accordance with Sub Section (1) information and document as specified in Section 8 shall have to disclosed or appended.
21. **Special provision applicable in terms of extradition:** (1) Notwithstanding anything is written in anywhere else of this Act no absconded accused or offender shall be prosecuted in any other conviction of offences than the offence specified in the time of request of extradition.
- (2) Notwithstanding anything is written in Sub Section (1) requesting state may proceed a prosecution against such accused or offender after getting the consent of Government of Nepal even in other offences having trivial nature associated with the offence specified while requesting for extradition.
22. **Confiscated asset shall have to return:** (1) Government of Nepal may return the asset confiscated or seized during arrest while extraditing absconded accused or offender to requesting foreign state in connection with the offence or other income derived from such asset.
- However asset shall not be returned if it is seemed that the right, claim or any other from of liability can be established to any other else.
- (2) The proceeding of asset return shall begin if competent Court has sentenced that concerned moveable or unmovable asset associated with the offence of absconded accused or offender extradited by Government of Nepal to requesting state is confiscated.
 - (3) If the asset other than cash that has to be returned is existed in any other form such asset shall be returned in cash by converting it into cash by selling it as per market value.
- However if requesting state or accepting state as prima facie evidence has requested to return such asset in same object form such asset shall be returned in same form.
23. **Requesting State shall have to incur cost:** (1) Requesting State shall have to borne fee or cost spent in the process of extradition.
- (2) Notwithstanding anything is written in Sub Section (1) the cost spent in the procedure of court shall not have to borne by requesting State.
24. **Proceeding of accused or offender received through extradition:** (1) Proceeding of received absconded accused or offender in extradition process from any foreign state in the request of Government of Nepal shall have to be arranged in accordance with laws in force.
- (2) Government of Nepal shall have to transmit the information to Foreign State about the proceeding made in accordance with Sub Section (1).

25. **Re-extradition shall not to be executed:** Extradited any absconded accused or offender shall not be re-extradited to any other third State.
26. **Special provision on evidence:** Notwithstanding anything is written in laws in force court shall accept the evidence and document received from requesting foreign state as evidence in the proceeding of offence extraditable in accordance with the provision of this Act.
27. **Summary procedure is to apply:** While prosecuting the extradition of absconded accused or offender in accordance with this Act concerned Court shall have to apply summary procedure in accordance to the law in force applicable to it.
28. **Legal assistance may provide:** In case of absconded offender or offender is unable to appoint legal practitioner in the proceeding executed by the court for the purpose of extradition and if absconded offender or offender so intends court may provide the assistance of designated Lawyer on Salary.
29. **Power to remove difficulties:** If any difficulties appeared in the course of action of implementing this Act Government of Nepal shall have power to remove such difficulties by the publication of notification in Nepal Gazette.
30. **Repeal and Saving:** (1) Extradition Act, 2045 is hereby repealed.
(2) All acts and activities carried out prior to this Act shall apply the procedure in accordance with this Extradition Act, 2045.

Date of Authentication: 2070/12/12 (2014/03/26 AD)

Act Relating to Mutual Legal Assistance Unofficial Translation

Preamble: Whereas, it is expedient to make a provision on the issue of mutual legal assistance between Nepal and Foreign State on the subject of judicial proceeding.

The President has authenticated this Act with the enactment of the Legislature Parliament Pursuant to the Interim Constitution, 2063.

Chapter –1 Preliminary

1. **Short title and commencement:** (1) This Act shall be called as the Mutual Legal Assistance Act, 2070.

(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires in this Act, -
 - a. ‘Court’ shall be known as Supreme Court, Appellate Court and District Court and this word shall also refer to other authority or entity working for judicial proceeding.
 - b. ‘Order’ shall refer to the order issued by court and it shall also refer to the decision of the court or verdict as well.
 - c. ‘Offence’ shall refer to all offences, which produces the punishment of at least a year imprisonment or fine of 50,000 RS and it shall be equally applicable for the offences punishable for at least a year imprisonment or fine of 50,000 RS in accordance with law of foreign state.
 - d. ‘Central Authority’ shall refer to the entity or authority as referred to in Section 6.
 - e. ‘Judicial Proceeding’ shall refer to the proceeding from case filing to enforcement of decision and this word shall also refer to the investigation and prosecution procedure applied in any offence.
 - f. ‘Judicial document’ shall refer to case file, petition of claim, application or appeal registered in court and this word shall also refer to the order issued by the court.
 - g. ‘Mutual Legal Assistance’ shall refer to the proceeding as referred to in Section 5.
 - h. ‘Summon’ shall refer to information, subpoena or warrant notice issued in terms of any case.
 - i. ‘Foreign State’ shall refer to those foreign states that request Nepal for mutual legal assistance.

Chapter – 2

Conditions and Issues to Receive Mutual Legal Assistance

3. **Condition to receive mutual legal assistance:** (1) In case of bilateral treaty agreement on the issues of mutual legal assistance between Nepal and Foreign States the mutual legal assistance shall be exchanged between Nepal and such Foreign States.

(2) Notwithstanding anything is written in subsection (1) it shall not obstruct for legal assistance on the basis of mutuality in special judicial proceeding in the case of diplomatic request for mutual legal assistance with the assurance of mutual legal assistance in similar upcoming issue.

But the decision of foreign court shall not be enforced in the absence of any treaty agreement.
4. **Condition to refuse mutual legal assistance:** Notwithstanding anything is written in Section 3 mutual legal assistance shall not be provided on condition hereunder:-
 - a. In the judicial proceeding having the nature of civil issues consisting the amount less than hundred (100) thousands,
 - b. In the offence having the nature of criminal issues consisting the range of punishment below than a year imprisonment or fine below than (50,000) fifty thousands NRS,
 - c. While providing mutual legal assistance in the request of Foreign State, if it or its cause shall be adverse to the sovereignty issues or public order issue of Nepal
5. **Issues of mutual legal assistance:** On the issues of judicial proceeding between Nepal and Foreign State mutual legal assistance shall be exchanged in following issues;-
 - a. Taking, collecting or receiving evidence or document,
 - b. Providing information or proof by accomplishing investigation on any object or place,
 - c. Providing or collecting original or certified copy of bank, financial or business record or document,
 - d. Executing search and seizure, and freezing or locating the residence of suspect or identification of it,
 - e. Producing a person who are able to provide evidentiary support in the issues having criminal nature,
 - f. Providing the service of summon,
 - g. Seizer or confiscation of the moveable or immoveable property,
 - h. Enforcing the decision.
6. **Designation of Central Authority:** (1) Government of Nepal shall designate any entity or authority as central authority with the publication in Nepal Gazette for executing mutual legal assistance between Nepal and Foreign State.

(2) Designated authority in accordance with subsection (1) shall execute function in accordance with the provisions of this Act.

Chapter – 3

Procedure to receive mutual legal assistance

7. **Request can be made for evidence:** (1) Competent authority of investigation or prosecution in accordance with law in force may request Central Authority for any document, evidence, information or object with the sufficient ground that any such document, evidence, information or object of bank, finance or business document are deemed found in foreign state which are supportive in the procedure of investigation or prosecution.
- (2) Court shall issue order for the purpose of producing any document if there is sufficient ground of deeming that any such document, evidence, information or object of bank, finance or business record are supportive for judicial proceeding.
- (3) Court shall have to request Central Authority for document, evidence, information or object if so is ordered in accordance with Sub Section (2).
- (4) While requesting for the availability of any document, evidence, information or object in accordance with Sub Section (1) or (3) if it is deemed necessary to search or seizer of any location or object concerned authority or court may request for serch or seizer of any such place or object.
8. **Request shall be afforded to produce a person or to identify the location of person:** (1) In case of the sufficient ground of belief that any person supportive to judicial proceeding resides in foreign state court may issue order for this purpose.
- (2) Court shall issue order for the purpose of identification of location or recognition of person in foreign state associated with any judicial proceeding.
- (3) Court may request central authority for the presence of a person or for the identification of the location of such person in foreign state in accordance with order issued under subsection (1) or (2).
9. **Request can be afforded for the service of summon or judicial document:** (1) Court shall issue order for the purpose of the service of summon or the judicial document in the case filed in court against a person residing in a foreign state.
- (2) In case of order issued in accordance with Sub Section (1) court shall have to request central authority to provide the service of such summon or judicial document on the name of person residing in foreign state.
10. **Request can be afforded for evidence:** (1) Court shall issue order for the purpose of acquiring evidence in foreign state if it is realized necessity in any case sub judice in court.
- (2) If so is ordered in accordance with Sub Section (1) court shall have to notify central authority.
11. **Request can be afforded for witness examination and questions envelop:** (1) Court shall issue order to get statement of witness in foreign court if a person does not intend to visit Nepal or so is impossible and it is necessitated to examine a person as witness residing in foreign state in a course of action of any judicial proceeding.

