

Administration of Justice Act, 2073 (2016)

Date of Authentication and Publication

2073-05-27 BS (September 12, 2016)

Act No. 7 of the Year 2073 (2016)

An Act enacted for amendment and unification of the law relating to administration of justice

Preamble: Whereas, it is expedient to make timely amendment and unification of prevailing law relating to administration of justice for the establishment and systematic arrangement of jurisdiction of the courts so as to dispense justice fast, inexpensive and render easily accessible, impartial, effective and accountable with the people;

Now, therefore, be it enacted by Legislature-Parliament in accordance with Sub-Article (1) of Article 296 of Constitution of Nepal.

Chapter-1

Preliminary

1. Short title and commencement: (1) This Act may be called as "Administration of Justice Act, 2073 (2016)".

(2) This Act shall come into force from such date as may be specified by the Government of Nepal by publishing a Notification in Nepal Gazette.¹

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

(a) "Court" means the Supreme Court, High Court and District Court.

¹ This Act has been prescribed for commencement from September 19, 2016 (the Notification published in Nepal Gazette on September 14, 2016)

- (b) “Judge of High Court” means the Judge of High Court and the terms shall also denote to the Chief Judge of the High Court.
- (c) “Prescribed” or “as prescribed” means prescribed or as prescribed in the rules framed under this Act.
- (d) “Judicial Council” means the Judicial Council as per the Article 153 of the Constitution.
- (e) “Constitution” means the Constitution of Nepal.

Chapter-2

Establishment of District Courts and High Court

- 3. Establishment of District Court:** (1) There shall be one District Court, in each district.

(2) The District Courts shall be located at the headquarters of Districts.

Provided however that, in case any District is being located, prior to the commencement of this Act, at any place other than the District headquarters it shall be continuing at the same place until another arrangement is made.

- 4. District Judges:** (1) There shall be a District Judge in each District Court.

(2) Notwithstanding anything contained in Sub-Section (1), if there is more workload in any District Court, the Chief Justice may, on the recommendation of the Judicial Council, designate the required number of additional District Judges.

(3) The Judicial Council shall, on the basis of workload, determine the number of Judges to be remained in each District Court subject to the total number of post of Judges in accordance with Sub-Section (7) and the number of District Judges determined so may be altered on the basis of workload.

(4) If there are more than one District Judges in any Court, the senior most District Judge shall work as a Chief of the District Court.

(5) The Chief Justice may depute the District Judge of any District Court in another District Court to work as a Judge for a certain period of time.

(6) The District Judge, as deputed in accordance with Sub-Section (5), shall work in the assigned District Court during the period as prescribed.

(7) The Government of Nepal, in recommendation of Judicial Council, shall determine the total number of post of the Judges of District Courts according to workload.

5. Establishment of High Court: (1) There shall be a High Court in the capital of each province.

(2) The High Court shall be remained in the place as prescribed by the Government of Nepal in consultation with the Judicial Council until decision for the place of the capital of the Province is made in accordance with Sub-Article (2) of Article 288 of the Constitution.

(3) The Government of Nepal may, in consultation with the Judicial Council, establish temporary bench of the High Court in other place having under the territorial jurisdiction of such Court and prescribe the location of the bench.

(4) While prescribing location by establishing bench pursuant to Sub-Section (3), territorial jurisdiction of such bench shall also be determined.

(5) In case there are more than one Courts of Appeal in any Province during commencement of this Act, the Government of Nepal shall, in consultation with the Judicial Council, determine a Court of Appeal as a High Court of the

Province and next Court of Appeal shall be prescribed as next bench of the same High Court.

(6) Notwithstanding anything contains in this Section elsewhere, Government of Nepal may, in case the High Court is located in another place then the capital of the Province, while making decision of the capital of the Province pursuant to Sub-Article (2) of Article 288 of the Constitution, relocate the High Court in the capital of the Province in consultation of the Judicial Council.

