

**The Right to Safe Motherhood and Reproductive
Health Act, 2075 (2018)**

Date of Authentication

2075/6/2 (18 September 2018)

Act Number 9 of the year 2075 (2018)

**An Act Made to Provide for the Right to Safe Motherhood
and Reproductive Health**

Preamble: Whereas, it is expedient to make necessary provisions on making motherhood and reproductive health service safe, qualitative, easily available and accessible, in order to respect, protect and fulfill the right to safe motherhood and reproductive health of the women conferred by the Constitution of Nepal,

Now, therefore be it enacted by the Federal Parliament.

Chapter-1

Preliminary

1. **Short title and commencement:** (1) This Act may be cited as the "Right to Safe Motherhood and Reproductive Health Act, 2075 (2018)."
(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,-
 - (a) "Emergency obstetric care" means the service available twenty-four hours to manage any complications in case such complications appear during the condition of pregnancy, child delivery or child birth.
 - (b) "Basic emergency obstetric care" means the basic service such as administering antibiotic, magnesium sulfate or oxytocin, taking out entangled placenta and fetus membrane, give birth to infant with the help of vacuum and cleansing uterus in the case of occurrence of miscarriage.
 - (c) "Teenager" means a person who is of the age group of over ten years up to nineteen years.
 - (d) "Abortion" means the act of fetus coming out or taking it out of the womb or before the fetus remained in the uterus born naturally.

- (e) "Contraception" means the measures to prevent pregnancy by creating obstruction in the common process of ovulation, melting over sperm and ovum or ovum implantation.
- (f) "Contraceptives" means hormone-based or other means to help in the work of contraception.
- (g) "Abortion service" means the abortion service performed in a licensed health institution, by the licensed health worker upon fulfilling the process under this Act.
- (h) "Obstetric care" means the service referred to in Section 5.
- (i) "Pregnancy" means a period from the first day of the last menstruation occurred prior to conception up to remaining of fetus in the womb of a woman.
- (j) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.
- (k) "Newborn essential care" means the care including keeping the newborn warm, caring of navel and eyes, breast feeding, administering necessary vaccines.
- (l) "Newborn emergency care" means administering antibiotic, managing including hypothermia for the newborn during the state of infection, and managing the problems relating to respiration of such a new born.
- (m) "Family planning" means the plan to determine number of children or gap between pregnancies upon self interest by using or not using the contraceptives.
- (n) "Reproductive health" means physical, mental and social health condition related to reproductive system, process and function.
- (o) "Right to reproductive health" means the right referred to in Section 3.
- (p) "Morbidity" means the state of adversely affecting reproductive system due to reproduction, pregnancy, abortion, labor and sexual behavior, and this term also includes uterus prolapse, travail cavity, infertility, pelvic cancer and similar other state of such types that affects reproductive system.

- (q) "Midwife" means a trained health worker to help in child birth of the pregnant woman.
- (r) "Ministry" means the Ministry of the Government of Nepal looking after the matters relating to health.
- (s) "Comprehensive emergency obstetric care" means blood transmission and surgery service, in addition to basic emergency obstetric care mentioned in clause (b).
- (t) "Safe motherhood" means motherhood service to be provided to women pursuant to this Act during the state of pregnancy, labor and child birth.
- (u) "Health institution" means a hospital, nursing home, medical college or health academy operated in governmental, non-governmental, community or private level, and the term also includes primary health center, health post or health institution operated under any other name.

Chapter-2

Right to Reproductive Health

- 3. Right to reproductive health:** (1) Every woman and teenager shall have the right to obtain education, information, counseling and service relating to sexual and reproductive health.
- (2) Every person shall have the right to obtain service, counseling and information relating to reproductive health.
- (3) Every woman shall have the right to safe motherhood and reproductive health. Every woman shall have the right to determine the gap between births or the number of children.
- (4) Every person shall have the right to get information regarding contraceptives and use them.
- (5) Every woman shall have the right to obtain abortion service pursuant to this Act.
- (6) Every woman shall have the right to nutritious, balanced diet and physical rest during the condition of pregnancy and child birth and morbidity.
- (7) Every woman shall have the right to get necessary counseling, obstetric care, and postpartum contraceptive service.