- (2) In case of order issued for witness examination in accordance with Sub Section (1) if witness is unable to be produced in the court of foreign country court shall issue order for witness examination with questions envelop.
 - (3) Notwithstanding anything is written in subsection (2) court shall examine witness or make question envelop at same specified time in the request of concerned party.
 - (4) Court shall issue order for witness examination through videoconference if it is realized justifiable to examine witness via videoconference in case of any witness either unable to be produced in the court of foreign state because of oldness or physical illness or to be produced in Nepalese court because of residence of witness in foreign state.
 - (5) Court shall have to notify central authority about order issued under this section.
12. **Request for freezing or confiscating the assets:** (1) Court shall issue order for freezing or confiscating the property if there is sufficient ground of belief that the asset or portion is there in foreign state associated with the person of judicial proceeding.
- (2) If so is ordered by court in accordance with Sub Section (1) court shall have to issue written notification to central authority for seizer or confiscation.
13. **Request can be furnished for the enforcement of decision:** Court shall issue order foreign court for the purpose of enforcement of decision of Nepalese court.
- (2) If so is ordered in accordance with subsection (1) court shall have to issue written notification to central authority.
14. **List of document or information necessary to attach with written notification issued to central authority:** (1) While issuing written notification to central authority in accordance with Sections 7, 8, 9, 10, 11, 12 or 13 for mutual legal assistance concerned authority or court shall have to disclose information hereunder:-
- a. Court requesting judicial proceeding, relevant laws and summary of judicial proceeding,
 - b. Subject matter of requested mutual legal assistance,
 - c. Possible maximum penalty in the issue of criminal nature judicial proceeding or possible maximum amount of fine in case of civil nature judicial proceeding,
 - d. Location and nature of document, evidence, information or asset associated with judicial proceeding,
 - e. Description and detail address of object that have to be searched,
 - f. Passport number or nationality certificate number supportive for identification of name, identifiable sign and nationality or other information in reference to a person supportive for judicial proceeding and if possible current address too,
 - g. Requested document, evidence, information, object or person justifiable for material relation with judicial proceeding,

- h. Justification of original copy of relevant evidence document if so is required and assurance of return if return is necessary
- i. Concerned authority of requesting foreign state for mutual legal assistance,
- j. Deadline to provide mutual legal assistance,
- k. Ground of justification of offence of person showing ownership committed in Nepal or increment of property from such offence if decided request written letter is to send for seizure or confiscation of any object or person,
- l. If service of summon or judicial document is requested,-
 - 1. Full name of person to whom summon or judicial document has to be issued,
 - 2. Passport number or nationality certificate number if it is available, identifiable sign and nationality or other information and if possible identification of current address of them or country residing in accordance with sub-clause (1),
 - 3. Country and address of institution or workplace where a person works if there is no possibility of service of summon or judicial document in the address of a person in accordance with sub-clause (2)
- m. If request is issued for evidence collection,-
 - (1) Information of such court or entity if the evidence requesting court or entity is identified,
 - (2) Information of inquiry for evidence or other judicial action that has to be executed,
 - (3) In case of witness examination, information of passport or nationality certificate revealing the name, surname, address or other identification of witness,
 - (4) List of questions prepared for inquiry of witness with questions envelop,
 - (5) Information about either oath has to be sworn out or not while receiving witness,
 - (6) Information of any writing, observation of moveable or immovable assets, measurement examination, map or its examination if so is necessary.
- n. If request is made for confiscation or seizure of asset,-
 - (1) Information of registering, registered or sub judge judicial proceeding associated with assets,
 - (2) Substantial information in relation to asset confiscation in judicial proceeding,
 - (3) Information of request issued for confiscation and information showing no condition of appeal further,
 - (4) Information of arrear in accordance with confiscation request,
 - (5) Information showing the sufficient time limitation of defence given to a person affected from the order of confiscation in case of such person does not attend in the court with due process.

o. Other required information,-

(1) While requesting for information in accordance with Sub Section (1) documents mentioned hereunder shall have to be enclosed:-

- a. Photograph of person as possible if the request is sent to produce any person, getting information of person residing or identification of this person,
- b. Evidence depicting the requested person's interest to produce
- c. Order of court in this issue
- d. Certified 2/2 copies of service of summon or judicial document if service of summon or judicial document has executed,
- e. If decision is sent for enforcement;-

(1) Original or certified copy of decision of the court,

(2) Evidence depicting no condition of appeal in the subject of decision further.

15. **Request to foreign state for mutual legal assistance:** (1) Central authority shall have to request foreign state through diplomatic agency for mutual legal assistance if written request is acquired for mutual legal assistance in accordance with Sections 7, 8, 9, 10, 11, 12, or 13.

(2) While requesting in accordance with Sub Section (1) central authority shall have to disclose information mentioned hereunder in addition to the documents mentioned in Section 14:-

- a. Name of requesting authority or court,
- b. Information if any certain procedure has to follow while enforcing request in foreign state and providing information or object in accordance with the request,
- c. Ground and justification if request has to be kept confidential,
- d. If it is requested to produce a person the security arrangement and lodging and fooding of person along with other facilities,
- e. Information if separate rule of procedure has to follow while requesting in accordance with treaty provision,
- f. Other information notified with the publication in Nepal Gazette by Government of Nepal.

(3) While requesting in accordance with Sub Section (2) the document mentioned hereunder shall be enclosed:-

- a. If request is made to produce a person assurance of return to concerned country or not to punish or not to make judicial proceeding on the ground of any act committed against the provision of law before the request made,
- b. Assurance of not compelling for providing other additional evidence or cooperating in other issues than requested issue,

- c. Assurance of not imposing any legal proceeding or punishment in judicial proceeding except the issues of false statement or contempt of court,
 - d. Assurance to keep safe of seizer asset captured in the course of action of search and guarantee of return of it with the end of this purpose,
 - e. Assurance of not disclosing any document, object or information without the consent of concerned state if so is requested,
 - f. Other document recognized by Government of Nepal with the publication in Nepal Gazette.
- (4) While requesting in accordance with this Section central authority may assure through diplomatic effort to provide legal assistance on the ground of mutuality if assurance is necessary to be made to provide mutual legal assistance in similar case in upcoming days in the absence of bilateral treaty if so is requested from concerned country.
16. **Taken as evidence:** (1) In accordance with the request made under section 15 evidence accepted by foreign state in accordance with the law of given country sent in court through central authority can be accepted as evidence considering it as the evidence acquired from law of evidence.
- (2) Notwithstanding anything is written anywhere else of this Act it shall not be obstacle to finalize case by examining other evidence acquired if evidence is not accepted from capable authority or it is rejected to accept evidence by foreign state.
- (3) The certificate issued by competent entity of foreign state mentioning the value of confiscated asset and date of confiscation may be taken as evidence in any judicial proceeding based on request made in accordance Section 15.
- (4) Notwithstanding anything is written in any law in force the result of witness examination or close interrogation made in foreign state in accordance with this Act shall be accepted as witness examination and questions envelop held in Nepalese court and may be taken as evidence.
17. **Special arrangement has to be made while producing a person:** (1) If any person is going to get into Nepal in the course of action of mutual legal assistance as requested in accordance with Section 15 central authority shall have to make necessary due arrangement of arrival and departure in the proper coordination with authorized entity of foreign state.
- (2) Nepal shall have to provide judicial cooperation by keeping a person in custody if a person getting into Nepal in the course of action of mutual legal assistance is in custody in accordance with the law of foreign state.
18. **Taken as service of summon or judicial document in due process:** (1) If foreign state has issued written notification of service of summon or judicial document duly based on the request made in accordance with Section 15 it shall be deemed as service of summon or judicial document in due process.
- (2) If foreign state has refused to provide the service of summon or judicial document or if information of pending of service of summon or judicial document is received to court via central authority acquired through diplomatic agency as requested person is not identified or

find out in given territory based upon the request made in accordance with Section 15 such notice or judicial document shall be published in any national daily of Nepal or in the any national daily of country residing a person to whom notice is issued.

