

1. Historical Background:

Nepalese Judiciary was a dependent body of the executive until the establishment of *Pradhan Nyalaya* on 1st Shrawan 1997 (16th July 1940 A.D.), by following a sanad (Charter) during the reign of Prime Minister Juddha Shamsher JBR. Prime Minister would himself look into the matter of justice before Bahadur Shumser JBR was elected as the Nyayadhis General of Pradhannyalaya.

Pradhan Nyayalaya Act, 1951 got affixed Lalmohar (Royal Seal) on 8th May 1952 and published in Gazette on 22nd December 1952. Mr. Hari Prasad Pradhan took oath of the Chief Justice on 10th August 1951 and worked till 21st December 1952 following the 1997 *Sanad*. Pradhan *Nyayalaya Act-2008, Section 18*, for the first time, granted Pradhan Nyayalaya a right to issue the writs. Supreme Court of Nepal was established in 2013 after the enforcement of *Supreme Court Act, 2013*. Judicial Service (Formation) Regulation, 2013, was propagated on the basis of Law and Parliamentary Ministry's notice of 27 Kartik 2013 (12 November 1956) published on Nepal Gazette, Section 3. Following this Regulation, a separate Judicial Service was formed with a provision of senior class and junior class staff, which helped in specialization of judicial service.

The Judicial Administration Act, 2016, the first legislation- promulgated Act in Nepal, envisioned provisions of High Court, District Court and State Court under Supreme Court. The first amendment of the *Judicial Administration (Miscellaneous Provisions) Act, 2018* in B.S. 2021 (1964 A.D.) transformed the then district courts into zonal courts and set the provision of District Court, Zonal Court, and Supreme Court.

The Judicial Administration Reform Ordinance, 2030 established zonal courts and four regional courts but *The Judicial Administration Reform Act, 2031* was enforced by repealing this ordinance. Later, an amendment in the act added the Far Western Regional Court and total number of regional court reached to five.

Prior to the commencement of the *Constitution of the Kingdom of Nepal, 2047*, the matter relating to judges was regulated by the Judicial Service Commission regarding the zonal and district judges as Civil Servant. Based on the principle of objectivity in justice through free and independent judiciary, *Constitution of the Kingdom of Nepal, 2047* made a provision for Judicial Council as a separate constitutional body to make recommendation or give advice, in accordance with the constitution, on the appointment of, transfer of, disciplinary action against, and dismissal of, Judges, and other matters relating to the administration of justice. According to the constitution, all the posts of the judges were

transformed into constitutional posts and separate acts were propagated for the remuneration, conditions of Service and facilities of the judges.

The Article 93 of the Constitution made a provision of a five-member judicial council comprising of the Chief Justice as an ex-officio Chairman, the minister of Justice, two senior-most Justices of the Supreme Court, and a jurist appointed by His Majesty as members. As directed by the Article 94, Judicial Service Commission comprised of the Chief Justice as an ex-officio Chairman, the minister of Justice, a senior-most Justice of the Supreme Court, Chairman of the Public Service Commission and the Attorney General as ex-officio members. The first meeting of Judicial Council held on 18 December 1990 decided to establish Judicial Council Secretariat. The Interim Constitution of Nepal, 2063 gave continuity to Judicial Council with a slight modification in its members, however the members of Judicial Service Commission remained the same. *Article 153 and Article 154 of the Constitution of Nepal (2072)* have set provisions of Judicial Council and Judicial Service Commission respectively.

2. Formation of Judicial Council

According to the article 151(1), the Judicial Council comprises of:

(a)	The Chief Justice	Chairperson
(b)	The Federal Minister for Law and Justice	Member
(c)	The senior-most Judge of the Supreme Court	Member
(d)	One jurist nominated by the President on recommendation of the Prime Minister	Member
(e)	A senior advocate or advocate who has gained at least twenty years of experience, to be appointed by the President on recommendation of the Nepal Bar Association	Member

