

## **Working Journalists Act, 2051(1993)**

### Date of Authentication and Publication

2051.11.29 (13 March 1993)

<u>Amendments</u>	<u>Date of Authentication and Publication</u>
1. Amending Some Nepal Acts to maintain Gender Equality Act, 2063 (2006)	2063.7.17 (3 Nov 2006)
2. Working Journalists (First Amendment) Act, 2064 (2007)	2064.4.27(12 Aug. 2007)
3. Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010) <sup>1</sup>	2066.10.7 (21 Jan. 2010)

Act No. 7 of 2051 (1993)

### **An Act Made to Provide for Working Journalists**

Whereas, it is expedient to make timely provisions for the rights, interests, convenience and security of working journalists and develop fair journalism by encouraging promotion of their professional efficiency;

Now, therefore, be it enacted by the Parliament in the Thirty-third year of reign of His Majesty King Birendra Bir Bikram Shah Dev.

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<sup>1</sup> This Act came into force on 15 *Jestha* 2065, "*Prasasti*" and the word "Kingdom" has been deleted.

## Chapter-1

### Preliminary

1. **Short title and commencement:** (1) This Act may be called as the "Working Journalists Act, 2051 (1993)".

(2) It shall come into force immediately.

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

(a) .....<sup>2</sup>

(b)<sup>3</sup> "Communication enterprise" means a public or private communication media or corporate body established or registered under the laws in force with the objective of operating any business or service relating to communication and in which Three or more than Three working journalists, employees or workers are engaged to work.

(c) "Manager" means a person who has authority to make final decision on the operation of business of any communication enterprise.

(d)<sup>4</sup> "Working journalist" means a person who does communication related business or service as a main business and is engaged either whole-time or part-time in a communication enterprise in consideration for remuneration, other than a person who has managerial and administrative powers in a communication enterprise, and this term also includes a person who is related with the profession of journalism such as a chief editor, editor who

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<sup>2</sup> Deleted by Republic Strengthening and Some Nepal Acts Amendment Act, 2066.

<sup>3</sup> Amended by First Amendment.

<sup>4</sup> Amended by First Amendment

collects, produces, edits or transmits news items in, or a correspondent, stringer, news reader, programme director, translator, web designer, columnist, photo journalist, press cameraperson, cartoonist, programme producer or operator, audio or language editor, in a communication enterprise.

- (e)<sup>5</sup> "Employee" means a person who is involved in the administrative, managerial, technical or other functions of a communication enterprise, other than a person who has power to make final decision in relation to managerial and administrative affairs of such an enterprise.
- (e1)<sup>6</sup> "Worker" means a person who is involved in the sale and distribution or production of communication materials or in any other labour-work in a communication enterprise, other than a working journalist or employee.
- (f) "Remuneration" means salary drawn by a working journalist from a communication enterprise in consideration for his or her service in the communication enterprise.
- (g)<sup>7</sup> "Committee" means the minimum remuneration fixation committee formed pursuant to Section 11.
- (h) "Family" means the husband, wife, son, .....<sup>8</sup> daughter, adopted son, .....<sup>9</sup> adopted daughter, father, mother or step mother who lives with a working journalist and whom the working journalist himself or herself has to maintain and subsist, and this term also includes his grand-father and grand-mother, in the case of a male

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<sup>5</sup> Amended by First Amendment.

<sup>6</sup> Inserted by First Amendment.

<sup>7</sup> Amended by First Amendment.

<sup>8</sup> Deleted by Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

<sup>9</sup> Deleted by Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

working journalist, and her father-in-law and mother-in-law, in the case of a female working journalist.

- (i) "Press Registrar" means the Press Registrar appointed pursuant to Section 19 of the Press and Publication Act, 2048 (1991).
- (j) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

## Chapter-2

### **Appointment, Security of Service and Working Hours**

3.<sup>10</sup> **Classification of posts:** (1) The Manager shall classify the posts of working journalists and hierarchy of such posts according to the nature of business of the communication enterprise.

(2) In making hierarchical classification of posts pursuant to Sub-section (1), the Manager shall do so as determined by the Committee.

