

Judicial Council Act, 2073 (2016)

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Act No. 8 of the Year 2073

An Act Enacted to Amend and Consolidate Legislation Relating to Function, Duty and Power of Judicial Council

Preamble: Whereas, it is expedient to amend and consolidate forthwith the prevailing legislation relating to function, duty and power of Judicial Council to provide recommendation and counseling in the matter of appointment, transfer, disciplinary action, termination and other issues relating to judicial administration, Now, therefore, be it enacted by Legislature-Parliament in accordance with Sub-Article (1) of Article 296 of Constitution of Nepal.

1. Short Title and Commencement: (1) This Act may is called “Judicial Council Act, 2073 (2016).”

(2) This Act shall commence on such date, as Government of Nepal may, by a notification in the Nepal Gazette, appoint.¹

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

(A) “Court” means Supreme Court, High Court and District Court.

(B) “Chairperson” means the Chairperson of the Council.

(C) “Inquiry Committee” means the Inquiry Committee in accordance with Section 19.

(D) "Prescribed" or "As prescribed" means prescribed or as prescribed in the Rules framed under this Act.

¹ This Act has been commenced from September 19, 2016 by the Notification published in Nepal Gazette on September 14, 2016.

(E) “Judicial Council” means the Judicial Council constituted in accordance with Article 153 of the Constitution.

(F) “Judge” means the Judge of the Court.

(G) “Member” means the Members of the Judicial Council and the term shall also mean to the Chairperson of the Council.

(H) “Constitution” means the Constitution of Nepal.

3. To Prepare the Records: (1) The Judicial Council shall, in accordance with the Constitution, prepare and keep the records of Nepali Citizens who are eligible for the appointment in the post of judges.

(2) The Judicial Council may, for the purpose of Sub-section (1), demand details of the persons being qualified for appointment in the post of Judge in accordance with the Constitution from the Supreme Court, Judicial Service Commission, the Ministry of Law, Justice and Parliamentary Affairs, the Office of the Attorney General, Nepal Bar Council and other appropriate organization.

(3) The Judicial Council, besides the details to be acquired in accordance with Sub-Section (2), may collect, by publishing public notice, the details of the person being qualified for appointment in the post of judge in accordance with the Constitution and the person worked as Judge of any court and additional Judge of Appellate Court before commencement of this Act being eligible to appoint in the post of judge.

(4) The records to be prepared in accordance with this Section shall be remained under the responsibility of the Secretary of the Judicial Council.

(5) The record to be prepared in accordance with this Section shall be confidential and it shall not be used for other purpose except the function of Judicial Council.

(6) Other provision with regard to maintain the record in accordance with this Section shall be as prescribed.

4. **Period of Recommendation for Appointment:** (1) The Judicial Council, by confirming the post of Justice of Supreme Court going to be retired on the basis of age limit, shall make recommendation for appointment before one month of vacant of such post.

(2) The Judicial Council, if the post of Justice of Supreme Court falls vacant by other reason except age limit, shall make recommendation for appointment within one month from the date of vacant of such post.

(3) The Judicial Council, if the post of Chief Judge or Judge of High Court falls vacant, shall make recommendation for appointment within three months from the date of vacant of such post.

5. **Base of Recommendation for Appointment:** (1) The Judicial Council, in accordance with the principle of proportional inclusion under the Constitution, shall make recommendation to the Nepali Citizen for appointment in the post of judge.

(A) Qualified to make appointment in the post of Judge in accordance with the Constitution and this Act,

(B) Having appropriate to appoint in the post of Judge in aspect of seniority, experience, knowledge of subject matter, efficiency, honesty, impartiality, professional and moral conduct, goodwill earned in public life, contribution given in the field of justice and law, etc.,

(C) Containing name in the record maintain in accordance with Section 3,

(D) With regard to the District Judge to be appointed in accordance with Part (B) or (C) of Sub-Article (2) of Article 149 of the

Constitution, recommended by Judicial Service Commission in accordance with Sub-Article (3) of same Article.

(2) Notwithstanding anything contained in Part (C) of Sub-Section (1), there shall not be any obstacle to appoint such person in the post of Judge due to not mentioning the name in the record maintained as per the Section 3.