3. Functions, Duties and Powers of the Judicial Council:

i) Judicial council shall make recommendation or give advice, in accordance with this Constitution, on the appointment of, transfer of, disciplinary action against, and dismissal of, Judges, and other matters relating to the administration of justice (*Article 153, The Constitution of Nepal*)

ii) The chairperson and a member of the Judicial Council may study the case associated with a complaint filed in respect of any Judge and make a report thereof to the Judicial Council. (*Article 153, The Constitution of Nepal*)

iii) If a preliminary inquiry of a complaint filed in respect of any Judge reveals a need to have a detailed inquiry by an expert, the Judicial Council may form an inquiry committee. (*Article 153, The Constitution of Nepal*)

iv) If a Judge, other than a Judge who can be removed from office by way of impeachment in accordance with this Constitution, commits an abuse of authority by way of corruption, the Judicial Council may investigate into the matter and institute a case in accordance with law. (*Article 153, The Constitution of Nepal*)

v) The Judicial Council must prepare updated records of the persons who are qualified for appointment to offices of the Chief Justice, Judges of the Supreme Court, Chief Judges and Judges of the High Courts. (*Article 153, The Constitution of Nepal*)

vi) Judicial Council shall regulate and monitor the performance and conduct of the judges. (*Section 16(1), Judicial Council Act, 2073*)

vii) The Judicial Council must keep the personal records of the judges. (*Section 28, Judicial Council Act, 2073*)

viii) The Judicial Council must keep the record of the judges' statement of property. (*Section 29, Judicial Council Act, 2073*)

ix) The Judicial Council must prepare and keep an integrated record of the judges including their qualification, experience, expertise, a brief account of decisions on complaints against them, details of the disciplinary action, details of the judgments confirmed or altered, numerical details of the judgments and orders. (*Section 30, Judicial Council Act, 2073*)

x) Judicial Council shall conduct study and researches related to the Council. (*Section 33, Judicial Council Act, 2073*)

xi) Judicial Council shall provide necessary instructions related to the trainings of the judges including curriculum of the training. (*Section 33, Judicial Council Act, 2073*)

xii) Judicial Council shall formulate the code of conduct for judges and enforce it. (*Section 33, Judicial Council Act, 2073*)

xiii) Judicial Council shall prepare annual report and submit to the President. (*Section 38, Judicial Council Act, 2073*)

xiv) Judicial Council shall fix the percentage for the vacant post of the district judges and prepare the schedule for the examination. (*Rule 6, Judicial Council Regulation, 2073*)

4. Major Activities of the Judicial Council:

The first meeting of Judicial Council was held on 18 December 1990. It started publishing bulletins from 18 December 2001. Initiation of observing 3rd of Pous as Judicial Council Day.

5. Formation of the Judicial Service Commission

Before the commencement of the *Constitution of the Kingdom of Nepal, 2047*, activities including the appointment and transfer of District and Zonal Judges were conducted by Judicial Service Commission. Article 154 of *The Constitution of Nepal (2072)* has made the following provision for the formation of Judicial Service Commission:

(a)	The Chief Justice	Chairperson
(b)	The Federal Minister for Law and Justice	Member
(c)	The senior most Judge of the Supreme Court	Member
(d)	The Chairperson of the Public Service Commission	Member
(e)	The Attorney General	Member

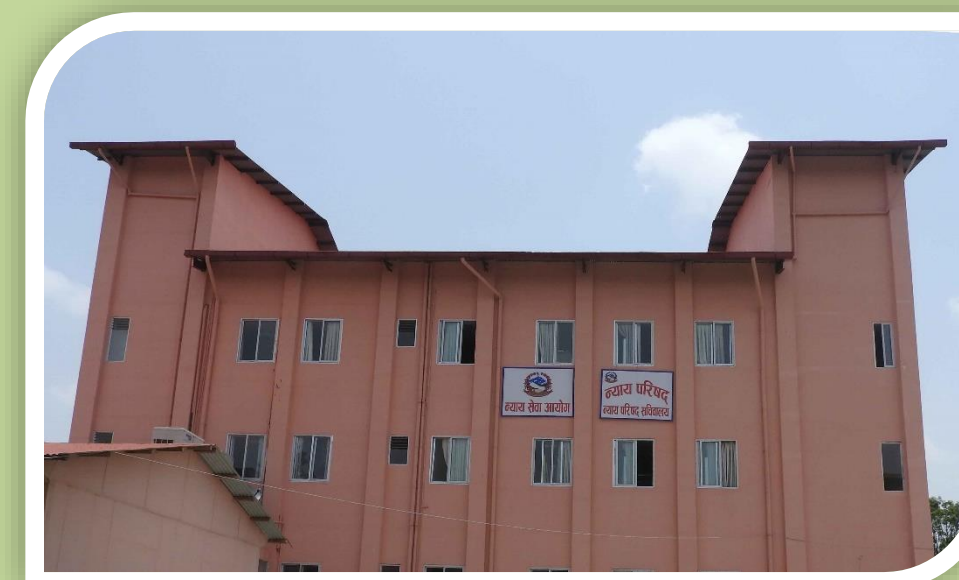
There has been a legal provision for the secretary of judicial council to act as a secretary of the judicial service commission as well. (*Section 5, Judicial Service Commission Act, 2075*)

6. Functions, Duties and Powers of the Judicial Service Commission:

In appointing, transferring or promoting gazetted officers of the Federal Judicial Service or taking departmental action concerning such officers in accordance with law, the Government of Nepal shall act on recommendation of the Judicial Service Commission. (*Article 154, Constitution of Nepal*)
Provided that in making new permanent appointments to gazetted posts of the Federal Judicial Service from persons who are not already in the Federal Government Service or making promotions from non-gazetted posts of the Federal Judicial Service to gazetted ones of that Service, the Government of Nepal shall act on the recommendation of the Public Service Commission.