- (3) It shall be deemed as execution of service of summon or judicial document in due process in case of execution of service of summon or judicial document in accordance with subsection (2).

Chapter – 4

Procedure of request from foreign state for mutual legal assistance

19. **Request can be furnished for providing document, evidence, information or object:** (1) Foreign state may request government of Nepal via diplomatic mechanism for any document, evidence, information or object supporting for the process of investigating any case or enforcing judicial proceeding or decision in foreign state if there is sufficient ground of belief that such documents are here in Nepal.
- (2) While requesting in accordance with Sub Section (1) if search and seizer of any location or object is deemed necessary foreign state may request for search and seizer of any such location or object.
20. **Request can be furnished to find out the location of person or to produce a person:** (1) Foreign state may request Government of Nepal via diplomatic mechanism with sufficient ground to produce a person residing Nepal who can support any sub judge judicial proceeding in foreign state.
- (2) Foreign state may request Government of Nepal through diplomatic mechanism for the identification of any person or location residing this person associated with any judicial proceeding if so is deemed necessary.
21. **Request can be furnished for service of summon or judicial document:** Foreign state may request Government of Nepal through diplomatic mechanism for service of summon or judicial document issued by foreign court if it is necessary to provide the service of any summon or judicial document in the name of person or entity residing in Nepal associated with sub judge judicial proceeding in foreign court.
22. **Request can be furnished for witness evidence examination:** (1) Foreign state may request Government of Nepal in accordance with the decision of foreign court or entity through diplomatic mechanism for witness examination if witness examination is necessary in case of any sub judge judicial proceeding in the foreign court or entity for a person residing in Nepal.
- (2) Foreign state may request Government of Nepal through diplomatic mechanism in accordance with the order of the court or entity of foreign state for evidence examination deemed to exist within Nepal associated with a sub judge case in foreign state or entity in accordance with Sub Section (1).
23. **Request can be furnished for the implementation of order of seizer or confiscation of asset:** Foreign state may request the Government of Nepal through diplomatic channel to implement the

decision of seizer or confiscating the asset or portion of it if such decision of seizer or confiscation is made by foreign court associated with the sub judice case in foreign court.

24. **Request can be made for the enforcement of decision:** Foreign state may request Government of Nepal through diplomatic mechanism for the recognition or enforcement of decision made by foreign court if so is necessary.
25. **Discloser or attach of documents or information required:** The provisions in accordance with Sections 14 and 15 shall be applicable mutatis mutandis while requesting for mutual legal assistance from foreign state to Government of Nepal in accordance with provisions of this chapter and foreign state shall disclose or attach documents or information so as mentioned in these provisions.
26. **Request of mutual legal assistance has to notify central authority:** Government of Nepal, Foreign Ministry, shall have to notify the request of foreign state to central authority for mutual legal assistance with enclosed information, documents after the reception of such request for mutual legal assistance from foreign state in accordance with Sections 19, 20, 21, 22, 23 and 24.
27. **Central authority has to conduct necessary investigation and enquiry:** (1) If the request, information, document and evidence for mutual legal assistance has been received in accordance with Section 26 central authority shall have to decide either mutual legal assistance proceeding is provided or not after necessary investigation and inquiry within 15 days.
 - (2) Central authority may notify foreign state in writing via diplomatic mechanism for additional documents and evidence if the received information, document and evidence are not deemed sufficient to start the proceeding of mutual legal assistance while conducting investigation and inquiry in accordance with Sub Section (1).
 - (3) If the decision is made to proceed mutual legal assistance in accordance with Sub Section (1) central authority shall have to issue order for mutual legal assistance to investigating agency, if mutual legal assistance requested is associated with investigation, and to District Govt. Attorney Office to submit application in concerned District Court, if the mutual legal assistance requested is associated with any other issues.
28. **Refusal can be made for providing mutual legal assistance:** Notwithstanding anything is written in Section 27 central authority may refuse for providing mutual legal assistance in the condition mentioned hereunder:-
 - a. If the condition appear in accordance with section 4
 - b. If request is not received in accordance with bilateral treaty
 - c. In case of request made in any offence and if so is related to the political offence
 - d. If requested evidence or document in accordance with Sub Section (2) of Section 27 shall not be received from concerned foreign state
 - e. If requested issue is associated with the offence under Military Act
 - f. If punishment or legal proceeding or investigation is targeted against a person based on ethnicity, religion, gender, ethnic origin, nationality or political ideology

- g. If the requested issue is trivial in nature for investigation or there is the possibility to elicit information from other mechanism
 - h. If the assurance has not realized to use mutual legal assistance only on specified purpose or is no guarantee of prevention from misusing it
 - i. If it is against the public order while providing the mutual legal assistance
29. **Application has to be submitted to court:** (1) Concerned District Govt. Attorney Office shall have to submit application along with information, document and evidence received from foreign state for mutual legal assistance in accordance with subsection (3) of section 27 if such direction is received from central authority.
- (2) Mutual legal assistance may be refused if the following circumstances are found while making an inquiry on the request made pursuant to sub-section (1) and the information, document and evidence attached therewith: -
- a. In case of mutual legal assistance related to criminal nature issues if such offence may not be established at first glance although such subject are criminal in nature
 - b. If the mutual legal assistance is against the basic principle of justice.
- (3) Notwithstanding anything is written in subsection (2) court may refuse to provide mutual legal assistance if the condition mentioned in this Section being found at any time
30. **Notification has to be given for the refusal of mutual legal assistance:** Central authority shall have to notify foreign state within 7 days via diplomatic mechanism in case of refusal made for mutual legal assistance in accordance with section 28 or 29.

Chapter – 5

Mutual Legal Assistance shall be provided

31. **Order may be issued for mutual legal assistance:** Concerned investigation authority or court shall have to issue order for necessary proceeding to provide mutual legal assistance in accordance with the request made by foreign state if the court has not refused to provide such mutual legal assistance in accordance with Section 29 or there is the order from central authority to concerned investigation authority for providing such mutual legal assistance in accordance with Sub Section (3) of Section 27.
32. **Providing evidence:** (1) If foreign state has requested to provide any document, evidence, information or object in accordance with Section 19 and if it is possible to provide such document, evidence, information or object in accordance to the provision of existing law concerned authority or court shall have to issue order to dispatch certified copy of such document evidence, information or object.
- (2) If any foreign state has requested to provide original copy or object of document, evidence or information in accordance with the document mentioned in Sub Section (1) concerned authority

or court shall issue order to send original copy of such document, evidence or information by recording certified copy or send object by recording the information of such object.

(3) Concerned entity shall have to make search or seizer of object in accordance with existing law if foreign state has requested to search or seizer of any object.

(4) Notwithstanding anything is written in subsection (3) the request of search or seizer of object may be refused if the offences in which search and seizer is requested is not declared offence in law of both Nepal and requesting state.

33. Producing a person or identification of person or location: (1) If the foreign state has requested for the producing of any person in accordance with Section 20 central authority shall have to make the arrangement of arrival or departure of a person from Nepal with the coordination of foreign state.

(2) If a requested person to produce in accordance with Subsection (1) is in custody of Nepal such person shall have to be handed over to authorize agency of foreign state with the permission of concerned court from the entry point of Nepal.

(3) A person handed over to foreign state in accordance with Sub Section (2) shall have to be received by authorized agency at the point of entry of Nepal after the execution of purpose associated with such person in foreign state.

(4) Concerned authority shall have to locate a site or identify a person if it is requested by foreign state to locate a site residing a person or identification of a person associated with any judicial proceeding.

34. Service of summon or judicial document: (1) If any foreign state has requested to provide the service of summon or judicial document in accordance with Section 21 concerned court shall have to provide the service of summon or judicial document in accordance with applicable law considering it as a sub judice case of same court.

(2) While providing the service of summon or judicial document in accordance with Sub Section (1) in the request of central authority concerned court shall have to provide service of summon or judicial document following the procedure or method if any such specific procedure or method is required to follow in accordance with treaty with foreign state or the request of foreign court.

(3) Concerned court shall have to prepare the information of service of summon following the execution of service of summon or judicial document in accordance with this Section.

(4) If translation in English language is necessary in accordance with the request made by the court of foreign state for the information of service of summon in accordance with Sub Section (3) central authority shall have to translate it and certify the original copy received from court and translated copy.