(7) The bench, established as per this Section, shall exercise jurisdiction equivalent to the High Court pursuant to this Act under its own territorial jurisdiction as prescribed pursuant to Sub-Section (4).

6. Judges of High Court: (1) The High Court shall consist required number of Judges subject not to exceed the total number of one hundred sixty post.

(2) There shall be one Chief Judge and required number of other judges as prescribed by the Judicial Council under the Sub-Section (1) in each High Court subject not to lessen the number of ten.

(3) The Chief Justice shall, in recommendation of the Judicial Council, depute the number of at least three Judges of High Court to work in the place of the bench as established pursuant to Section 5.

(4) The most senior Judge among the Judges deputed pursuant to Sub-Section (3) shall work as the Chief.

(5) The Government of Nepal may, in recommendation of Judicial Council, alter in number of Judges pursuant to Sub-Section (1) on the basis of workload of the cases.

Chapter-3

Jurisdiction of Courts

7. **Jurisdiction of the District Court:** (1) Except as otherwise provided in the prevailing law, the District Court shall have powers to try and settle, in original jurisdiction, all the cases within the jurisdiction of its own district and in the cases as ordered by the High Court for trial pursuant to Sub-Article (2) of Article 145 of the Constitution.
- (2) The District Court shall have powers to issue order of habeas corpus, for the enforcement of legal rights of anyone under its territorial jurisdiction of the District, if anyone keeps any person under unlawful detention.
- (3) The District Court shall have powers to issue orders of injunction for the enforcement of legal rights of any person infringed or there is reasonable doubt of infringing by anybody or authority under the territorial jurisdiction of the district.
- (4) Except as otherwise provided in the prevailing law, the District Court shall have powers to hear appeals against decision or final order made by the quasi-judicial body or authority under the territorial jurisdiction of the District in accordance with federal law and against the decision or final order made by judicial body of local level constituted in accordance with the provincial law.
8. **Jurisdiction of the High Court:** (1) The High Court shall have the power to issue necessary and appropriate order by hearing over the application filed in accordance with Sub-Article (1) of Article 144 of the Constitution.
- (2) The High Court shall have the power to try, under its original jurisdiction, and settle the following cases:

- (a) The cases which the High Court is empowered by federal law to try and settle under its original jurisdiction,
 - (b) The cases taken from the sub-ordinate court in accordance with Sub-Article (1) of Article 145 of the Constitution.
- (3) The High Court shall have power to make decision by hearing appeal in following cases;
- (a) Cases tried and settled by District Court under its original jurisdiction pursuant to Sub-Section (1) of Section 7.
 - (b) Cases in which full or partial reversal of decisions made by judicial, quasi-judicial body or authority has been made by the District Court made on appeal against such decisions.
 - (c) Cases, in which decision has been made by the District Court over the appeal against the decisions, involving the dispute relating to public property, cases in which punishment of imprisonment or the fine of the sum of more than one hundred thousand has been imposed or having the claimed amount of the sum more than five hundred thousand.
 - (d) Except as otherwise provided in the federal law, cases tried and settled under original jurisdiction by any judicial body under its territorial jurisdiction.
- (4) The High Court shall have the power to review over the reference judgments (Sadhak) according to the federal law.

9. Power of the Supreme Court to hear Appeal: (1) The Supreme Court shall have the power to hear appeal in following cases;

- (a) Cases tried and settled by High Court under its original jurisdiction pursuant to Sub-Section (2) of Section 8,
- (b) Cases in which punishment of imprisonment for Ten years or more has been imposed;
- (c) Cases, in which full or partial reversal in the decisions made by trial court, body or authority has been made by the High Court in which punishment of imprisonment of more than three years or the fine of the sum of more than five hundred thousand has been imposed or having the claimed amount of the sum of more than two million five hundred thousand, and
- (d) Other cases, in which appeal to be filed before the Supreme Court in accordance with the federal law.

(2) The Supreme Court shall have the power to hear an appeal on reference cases submitted before the Supreme Court.