(3) After the classification of posts and hierarchy of such posts pursuant to Sub-section (1), the Manager shall supply a description also containing the qualification, experience, functions, duties and powers and responsibilities required for and attached to such posts to the Press Registrar.

3A.<sup>11</sup> **Not to engage in work without making appointment:** No Manager shall engage any person in the functions of the post of working journalist without making appointment pursuant to this Act.

4.<sup>12</sup> **Posts to be filled by open competition:** (1) After supplying the details as referred to in Sub-section (3) of Section 3 to the Press

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<sup>10</sup> Amended by First Amendment.

<sup>11</sup> Inserted by First Amendment.

<sup>12</sup> Amended by First Amendment.

Registrar, the Manager shall fill the posts of working journalists required for the communication enterprise by making selection through open competition, in accordance with the prescribed procedures.

(2) The Manager shall issue appointment letters to the persons selected through open competition pursuant to Sub-section (1), within the prescribed period.

5.<sup>13</sup> **Appointment on contract basis:** (1) Notwithstanding anything contained in Section 4, if it is required to obtain the expertise service of any person for the communication enterprise, the Manager may, with the approval of the Press Registrar, appoint such a person to the post of working journalist on the contract basis, specifying a specific period of time.

(2) In making appointments on the contract basis pursuant to Sub-section (1), such appointments may be made only up to Fifteen percent of the total number of working journalists engaged in the concerned communication enterprise.

(3) The functions to be performed, remuneration to be obtained by, and term of service and other conditions of service and facilities of the person appointed on the contract basis shall be as set forth in the contract.

(4) Notwithstanding anything contained in Sub-section (3), the remuneration, provident fund and other facilities of working journalists appointed on the contract basis shall not be less than the remuneration, provident and other facilities to which the working journalists engaged in the same posts or levels in the communication enterprise.

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<sup>13</sup> Amended by First Amendment.

**5A.<sup>14</sup> Information of appointment to be given:** (1) After any person is appointed to the post of working journalist pursuant to Section 4 or 5, the Manager shall give information thereof to the Press Registrar.

(2) The Press Registrar shall update the information received pursuant to Sub-section (1).

**6. To remain on probation period:** In making a fresh permanent appointment as a working journalist, he or she shall be so appointed as required to undergo a probation period of Six months. If his or her performance is not satisfactory during that period, his or her appointment may be voided.

**7. Retention of lien:** The working journalist shall continue to have lien over his or her post in the following circumstances:

- (a) As long as he or she continues to function in that post;
- (b) While he or she is on leave;
- (c) While being deputed elsewhere by the management; or
- (d) While he or she is under suspension;

**8. Security of service:** The service of any working journalist may not be terminated without fulfilling the procedures set forth in this Act or the Rules framed under this Act.

**9. Working hours:** (1) The working hours of a working journalist shall be as specified by the management subject to Sub-section (2).

(2) The time of work to be done by a working journalist in a week shall not exceed forty eight hours, and he or she shall get one day of weekly leave by rotation in each week.

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<sup>14</sup> Inserted by First Amendment.

(3) If any working journalist is engaged in work for more time than that specified pursuant to Sub-section (2), such additional facility as prescribed shall be provided to him or her.

**10. Provisions relating to attendance and leave:** (1) Every Manager shall maintain an attendance register of working journalists working in the communication enterprise.

(2) Every working journalist shall regularly appear in his or her office or site of work and perform his or her job in the time specified by the Manager.

(3) The public holiday, casual and festival leave, sick leave, home leave, maternity leave, obsequies leave and leave without pay to which the working journalists are entitled shall be as prescribed.

### **Chapter-3**

#### **Remuneration and Compensation**

**11.<sup>15</sup> Minimum Remuneration Fixation Committee:** (1) There shall be formed a Minimum Remuneration Fixation Committee consisting of the following members, in order to make recommendation to the Government of Nepal as to the fixation of the minimum remuneration to which working journalists are entitled and the review of such remuneration as required:

- (a) A person appointed by the Government of Nepal from amongst the persons who have rendered an outstanding contribution to the field -Chairperson

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<sup>15</sup> Amended by First Amendment.

of communication

- (b) Representative (Gazetted First Class), Ministry of Information and Communication -Member
- (c) Representative (Gazetted First Class), Ministry of Labour and Transport Management -Member
- (d) Chairperson of Nepal Journalists' Federation -Member
- (e) Three persons so designated by Nepal Journalists' Federation from amongst the working journalists as to consist of at least one woman -Member
- (f) Three persons nominated by the Government of Nepal from amongst the Managers -Member
- (g) One person nominated by the Government of Nepal from amongst the employees or workers -Member
- (h) One person nominated by the Government of Nepal from amongst the labour and finance experts -Member
- (i) Press Registrar -Member secretary



(2) The term of office of the chairperson and nominated members of the Committee shall be Two years.