(8) Every woman shall have the right to get emergency obstetric care, basic emergency obstetric care, comprehensive emergency obstetric care, essential care for the new born baby and emergency care of the new born baby.

(9) Every person shall have the right to get reproductive health service needed during different situation of his/her lifecycle, in easily available, acceptable and safe manner.

(10) Every person shall have the right to make a choice of reproductive health service.

4. **To remain confidential:** The reproductive health service obtained by every person and information regarding this shall remain confidential.

Chapter-3

Safe Motherhood and Newborn Baby

5. **Right to get obstetric service:** (1) Every woman shall have the right to get her examined or checked whether she is pregnant or not, upon going to a health institution.

(2) The health institution concerned shall have to provide the pregnant woman, coming to get service pursuant to sub-section (1), with the services as follows:

- (a) To check health at least four times during the pregnancy in normal condition,
- (b) To check health as per the advice of a physician or competent health worker during the prescribed condition except that referred to in clause (a),
- (c) To receive appropriate counseling relating to health care,
- (d) To obtain safety measures and minimum care to be adopted during pregnancy.

6. **To provide obstetric care:** (1) A governmental and community health institution providing obstetric care shall have to arrange competent health worker to provide obstetric care, or midwife or other trained health worker if such a competent health worker is not available.

(2) The non-governmental and private health institution fulfilling the standard prescribed by the Government of Nepal shall have to provide obstetric care in a respectful manner.

- 7. Emergency obstetric and newborn care:** (1) The governmental and community health institutions providing obstetric care shall have to provide obstetric care in a respectful manner.
- (2) The non-governmental and private health institutions fulfilling the standard prescribed by the Government of Nepal shall have to provide emergency obstetric and newborn care.
- (3) In case the health institutions referred to in sub-sections (1) and (2) are not able to manage the complications that arise while providing service by them, they shall have to refer to a governmental or community health institution to the extent possible and to a non-governmental and private institution if not possible.
- (4) It shall be the duty of the health institution concerned to manage the health complications of the conditions related to the pregnant, childbirth or newborn who comes upon being referred pursuant to sub-section (3).
- (5) The health institution providing emergency obstetric and newborn care shall have to make provision of resting place as prescribed for the pregnant women of the condition as prescribed.
- 8. Health care of newborn baby:** The health institutions providing obstetric care shall have to make provisions relating to health care of the newborn baby as per the standard prescribed.
- 9. To maintain record of the births of infants:** (1) Each health institution shall have to maintain record of the infants born in that health institution.
- (2) On the basis of the record referred to in sub-section (1), the health institution shall have to provide the father or mother with the certificate of the infant born in its health institution by stating the name of father or mother of the infant.
- (3) Each health institution shall have to maintain a record revealing the number of the dead infants and the women who have undergone miscarriage or abortion.
- (4) Each health institution shall have to maintain a record of dead women, if any, who come for the obstetric care.
- 10. Right to obtain family planning service:** (1) Every person shall have the right to information, make choice relating to family planning, and get other services relating to family planning.

(2) The service relating to family planning as prescribed shall have to be obtained from the health institution as prescribed.

(3) Other matters relating to family planning shall be as prescribed.

11. Not to get family planning performed forcefully: It is forbidden to get family planning of any one performed forcefully by coercing, or threatening or enticing or tempting or without obtaining written consent of such person.

12. Not to get contraceptives used forcefully: It is forbidden to get the contraceptives used by coercing any one, or threatening or enticing or tempting or without obtaining consent of such person.

13. Right to obstetric leave: (1) Any woman working in a governmental, non-governmental or private organization or institution shall have the right to get obstetric leave with pay, for a minimum of ninety-eight days before or after the delivery.

(2) In case the obstetric leave referred to in sub-section (1) is not sufficient to any pregnant woman, such a woman shall have the right to get leave without pay, for a maximum of one year upon the recommendation of the expert doctor.

(3) A governmental, non-governmental or private organization or institution shall have to make necessary arrangement for the woman working in its office for breast feeding during the office hours up to two years from the birth of the infant.