35. Examination of witness evidence: (1) If the court of foreign state has requested for witness examination in accordance with Section 22 concerned court shall have to make examination of witness as the case sub judice in given court.

- (2) Court shall have to provide the service of summon in accordance with law to any witness or person to be produced in court within seven days except the time of journey while examining the evidence if so is required.
 - (3) Concerned court shall have to examine evidence within a limitation of providing information of witness examination or statement of questions envelop or evidence, writing or the information on moveable or immovable asset in accordance with the request made by the court of foreign state while examining evidence in accordance with Sub Section (1).
 - (4) Concerned court shall allow party, power of attorney or legal practitioner to be produced in court in the course of action of examination of evidence if such party or its power of attorney or legal practitioner intends to be produced in court in the case in which the examination of evidence is made in accordance with this Section while examining witness or preparing the statement of questions envelop or examining the evidence or any writing in accordance with Sub Section (3).
 - (5) Concerned court shall have to apply applicable Nepalese law while examining the evidence in accordance with this Section.
 - (6) Notwithstanding anything is written in Sub Section (5) concerned court shall have to examine evidence if the request is made by central authority for examination of evidence and if there is the existence of treaty agreement or so is requested by foreign state for examination of evidence in special purpose following any specific procedure or method.
36. **Seizer or confiscation of asset:** (1) Court shall have to issue order to concerned entity for seizer or confiscation of asset in accordance with law in case of any request received from foreign state in accordance with Section 23 for seizer or confiscation of asset.
- (2) Notwithstanding anything is written in Sub Section (1) court shall not issue order for confiscation of asset if court has come into conclusion that a person whose asset is being ordered to confiscate has already paid arrear amount or has already passed a custody period equal to the amount of arrear in case of failure to pay such amount.

However the amount received from any offence or properties used to commit offence shall have to be confiscated.
 - (3) If the cost of confiscating asset is mentioned in any other monetary value rather than Nepalese currencies such monetary values shall be converted into Nepali monetary value as per foreign exchange rate as decided by Nepal Rastra Bank (Central Bank of Nepal) based on the rate of the day on which application is registered in court in accordance with Section 29 for the purpose of assessment of amount to pay under this Act.
37. **Special provision on the enforcement of decision made by foreign court:** (1) Notwithstanding whatever written in any other place of this Act, Foreign state or foreign party intending to get recognition and enforcement of the decision of its court in relation to the cases of civil nature in Nepal shall have to submit an application to the Appellate Court enclosed with the document mentioned hereunder:-
- a. Certified copy of decision

- b. Original or certified copy proving the service of summon duly to the party if the decision is made in the absence of any party in hearing
 - c. All the documents proving realization of conditions mentioned in accordance with Clause (b) and (c) of Subsection (2) in decision
 - d. If decision is not written in Nepali language translated certified copy of decision in Nepali language from competent person of translation of decision or diplomatic or consular representative.
- (2) If the application is received in accordance with Sub Section (1) appellate court shall have to send the decision made by foreign court after the recognition of it with investigation of the received request to concerned District Court for the purpose of enforcement in case of realization of condition mentioned hereunder.
- a. If such decision is made by competent court with applicable jurisdiction
 - b. If such decision may be enforced in concerned country
 - c. If there is no possibility of review of decision after the finality in accordance with the law of given country
- Explanation:** For the purpose of this section, “Concerned District Court” means the distinct court that lies in the area of asset from where partition, fine amount and execution shall have to accomplish.
- (3) Notwithstanding anything is written in Sub Section (2) the decision made by foreign court shall not get recognition in the condition mentioned hereunder and such decision shall not be enforced within Nepal:-
- a. If the decision is deemed fraudulent or cheated from the point of view of procedural aspect,
 - b. If the case is sub judice in Nepalese court with same party, purpose and fact which is registered in Nepal before than the registration of it in foreign court and if decision is made in the issues of same fact, purpose and party by foreign court
 - c. If the decision is already made from Nepalese court in accordance with the issues mentioned in clause (b)
 - d. If the case is already enforced or on the verge of enforcement with the recognition of Nepal in accordance with the decision made by the court of any other country mentioned in the case in accordance with clause (b)
 - e. If there is no opportunity of fair representation given in hearing for any one side in such decision,
 - f. If the decision is made beyond the necessary widely accepted regular procedure,
 - g. If it shall be against the public order while enforcing such decision.
- (4) Concerned District Court shall enforce the decision if the written notification is received from Court of Appeal for the purpose of enforcement of decision equivalent to the decision made by same court in accordance with Sub Section (2).

38. **Mutual legal assistance shall be provided:** (1) After the finalization of evidence collection and evidence examination for mutual legal assistance in accordance with this Chapter investigating authority, court or concerned District Govt. Attorney office shall dispatch such information to central authority.
- (2) Central authority shall have to provide the information associated with mutual legal assistance received in accordance with Sub Section (1) to foreign state through diplomatic mechanism.

Chapter- 6

Miscellaneous

39. **Documents of evidence have to be certified:** (1) The documents of evidence attached along with the request of mutual legal assistance pursuant to this Act shall have to be certified by judge or authorized government officer with official seal.
- (2) The documents of evidence not certified in accordance with Sub Section (1) shall not get legal validity.
40. **Request letter sent for mutual legal assistance shall have to be in Nepali language:** (1) The request letter sent by foreign state for mutual legal assistance in accordance with this Act shall have to be in Nepali language.
- (2) Notwithstanding the request letter in accordance with subsection (1) is written in any foreign language and has submitted in original English copy or copy with authorized translation in English from any other language with justifiable ground that it is no longer practical to translate request letter into Nepali language shall be acceptable for Central Authority or concerned court.
41. **Cost has to incur:** If any ordinary fee or cost has to be paid in accordance with Nepalese laws in the procedure of the mutual legal assistance such amount of fee or cost shall have to be borne by requesting foreign state.
42. **The Provisions of this Act shall prevail:** The provisions of this Act shall prevail on the issues of this Act and other laws in force shall be applicable in other issues.
43. **Assistance has to be obtained:** Concerned entity of Government of Nepal shall have to provide assistance in the function to be executed under the provisions of this Act.
44. **Report has to be submitted:** Central Authority shall submit the report to Government of Nepal annually mentioning the issues mentioned hereunder;-
- a. Requested and acquired mutual legal assistance with and from foreign states
 - b. Mutual legal assistance given in request of foreign states by Nepal
 - c. Recommendation for further improvement in the issues of mutual legal assistance
45. **Power to Frame Rule:** The Government of Nepal may frame necessary Rules to implement the provisions of this Act.

Date of Authentication: 2070/12/12 (2014/03/26 AD)

Mutual Legal Assistance Rules, 2013

In exercise of the power under Section 45 of Mutual Legal Assistance Ordinance, 2012, the Government of Nepal has formulated the following Rules.

1. **Short title and Commencement:** (1) These rules shall be cited as “Mutual Legal Assistance Rules, 2013”.
(2) These Rules shall come into force immediately.
2. **Definition:** Unless the subject and context otherwise requires in this Regulation,-
 - (a) “Ordinance” means Mutual Legal Assistance Ordinance, 2012.
 - (b) “Investigation Officer” means authority empowered for investigation and prosecution of offences as per prevailing laws.
 - (c) “Ministry” means Ministry of Foreign Affairs.
3. **Procedures to provide mutual legal assistance to foreign country based on reciprocity:** (1) The Ministry shall commence preliminary enquiry, if any foreign country having no bilateral treaty on exchange of mutual legal assistance, requests for mutual legal assistance through diplomatic channel as per Sub-section (2) of Section 3 of the Ordinance.
 - (2) While conducting enquiry as per Sub-rule (1), the Ministry shall, if any kind of promise is obtained from the requesting country or its competent authority to provide mutual legal assistance to Nepal if so requested in future in similar types of judicial proceedings and if such assistance is not detrimental to the sovereignty or public order of Nepal, recommend to the Central Authority to provide mutual legal assistance based on reciprocity with the details, documents and evidences related with.
 - (3) In case of receipt of request from Ministry as per Sub-rule (2), the Central Authority shall initiate proceedings as per Section 27.
 - (4) If the Ministry, after enquiry, finds that mutual legal assistance based on reciprocity cannot be made available as per Sub-rule (1), it shall give its information to the concerned country and Central Authority.
 - (5) Ministry shall finish enquiry as per of Sub-rule (1) within 7 days of receipt of such request.
4. **Procedure to make request to foreign country for mutual legal assistance:** (1) If any investigation authority requires mutual legal assistance from foreign country in relation to the investigation or prosecution of any offense as per the Ordinance, it shall submit a request to Central Authority mentioning the details as mentioned in the Section 14 of the Ordinance in the format as mentioned in Annex 1.
 - (2) If a Court makes an order to request for mutual legal assistance from any foreign country during the course of judicial proceedings as per the Ordinance, the Court shall make request to the

Central Authority mentioning the details as per Section 14 of the Ordinance in the format as mentioned in Annex 2.