(3) The functions, duties and powers of the Committee, in addition to those set forth in the Act, shall be as prescribed.

(4) The Rules of procedures of the meeting of the Committee shall be as determined by the Committee itself.

**11A.<sup>16</sup> Power of the Government of Nepal to fix minimum remuneration:** Notwithstanding anything contained in Section 11, if for any reason, the Committee is not able to fix the minimum remuneration of working journalists and recommend it to the Government of Nepal, the Government of Nepal itself may fix the minimum remuneration of working journalists.

**12. Entitlement to remuneration and allowance:** (1) A working journalist shall be entitled to a monthly remuneration in consideration for his or her work in a communication enterprise.

(2) A working journalist shall get such remuneration and allowance as already earned by him or her even when he or she is relieved of the service of the communication enterprise in any manner.

(3) No monthly remuneration of a working journalist shall be deducted except in accordance with this Act or the Rules framed under this Act.

(4) No monthly remuneration of a working journalist shall be withheld while he or she is on leave.

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<sup>16</sup> Inserted by First Amendment.

13. **Annual grade:** After completing One years of service period, each working journalist shall get one annul grade (increment in salary) as prescribed.
- 14.<sup>17</sup> **Provisions relating to treatment and compensation:** If, in the course of discharging the business of a communication enterprise, a working journalist suffers injuries or grievous hurt (amputation) or dies or his or her personal property is destroyed, the working journalist or the person as referred to in Section 16 shall get such treatment expenses or compensation as prescribed from the concerned communication enterprise.
15. **Restriction on deduction of remuneration:** (1) No remuneration of a working journalist shall be deducted on any condition other than the following condition:
- (a) Where imposed fine has to be deducted;
  - (b) Where deduction has to be made for non-attendance;
  - (c) Where deduction has to be made for any loss caused to the communication enterprise from any act done knowingly or recklessly;
  - (d) Where deduction has to be made for any advance so given earlier as to be deducted from remuneration;
  - (e) Where deduction has to be made for any amount to be paid or borne pursuant to an order of a government office or a court;
  - (f) Where deduction has to be made for such income tax or other tax leviable pursuant to the laws in force; or

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<sup>17</sup> Amended by First Amendment.

(g) Where deduction has to be made for any such amount as may be prescribed.

(2) The ceiling of amount to be deducted pursuant to Sub-section (1), the manner and period of deduction and other related matters shall be as prescribed.

**16. Entitlement to remaining amount:** (1) If there is any amount due and payable by a communication enterprise to any working journalist who has retired from the service of communication enterprise or has died while in service and is entitled to such amount pursuant to this Act or the Rules framed under this Act, the working journalist himself or herself or a person nominated by him or she shall be entitled to such amount.

(2) If no one is nominated by the working journalist to receive amount as referred to in Sub-section (1), his or her nearest heir of the family shall be entitled to such amount.

## **Chapter-4**

### **Welfare Provisions**

**17. Welfare fund:** The Manager shall establish a welfare fund as prescribed for the rights, interests and security of working journalists.

**18. Gratuity, provident fund and medial treatment and other facilities:** Gratuity, provident fund and medial treatment and other facilities to which working journalists are entitled shall be as prescribed.

**19. Change in ownership not to affect adversely:** No change in the ownership of a communication enterprise shall be prejudicial to the service, conditions of service and facilities of working journalists serving in such a communication enterprise.

20. **No alteration in service, conditions of service and facilities to disadvantage:** No alteration shall be made in the service, conditions of service and facilities of working journalists to their disadvantage.