(3) The Council shall, in the course of making recommendation for the appointment of any person working as sitting Judge of any court or already performed the function as the Judge of any court or as an additional Judge of Appellate Court or an Officer of Judicial Service, in the post of Justice of Supreme Court or in the post of Judge of High Court, take the following matters into consideration in addition to the basis as mentioned in Sub-Section (1):

- (A) Matters mentioned in the report submitted by the Supreme Court or High Court after periodic or casual inspection of respective inferior Courts in respect of the person planning to make recommendation for appointment;
- (B) Seniority, qualification and performance evaluation of concerned person,
- (C) In respect of sitting Judge of High Court or District Court or the person already performed the function as the Judge of any court or as an additional Judge of Appellate Court, details of ratio of judgment/decision made by him/her per year and ratio of acceptance or partial or complete annulment by superior Court while making final decision.

Provided however that in respect of the person already performed the function as the Judge of any court or as an additional Judge of Appellate Court, while confirming the ratio/proportion of

decision/judgment made by him/her per annum, the ratio should be confirmed on the basis of ratio/proportion of the decision/judgment of the case made by him/her in his/her service period.

(4) The Judicial Council shall, in the course of making recommendation for the appointment of any lawyer or person working in the field of justice and law in the post of Judge, take into consideration the matters like professional continuation and contribution made in the field of justice and law and details regarding his/her previous service, if any in addition to the matter as mentioned in Sub-Section (1).

(5) The Judicial Council may, for the purpose of Part (B) of Sub-Section (1) and Sub-Section (3) collect the inspection report, report relating to performance or evaluation and other details in respect to service from concerned Court or office and study it.

6. Send for Parliamentary Hearing: (1) If the Judicial Council makes recommendation to any person for the appointment in the post of Justice of Supreme Court, the Secretary of Judicial Council shall send such recommendation to Secretariat of Legislature-Parliament for parliamentary hearing in accordance with Article 292 of the Constitution.

(2) In case of sending for parliamentary hearing in accordance with Sub-Section (1), if the letter sent by the Secretariat of Legislature-Parliament stating that the person is qualified for the appointment in the post of Justice of Supreme Court or in the situation that it is not any obstacle to make appointment as per the prevailing laws due to failure to make decision in respect of parliamentary hearing, the Secretary of Judicial Council shall send to the person recommended for the appointment in the post of Justice of

Supreme Court to the Office of the President to submit before the President for appointment.

7. Ineligibility for appointment in the Post of Judge: The following person shall be ineligible to appoint in the post of Judge:

- (A) Punished from the court in the offence of corruption, rap, human trafficking, drugs trafficking, money laundering, misuse of passport, kidnapping and other criminal offences involving moral turpitude,
- (B) Until completion of the period of two years of being punished from concerned body in violation of professional conduct,
- (C) Departmental action has been taken by dismissing from the job with being disqualified for government service or service of public institution in the future,
- (D) In case action of censure has been taken in accordance with the law relating to concerned service, not been completed the period of one year from the date taking action of censure or in the event of withholding of promotion or salary increment, during the period of such withholding,
- (E) In the event of disqualified in accordance with Article 291 of the Constitution,
- (F) In the event of being suspended in accordance with prevailing federal law,
- (G) Until completion of the period of two years from the date of warning given in accordance with Section 14,
- (H) Blacklisted in accordance with the prevailing law,
- (I) Becomes the member of any political party during the time of appointment,

- (J) Being insolvent, or
- (K) Having mental disorder.

8. Provision of Fulfillment of Vacancy of District Judge: (1) The Judicial Council shall fulfill the vacant post of the Judge of District Court in accordance with Sub-Article (2) of Article 149 of the Constitution.

(2) The Judicial Council, for fulfillment of vacant post in accordance with Sub-Section (1), shall determine the percentage of fulfillment of vacant post pursuant to Part (A), (B) and (C) of Sub-Article (2) of Article 149 of the Constitution by assuring the number of immediately vacant post of District Judge and the post to be vacant with in the end of Chaitra (about Mid-April) of each year.

(3) The Judicial Council, after determining the percentage in accordance with Sub-Section (2), shall write to Judicial Service Commission to make recommendation by selecting appropriate persons for fulfillment in the vacant post of District Judge pursuant to Part (B) and (C) of Sub-Article (2) of Article 149 of the Constitution.

(4) The Judicial Council should make time table to fulfill the post of District Judge in accordance with this Section within the end of Chaitra (about Mid-April) of each year.