- (3) In case of receipt of request as per Sub-rule (1) or (2), the Central Authority shall make request to the foreign country through diplomatic channel mentioning details as per Sections 14 and 15 of the Ordinance in the format as mentioned in Annex 3.
 - (4) While requesting for mutual legal assistance as per Sub-rule (3), if the concerned foreign country has set certain conditions, Central Authority shall comply with such conditions too.
5. **Process of receiving payment of applicable fee while requesting for mutual legal assistance:**
- (1) The Central Authority shall inform the requesting country if any kind of fee is chargeable in the course of executing MLA request if it decides to provide MLA after enquiry made by the Central Authority as per Section 27 of Ordinance.
 - (2) Notwithstanding anything written in Sub-rule (1), the Central Authority shall initiate mutual legal assistance proceedings immediately and pay for that even though payment of such fee is delayed.
 - (3) The requesting foreign country shall pay or reimburse the applicable fee paid by the Central Authority on behalf of that foreign country as per Sub-rule (2) by sending such amount in the Bank Account prescribed by the Central Authority.
6. **Information to be furnished:** The Central Authority shall acknowledge the receipt of MLA request made in accordance with Section 3 and 26 of the Ordinance through the diplomatic channel in the format prescribed in the Annex 4.
7. **Procedures to request for the recognition or implementation of the judgment of civil nature given by foreign court:**
- (1) Any party desirous for the recognition of or to get implemented the verdict of the case of civil nature of the foreign court as per Section 37 of Ordinance shall request to the Central Authority through diplomatic channel.
 - (2) The Central Authority shall initiate action as per Chapter 4 of Ordinance over the request received as per Sub-rule (1).
8. **Constitution of Coordination Committee:** (1) The Central Authority may constitute a Coordination Committee in order to execute proceedings as per this Rules and Ordinance effectively consisting of the following members:-
- (a) Joint Secretary, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs
Coordinator
 - (b) Representative, Ministry of Foreign Affairs
Member
 - (c) Representative, Supreme Court
Member
 - (d) Representative, Office of Attorney General
Member

(e) Representative, Investigation and Prosecution Agency or other relevant agency Member

(2) The power, function and role of coordination committee formed under Sub Rule (1) shall be as below:-

- a. To recommend as necessary on the issues of mutual legal assistance,
- b. To cooperate as necessary on the issue of mutual legal assistance,
- c. To recommend and identify the list of countries for necessary mutual legal assistance treaty and to prioritize it,
- d. To perform other functions as prescribed by Central Authority.

9. Identifying and prioritizing the country to be agreed for treaty: The Central Authority may identify and prioritize the countries for mutual legal assistance and may recommend to the Ministry for the purpose of treaty.

10. Translation: (1) The Central Authority shall translate request letter, documents or other documents attached with the request to a foreign country for mutual legal assistance in English or shall translate request letter or documents received from requesting country pursuant to Sub Section (2) of Section 40 of Ordinance from English.

(2) The Central Authority shall prepare a roster of translator for the translation of different language for each fiscal year for translating the documents as per Sub Rule (1).

(3) The Central Authority shall get the request letter or documents translated by following the provisions of prevailing public procurement law.

Provided that it shall not be a hindrance to use any other person beyond the roster if there is an extraordinary situation or an appropriate person is not available to translate particular language.

11. Program for capacity building: (1) The Central Authority may organize regular training, interaction and capacity building programs for the concerned authorities on mutual legal assistance system.

(2) The Central Authority may work in collaboration with foreign international agencies accomplishing similar functions for the purpose of Sub Rule (1).

12. Annual report to be submitted: The Central Authority shall submit its report within 3 months from the end of fiscal year to the Government of Nepal, Council of Ministers under Section 44 of Ordinance.

13. Procedure or directives to be issued: The Central Authority may issue and implement necessary procedures or directives for the purpose of effective implementation of Ordinance, this Rules and International Standards of Mutual Legal Assistance.

Schedule 1

Related to Sub Rule (1) of Rule 4

MLA Request by Investigation Authority

Date

Subject: Request for MLA

The Central MLA Authority

.....Kathmandu.

Mutual legal assistance from foreign state has become necessary to complete the following investigation being conducted by this agency. So your are requested for MLA with following details.

1. Case:
2. Case Registration No.:
3. Name, surname and address of defendant
4. Name of the foreign country to be requested
5. Name and address of court or agency of foreign country
6. Address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
7. The official language of foreign country
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Information to be disclosed under Section 14 of Ordinance

Requesting Authority

Designation

Signature

Schedule 2
Related to Sub Rule (2) of Rule 4

MLA request by the Court

Date

Subject: Request for MLA

The Central Authority

.....Kathmandu.

The court has ordered onto request for mutual legal assistance from foreign jurisdiction for the following case sub judice with this court. So, your are requested for MLA with following details.

1. Case:
2. Case Registration No.:
3. Name, surname and address of defendant
4. Name of the foreign country to be requested
5. Name and address of court or agency of foreign country
6. Address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
7. The official language of foreign country
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
 - d.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Information to be disclosed under Section 14 of Ordinance

Requesting Authority

Designation

Signature

Schedule 3

Related to Sub Rule (2) of Rule 4

Information to be disclosed by Central Authority while requesting for MLA

1. Name of foreign country:
2. Name and address of court or agency of foreign country:
3. Contact address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
4. The official language of foreign country
5. Case:
6. Case registration no. :
7. Name, surname and address of parties to the case:
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
 - d.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Other information to be disclosed under Ordinance

Requesting authority from Central Authority

Name of Authority

Designation

Signature

Date

Official seal

Schedule 4
Related to Sub Rule (2) of Rule 4
Information of Receipt of Request for MLA

Date:

Subject: Information of receipt of mutual legal assistance

1. Request registration no.:
2. Date of registration of request:
3. Details of requesting agency:
 - a. Name:
 - b. Address
 - c. Phone no.
 - d. Fax No.
 - e. Email
 - f. Website
4. The official language:
5. Agencies supporting to enforce mutual legal assistance:
 - a.
 - b.
 - c.
 - d.
6. Possible date to provide mutual legal assistance:
7. Possibility to provide within determined time or not:
8. Reason if so is not possible:
9. Other necessary information:

Official seal

Name of informing authority

Designation

Signature

Asset (Money) Laundering Prevention Act, 2008
(Relevant Provisions)

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

- c. "Terrorist act" means the following acts:
 - 1. Any act, which is defined as an offence by Article 2 (1)(a) of the International Convention for the Suppression of the Financing of Terrorism 1999.
 - 2. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.
 - 3. Any act that is an offence under the following convention to which Nepal is a party to:-
 - a. Tokyo Convention on Offences and Certain Other Acts committed on Board Aircraft, 1963
 - b. SAARC Regional Convention on Suppression of Terrorism, 1987
 - c. Any other convention against terrorism which Nepal becomes party to, after the implementation of this Act.
- d. "Terrorist (individual)" means any natural person who commits the following acts:
 - 1. commits or attempts to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully,
 - 2. participates as an accomplice in terrorist acts,
 - 3. organizes or directs others to commit terrorist acts, or
 - 4. contributes or cooperates to group of persons acting with a common purpose of commission of terrorist acts where such contribution or cooperation is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.
- e. "Terrorist organization" means any organized or unorganized group or organization of terrorists that commits the following acts:-
 - 1. commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully;
 - 2. participates as an accomplice in terrorist acts;
 - 3. organizes or directs others to commit terrorist acts; or

4. contributes or cooperates to group of persons acting with a common purpose of commission of terrorist acts where the contribution or cooperation is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.