## Chapter-5

### **Retirement and Retrenchment of Positions**

21. **Retirement:** (1) The Manager may give retirement to a working journalist who has completed a continuous period of service of 25 years as a working journalist before or after the commencement of this Act.

(2) A working journalist may take voluntary retirement from the service of a communication enterprise by giving an advance notice of Three months to the Manager.

22. **Retrenchment of positions:** (1) If a communication enterprise's income goes down or the Manager wishes to operate the communication enterprise by reducing investment, the Manager may retrench the positions in that proportion and operate the communication enterprise accordingly.

Provided that, in so retrenching positions and giving retirement to working journalists from the service of communication enterprise, retirement shall be given by retrenching in a manner that those who have been appointed at the latest, out of the working journalists who have completed a continuous service period of One year in the similar type of work, shall be retrenched first.

(2) If retrenchment of positions is to be made pursuant to Sub-section (1), the Manager shall give a notice, accompanied by the reason for retrenchment, to the Press Registrar and the concerned working journalist in advance of Three months.

(3) Once the retrenchment of positions is made pursuant to Sub-section (1), no position may be created again or no working journalist may be appointed on contract within one Year.

(4) If any Manager appoints any person as a working journalist within that period in contravention of Sub-section (3), a working journalist who has been subject to retrenchment of positions previously may make an application to the concerned Manager for appointment to the communication enterprise. The concerned Manager shall appoint such a working journalist in accordance with application so made.

(5) If the Manager does not make appointment pursuant to Sub-section (4), such a person may make a complaint to the Press Registrar.

(6) If the complaint made pursuant to Sub-section (5) is found reasonable, the Press Registrar may give an order to the concerned Manager to appoint the applicant. If any such order is made by the Press Registrar, the concerned Manager shall re-appoint such a person as a working journalist.

(7) A person who is not satisfied with an order made by the Press Registrar pursuant to Sub-section (6) may make an appeal to the concerned Court of Appeal within Thirty Five days.

**23. Power to close communication enterprise:** (1) If the Manager intends to close a communication enterprise run by him or her for any reason, the Manager shall give a notice thereof to the Press Registrar and the concerned working journalists in advance of Three months.

(2) If working journalists are to be *ipso facto* retired because of the closure of the communication enterprise pursuant to Sub-section (1) or are to be retired because of the retrenchment of positions pursuant to

Section 22, the Manager shall give facilities as prescribed to the concerned working journalists.

**24. Complaint may be made:** (1) If any working journalist does not get any facility to which he or she is entitled pursuant to this Act from a communication enterprise or any working journalist is aggrieved from the default of the Manager on doing any act as required by this Act or the Rules framed under this Act, such a working journalist may make a complaint to the Press Registrar<sup>18</sup> within Thirty Five days.

(2) If the complaint made pursuant to Sub-section (1) is found reasonable, the prescribed committee shall cause the concerned communication enterprise to give any facility or amount or do other act as claimed by the claimant and may fine such a Manager with a sum ranging from One Thousand Rupees to Two Thousand Rupees if it appears that the Manager has deliberately omitted to give the amount or facility required to be given or to do the act required to be done.

(3) A person who is aggrieved from a decision made by the prescribed committee pursuant to Sub-section (2) may make an appeal to the concerned Court of Appeal within Thirty Five days.

## **Chapter-6**

### **Conduct, Penalties and Appeal**

**25. Conduct:** Working journalists shall observe the conduct as prescribed.

**26. Penalties:** (1) The Manager may impose any of the following punishments on a working journalist who does not observe conduct attached to his or her post:

(a) Ordinary punishment:

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<sup>18</sup> Amended by First Amendment.

- (1) Censure;
  - (2) Withholding of a maximum of Two salary increments; or
- (b) Special punishment: Removal from service.

(2) If the performance of any working journalist is not satisfactory or he or she commits breach of discipline, the Manager may impose ordinary punishment on him or her.

(3) In any of the following circumstances, the Manager may impose a special punishment on a working journalist:

- (a) If he or she frequently violates the matters relating to conduct,
- (b) If he or she frequently commits breach of discipline;
- (c) If he or she frequently fails to fulfill the duties of his or her;
- (d) If he she remains absent from his or duty for more than Sixty days without having a leave sanctioned or giving information to the Manager.