10. Provision on Reference of the Cases: (1) In case where reference of the case is required under the prevailing federal law, reference has to be made to the court hearing appeal.

(2) Notwithstanding anything contains in Sub-Section (1), such reference to the Supreme Court shall be made only if the High Court has imposed the punishment of life imprisonment.

(3) In cases where an appeal is filed in the case of which reference has been made pursuant to Sub-section (1) or (2), such a case shall be adjudicated by way of appeal, and where in the same case some make appeal and some don't

make, then the case shall be adjudicated and decided upon, in respect of the non-appellant also, by way of the process of reference.

(4) If non-appealing party or any other concerned person makes a petition with pleas similar to an appeal in the case to be heard by way of reference process, the court hearing the appeal shall have to settle the case, taking also into account of such petition.

11. Provision on Review: (1) The decision or final order made by any Court shall not be reviewed by the same Court.

(2) Notwithstanding anything contains in Sub-Section (1) the Supreme Court may review its judgment or final order in the following circumstance:

- (a) If it appears that the concerned party has come to know any fact likely to materially affect the justice done in the case only after the settlement of the case, or
- (b) If it appears that the decision is contrary to the precedent or legal principle enunciated by the Supreme Court.

(3) The Supreme Court shall not review its judgment or final order in the following circumstance:

- (a) If the judgment or final order has already been reviewed earlier,
- (b) If the Judgment or final order has been made by Larger Full Bench,
- (c) If the decision has been made by Constitutional Bench,
- (d) If the case has already been settled by way of revision pursuant to the prevailing law prior to the commencement of this Act, or

(e) If the judgment of the High Court has been confirmed or the approval has not been granted for revision in the case reviewed pursuant to Section 12.

(4) A petition for review shall be made within Sixty days of the date of certification by affixing signature in the judgment or final order by the Justice of the Supreme Court.

(5) Order shall be made by the Justices other than the Justices made the earlier judgment over the application filed pursuant to Sub-Section (4) in the issues that whether to grant approval for review or not.

(6) If the approval to review the case has been granted pursuant to Sub-Section (5), hearing over the application shall be made by the bench of the Justices other than the Justices, who have made the earlier judgment and the Justices, who have given approval to review the case.

12. Provision on Revision of the Case: (1) The Supreme Court may, in the following circumstances, revise the judgment or final order made by the High Court in the cases which are not appealable to the Supreme Court pursuant to this Act or the prevailing laws:

(a) If there is serious Constitutional or legal error in the judgment or final order made by the High Court,

(b) If the principle or precedent established by the Supreme Court has not been followed or has been applied with false interpretation,

(c) If any public property has been misappropriated or loss caused in such property due to lack of proper evaluation of the evidence contained in the case file in a case involving dispute vis-à-vis government or public property; or

(d) If the justice is substantially affected due to lack of proper representation of a child, woman, disabled or mentally retarded person or the person crossed the age of seventy five years.

(2) Notwithstanding anything contains in Sub-Section (1), revision shall not be made in following cases:-

(a) A case once heard and adjudicated by the Supreme Court,

(b) A case adjudicated by the High Court by hearing appeal in accordance with Part (B) of Sub-Section (3) of Section 8.

(3) A petition for revision may be filled within Forty Five days from the date of decision by the High Court through the High Court having made such decision or in the Supreme Court.

(4) The details and documents as prescribed shall be enclosed with the petition to be filed in accordance with Sub-Section (3).

(5) The decision, whether to grant revision or not, shall be made by the Division Bench by hearing over the petition filed in accordance with Sub-Section (3) that whether the situation of Sub-Section (1) is being existed or not.

(6) If the approval has been is granted pursuant to Sub-Section (5), hearing over the application shall be made by the bench of the Justices other than the Justices, who have given approval for revision and the Justices, who have made the earlier judgment.

13. Compromise can be Made: Compromise can be made on a petition filed and action initiated in the petition as referred to Section 11 or 12.