7J. Identification and Verification by Third Party: (1) Reporting entity may rely on a third party in undertaking some elements of customer identification and verification in the following circumstances:

- (a) If reporting entity is satisfied that all identification and verification of customer is carried out as per this chapter,
 - (b) If information of identification and verification required by this chapter will be made available to reporting entity without delay as per necessity, and
 - (c) If reporting entity is satisfied that all copies of identification and verification data and documents will be made available from the third party upon request, without delay.
- (2) Notwithstanding whatever written in subsection (1), no identification and verification of a customer made by a third party shall be acceptable for reporting entity:
- (a) If such third party or institution belongs to a country identified as a deficient country in compliance of the international AML/CFT standards, or
 - (b) If such third party or institution does not have measures in place consistent with the requirements set out in this chapter,
 - (c) If such institutions are not under regulation, control and supervision to prevent and combat money laundering and terrorism financing.
- (3) Ultimate responsibility for customer identification and verification under this chapter shall remain with the reporting entity relying on the third party.

7L. Obligations Regarding Wire Transfers:

- (15) Financial institution servicing for wire transfer shall manage the followings in regards to its agents:-
- (a) Implementing the program of prevention and combating money laundering and terrorism financing and monitoring whether it is implemented or not.
 - (b) Preparation of up-to-date information of agent and publish it in its website publicly.

7M. Provision on Cross-border Correspondent Banking: (1) Financial institution shall undertake the following measures while entering into cross-border correspondent banking and similar relationships or conducting transaction:-

- (d) to evaluate the respondent institution's reputation and the quality of supervision to which it is subject to, including whether it has been subject to a money laundering or terrorism financing investigation or regulatory action based on publicly-available information.

- 7P. Responsibilities of Reporting Entity:** (1) Reporting Entity shall develop and implement AML/CFT Policy and Procedures compatible with its scope, geographic coverage, size of business, customer, transaction and risks for the prevention of money laundering and financing of terrorism and implementation of this Act, rules and directives thereunder.
- 7S. Obligation to Report Suspicious Transactions:** (1) Reporting Entity shall make a suspicious transaction report to the FIU within three days as far as possible if they find following circumstances in relation to any customer, transaction or property:
- (b) If it suspects or has reasonable grounds to suspect that the property is related or linked to, or is to be used for, terrorism, terrorist, terrorist acts or by terrorist organization or those who finance terrorism,
- 12. Cooperation with foreign counterparts and exchange of information:** (1) Department, may request or provide for the exchange of the information of investigation with its foreign counterpart carrying out the functions of similar nature, on the basis of reciprocity, upon demand or upon its own request.
- (2) Department may, if it considers necessary, conduct investigation of money laundering and terrorist financing together with foreign counterpart carrying out the functions of similar nature.
- (3) Department may develop make mutual arrangement with foreign counterpart carrying out the functions of similar nature to determine the method, terms and conditions and procedures for the exchange of cooperation pursuant to subsection (1) and (2).
- (4) Secrecy provisions, pursuant to section 26, shall be equally applicable to the information received from the foreign counterpart carrying out the functions of similar nature pursuant to subsection (2).
- (5) Other provisions regarding the exchange of cooperation shall be as prescribed.
- 19. Request to the concern Country:** (1) The Department, if it finds in the course of investigation that any property or instrumentality of any person related with money laundering or terrorist financing is in a foreign country, shall immediately request through the Ministry of Foreign Affairs to freeze such property or instrumentality.
- (2) The Department, while making request pursuant to subsection (1) shall include the more possible information about the place of the property or name of banks or financial institutions of such person.
- 29F. Enlisting as a Terrorist, Terrorist Group or Terrorist Organization:** (1) The Ministry of Foreign Affairs, if it receives a request from a foreign country in order to freeze the properties or funds of a person, group or organization related/involved with or suspected of being a terrorist or terrorist group or organization, shall send such request to the Ministry of Home Affairs without delay.
- (2) The Ministry of Home Affairs shall make necessary inquiry against a person, group or organization involved or suspected of involving in terrorist act either upon the receipt of request pursuant to subsection (1); or of Nepali or foreign citizen, group or organization involved in or

having reasonable grounds of suspicion of being involved in terrorist act inside or outside of Nepal, in its own initiative.

- (3) The Government of Nepal may designate a person, group or organization as a terrorist, terrorist group or organization, if it finds or has reasonable grounds to believe that such person, group or organization is involved or going to be involved in the activities stipulated in subsection (2) or of section 4 or in any terrorist act pursuant to prevailing laws in Nepal or any other country under prevailing laws and issue freezing order against the properties or funds of such person, group or organization.
- (4) The Government of Nepal may delist a person, group or organization listed pursuant to subsection (3) if it does not find grounds for keeping such person, group or organization into such list.
- (5) The Ministry of Home Affairs shall, if any person, group or entity is delisted by the Government of Nepal pursuant to subsection (4), immediately publish its notice in its website.

29H. Delisting or Defreezing the Properties and Funds: (1) Any person, group or organization designated in the list of section 29E. and 29F. may submit an application to the Ministry of Foreign Affairs and Ministry of Home Affairs respectively.

- (2) Any person, group or organization affected by the freeing of properties or funds or on other matters due to the order under section 29G. may submit an application to the Ministry of Foreign Affairs if the designation has been made pursuant to section 29E and to Ministry of Home Affairs if the designation has been made pursuant to section 29F.
- (3) The concerned Ministry shall make an inquiry if it receives an application pursuant to subsections (1) or (2) and the Ministry of Foreign Affairs shall submit it to the UNO if the applicant is under the list of section 29E. the Ministry of Home Affairs shall submit it to the concerned foreign country through the Ministry of Foreign Affairs if the applicant is under the list of section 29F.
- (4) The Ministry of Home Affairs shall make an inquiry if it receives an application pursuant to subsections (1) or (2) from the person, group or organization designated upon its own initiative under the list of 29F. It may delist such person, group or organization if it does not find any ground to keep applicant under the list of section 29F and shall make defreezing order for his frozen properties or funds.
- (5) Other provisions including the effective implementation of United Nations Security Council Resolutions including listing or delisting of terrorist, terrorist group, terrorist organization, listing or delisting of terrorist, terrorist group, terrorist organization pursuant to section 29F, defreezing properties or funds frozen pursuant to section 29G, appealing against the listing or freezing order, proper protection of bona-fide third party, providing minimum properties or funds for the subsistence of person whose property or funds is frozen shall be as prescribed.

29I. Request to Another Country: (1) The Ministry of Home Affairs shall immediately send the list of person, group or organization listed pursuant to section 29F through the Ministry of Foreign Affairs with a request to freeze properties or funds of such person, group or organization if it finds that their properties or funds may be located in another country.

(2) The Ministry of Home Affairs shall send the name of person, group or organization if it is delisted through the Ministry of Foreign Affairs in order to defreeze property or funds frozen pursuant to subsection (1).

38. Auction to be Made: (1) Where, upon being stored for a long period, the property and instrumentality seized in relation to offence of money laundering and terrorism financing are likely to suffer any damage or breakage due to stain or any other cause; rot; depreciate in value or where it is not possible to maintain or preserve the property and instrumentality due to lack of space for storage, the same may be auctioned by fulfilling the procedures as prescribed by the prevailing laws.

(2) The proceeds obtained from auction sale pursuant to Sub-Section (1) shall be balanced in the deposit account and if it is subsequently decided to give such goods back to the owner, the owner shall be entitled to the amount received from such auction.

40. Provisions Relating to Delivery of Notice: (1) Notwithstanding anything contained in the prevailing laws, a summon to be served to a foreign national in connection with an offense under this Act shall be served to the office or representative of such person in Nepal, if any, and the notice so served shall be deemed to have been duly served.

(2) In case no office or representative as stipulated under Sub-Section (1) exists, the notice shall be served to the main place of business of such person or his/her permanent residential address or the mailing address if provided by him/her in course of business, through telex, tele-fax or other means of telecommunication or through registered mail and the summon so served shall be deemed to have been duly served.

(3) Notwithstanding anything mentioned in Sub-Section (1) or (2), this section shall not bar to serve the summon to the foreign national as per the specific provision contained in the treaty which Nepal or the Government of Nepal is a party to, if there is any.

44F. Information to be Provided to the Ministry of Foreign Affairs: The Department, Regulator or FIU shall immediately inform the Ministry of Foreign Affairs if an MOU was concluded with foreign counterpart pursuant to this Act.