**27. Powers to suspend:** (1) If the investigation of any charge mentioned in Section 26 is to be conducted in respect of any working journalist, the Manager may suspend such a civil employee until the conclusion of the investigation.

Provided that, generally suspension shall not be ordered unless the following circumstance exists:

- (a) Where there is a possibility that the working journalist can collect false evidence or conceal any evidence against him or her if he or she is not

suspended and is allowed to carry out the duties of his or her post, or

- (b) Where there is a possibility of loss or damage to the communication enterprise if he or she is not suspended and is allowed to carry out the duties of his or her post.

(2) In suspending a working journalist pursuant to Sub-section (1), he or she shall not be suspended ordinarily for more than Three months.

(3) If any working journalist is reinstated in his or her post or is removed from service, his or her suspension shall stand terminated.

(4) A working journalist who is suspended pursuant to Sub-section (1) shall be entitled to half the remuneration during the period of such suspension, and if he or she is acquitted of the charge made against him or her, he or she shall be entitled to full remuneration during the period of such suspension.

**28. Providing opportunity for defense:** (1) The Manager must, prior to issuing an order of punishment to any working journalist, serve on him or her a notice, explaining the reason for taking such action and give an opportunity to defend him or herself within a reasonable time limit. In giving such an opportunity, the charge against him or her must be clearly indicated and the facts and grounds on which each charge is based must be specified.

**29. To propose punishment prior to issuance of order of special punishment:** If the concerned working journalist does not submit defense within the time given by the Manager for the submission of defense pursuant to Section 28 or if the defense submitted by such



working journalist is not satisfactory, the Manager must, prior to issuing an order of special punishment, ask such a working journalist to furnish an explanation why the proposed punishment intended to be imposed on him or her should not be imposed on, within a reasonable time limit in this respect.

- 30. Imposition of punishment:** If the concerned working journalist does not submit defense or explanation pursuant to Section 28 or 29 or if the defense submitted is not satisfactory and punishment is to be imposed on the working journalist, the Manager may impose any punishment as referred to in Section 26.
- 31.<sup>19</sup> Appeal:** A person who is not satisfied with punishment imposed by the Manager pursuant to Section 30 may make an appeal to the Labor Court established under the laws in force within Thirty Five days.

## **Chapter-7**

### **Miscellaneous**

- 32. Delegation of authority:** The Government of Nepal may, by publishing a Notification in the Nepal Gazette, delegate the powers conferred to it by this Act to any body or any office employee of the Government of Nepal.
- 33. Punishment:** (1) If a communication enterprise suffers any loss or damage as a result of any act done by any working journalist, the Manager may file a lawsuit within Three months from the date of cause of action.
- (2) If it is held that a communication enterprise has suffered any loss or damage as a result of any act done by any working journalist

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<sup>19</sup> Amended by First Amendment.

knowingly or recklessly, the damages for the loss or damage caused by such a working journalist may be ordered to be recovered from him or her and he or she shall also be liable to a fine ranging from One Thousand to Two Thousand Rupees.

(3)<sup>20</sup> If any Manager frequently does any act in contravention of this Act or the Rules framed under this Act, the Press Registrar may fine such a Manager with a sum of up to Twenty Five Thousand Rupees.

(4)<sup>21</sup> A Manager who is not satisfied with the punishment imposed pursuant to Sub-section (3) may make an appeal to the concerned Court of Appeal within Thirty Five days after the date of imposition of such punishment.

**33A.<sup>22</sup> Power to recommend to restrict facilities:** If any communication enterprise does any act in contravention of this Act or the Rules framed under this Act, the Press Registrar may make a recommendation to the concerned body to prevent the provision of the following facilities to such a communication enterprise:

- (a) If the communication enterprise is to publish newspapers, not to include such newspapers in the classification of newspapers pursuant to the laws in force;
- (b) To restrict or cut down grants or advertisements to be provided by the Government of Nepal;
- (c) To restrict the imports of communication materials or related raw materials;
- (d) Not to include in a team of government visit.

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<sup>20</sup> Inserted by First Amendment.

<sup>21</sup> Inserted by First Amendment.