9. Ineligible to be the Candidate: The person not been eligible to appoint in the post of Judge shall not be allowed to take part as a candidate in the examination to be held for the fulfillment of vacant post of District Judge in accordance with Sub-Article (2) of Article 149 of the Constitution.

10. Lacking Efficiency: In the following circumstances, the judge shall be deemed of lacking efficiency:

- (A) In case he\she has not initiated or decided the case within the time limit as prescribed by the law without any reasonable cause,

- (B) If he\she has unduly delayed cases by not issuing order or decision at once though it has to be done or could be done at once or postpone the case unnecessarily, though it has not to be required to postpone or not to reopen the pending case or initiation of case by adopting unnecessary, irrelevant or unlawful proceedings or decision,
- (C) If he\she has accomplished the work lesser than usual standard while proceeding and disposal of the case,
- (D) If he\she has made undue effect on the proceedings and decision by applying clearly inapplicable law or by forcefully adopting the different meaning or interpretation by way of avoiding the clear and unambiguous interpretation or meaning in the course of case proceedings or decision,
- (E) If he\she has made different opinion in the same legal questions reflected to different cases and taken proceedings or decision accordingly;
- Provided however that, this part shall not be applicable, if the judge has changed his\her opinion given in the previous cases by mentioning grounds and reasons.
- (F) If he\she has, without mentioning any work or reason, caused to make the party of the case to be present at the court unnecessarily or has been escaped from performing the prescribed work to be done in the prescribed date for presence without any reasonable cause,
- (G) If he\she has, during the course of issuing order for examination of evidence, issued an order just for asking the inquiry of evidence without mentioning the facts or questions in which both of the

parties are agreed and the facts or questions to be decided in which the parties are not agreed upon and the evidences as are appeared to be taken into inquiry;

(H) If he\she has delivered judgments contrary to the precedent or legal principle laid-down by the Supreme Court, or

Provided that, this provision shall not be applicable in case there is no uniformity or certainty in the precedent or legal principle laid-down by the Supreme Court because of the reason that different Benches have delivered different decisions or held different interpretation in the same legal question reflected to different cases.

(I) If he/she has performed any other functions proving that he/she doesn't have anticipated level of competency in order to perform the duty and responsibility as per his/her position.

11. Misconduct or Gross Violation of Code of Conduct: (1) In the following conditions, the conduct of the Judge shall be deemed as misconduct:

(A) If he\she he has involved in any offence of corruption, rap, human trafficking, drugs trafficking sale and distribution, money laundering, misuse of passport, kidnapping or any other criminal offence involving moral turpitude,

(B) If he\she has consumed narcotic drugs,

(C) If he\she has used alcohol during court's time,

(D) If he\she has performed indecent or impertinent conduct in public place or ceremony,

(E) If he\she has taken part in politics;

Provided however that the act of exercising voting right in accordance with law shall not be deemed to have taken part in politics.

- (F) If he\she has, under the undue influence or against the law, initiated any proceedings or delivered the judgment,
- (G) If he\she has misused the government or public property or any facilities provided to him/her, or
- (H) If he\she has performed any unusual conduct in the Bench in a manner of violating the dignity of the court in contrary with the discipline or dignity of his/her position;

(2) The act of gross violation of the Code of Conduct made under this Act or violating the Code of Conduct repeatedly shall be deemed gross violation of Code of Conduct.

12. Not to have performed duties of the office honestly or performed the act with malafide intention: In the following conditions, a judge may be deemed not to have performed duties of the office honestly or performed the act with malafide intention:

- (A) If he\she has deliberately performed the act with a motive to avoid, prolong, or make an undue influence on the case,
- (B) If he\she has, without any reasonable cause, not been present in the Bench in the prescribed time or avoid the case from making the hearing,
- (C) If he\she has, without any reasonable cause, made delays in writing the judgment or order within the prescribed time limit,
- (D) If he\she has been absent in the court without approving the leave, or

(E) If he\she has not followed the direction given by the superior courts or directives relating to administrative affairs given by the Chief Justice or the Chief Judge of High Court or any inspecting judge within appropriate time.

13. Deemed to be incompetent to perform the duty: (1) The Judicial Council shall write to the Medical Board constituted by Government of Nepal to make assure that whether any Judge is unable to perform his/her duty due to physical or mental illness pursuant to Part (D) of Article 131, Part (D) of Sub-Article (1) of Article 142 or Part (D) of Sub-Article (6) of Article 149 or not.