47. Directives may be Issued: The Government of Nepal may issue Directives necessary for the effective implementation of this Act and Rules thereunder including international standards of money laundering and terrorism financing.

Asset (Money) Laundering Prevention Rules, 2066 (2009)
(Relevant Provisions)

6. **Functions, Duties and Power of the Financial Information Unit:** In addition to the functions, duties and power stated in Section 10 of the Act, the functions, duties and power of the Financial Information Unit shall be as follows:
- (e) Share with the reporting institution and the regulatory body the information received from foreign state or international organizations regarding the individuals and organizations involved in the offence and the states with weak mechanisms for controlling the offence;
 - (f) Sign Memorandum of Understanding with the Financial Information Unit of other country for the purpose of Section 10 (1) (d) of the Act;
 - (g) Obtain, as a Financial Information Unit, membership of international organizations working for the prevention money laundering.
29. **Information may be received through the Financial Information Unit:** The Department may, if any information or particular needs to be sought from any institution of a foreign country in course of inquiry or investigation, seek such information or particular through the Financial Information Unit.

Assets (Money) Laundering Prevention (Freezing of Properties and Funds of Designated Person, Group and Organization) Rules, 2013
(Relevant Provisions)

- 3. Listing and Freezing Order:** (1) The Ministry of Foreign Affairs (MOFA) shall without delay (sic) provide the updated list with the name, address and other related documents of person, group or organization designated under the resolution of the UN Security Council pursuant to section 29E. of the Act to the Ministry.
- (2) The Ministry, upon the availability of the updated list pursuant to sub-rule (1), shall immediately issue a freezing order against the properties or funds of such person, group or organization and keep it in its website for public information.
- (3) The Ministry shall make an inquiry on the following matters if it receives a request for freezing the properties or funds of a person, group or organization from a foreign Government through the MOFA, pursuant to subsection (1) of section 29F. of the Act.
- (a) Whether the request is compatible with the laws of the requesting country
 - (b) Whether any reference/fact is disclosed about the existence or availability of such person, group or organization, or properties or funds of such person, group or organization in Nepal,
 - (c) Whether the request is compatible with prevailing Nepalese laws
 - (d) Whether the person, group or organized related with properties or funds requested to freeze does exist or not in Nepal.
- (4) The Ministry shall complete its inquiry to be made pursuant to sub-rule (3) within three days of receipt of such request, in maximum.
- (5) The Ministry shall make an inquiry on the following matters before enlisting a person, group or organization in the domestic designation list by itself to be issued pursuant to sub-section (3) of section 29F of the Act:
- (a) Whether terrorist act or terrorist financing pursuant to this Act or prevailing laws has occurred or reasonable grounds exist that such acts may happen or be committed,
 - (b) Whether there is affiliation with such person, group or organization has or reasonable grounds exist that there may be such affiliation with the person, group or organization mentioned in sub-clause (a)
- (6) The Ministry, if it finds that such person, group or organization is involved or reasonable grounds exists to believe that they are related with section 29F of the Act in its inquiry made pursuant to sub-rule (3) or (5), shall submit its proposal to the Council of Ministers, the Government of Nepal to enlist such person, group or organization in the designation list of subsection (3) of the section 29F of the Act and to freeze their properties or funds.
- (7) The Ministry shall immediately issue a freezing order against the properties or funds of a person, group or organization and keep it in its website for public information in the format given in

schedule 1 if the Council of Ministers, the Government of Nepal decides to enlist such person, group or organization in the designation list and freeze their properties or funds pursuant to sub rule (6).

- 4. Recommendation for Designation:** (1) Any person, institution or agency, if it finds an information in the course of its business or has reasonable grounds to believe that, a person, group or organization deserves designation in the list pursuant to chapter 6B. of the Act, shall immediately pass confidential information to the Ministry.
- (2) The Ministry, based upon the information received pursuant to sub rule (1) or from its own or other sources or upon the inquiry made pursuant to sub rule (1), shall submit its proposal to the Council of Ministers, the Government of Nepal to enlist person, group or organization in the designation list pursuant to chapter 6B of the Act.
- (3) The Ministry shall carry out the following functions if the Council of Ministers, the Government of Nepal, decides to enlist a person, group or organization in the designation list and freeze their properties or funds pursuant to the chapter 6B of the Act as per the proposal submitted under sub rule (2):
- (a) To request related agency under UNO through the MOFA, if decision is made to enlist under the UN designation list,
 - (b) To request foreign country through the MOFA, if decision is made to enlist under the designation list of foreign country,
 - (c) To publish in its website, if decision is made to enlist in the domestic designation list.
- 5. Delisting:** (1) A person, group or organization enlisted in the designation list pursuant to chapter 6B of the Act may submit an application for delisting to the Ministry in the format prescribed in Schedule 2 if he has substantial grounds to request so.

Provided that a person, group or organization designated in the list under section 29E shall submit his application to the Ministry through the MOFA.

- (2) The Ministry shall make an inquiry if it receives an application pursuant to sub rule (1):
- (a) Whether the name and address match with the designation list
 - (b) Whether the applicant is related with the designation list
- (3) The Ministry shall submit its proposal to the Council of Ministers, the Government of Nepal if it finds reasons and grounds in its inquiry made pursuant to sub rule (2) that the applicant should not be in the designation list.
- (4) The Ministry shall carry out the following functions if the Council of Ministers decides to delist a person, group or organization from the designation list pursuant to the proposal submitted under sub rule (3):
- (a) To request the related agency under UNO through the MOFA to delist the name, if the applicant is under the UN designation list,

- (b) To delist the name from the list and inform it to the foreign country through the MOFA, if listing has been made upon the request of foreign country pursuant to subsection (3) of the section 29F,
 - (c) To delist from its own designation list, if the applicant is under domestic list of sub-section (3) of the section 29F,
 - (d) To request foreign country to delist the applicant, if the applicant has been listed in foreign country upon the request of the Government of Nepal, through the MOFA.
- (5) Notwithstanding whatever written in this rules elsewhere, the Ministry shall remove the name from the designation list if it finds that it has by mistake designated a person, group or individual in the course of designation pursuant to section 29E and 29F and also release the properties or funds if frozen.
- (6) The Ministry shall immediately publish a notice of delisting in its website if a person, group or organization is delisted pursuant to clause (b) and (c) of sub rule (4).
- (7) The Ministry shall make a management for regular review the designation list so as to determine whether a particular person, group or organization requires to be remained in the list or not as per the section 29E and 29F of the Act or this Rules.

10. Protection of Bona-fide Third Parties: (1) Any bona-fide third party whose interest has been impaired due to the properties or funds frozen under the Chapter 6B of the Act may submit his application to the Ministry with a request to defreeze his properties or funds in the format prescribed in schedule 4.

Provided that bona-fide third party who is included in designation list under section 29E and whose properties or funds have been frozen shall submit his application to the Ministry through the MOFA.

- (2) Necessary documents and evidences should be attached while submitting an application in accordance with sub rule (1).
- (3) The Ministry shall defreeze the properties or funds up to the limit of the interest of the bona-fide third parties if it finds the application made pursuant to sub rules (1) or (2) is true.
- (4) The Ministry shall immediately order the concerned agency to defreeze the properties or funds up to the interest of the bona-fide third parties if it is so decided pursuant to sub rule (3) and publish this notice in its website.

11. Access to Basic Expenses: (1) A person affected by the freezing of all properties and funds due to his designation in the list made pursuant to section 29E and 29F of the Act may submit an application to the Ministry with a request to provide access to the frozen properties or funds required for the basic humanitarian need of his and his family members in the format as prescribed in schedule 5.

- (2) The Ministry, if it finds that there is no alternative for basic expenses in its inquiry over the application made pursuant to sub rule (1), may release reasonable and necessary frozen properties or funds for the following purposes:
 - (a) Expenses for daily foodstuffs, shelter and health,

- (b) Expenses for taxes and other fees for electricity, telephone, drinking water to per paid as per the prevailing laws,
 - (c) Expenses for the education of minors
 - (d) Expenses for legal protection and judicial proceedings
 - (e) Expenses for due protection of frozen properties or funds.
- (3) Any decision made pursuant to sub rule (2) for a designee under the UN Security Council Resolution shall be transmitted to the concerned agency of UN prior to providing access to the properties or funds.
- (4) The Ministry, if it receives any direction from the UNO upon its request made pursuant to sub rule (3), shall act accordingly.
- (5) The Ministry may release reasonable properties or funds if it did not receive any response from UN O within ten days of receipt of request made pursuant to sub rule (3).
- (6) The Ministry shall ensure that expenses provided pursuant to sub rule (4) shall not be used in terrorist act or terrorism financing.