14. The powers of the Court hearing Appeal and hearing Reference cases: (1)

Subject to this Act and the prevailing laws, the powers of the court hearing appeal and the court hearing reference cases shall be as follows:

- (a) To confirm or to alter, wholly or partly, the decision of any subordinate court, body or authority,
- (b) To exercise the powers of rendering judgment or final order similar to any subordinate court, body or authority,
- (c) If the subordinate court, body or authority has failed to examine any evidence relevant to the question of adjudication in the case, to examine such evidence by itself or to send temporarily the file of the case back to the subordinate court, body or authority in order to examine such evidence by maintaining the record of the case in the Court as it is,
- (d) If the subordinate court, body or authority has to give its decision on some issues and failed to give its decision in other issues involved in the case, to send back the case file of the case, within a period prescribed for completion thereof, to the subordinate court, body or authority for its decision on the remaining questions.

(2) Notwithstanding anything contains in Part (D) of Sub-Section (1), the District Court and the High Court may give decision by entering into the issues missed by the subordinate court, body or authority over the case filed before the court.

15. Petition may be filed against Provisional/Interim Order: (1)

Notwithstanding anything contained in the prevailing laws, a petition may be filed by the dissatisfied party at the court hearing appeal, of only one level

higher, against an order of a court, body or authority requiring the defendant to make presence on the appointed dates or furnish guarantee or be kept under detention for trial or against any provisional/interim order made in the course of proceedings of the case.

(2) Notwithstanding anything contained in Sub-Section (1) nothing contained in this Section shall be deemed to bar the making of a petition to the Supreme Court on the question of legal error or procedural irregularity, against an order requiring the defendant to make presence on the appointed dates or furnish guarantee or be kept under detention for trial, in a case involving punishment of imprisonment for a term of Ten years or more.

16. Exercise of Jurisdiction of the Court: (1) The jurisdiction of the District Court shall be exercised by the Bench of the District Judge.

(2) The Bench of a single judge or a Division Bench of judges shall, in the manner as prescribed, exercise the jurisdiction of the High Court.

(3) If consensus couldn't be made between Judges, while making decision of the case to be heard by Division Bench in accordance with Sub-Section (2), the case shall be submitted before the third Judge with the opinion of both Judges. If the majority couldn't be made even while submitting before the third Judge, the case file shall be sent to the Supreme Court for making decision with the opinion of all Judges by giving date to attend the Court to the parties of the case presented in appointed date.

(4) If any proceeding, other than the act of rendering judgment or final order, is carried out by a single judge in any case, which is required to be heard by two or more judges according to the law, no such proceeding shall be deemed to be beyond jurisdiction nor shall it be void.

- 17. Action to be taken in Contempt of Court:** (1) The Supreme Court may initiate proceedings against the contempt of court, if anyone makes obstacle in judicial performance or dishonor the order or judgment of its own or the High Court or District Court.
- (2) The High Court may initiate proceedings against the contempt of court, if anyone makes obstacle in judicial performance or dishonor the order or judgment of its own or District Court or judicial body sub-ordinate to it.
- (3) The District Court may initiate proceedings against the contempt of court, if anyone makes obstacle in judicial performance or dishonor the order or judgment of its own or judicial body sub-ordinate to it.
- (4) If the act of contempt of court is found to be proved, while proceeding action in accordance with Sub-Section (1), (2) or (3), the concerned Court may punish the offender with imprisonment for upto one year and a fine of up to Ten Thousand Rupees or with both or issue appropriate order.
- (5) The accused, against whom the case of contempt of court is initiated, may apologize before the court at any situation before delivering judgment by the Court. The Court may, if the court is satisfied with such apology, stop the proceeding of the case.
- (6) Notwithstanding anything contained in this Section elsewhere, if the person, proved as an offender of contempt of court, apologizes to the satisfaction of the Court, the Court may not execute the punishment, reduce or change in punishment or issue an order with effect of non-execution of the sentence, if the conditions are complied with by the accused.