Judicial Council Secretariat



Short Introduction

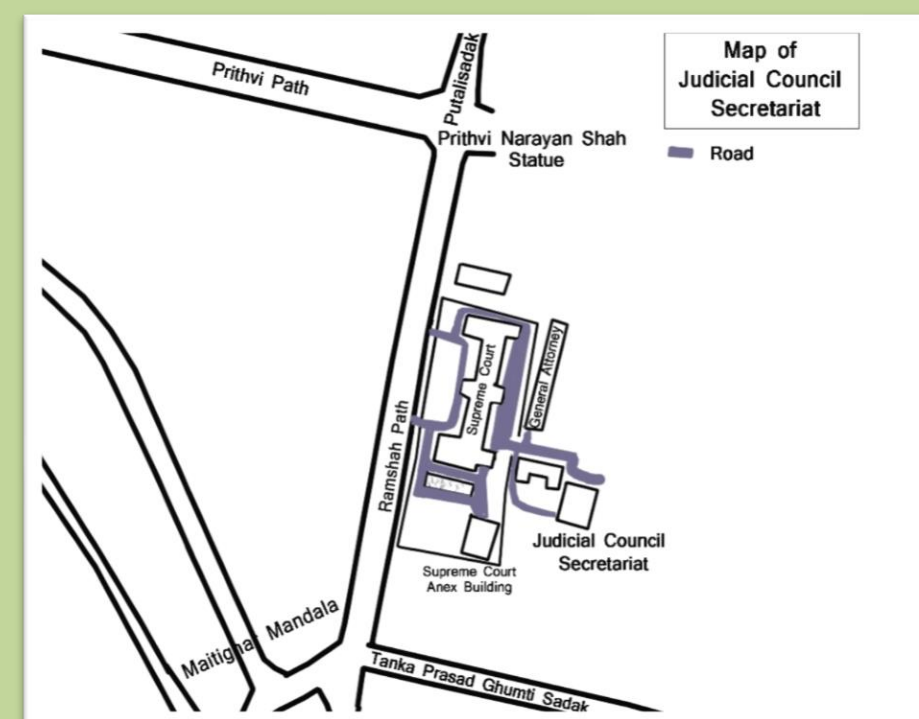
8. Details of sanctioned strength of the Judges

Supreme Court: 21
High Court: 160
District Court: 240

9. Officers and Staff of Judicial Service:

Specific: 13
Gazatted First Class: 75
Gazatted Second Class: 341
Gazatted Third Class: 893
Non- Gazatted: 3249

10. Location Plan of Judicial Council Secretariat



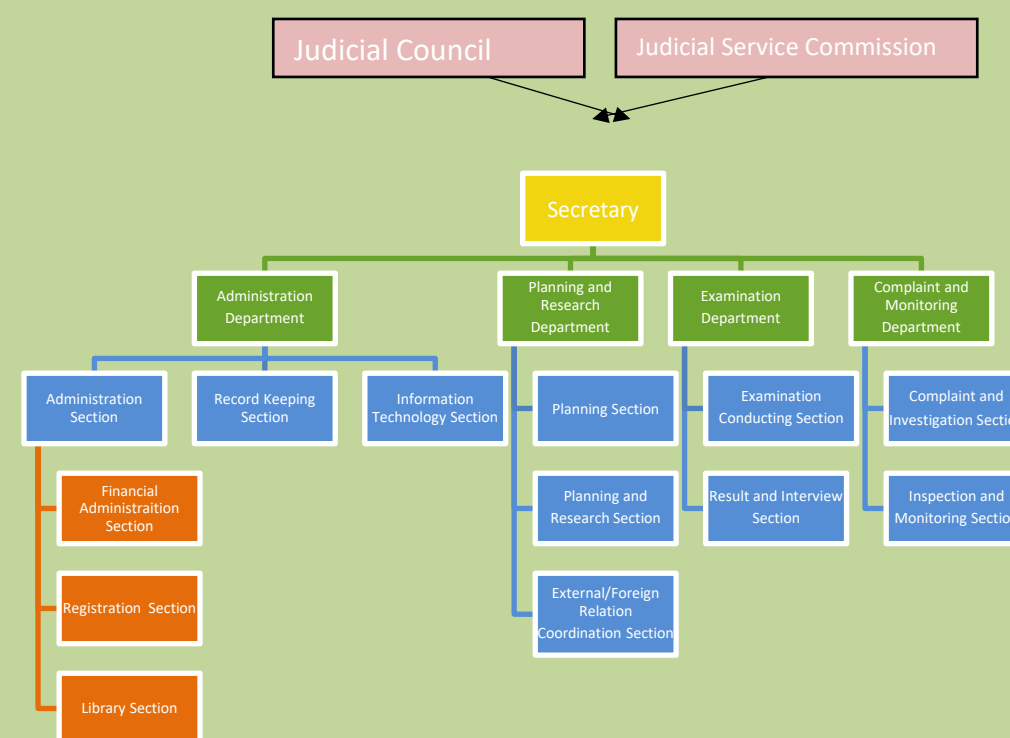
Contact :