(2) If the Medical Board makes recommendation, in the situation of writing in accordance with Sub-Section (1), stating that any Judge is unfit to perform the duty due to physical or mental illness, that Judge shall be deemed to have been unfit to perform the duty due to physical or mental illness.

(3) In any judge refuses to check his/her physical or mental position in accordance with this Section, he/she shall be deemed to have been unfit to perform the duty due to physical or mental illness.

(4) The Judicial Council shall make recommendation to the Chief Justice to terminate the Judge from the post, who has been found to be unfit to perform own duty due to physical or mental illness in accordance with Sub-Section (2).

Provided however that Part (D) of Article 131 shall be applied with regard to the Justice of Supreme Court.

14. To take Action: (1) The Judicial Council may give warning to the Judge for first time in the situation as specified in Section 10 or 12.

(2) The Judicial Council shall, in case not improving the situation as per the Section 10 or 12 or in case of occurrence of bad conduct or gross violation of

Code of Conduct in accordance with Section 11 even while giving warning in accordance with Sub-Section (1), take action pursuant to Part (C) of Sub-Article (1) of Article 142 or Part (C) of Sub-Article (6) of Article 149.

Provided however that Article 131 shall be applied with regard to the Justice of Supreme Court.

15. Provision Relating to Inspection: (1) The Chief Judge of the High Court shall, after carrying out inspection, send the report regarding the functions and activities of the judge of High Court and District Courts to the Judicial Council.

(2) In addition to other things, the following details should be mentioned in the report as specified Sub-Section (1):

(A) Details of the checked annual attendance of the place where such judge has been posted;

(B) Judgments delivered by the judge throughout the year as per ratio of the cases registered in the concerned courts;

(C) Details of the judgments delivered by such judge which have been accepted or reversed by the superior courts, if any;

(D) Details of other activities regarding court management and operation.

(3) The Council shall also take the report prepared pursuant to Sub-Section

(1) as a basis for assessment and for action against a judge.

(4) Other provision relating to inspection shall be as prescribed.

16. Provision Regarding Monitoring and Observation: (1) The Judicial Council may, for regular monitoring and observation of the activities and conduct of judges, constitute a Judicial Monitoring and Observation Committee under the leadership of any member of the Judicial Council comprising one or three member.

(2) The Secretary of the Judicial Council shall work as Secretary of the Committee to be constituted in accordance with Sub-Section (1).

(3) The Committee, formatted as per the Sub-Section (1), may carry out monitoring or observation in the matter that whether the Judge has complied with his/her duty or official conduct properly as required to comply with as per the Constitution and law or not as well as other functions and activities as prescribed by Judicial Council.

(4) For the purpose of Sub-Section (3), the Committee may get opinion with regard to the concerned Judge from Chief Judge of concerned High Court, other Judges and employees of the Court where the concerned Judge is working, legal practitioner practicing in concerned court or service seeker of the Court.

(5) The Judicial Monitoring and Observation Committee may get support of gazetted employees working in the Judicial Council while carrying out the function of monitoring and observation in accordance with Sub-Section (3).

(6) The proceeding of monitoring and observation to be conducted as per the Sub-Section (3) shall be confidential.

(7) The Judicial Monitoring and Observation Committee shall submit the report of activities accomplished by itself before the Judicial Council within the period as prescribed by the Judicial Council.

(8) The Judicial Council may, while carrying out evaluation of the judge or proceeding action against him/her, may take base to the report as per the Sub-Section (7).

17. Study of the Case File Relating to Complaint: (1) If any complaint filed before the Judicial Council against any Judge with regard to any case, the Judicial Council may any Member for study of concerned case.

(2) For the purpose of Sub-Section (1) concerned Court shall provide documents or file as demanded by the Member.

(3) The Member as d in accordance with Sub-Section (1) shall submit report with his/her opinion, by carrying out study of concerned case, to the Judicial Council within the period as prescribed by the Judicial Council.

18. Initial Enquiry: (1) The Judicial Council may, in case any complaint or report seeking for an action against any Judge has been filed or if the Council itself deems necessity to carry out enquiry against any Judge of High Court or District Court, to any Member or any Justice of Supreme Court to conduct initial inquiry.

(2) The Member or Justice, d as per the Sub-Section (1) may make inquiry upon the concerned Judge or other related persons.

(3) The Member or Justice, d as per the Sub-Section (1) may demand any documents relating to the issue of initial enquiry. Concerned Court or body shall have the responsibility to provide such demanded document.