- 18. Finality of decisions of the Court:** (1) Except as otherwise provided in this Act or in the prevailing laws, any decision made by a Court, body or authority in a case shall be final and binding to all the parties to the case.
- (2) Except as otherwise provided in this Act or in the prevailing laws, any case once decided by the Court, body or authority shall not be retried by the same Court, body or, authority, nor shall any amendment be made to such decision or order affecting the judgment.
- (3) Notwithstanding anything contained in Sub-Section (2), the minor error made in typing or writing can be corrected by executing a separate memo subject not to make substantial difference in the judgment.

Chapter-4

Provision on Transfer the Case

- 19. Power to withdrawal and settlement of the case:** The Supreme Court shall have the power to withdraw and hear the case having under consideration in High Court in the situation as specified in Sub-Article (1) of Article 134 of the Constitution.
- 20. Power to Issue Order to transfer the case:** (1) The Supreme Court may, in the situation as specified in Sub-Article (2) of Article 134 of the Constitution, issue order to hear the case having under consideration in one High Court by transferring it into another High Court.
- (2) The High Court may, in the situation as specified in Sub-Article (2) of Article 145 of the Constitution, issue order to hear the case having under consideration in one District Court by transferring it into another District Court.

(3) The decision, whether or not the situation to transfer the case pursuant to Sub-Section (1) or (2) is existed, shall be made in accordance with the information acquired from inspection report of concerned court, application of concerned parties of the case or any other means.

Chapter-5

Provision on Inspection

21. Provision on Inspection: (1) Each Court hearing appeal shall, at least once a year, inspect its subordinate courts, judicial or quasi-judicial body or the authorities by deputing its own judge.

(2) While carrying out inspection in accordance with Sub-Section (1), the act of inspection shall be done to the cases pending with the concerned Court, body or authority and the cases heard and settled by such a Court, body or authority.

(3) While carrying out inspection in accordance with Sub-Section (2), in-particular case-files relating to following cases shall be inspected.

(a) Cases wherein a person is detained for trial,

(b) Some cases, out of the cases being settled finally in absence of appeal,

(c) Cases where any children, women or disabled, suffered by mental illness or the person crossed the age of seventy five years are involved as a party of the case,

(d) Cases where any question of public concern or interest is involved therein.

(e) Case, where any incapable person is involved as the party of the case

(4) While carrying out inspection in according to this Section, the act of inspection shall be done in following aspects:

- (a) Whether or not the execution of judgments has been performed in the time,
- (b) Whether or not the orders and directives issued by superior Courts have been carried out, and
- (c) Whether or not the proceeding in the sub judice cases are being performed satisfactorily.

(5) While carrying out inspection or enquiry in accordance with Sub-Section (2), (3) or (4), in case it is found that any act supposed to be performed has not been performed and the act supposed to be not performed has been performed, the inspecting Judge shall issue order on the spot to do as per the law.

Provided however that if the order, issued to the defendant to make presence on the appointed dates or furnish guarantee or be kept under detention for trial (Thunchhek Aadesh) in criminal case, where the Government of Nepal is the party, is required to be quashed, report shall be given to the court hearing appeal of the inspected court and send to concerned court to do as per the order of said court.

(6) The inspecting judge may also make inquiries with the employees of the Court, body or authority being inspected with the parties to the cases present in the Court, body or authority, the legal practitioners and other related persons with respect of the acts and actions of the concerned Court, body or authority and ask for their suggestions and comments thereon.

(7) The inspecting judge shall, by preparing report of inspection and evaluation after the completion of the act of inspection, send an inspection report to the Supreme Court, the concerned court hearing appeal and the Secretariat of Judicial Council, where the inspection of a Court has been made. The report shall be submitted to the Supreme Court, the court hearing appeal, concerned Ministry and concerned body of state government having authority to take action, where the inspection of judicial or quasi-judicial body or authority has been made.

(8) The Judicial Council or the body receiving such report shall, after receiving inspection and evaluation report submitted as per the Sub-Section (7), take action in the issues as mentioned in the report by carrying out necessary enquiry as quick as possible and such action shall also be a criterion of evaluation for career development of concerned official.