(4) Even if any pregnant woman gives birth to a dead infant or if the infant dies after birth, such a woman shall enjoy the leave referred to in sub-section (1).

(5) If the wife of a male employee working in a governmental, non-governmental or private organization or institution is going to deliver a baby, such an employee shall get the obstetric care leave with remuneration for fifteen days before or after delivering the baby.

14. To provide additional leave: If complicated surgery is to be conducted as per the opinion of the specialist doctor due to morbidity, the governmental, non-governmental or private organization or institution shall have to provide the woman working in its office with an additional leave with pay for a maximum of thirty days before or after conducting such surgery.

Chapter-4

Safe Abortion

15. To perform safe abortion: A pregnant woman shall have the right to get safe abortion performed in any of the following circumstances:

- (a) Fetus (gestation) up to twelve weeks, with the consent of the pregnant woman,
- (b) Fetus (gestation) up to twenty-eight weeks, as per the consent of such woman, after the opinion of the licensed doctor that there may be danger upon the life of the pregnant woman or her physical or mental health may deteriorate or disabled infant may be born in case the abortion is not performed,
- (c) Fetus (gestation) remained due to rape or incest, fetus (gestation) up to twenty-eight weeks with the consent of the pregnant woman,
- (d) Fetus (gestation) up to twenty-eight weeks with the consent of the woman who is suffering from H.I.V. or other incurable disease of such nature,
- (e) Fetus (gestation) up to twenty eight weeks with the consent of the woman, as per the opinion of the health worker involved in the treatment that damage may occur in the womb due to defects occurred in the fetus (gestation), or that there is such defect in the fetus of the womb that it cannot live even after the birth, that there is condition of disability in the fetus (gestation) due to genetic defect or any other cause.

16. Not to get abortion conducted forcefully: (1) Except in the circumstance as referred to in Section 15, no one shall conduct or get abortion conducted with an intention to get the abortion conducted or knowingly or having reason to believe that the abortion can occur.

(2) No one shall get the abortion conducted by coercing a pregnant woman, threatening, enticing or tempting her.

(3) If any of the following acts is committed, it shall be deemed to have got abortion performed:

- (a) Getting abortion conducted pursuant to sub-section (2),
- (b) Miscarriage that occurs while something is done to the pregnant woman with some enmity,

(c) Making assistance to commit acts referred to in clauses (a) and (b),
(4) While conducting abortion, in case the abortion does not occur instantly but a living infant is born, and if the infant, which is born as a result of such an act dies immediately, it shall be deemed to have got the abortion conducted for the purposes of this Section.

17. Not to commit abortion upon identifying sex: (1) No one shall commit or cause to be committed an act to identify the sex of the fetus in the womb.

(2) A pregnant woman shall not be pressurized or compelled or intimidated or coerced or enticed or entrapped in undue influence to identify the sex of the fetus.

(3) Conducting abortion or causing it to be conducted, by identifying the sex pursuant to sub-sections (1) and (2), is prohibited.

18. Safe abortion service: (1) The licensed health worker who has fulfilled the prescribed standards and qualification shall have to provide the pregnant woman with safe abortion service pursuant to Section 15 in the licensed health institution.

(2) Appropriate technology and process of the service to be provided as referred to in sub-section (1) shall be as prescribed.

(3) The pregnant woman who wants to obtain the safe abortion service shall have to give consent in the prescribed format to the health institution which has obtained a license, or to the health worker who has obtained a license.

(4) Notwithstanding anything contained in sub-section (3), in the case of a woman who is an insane, who is not in a condition to give consent instantly or who has not completed the age of eighteen years, her guardian or curator shall have to give consent.

(5) Notwithstanding anything contained in sub-section (4), in the case of a woman who is below the age of eighteen years, safe abortion service shall have to be provided by considering her best interests.

19. To maintain confidentiality: (1) The licensed health institution or licensed health worker shall have to keep confidential all records, information, documents related to reproductive health of the pregnant woman and counseling and service provided to her.