(4) The Member or Justice, d as per the Sub-Section (1) shall submit the initial enquiry report with his her opinion before the Judicial Council within the period as prescribed by the Judicial Council.

19. Enquiry Committee: (1) The Judicial Council, by the report received as per the Section 17 or 18 or if the Council itself deems necessity to carry out enquiry against any Judge of High Court or District Court, shall form an Enquiry Committee under the Chairmanship of any Member of Judicial Council or any Justice of Supreme Court comprising three members including expert of concerned subject and shall publish notification of the same in Nepal Gazette.

(2) The Enquiry Committee shall submit report before the Judicial Council by accomplishing the act of enquiry within the period as prescribed by the Judicial Council.

(3) Office of the Enquiry Committee shall be located at Secretariat of Judicial Council and the Judicial Council shall provide staff and materials necessary for the Inquiry Committee.

(4) The Secretary of the Judicial Council or gazetted employee of federal judicial service as prescribed by the Judicial Council shall perform the work of Secretary of the Inquiry Committee.

20. Powers of the Inquiry Committee: (1) The Inquiry Committee may, in respect to furnish and execute the notice to the judge of High Court or District Court against whom the act of enquiry is conducted, to record the statement, inquire witness and examine evidence thereof, exercise the power equivalent to the commission formatted pursuant to Enquiry Commission Act, 2026 (1969).

(2) Act and proceedings of the Inquiry Committee to be conducted in accordance with this Section shall be confidential.

(3) The Inquiry Committee shall not give permission to any other person, excluding the judge who has been charged, concerned lawyer and the complainant, to be present or take part in at the place where the proceedings of inquiry has been undertaken.

(4) The Inquiry Committee may impose fine up to three thousand rupees or imprisonment for one month or both for the person disobeying order issued by the Inquiry Committee or creating hindrance in the proceedings of inquiry.

(5) Before issuing order to impose punishment by the Enquiry Committee in accordance with Sub-Section (4), the concerned person can pray before the

Enquiry Committee to give pardon. The Enquiry Committee may not, if it is satisfied with the act of apology, impose any punishment to such person.

(6) The Enquiry Committee may, if the person against whom punishment has been imposed in accordance with Sub-Section (4) apologizes before the Enquiry Committee by making satisfaction to the Enquiry Committee, may not execute the punishment imposed by the Committee itself.

(7) The Inquiry Committee shall, after completion of the act of inquiries, give report of such inquiry including its opinion and related documents to the Secretariat of Judicial Council.

21. To Provide Opportunity to Defend: (1) In case it is observed from the report of inquiry received in accordance with Section 17, 18 and 19 that the Judge of High Court or District Court, who has been charged is to be punished under the Constitution, this Act or other prevailing laws, the Judicial Council shall, within a reasonable time, give the notice of the same enclosing the causes and reasons to present his\her clarification.

(2) In case he\she has not presented any clarification within time limit as per the Sub-Section (1) or the clarification so presented by him/her has been found to be unsatisfactory, the Judicial Council shall make recommendation before the Chief Justice to take action in accordance with Part (C) of Sub-Article (1) of Article 142, Part (C) of Sub-Article (6) of Article 149 to the alleged Judge of High Court or District Court.

Provided however that if it is required to file case as per the prevailing laws, it shall be written to concerned body to file case as per the law.

22. To carry out Investigation in the Offence of Corruption and to File Case:

(1) The Judicial Council shall assign any Justice of Supreme Court or Judge of High Court work as an Investigation Office in order to carry out the act of investigation pursuant to Sub-Article (6) of Article 153 of the Constitution.

(2) The Investigation Officer as per the Sub-Section (1) may, in respect to carry out the act of investigation over the Judge of High Court or District Court, exercise the powers as conferred on to the Investigation Officer under the Prevention of Corruption Act, 2059 (2002).

(3) The Investigation Officer shall, if he/she deems necessary, while carrying out investigation pursuant to Sub-Section (2), to initiate case against any Judge of High Court or District Court in the offence of abuse of authority by corruption, submit report before the Judicial Council by mentioning the same matter.

(4) The Judicial Council shall, if it deems necessary to initiate case on the basis of report received in accordance with Sub-Section (3), make decision in this regard and assign to the Secretary of Judicial Council or any gazetted officer of Judicial Council to initiate the case on behalf of Judicial Council in the Court as prescribed by Government of Nepal as per the prevailing law for proceeding and adjudication of the case relating to corruption.