22. Casual inspection: (1) The Supreme Court may, by making deputation of the Judge of own Court, perform a casual inspection of any High Court and District Court, the High Court may, by making deputation of the Judge of own Court, perform such inspection of any subordinate District Court or office of the judicial or quasi-judicial body or authority and the District Court may, by making deputation of the Judge of own Court, perform such inspection of judicial activities of body or authority being heard the appeal by such District Court.

(2) The Judge carried out the act of inspection in accordance with Sub-Section (1) shall submit the inspection report before the Supreme Court, the Judicial Council and concerned High Court by depicting the fact found in the course of inspection and in respect of the inspection of the office of the quasi-judicial

body or authority, such report shall also be submitted before concerned Ministry and concerned body of state government having authority to take action.

(3) The Supreme Court may depute any justice of the Supreme Court or any Judge of the High Court or District Court to perform a casual inspection of the activities of any-body or authority with respected to the case.

(4) The Justice or the Judge deputed to perform the act of inspection in accordance with Sub-Section (3) shall, after completion of the act of inspection, prepare the report of inspection and evaluation and submit before the Supreme Court and concerned Ministry and concerned body of state government having authority to take action.

23. To Write for action: (1) If any action or legal proceeding is required to be taken against any judge or officer from the report of inspection conducted under this Act due to his/her mistaken or failure to perform any act required to be done in the course of hearing case, the Supreme Court shall write thereof with reason and base of such action to the Judicial Council or the concerned Ministry.

(2) Notwithstanding anything contains in Sub-Section (1), the Judicial Council or concerned body may, on the basis of inspection report submitted before it, initiate action or legal proceeding against concerned Judge or officer by giving reason and base of such action.

24. Enquiry can be initiated: (1) The Chief Justice may, If she/he believes that any employee working in the Court has performed any irregularity in the function to be performed from the Court or received any complaint or

information in this regard, depute to any gazette officer working in the Court for investigation.

(2) The officer, deputed for investigation in accordance with Sub-Section (1), shall submit report before the Chief Justice with his/her opinion by mentioning details of the activities occurred with this regard within seven days from the date of assign work.

(3) If any irregularity of any employee has been found by the report received in accordance with Sub-Section (2), it shall be written to concerned body or authority to initiate necessary action.

Chapter-6

Miscellaneous

25. Provision on Camera Court: (1) The case to be heard from Camera Court as per the prevailing laws shall be heard in Camera Court.

(2) Other provision relating to Camera Court shall be as prescribed.

26. Special Provision relating to hearing of the petition of Habeas Corpus: (1) If the Court is to remain closed for Three or more days, a judge as hereunder shall be designed to accept and hear petition of habeas corpus during the period of closure:-

(a) With regard to Kathmandu Valley, the Justice of Supreme Court as deputed by the Chief Justice,

(b) With regard to the District locating High Court and District Court, the Judge of concerned High Court deputed by the Chief Judge of the High Court,

Clarification: For the purpose of this part “High Court” shall also means the **location** (Mukam) of High Court.

(c) In other place excluding Part (a) and (b), where District Court is located, the Judge of concerned District Court and if there are more than one District Judges in such District, the District Judge assigned by the District Judge working as a Chief of the District Court.

(2) Notwithstanding anything contains in this Act or other prevailing laws, the Judge assigned in accordance with Sub-Section (1) may issue appropriate order by hearing over the petition filed before concerned Court during the period such closure the Court and concerned authority shall implement such order even in the time of holiday,

(3) The place to filing petition in accordance with this Section and hearing accordingly shall be as determined by the Judge as prescribed in accordance with Sub-Section (1).