(2) Notwithstanding anything contained in sub-section (1) the records relating to such information, document and counseling service may be made available on the following conditions:

- (a) If information is demanded by the investigation authority or court in course of investigation and hearing of any lawsuit,
- (b) If it is required to quote without revealing identity of the related woman for the purpose of study, research or monitoring relating to safe abortion,
- (c) If the woman concerned demands herself the records thereof.

Chapter-5

Morbidity

- 20. Right to obtain morbidity care:** (1) Every woman shall have the right to get her examined, obtain counseling and receive treatment relating to morbidity by or in the health institution.
- (2) It shall be the duty of the concerned health institution or health worker to provide information of the matters relating to the care to be followed on the condition of morbidity and in the condition following the surgery, and the hazards likely to be caused by it while providing service referred to in sub-section (1) in a manner that such information is understandable.
- 21. Not to displace:** No one shall divorce, expel from home or displace anyone or get any one divorced, expelled or displaced by showing the reason of morbidity.

Chapter-6

Budget Appropriation and Grant for Motherhood and Reproductive Health

- 22. To appropriate grant amount:** (1) The Government of Nepal shall have to appropriate grant amount through its budget every year for every Local Level for the purpose of motherhood and reproductive health service.
- (2) The Provincial Government shall have to appropriate certain amount through its budget as grant every year, as per the Provincial law, for the Local Level for the purpose of motherhood and reproductive health service.
- (3) The Local Level concerned shall have to spend the amount appropriated as per sub-sections (1) and (2) for the motherhood and reproductive health of the economically extremely destitute women as prescribed.
- 23. To appropriate budget by Local Level:** (1) The Local Level shall have to appropriate necessary budget from its annual budget for the purposes of motherhood and reproductive health service.

(2) While appropriating budget as referred to in sub-section (1), it shall have to be appropriated in such a way that governmental and community health institutions providing motherhood and reproductive health service receive it.

24. Reproductive Health Coordination Committee: (1) In order to make necessary suggestions to the Government of Nepal for preparing policies, plans and programs relating to safe motherhood and reproductive health, there shall be one Reproductive Health Coordination Committee as follows:

- (a) Secretary, Ministry of Health and Population -Chairperson
- (b) Joint-secretary, Ministry of Women, Children and Senior Citizens -Member
- (c) Joint-Secretary, Ministry of Education, Science and Technology -Member
- (d) Director General, Department of Health Services -Member
- (e) Representative, Nepal Medical Council -Member
- (f) Representative, Nepal Nursing Council -Member
- (g) Representative, Nepal Health Professional Council -Member
- (h) Legal Officer, Ministry of Health and Population -Member
- (i) Two representatives including one woman nominated by the Ministry from among the professional institutions/persons conducting studies and research or extending service in the field of reproductive health and right to reproduction -Member
- (j) One representative of Nepal Health Volunteers Association designated by the Ministry -Member
- (k) Director, Family Welfare Division, Health Service Department -Member-secretary

(2) The Coordination Committee may invite the expert engaged in the sector of reproductive health and right to reproduction to the meeting as required.

(3) The procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

Chapter-7

Offence and Punishment

- 25. Offence deemed to have been committed:** If one commits any of the following acts, one shall be deemed to have been committed the offence under this Act:
- (a) To deprive one of receiving the obstetric care referred to in Section 5,
 - (b) Refusal to provide obstetric care by any health institution providing obstetric care pursuant to Section 6,
 - (c) Referral to other health institution deliberately even upon the treatment being possible in his or her health institution, or,
 - (d) Non-issuance of birth certificate by the health institution pursuant to Section 9,
 - (e) Forceful conduction of family planning as referred to in Section 11,
 - (f) Making forceful use of contraceptive as referred to in Section 12,
 - (g) Conduction of abortion as referred to in Section 16,
 - (h) Commission of any act to identify sex of the fetus in contrary with the provisions of sub-sections (1) and (2) of Section 17,
 - (i) Causing abortion upon identifying sex as referred to in sub-section (3) of Section 17,
 - (j) Breaching, or causing to be breached of, confidentiality in contravention of the provisions of sub-section (2) of Section 19,
 - (k) Making or causing to be made displacement in contrary to the provision of Section 21,
 - (l) Making discrimination contrary to the provision of Section 29.
- 26. Punishment:** If one commits, or causes to be committed, any act that is deemed to be the offence as referred to in Section 25, one shall be liable to the following punishment according the gravity of the offence:
- (a) Imprisonment for a term not exceeding six months or fine not exceeding fifty thousand rupees or both the penalties for committing or getting committed the offence referred to in clauses (a), (b), (c), (d) and (l),
 - (b) Imprisonment for three months to six months and fine not exceeding fifty thousand rupees for committing or getting committed the offence referred to in clauses (e) and (f),