(5) The Judicial Council may, before filing case in accordance with Sub-Section (4), get advice from Attorney General in such issue.

(6) The case filed in accordance with this Section shall be defended by Attorney General or sub-ordinate government attorney.

(7) The Judicial Council shall, if involvement of any other person except the Judge has been found in the issue of running case initiated in accordance with this Section, write to concerned body to initiate the case against such person as per the prevailing law.

23. To be Ipso-Facto Suspended: In the situation of ipso-facto suspension in accordance with the Corruption Control Act, 2059 (2002) or if a case has been filed against any Judge of High Court or District Court in accordance

with prevailing law on the basis of bad conduct, such judge shall be deemed suspended ipso facto from his\her office from the date of case filed.

24. **Expiry of Suspension:** In case the Judge of High Court or District Court receives clearance in the case filed against him/her in accordance with this Act, his\her suspension shall be ipso-facto expired from the date of receiving the clearance.
25. **Not to Allow Performing Duty:** In case any Enquiry Committee is formatted to carry out enquiry or initiating investigation in accordance with Section 22 against any Judge of High Court or District Court, such Judge shall not be allowed to perform the duty of his/her office until final decision of such proceeding.
26. **To keep in Pending:** In case the charge made against the Judge of High Court or District Court has been found to be groundless as per the report received in accordance with Section 17, 18 or 19, the Judicial Council shall keep the proceeding into pending subject to do as per the law in case of acquiring evidence later and information of same shall be given to concerned Judge.
27. **Transfer or Deputation of Judges:** (1) No the Judge of High Court or District Court, who has not completed the tenure of two years in a courts shall, generally, be transferred.
- (2) The Judge of High Court or District Court shall be generally transferred to the Judge working in the court of remote area to the court of non-remote area and the Judge working in the court of non-remote area to the court of remote area in the manner to provide different experience of mountain area, hilly area, terai area and Kathmandu Valley.
- (3) Generally any Judge of High Court or District Court shall not be transferred in the manner to remain in same Court for more than one time.

(4) The Chief Justice may, in recommendation of the Judicial Council, depute the Judge of one High Court to other High Court as per the requirement.

(5) The Chief Justice may, in recommendation of the Judicial Council, depute the Judge of one District Court to other District Court for the certain time as per the requirement.

28. To Keep Record of Personal Details: (1) The Judicial Council shall keep the record of personal details (Sit-roll) of Judges by updating it as prescribed.

(2) The Judicial Council may, for the purpose of Sub-Section (1), demand the details from Civil Employees Record Office and other concerned bodies.

(3) The person appointed in the post of Judge at first shall fill-up the sit-roll form in the format as prescribed and submit before the Judicial Council within one month from the date of appointment.

(4) Other provision regarding to sit-roll of the Judge shall be as prescribed.

29. Statement of Property to be Submitted: (1) Member and Judge shall submit the statement of property remained in own name or name of own family in the format as prescribed to the Judicial Council within sixty days from the date of completion of each fiscal year.

(2) Notwithstanding anything contained in Sub-Section (1), the Member and Judge appointed after expiration of the period as per the Sub-Section (1), shall submit the statement of property as per the Sub-Section (1) to the Judicial Council within sixty days from the date of his/her appointment.

(3) The statement of property as per the Sub-Section (1) or (2) shall be kept confidential.

(4) The Secretary of Judicial Council shall prepare the record of the Judge, who failed to submit the statement of property within the period as per the Sub-Section (1) and submit before the Judicial Council.

(5) The Judicial Council shall issue an order to the Judge, who failed to submit the statement of property in accordance with Sub-Section (1), to submit statement of property by imposing fine of the sum of rupees five thousand only to him/her.

(6) The refusal of the Judge to submit statement of property in accordance with Sub-Section (5) shall be deemed to have performed misconduct pursuant to Section 11.

30. To Prepare Unified Record: (1) The Judicial Council shall prepare and keep unified record of each Judge by mentioning following details.

- (A) Details relating to date of appointment and retirement, his/her qualification, experience and expertise,
- (B) If any complaint has been filed against him/her, short description of decision made by the Judicial Council over the complaint,
- (C) If any action has been taken against him/her in accordance with the Constitution and this Act, details of such action,
- (D) Details of acceptance or refusal of his/her decision or order from superior court,
- (E) Numerical details of decision and order made by him/her in each court,
- (F) Other details as prescribed.