Judicial Council Secretariat

Ramshahpath, Kathamandu.
Phone No. 01-4200775, 4200776, 4200777
Website: www.jcs.gov.np
Email ID :- info@jcs.gov.np
Fax No.:- 01-4200779

Clause (B) and (C) of Clause 2 of Article 149 of the Constitution of Nepal.	
Determine percentage for the vacant posts of Gazatted First and Gazatted Second Class of the Judicial Service.	Bhadra-Ashoj (Mid of August-Mid of October)
Write to the Public Service Commission for the open and internal competitive promotion examination in the percentage determined vacant posts in Gazatted First and Gazatted Second Class of the Judicial Service.	Bhadra- Till Second Week of Ashoj (Mid of August to End of September)
Publish notice for the promotion based on Work Efficiency Evaluation and Seniority or Work Completion Evaluation in the post of Gazatted First Class and Gazatted Second Class of the Judicial Service.	Poush-Magh (Mid of December to Mid of February)
Make recommendation for promotion based on Work Efficiency Evaluation and Seniority or Work Completion Evaluation in the post of Gazatted First Class and Gazatted Second Class of the Judicial Service.	Magh-Falgun (Mid of January to Mid of March)

7. Organogram of Judicial Council Secretariat



The Judicial Service Commission shall prepare working schedule related to Federal Judicial Service Gazatted officers including their appointment and promotion. (Section 7, Judicial Service Commission Act, 2073)

The Judicial Service Commission shall write to the Public Service Commission for the selection of the candidates in open and internal competitive posts of the Gazatted First Class and Gazatted Second Class Federal Officers competition. (Section 9, Judicial Service Commission Act, 2073)

Judicial Service Commission shall provide consultation on the departmental actions against Gazatted Officers. (Section 11, Judicial Service Commission Act, 2073)

In order to make judicial service effective and attractive, the Judicial Service Commission shall conduct/Carry out promotional and research-based activities. (Section 33, Judicial Service Commission Act, 2073)

Judicial Service Commission shall prepare annual report and submit to the President. (Article 138, Constitution of Nepal)

The Judicial Council may cancel the examination and the recommendation for appointment of those candidates whose details are proven false. (Section 27, Judicial Service Commission Act, 2073)

Judicial Service Commission shall conduct examinations and recommend for the appointment of Judges of the District Court. (Section 4, Judicial Service Commission Act, 2073). The Time Table for the examination as provisioned in the Judicial Service Regulation, 2074 and Judicial Service Commission Regulation, 2074 is as follows:

Time Table

Related to the Appointment for the post of Judges of District Courts	
Determine the percentage of the vacant posts of the judges of the District Court according to the Sub-Clause (A), (B) and (C) of Clause 2 of Article 149 of the Constitution of Nepal.	Shrawan- Bhadra (Mid of July-Mid of September)
Fulfill the percentage determined vacant posts of the Judges of the District Court according to Sub- Clause (A) of Clause 2 of Article 149 of the Constitution of Nepal.	Bhadra-Chaitra (Mid of August-Mid of April)
Publish advertisement for the vacant post of the Judges of District Court according to the Sub-Clause (B) and (C) of Clause 2 of Article 149 of the Constitution of Nepal.	Kartik (Mid of October - Mid of November)
Hold written and oral examinations and make recommendation for judges in the post of Judges of the District Court according to Sub-	Chaitra (Mid of March to Mid of April)