27. To Issue Search Warrant: (1) The Court may, in order to make assure the reality of fact, issue search warrant in following situation in the course of proceeding over the petition of habeas-corpus:-

- (a) If there is any reason to make assure to the Court that the detainee has been detaining in inhuman manner or illegal torture has been given to him/her, or
- (b) If the petitioner shows any reason to make assurance to the Court that it is necessary to issue search warrant due to possibility of transfer of the detainee in another place with intention to elude the order of the Court, or
- (c) If the Court considers that it is necessary or appropriate to issue order of search warrant due to any other similar reasons.

(2) The Court may, while issuing search warrant in accordance with Sub-Section (1), issue an order in the name of its subordinate officer or staff or any incumbent officer or employee of the Government of Nepal to produce the detainee before the court by carrying out search in any place where detainee is said to be detained or any other suspicious place or places where the detainee is kept under imprisonment. The Court may, if it deems necessary or appropriate while issuing such order, constitute a search team comprising said employee and person representing the petitioner including office bearer of local body and give the power to the team carry out the act of searching.

(3) The person or team, getting order for searching in accordance with Sub-Section (2), shall search the detainee as per the direction of the Court and if the detainee is identified, the assigned person or team shall submit the report with the detainee before the court immediately.

(4) If there is reasonable ground to believe that the officer or employee, authorized to carry out the act of searching in accordance with Sub-Section (2), couldn't know the detainee, the Court may issue order to any other person to provide support in the act of execution of the search warrant.

(5) If the Court deems necessary to identify the clear fact with regard to the detention by the Court itself or any other sub-ordinate court in order, it may examine the evidence to identify clear fact with regard to the petition of habeas corpus.

28. Acts to be performed by judge himself or herself: (1) The judge shall himself or herself perform the act of making decision or issuing order and recording the statement of parties or witness to the case.

Provided however that there shall be no any obstruction to the Judge to write or offer him or herself and may get the document of judgment or order scribed or typed by an employee of the Court and the judge shall, during the recording of statement of parties or witness, ask the questions by him or herself, and may get such questions and the answers scribed by an employee of the Court.

(2) Notwithstanding anything contained in Sub-section (1), during the absence of the judge, the Shrestedar (Registrar) of the District Court may record the statement of parties or witness and issue order relating to detention of the accused pending the trial, or release him or her on bail or on recognizance to appear on the appointed date.

(3) The Judge shall, upon his or her resumption of duty in the Court, review the orders issued pursuant to Sub-section (1), and, if such order is found to be against the due process of law, shall rectify them to accord with the procedures of law.

29. Deemed to be established the District Courts and Posting in the Post of

District Judge (1) The District Courts existing at the time of commencement of this Act shall be deemed to have been established under this Act.

(2) The District Judges working in the District Courts existing at the time of commencement of this Act shall be deemed to have been ipso-facto posting in the same District Court.

30. Dissolution of Courts of Appeal: The Courts of Appeal existed at the time of commencement of this Act shall be ipso-facto dissolved after commencement of this Act.

31. Transfer of cases: (1) Cases, appeal, petitions and reports filed and pending in the District Courts at the time of commencement of this Act shall be ipso-facto transferred to the District Courts established after the commencement of this Act.

(2) If the territory of any District has been divided into two Provinces in accordance with the Constitution at the time of commencement of this Act, cases to be tried and settled or hearing appeal by the District Court pursuant to this Act and prevailing laws under such District shall be heard by the District Court as prescribed by Government of Nepal in consultation with Judicial Council by issuing notice in Nepal Gazette until confirmation of border of such District. An appeal over the judgment of such District Court or the decision made by the body or authority, as per the prevailing laws, shall lie in High Court to hearing the appeal of said District Court.

(3) Notwithstanding anything contains in Sub-Section (1), if territory of any District is changed and merged in other District in accordance with the Constitution, cases, petitions and reports pending at that District Court shall be transferred in the District Court as prescribed by Government of Nepal in consultation with Judicial Council by issuing notice in Nepal Gazette.

(4) Cases, appeal, petitions and reports filed and pending in the Court of Appeal at the time of commencement of this Act shall be transferred to the High Courts as prescribed by Government of Nepal in consultation with Judicial Council by issuing notice in Nepal Gazette.