(2) The Judicial Council, for the purpose of maintaining record in accordance with Sub-Section (1), may also utilize the information technology by constructing separate software as per the requirement.

31. To Provide Information about Termination of Tenure of Office: (1) The Judicial Council shall, if any Judge is going to be retired from his/her office due to age factor, give information of the same to concerned Judge and the body at least sixty days before of the retirement.

(2) The Judicial Council shall, if any Judge becomes terminated from his/her office due to any reason except as mentioned in Sub-Section (1), give information to the concerned Judge and the body.

(3) The Judicial Council shall, while calculating age of the Judge as per the following basis for the purpose of providing information relating to retirement in accordance with Sub-Section (1), update the age by making calculation of the age of the Judge by giving consideration to the age that by which age he/she is retired first.

(A) The age to be specified according to date of birth or age as stipulated in the certificate of educational institution submitted by him/her,

(B) The age to be specified according to date of birth or age as stipulated in the Citizenship Certificate submitted by him/her,

(C) The age to be specified according to date of birth or age as mentioned in his/her sit-roll.

(4) While making calculation of the age of Judge in accordance with Sub-Section (3), in case the date, year, month and day of birth has been mentioned in academic certificate or Citizenship Certificate and sit-roll but there is not similarity in date of birth in all those documents, calculation of the age shall be made on the basis of the date from which he/she will be retired first.

(5) If only year has been mentioned in academic certificate or Citizenship Certificate and sit-roll of any Judge, the date of birth shall be confirmed in following basis;

(A) In connection to Citizenship Certificate, on the basis of the date of issue of the Certificate,

(B) In connection to the academic certificate, on the basis of the date of issue of the certificate,

(C) In connection to the sit-roll, on the basis of the date of first appointment.

(6) If only year has been mentioned in a certificate and full date of birth has been mentioned in other certificate submitted by the Judge and if there is difference upto only one year between in the dates of birth as mentioned in those certificates, it shall be based on the certificate where full date of birth has been mentioned.

(7) If the difference between the dates of birth as mentioned in different certificates according to Sub-Section (6) is found to be more than one year, the date of birth shall be determined on the basis of the certificate mentioning only year in accordance with Sub-Section (3).

(8) The Council shall confirm the age of the Judges within three month from the date of enforcement of this Section and maintain the record of the age in accordance with this Section.

(9) Nonetheless the information has not been given in accordance with Sub-Section (1), any Judge shall be retired after completion of the age for retirement.

32. Dismissal from the Service: (1) If it came to know that any person gets appointment in the post of Judge by concealing his/her qualification or disqualification or if the situation as per the Part (A), (E), (H), (I), (J) or (K) of Section 7 is emerged, the Judicial Council shall recommend to the Chief Justice for immediate dismissal of such judge.

(2) If recommendation is made in accordance with Sub-Section (1), the Chief Justice shall dismiss immediately from the post.

(3) If any Judge, who was appointed by concealing qualification or disqualification, is dismissed in accordance with Sub-Section (2), such Judge

shall not be entitled to obtain any other facility except the amount of provident fund and insurance in accordance with prevailing federal laws.

(4)The Council shall write to concerned authority to initiate case in the offence of corruption against the Judge who has been dismissed from his/her post pursuant to Sub-Section (2) due to concealing qualification or disqualification in accordance with prevailing federal laws.

33. Function, Duty and Power of Judicial Council: In addition to the function, duty and power as mentioned in the Constitution and in this Act elsewhere, function, duty and power of the Judicial Council shall be as mentioned hereunder.

- (A) To make recommendation or provide counseling in the issues of judicial administration,
- (B) To carry on or to cause to carry on study and research in the subject of judicial administration,
- (C) To give necessary direction to concerned authority in the subjects including curriculum with regard to training and instruction of the Judge,
- (D) To draft and enforce Code of Conduct to be abided by the Judges,
- (E) To perform other prescribed functions.

34. Secretariat of Judicial Council: (1) There shall be a separate Secretariat of Judicial Council.

(2) The Secretariat of the Judicial Council shall be located at Kathmandu Valley.

35. Meeting of the Judicial Council: (1) (1) The meetings of the Judicial Council shall, as per the need, be held in the time, date and place as prescribed by the Chairperson.