13. Dissemination of Information: If an agency of Nepal receives information about the decision of a foreign jurisdiction or agency in relation to transactions of particular person, group or organization which may have affect in Nepal, such agency of Nepal may disseminate such information to the agencies or institutions under it for pre-caution.

Organized Crime Prevention Act, 2070(2014)

(Relevant Provisions)

52. Special Provision on fugitive offender: (1) In case of a person committing organized crime is not arrested or is absconded the process mentioned hereunder shall be applied from the expiry of 30 days of delivery of warrant notice until the person is produced in the court:-

- (d) Request to take in custody or extradite a person if there is treaty or provision in law in force shall be made in writing to concerned foreign state or organization through diplomatic means by evaluating the graveness of the offence in case of such offender is residing outside than Nepal.

**Criminal Proceeds and Instrumentalities (Freezing, Seizing and
Confiscation) Act, 2014**
(Relevant Provisions)

- 10. Proceeding of Mutual Legal Assistance:** (1) If the investigation authority, in the course of investigation, finds reasonable ground that the properties or instrumentalities likely to be the subject of freezing or seizing pursuant to Section 4 is in a foreign country, shall initiate process to receive mutual legal assistance as per the prevailing law.
- (2) The investigation authority shall include the information of address, nature, value and other available information of such properties or instrumentalities while initiating the process pursuant to Subsection (1).
- (3) The investigation authority shall furnish details of process initiated to receive mutual legal assistance pursuant to this section to the Department regularly.
- 16. Cooperation may be exchanged:** (1) The Department may exchange cooperation based on mutuality with foreign counterparts having similar functions.
- (2) The department may establish Memorandum of Understanding as per necessity with foreign counterparts having similar functions to determine methods, terms and procedure of cooperation pursuant to this Section.
- (3) The information of MOU shall be given to the Ministry of Foreign Affairs immediately if the Department concludes an agreement pursuant to Subsection (2).
- 38. This Act to Prevail:** (1) Notwithstanding whatever mentioned in prevailing laws, provisions of this Act shall prevail over them in relation to seizing, freezing and confiscation of proceeds of crimes or instrumentalities after the commencement of this Act.
- Provided that prevailing laws shall prevail in seizing, freezing and confiscation of proceeds of crimes and instrumentalities relating to crime committed before the commencement of this Act.
- (2) After the commencement of this Act, should there is a provision of compensation or the court has decided to return back the property or instrumentality to the person concerned under prevailing laws, such compensation or return shall be made as per the provisions of such laws even from the same property or instrumentality.
- (3) Properties or instrumentalities confiscated pursuant to prevailing laws but yet to initiate the process of auction or failed in the effort of auction till the date of commencement of this Act and their updated details shall be submitted to the Department or District Administration Office.
- (4) Concerned investigation authority shall submit the properties or instrumentalities seized or frozen pursuant to prevailing laws and their updated details maintained till the date of commencement of this Act to the Department or District Administration Office.
- (5) Notwithstanding anything is written in the subsections (1), specific prevailing law shall prevail in relation to freezing, seizing and confiscation of proceeds and instrumentalities of offence of money laundering and terrorist financing.

Provided that provisions of sections 5 and 9 of this Act shall prevail in relation to proceeds of crimes and instrumentalities.

Civil Aviation Act, 2015 (1959)
(Relevant Provisions)

•**9A. Offence and Punishment:** (1) Commission of any of the following acts shall constitute following offences:

- (a) Offence relating to unauthorized entry: If any aircraft enters into Nepal without obtaining permission under this Act or the prevalent law, it shall be deemed to have committed an offence relating to unauthorized entry.
- (b) Offence relating to violation of aerial territory: In case any aircraft flies over the territory of Nepal without obtaining permission under the prevalent law it shall be deemed to have committed an offence relating to violation of aerial territory.
- (c) Unlawful seizure or hijacking of an aircraft: In case any person on board an aircraft on flight, unlawfully by force or threat thereof or by displaying any other type of threat or intimidation, captures or exercises control over that aircraft, he/she shall be deemed to have committed the offence of unlawful seizure or hijacking of the aircraft.
- (d) Offence against the safety of air flight: Commission of any of the following acts, shall constitute an offence against the safety of air flight:-
 - (1) Committing an act of violence against a person on board an aircraft on flight or the likelihood of any danger to be caused to the safety of an aircraft by such an act.
 - (2) Destroying an aircraft in service or causing damage to such an aircraft by rendering it incapable of flight or probably endangering its safety during flight.
 - (3) Destroying or damaging an aircraft on ground or the parts or equipments installed in an aircraft or the air navigation facilities or the aid equipments relating to communication-aviation or fire prevention or life saving services and protection equipments or materials or goods related thereof or unlawfully taking out any part or mechanical parts thereof or interfering with their operation.
 - (4) Endangering the safety of an aircraft on flight by communicating any information in spite of the knowledge of its being false.
- (e) Offence against the safety of Aircraft: If any device or substance is placed or caused to be placed on an aircraft in service or on ground which is likely to destroy that aircraft or to render it incapable of flight or to endanger its safety during flight pursuant to Clause (d), Sub-clause (2), it shall be treated as an offence committed against the safety of the aircraft.
- (f) Offence against the safety or aerodrome: If an aerodrome and the communication and navigational aid equipments existing inside or outside an aerodrome area, visual aids, equipments pertaining to weather and climate, machines and equipments relating to fire prevention and life-saving services, other equipments and machines relating to safety and

• Amended by Fourth Amendment

other machines or equipments related directly or indirectly to air navigation, buildings, runway, taxi-way, apron, hangar etc. or goods related thereof are in any way fully or partially spoiled, destructed, damaged or destroyed, it shall be treated as an offence committed against the safety or an aerodrome.

- (g) Offence against the safety of persons concerned with Air Navigation: If any attempts are made to endanger or obstruct air navigation and its safety by coercing any employees involved in air navigations, Government or non-Government employees employed at an aerodrome and any visitor to an aerodrome including air passenger to deviate from their duties by abducting or capturing them through intimidation or threat, with or without arms, or through temptation or adoption of other means, it shall be treated as an offence committed against the safety or persons concerned with air navigation.
- (2) Making attempts at the Commission of offences mentioned in Clauses (c), (d), (e), (f) and (g) of Sub-section (1) or being accomplices to the commission or an attempt at such offences shall be also treated as offences under this Section.
- (3) Those who commit the following offences mentioned in Subsection (1), shall be liable to the penalties as mentioned below:
- (a) Any person who commits an offence under Clauses (a) and (b) shall be punished with imprisonment for a term ranging from One year to Three years.
 - (b) Any person who commits an offence under Clauses (c), (d) and (e) shall be punished with imprisonment for life, and any person who attempts at its commission or is an accomplice of a person committing such offences shall be punished with imprisonment for a term ranging from Fifteen to Twenty years.
 - (c) Any person who commits an offence under Clause (f) shall be punished with imprisonment for a term ranging from One year to Five years, besides making him/her liable to pay the amount claimed for the loss.
 - (d) Any person who commits an offence under Clause (g) shall be punished with imprisonment for a term of Five to Ten years.
 - (e) Notwithstanding anything contained in the Clauses mentioned above, if as a consequences of any such offence any person on board an aircraft dies or the aircraft itself is destroyed, the offender shall be punished with imprisonment for life, and an accomplice to such an offence shall be punished with imprisonment for life or for a term of Fifteen to Twenty years, and the assets of such an offender and the accomplice shall be confiscated.

- ⁰9F. Accused or offender may be extradited :** (1) In case where a person committing the crime under Section 9A is a Non-Nepalese citizen and the state, in the territory of which the crime is committed or the crime is committed against the aircraft of which registration, requests the extradition of such person, Government of Nepal may, notwithstanding anything contained in the •Extradition Act, 2045, extradite such person; and where he/she is not so extradited, a suit against such person shall be initiated in the court of Nepal for punishing him/her.
- (2) With respect to extradition, any offense mentioned in Section 9A shall not be treated as a political crime notwithstanding committed by any person irrespective of his/her position or the motive therefor.

⁰ Inserted by Second Amendment

• Amended by Fourth Amendment