(5) If jurisdiction of any High Court or District Court is changed due to changing border of any Province by merging the Province into any other Province after commencement of this Act, cases, petitions and reports pending

at that High Court or District Court shall be transferred in the High Court or District Court as prescribed by Government of Nepal in consultation with Judicial Council by issuing notice in Nepal Gazette.

- 32. To lie Appeal:** If any judgment, decision or final order made by judicial, quasi-judicial body or authority during the commencement of this Act was appealable before the Court of Appeal as per the law of enforced in that time, such appeal shall, after the commencement of this Act, lie in the High Court.
- 33. Petition or Appeal over the Decision of Court of Appeal:** (1) If a petition for leave of appeal may be made in the Supreme Court, against the judgment or final order of the Court of Appeal, made prior to the commencement of this Act, such a petition for leave of appeal may be filed after the commencement of this Act in the Supreme Court according to the prevailing laws.
- (2) If a petition for revision may be made in the Supreme Court, against the judgment or final order of the Court of Appeal, made prior to the commencement of this Act, such a petition may be filed after the commencement of this Act in the Supreme Court according to the prevailing laws.
- 34. Files, documents or details on cases to be sent:** (1) If an order, for the sake of evidence in a case, is issued by a Court, judicial or quasi-judicial body or authority to send or submit to it any file, document or any fact relating thereto or an explanation or response is demanded, the office so addressed shall comply with such order within the reasonable time.
- (2) If, any office failed to send case file, document or reply as demanded by the Court in accordance with Sub-Section (1) within the time limit as prescribed by the prevailing laws or as specified by the Court, the Court may

impose punishment of a fine of One Thousand Rupees to Ten Thousand Rupees for each count thereof, on the chief or employee of the concerned office.

(3) Notwithstanding anything contained in Sub-Section (2), after the order of punishment is issued, if the chief or employee of the concerned office makes petition that such punishment should not have been imposed, stating the reasons for being unable to comply with the order, and on being satisfied with such reasons, the Court may reduce the amount of fine or cancel the order of the punishment.

35. Powers to issue direction: (1) The Chief Justice may, for the efficient management and performance of the judicial administration, issue required direction to any subordinate Court, body or authority in written form.

(2) The Chief Judge of concerned High Court may, for the efficient management and performance of the judicial administration, issue required direction to any subordinate District Court, body or authority in written form.

(3) The subordinate Court, body or authority shall have the duty to abide by such direction issued pursuant to Sub-Section (1) or (2).

36. Powers to frame Rules: (1) The Supreme Court may frame necessary Rules in order to implement of this Act. Such rules shall come into force after their publication in the Nepal Gazette.

(2) Without any prejudice to the generality of the powers conferred by Sub-section (1), Rules may be framed on the following matters in addition to the matters as mentioned in this Act elsewhere:

- (a) Provisions relating to the exercise of jurisdiction of the High Court by the Bench consisting of one or more judges,
- (b) Procedures for filing complaint, appeal or petition in the Court other than the Supreme Court, fees relating thereto and other matters relating to procedures in the cases,
- (c) Provision on granting approval to review the case,
- (d) Conditions and situations for transferring or extradite of cases from one Court to other Court,
- (e) Methods of collecting records and statistics relating to the performance of the judges of the Courts.
- (f) Other matters relating to the proceedings of the administration of justice.

37. Conversion: Conversion has been made by mentioning following terminologies in place of following terminologies remained in prevailing law.

- (a) “High Court” in place of the term of “Court of Appeal”,
- (b) “Judge of High Court” in place of the term of “Judge of Court of Appeal”

38. Repeal and saving: (1) Following Acts are hereby repealed.

- (a) Administration of Justice Act, 2048 (1991),
- (b) Supreme Court Act, 2048 (1991)

(2) Any acts done and actions taken under the Acts repealed pursuant to Sub-section (1) shall be deemed to have been done and taken under this Act.