- (c) Punishment referred to in Section 188 of National Criminal Code, 2074 (2017) for committing or causing to be committed the offence referred to in clauses (g), (h) and (i),
 - (d) Fine not exceeding fifty thousand rupees for committing or causing to be committed the offence as referred to in clause (j),
 - (e) Imprisonment for a term not exceeding one year and fine not exceeding one hundred thousand rupees or both the penalties for committing or causing to be committed the offence referred to in clause (k).
- 27. Provision of compensation:** A person who is victimized from the offence under this Act shall be provided with reasonable compensation by the perpetrator.

Chapter-8

Miscellaneous

- 28. To provide disability friendly service:** While providing services including family planning, reproductive health, safe motherhood, safe abortion, emergency obstetric and newborn care, morbidity under this Act, such services shall have to be adolescent and disability friendly.
- 29. Not to discriminate:** No one shall discriminate on the right to get monthly services including family planning, reproductive health, safe motherhood, safe abortion, emergency obstetric and newborn care, morbidity on the ground of one's origin, religion, color, caste, ethnicity, sex, community, occupation, business, sexual and gender identity, physical or health condition, disability, marital status, pregnancy, ideology, state of being infected with or vulnerable to any disease or germ, state of morbidity, personal relationship or any other similar ground.
- 30. Provision of protection home:** For the protection of reproductive health of a woman who is mentally disabled, neglected from the house, family or relatives or raped, the Federal, Provincial and Local Levels shall have to make arrangement with reciprocal coordination for keeping such a woman in a protection home.
- 31. To give directives:** (1) The Ministry may give necessary directives to health institutions to provide service of reproductive health.
- (2) It shall be the duty of the concerned health institution to comply with the directives received pursuant to sub-section (1).

- 32. Service charge:** (1) The governmental health institution or health institution that receives government grants shall have to provide free reproductive health service.
- (2) Private, non-governmental and community health institutions may take service charge as prescribed for providing reproductive health service.
- (3) Notwithstanding anything contained in sub-section (2), private, non-governmental and community health institutions and health workers shall have to make the service easily available, and provide free service (quota) as prescribed for the person who is unable to pay the service charge.
- 33. Obstetric allowance:** The Government of Nepal shall have to provide the extremely destitute woman who delivers baby with obstetric allowance as prescribed.
- 34. Saving of act done in good faith:** Notwithstanding anything contained elsewhere in this Act, no legal action shall be instituted against any health institution and health worker for any matter of the reproductive health service provided in good faith.
- 35. Authority to try cases:** (1) The concerned District Court shall have the authority to originally adjudicate the cases of the offence under this Act.
- (2) A person who is not satisfied with the punishment or order made by the District Court pursuant to sub-section (1) may make an appeal in the concerned High Court.
- 36. Government of Nepal to become plaintiff:** (1) The Government of Nepal shall become the plaintiff in the cases referred to in Section 25.
- (2) The cases referred to in Section 25 shall be deemed to have been included in Schedule-1 of the National Criminal Procedure Code, 2074 (2017).
- 37. Limitation:** No complaint shall lie after the expiry of six months from the date of knowledge of the commission of any offence under this Act.
- 38. To be in accordance with prevailing law:** The matters contained in this Act shall be governed by this Act and the matters not contained in this Act shall be in accordance with the prevailing law.
- 39. Power to frame rules:** The Government of Nepal may frame necessary rules in order to implement this Act.
- 40. To issue directives:** The Ministry may frame and implement the necessary directives subject to this Act and the rules framed under this Act.