<sup>22</sup> Inserted by First Amendment.

**34.<sup>23</sup> Provisions relating to appointment, conditions of service and**

**facilities of employees and workers:** (1) The provisions contained in this Act in relation to the appointment, conditions of service and facilities of working journalists shall also be equally applicable to the employees and workers.

(2) Notwithstanding anything contained in Sub-section (1), other provisions except the remuneration and facilities of working journalists, employees or workers engaged in a communication enterprise shall be as provided in the laws relating to the service, conditions of service and facilities of the concerned communication enterprise.

(3) Notwithstanding anything contained in Sub-section (2), if working journalists, employees or workers engaged in a communication enterprise are entitled to more remuneration and facilities than those set forth in this Act, nothing contained in this Act shall be deemed to bar the receiving such more remuneration and facilities.

**34A.<sup>24</sup> Formation of trade union:** Working journalists may, subject to the laws in force in relation to trade unions, form a trade union in the communication enterprise in which they are engaged, with respect to the protection and promotion of their business and professional rights and interests.

**34B.<sup>25</sup> Provisions relating to settlement of disputes:** (1) If there arise any disputes between working journalists, employees or workers and the management of a communication enterprise on any matters relating to the conditions of service and facilities, the Press Registrar may settle or

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<sup>23</sup> Amended by First Amendment.

<sup>24</sup> Inserted by First Amendment.

<sup>25</sup> Inserted by First Amendment.

cause the settlement of such disputes through various means such as negotiation, conciliation and mediation.

(2) If any disputes cannot be settled through the means as referred to in Sub-section (1), such disputes shall be settled in accordance with the labour laws in force.

**34C.<sup>26</sup> Provisions relating to capacity building:** (1) The Government of Nepal and communication enterprises shall arrange for study and training for the development and building of professional competency, efficiency and skills of working journalists.

(2) The Government of Nepal may, for the activities as referred to in Sub-section (1), provide financial and technical assistance to communication enterprises, and communication enterprises shall set aside One percent of its total annual income.

**34D.<sup>27</sup> Power to inspect and monitor:** (1) The Press Registrar may inspect and monitor any communication enterprise as to whether it has done any act in contravention of this Act or the Rules framed under this Act.

(2) If, in making inspection and monitoring pursuant to Sub-section (1), any communication enterprise is found to have done any act in contravention of this Act or the Rules framed under this Act, the Press Registrar may give necessary direction to such a communication enterprise.

(3) It shall be the duty of the concerned communication enterprise to abide by the direction given by the Press Registrar pursuant to Sub-section (2).

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<sup>26</sup> Inserted by First Amendment.

<sup>27</sup> Inserted by First Amendment.

**34E.<sup>28</sup> Provisions of this Act not to apply:** (1) Notwithstanding anything contained elsewhere in this Act, any provisions contained in this Act shall not apply to such communication enterprises as may, in consultation with the Committee, be specified by the Government of Nepal, by publishing a Notification in the Nepal Gazette.

(2) In specifying any communication enterprises to be exempted from any provisions of this Act pursuant to Sub-section (1), the Government of Nepal may take the following grounds into consideration:

- (a) Volume of sale of newspapers;
- (b) Capacity of radio equipment;
- (c) Number of customers of cable television;
- (d) Number of hits on-line magazines;
- (e) Number of production of programmes;
- (f) Number of distribution of news.

**35. Laws in force to prevail:** The matters contained herein shall be governed by this Act and the other matters shall be as provided in the laws in force.

**36.<sup>29</sup> Powers to frame Rules and Bye-laws:** (1) The Government of Nepal may frame necessary Rules for the accomplishment of the objectives of this Act.

(2) Subject to this Act or the Rules framed under this Act, every communication enterprise may frame Bye-laws on the service,

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<sup>28</sup> Inserted by First Amendment.

<sup>29</sup> Amended by First Amendment.

conditions of service and facilities of working journalists, employees or workers.

(3) In framing Bye-laws pursuant to Sub-section (2), a communication enterprise shall not frame such Bye-laws providing for the service, conditions of service and facilities that are lesser than those specified in this Act and the Rules framed under this Act.

NEPAL LAW COMMISSION