(2) Notwithstanding anything contained in Sub-Section (1), the Chairperson shall call a meeting in case any two members jointly make a written request including the agendas before the Chairperson to call a meeting of the Judicial Council as quick as possible.

(3) The Secretary of the Judicial Council shall send the notice for the meeting of the Judicial Council to all the members normally 48 hours before the meeting by mentioning the date, time and agendas for discussion.

(4) In case any member wants to add any other agenda in addition to the agendas already set for discussion in the meeting pursuant to Sub-section (3), he\she shall serve the notice of same to the Secretary of the Judicial Council by mentioning the agenda with reason to discuss over such agenda at least Twenty Four hours before the meeting is held. The Secretary of the Judicial Council, immediate after getting notice so, information of that shall be given to the Members by including such agenda in the list of agendas set for discussion.

(5) Notwithstanding anything contains in Sub-Section (3) and (4), discussion and decision can be made by the meeting of the Judicial Council in any new issue, which has not been mentioned in the list of agendas, as per the consent of all the Members.

(6) It shall be deemed to constitute the quorum for the meeting of the Judicial Council, if Chairperson and other two Members are present.

(7) Decision of the Judicial Council shall be made on the basis of majority and in case of a tie; the Chairperson may cast a decisive vote.

(8)The Secretary of the Judicial Council shall prepare and keep the record of decisions of the Council after affixing signature of the Chairperson and the Members.

(9) Other procedures with regard to the meeting of the Judicial Council shall be as determined by the Judicial Council itself.

36. The Secretary of the Judicial Council: (1) There shall be one Secretary of the Gazetted Special Class of Nepal Judicial Service to work as an administrative chief of Judicial Council.

(2) In addition to the function, duty and power as mentioned in this Act elsewhere, function, duty and power of the Secretary of the Judicial Council shall be as mentioned hereunder.

(A) To implement or to cause to implement the decision made by the Judicial Council,

(B) To keep the record to be remained in the Secretariat of the Judicial Council in systematic and secured manner by updating it,

(C) To allocate the functions to the employees of the Judicial Council and to assign them in work,

(D) To carry on monitoring, control and supervision of the activities of the Secretariat of Judicial Council,

(E) To give information of decision of the Judicial Council to concerned person or body,

(F) To make contract and coordination with Government of Nepal and other concerned body as per the requirement,

(G) To perform other function as prescribed by the Judicial Council.

(3) The Secretary of the Judicial Council may delegate any power, among the powers conferred to him/her, to any subordinate Gazetted Officer as per the requirement.

37. Oath: The Member, as per the Part (D) and (E) of Sub-Article (1) of Article 153 of the Constitution, shall take an oath before the Chairperson as prescribed in Annex.

38. **Annual Report to be submitted:** (1) The Judicial Council shall submit the annual report of the functions and activities performed by the Council in each year before the President within three months of completion of every fiscal year.
- (2) The President shall cause to submit the report as submitted in accordance with Sub-Section (1) before the Federal Parliament via Prime Minister.
39. **Contact with Government of Nepal:** The Judicial Council, while making contact with Government of Nepal, shall make contact through Ministry of Law, Justice and Parliamentary Affairs.
40. **Power to frame Rules:** The Judicial may frame necessary Rules in order to implement this Act.
41. **Power to frame Directive or Procedure:** The Judicial Council may frame necessary Directives or Procedures Manual under this Act and Rules framed under this Act to conduct or to cause to be conducted the functions to be performed by the Council itself smoothly or systematic manner.
42. **Repeal and Saving:** (1) Judicial Council Act, 2047 (1991) is hereby repealed.
- (2) Any acts done and actions taken under Judicial Council Act, 2047 (1991) shall be deemed to have been done and taken under this Act.

Annex
(Relating to Section 37)

Oath

I ----- solemnly promise/swear in the name of the God/ the Nation and the people that I will bear true faith and loyalty to the country and people, that I will bear true faith and allegiance to the Constitution of Nepal, vesting the sovereignty and state authority of Nepal in the people of Nepal, that I will faithfully discharge the duties of the post of -----, subject to the prevailing laws, doing right to the country and people, without fear, favor, affection or ill-will, and that I will not in any manner communicate or reveal any matter which shall become known to me in the course of discharging my duties, irrespective of whether I hold or cease to hold the office, except as may be required in the observance of law.

Date

Name:

Signature: