

Remuneration, Facilities and Conditions of Service of Judges of Court of Appeal and District Court Act, 2048 (1992)

Date of Authentication and Publication

2049.1.8 (20 April 1992)

Amendments:

1. Some Nepal Acts (Amendment) Act, 2049 (1992) 2049.5.11
(27 Aug. 1992)
2. Remuneration, Facilities and Conditions of Service of 2049.6.28
Judges of Court of Appeal and District Court (First (14 Oct. 1992)
Amendment) Act, 2049 (1992)
3. Remuneration, Facilities and Conditions of Service of 2051.11.29
Judges of Court of Appeal and District Court (Second (13 March 1995)
Amendment) Act, 2051 (1995)
4. Amending Some Nepal Acts to Maintain Gender 2063.7.17
Equality Act, 2063 (2006) (2 Nov. 2006)
5. Some Nepal Acts Relating to the Remuneration, Terms 2064.10.10
of Service and Facilities of the Judges (Amendment) (24 Jan. 2008)
Act, 2064 (2008)
- 6.¹ Republic Strengthening and Some Nepal Laws 2066.10.7
Amendment Act, 2066 (2010) (21 Jan. 2010)

¹ This Act came into force on 15 *Jeshta* 2065 (2008), *Prasasti* and the word "kingdom" has been deleted.

Act Number 3 of the Year 2049 (1992)

**An Act made to arrange Remuneration, Facilities and Conditions of
Service of Judges of Court of Appeal and District Court**

Preamble: Whereas, it is expedient to make legal provisions on the remuneration, facilities and other terms of service of Judges of the Appellate and District Courts;

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

1. **Short title and commencement:** (1) This Act may be called as the “Remuneration, Facilities and Conditions of Service of Judges of Court of Appeal and District Court Act, 2049 (1992).”

(2) This Act shall come into force immediately.

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

- (a) “Judge of Court of Appeal” means the Chief Judge and a Judge of a Court of Appeal appointed pursuant to Article 109 of the Interim Constitution of Nepal, 2063 (2007)², and this term also includes the Additional Judge of the Court of Appeal.
- (b) “Judge of District Court” means the Judge of a District Court appointed pursuant to Article 109 of the Interim Constitution of Nepal, 2063(2007)³, and this term also includes the Additional Judge of the Court of Appeal.
- (c) “Judge” means a Judge of a Court of Appeal and a District Court.

² Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

³ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

- (d) “Family” means the husband, wife, son, unmarried daughter or adopted son whom a Judge himself or herself has to subsist and maintain, and this term also include the father, mother, step mother and minor younger brother or unmarried sister whom a Judge himself or herself has to subsist and maintain.

2A.⁴ Computation of age: In computing the age of a Judge on the following ground for the purposes of Sub-clause (b) of Clause (10) of Article 109 of the Constitution, the age shall be computed on the basis of the age by which he or she gets retired earlier:

- (a) The age to be set on the basis of the day or year of birth mentioned in the educational institute certificate submitted by him or her,
- (b) The age to be set on the basis of the day or year of birth mentioned in his or her citizenship certificate,
- (c) The age to be set on the basis of the day or year of birth mentioned in his or her sheet roll.

3.⁵ Remuneration of Judges: The Chief Judge of a Court of Appeal shall be entitled to a monthly remuneration of Twenty Four Thousand Three Hundred Rupees, and the Judge of a Court of Appeal shall be entitled to a monthly remuneration of Twenty Two Thousand Eight Hundred Rupees, and the Judge of a District Court shall be entitled to a monthly remuneration of Eighteen Thousand Eight Hundred Rupees.

4. Remote area allowance: The Judges serving the Court of Appeals and the District Courts situated in remote areas shall be entitled to such remote

⁴ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

⁵ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

area allowance as the civil employees are entitled, in addition to the remuneration.

5. **Administrative allowance:** One Judge of the District Court who performs the administrative functions of the Court shall be provided with Three Hundred Rupees per month as an administrative allowance.
6. **Accommodation:** (1) Government of Nepal shall make arrangement for a governmental building for the housing of a Judge who does not have an appropriate building of his or her own in the place where the Court of Appeal or the District Court is situated.

(2)⁶ Where a governmental building is not arranged pursuant to Sub-section (1), the Judge who resides in a rented house shall be entitled to the following amount for house rent per month:

- (a) Twelve Thousand One Hundred Fifty Rupees for the Chief Judge of the Court of Appeal,
- (b) Eleven Thousand Four Hundred Rupees for the other Judge of the Court of Appeal,
- (c) Nine Thousand Four Hundred Fifty Rupees for the Judge of the District Court,

(2a)⁷ The Chief Judge and other Judge of the Court of Appeal and the District Judge who resides in his or her own house shall be provided with One Thousand Five Hundred Rupees, One Thousand Two Hundred Rupees and One Thousand Rupees, respectively, per month for sanitation and maintenance of the house.

⁶ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

⁷ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(3) The Judge who shall be entitled to enjoy the facility provided pursuant to Sub-section (1) or (2) until Seven days after the date of completion of his or her term of office.

7. **Electricity, water and telephone facilities:** (1) Government of Nepal shall bear the expenses incurred in installing one line telephone to the residence of the Judge and such deposit as incurred for such installation. The line so installed shall be under ownership of the Government of Nepal.

(2)⁸ A lump sum of monthly One Thousand Five Hundred Rupees and One Thousand Two Hundred Rupees⁹ shall be provided to the Judge of Court of Appeal and the Judge of District Court, respectively, for the electricity, water supply and telephone facility installed to the residence of Judge.

- 8.¹⁰ **Transport and fuel facility:** (1) If there is motor vehicle transportation facility is available at the place where the Court of Appeal is situated, Government of Nepal shall, for transportation, provide One motor vehicle with a driver, One Hundred liter petrol per month and Five liter mobile in every three months to the Chief Judge of Court of Appeal, and Eighty liter petrol per month and Five liter mobile in every three months to other Judge of Court of Appeal.

(2) If there is motor vehicle transportation facility is available at the place where the District Court is situated, Government of Nepal shall, for transportation, provide One motor vehicle with a driver, Seventy Two liter petrol per month and Five liter mobile in every Three months to the Judge of District Court, to the extent of availability.

⁸ Amended by the Second Amendment.

⁹ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

¹⁰ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(3) Government of Nepal shall provide a Judge of Court of Appeal and a Judge of District Court who uses his or her personal motor vehicle with a sum that is equal to the basic pay scale of the light motor driver of the Government of Nepal, for the driver, and amount for monthly Eighty liter and Seventy Two liter petrol, respectively, for Five liter mobile in every Three months.

(4) The concerned Court shall arrange for the repair and maintenance of the motor vehicles provided pursuant to Sub-section (1) or (2).

(5) A Judge who has been provided with a government motor vehicle pursuant to Sub-section (1) or (2) shall use the same vehicle also when the Judge is transferred or appointed to another Court until Twelve years after the purchase of that vehicle, and if such a Judge is transferred to a Court in a place where motor vehicle transportation facility is not available, the Supreme Court shall make necessary arrangement of that motor vehicle.

9. **Provident Fund:** A provident fund deduction shall be made from the monthly remuneration of the Judge at the rate of Ten percent, and cent percent shall be added by Government of Nepal to that deducted amount and deposited in the provident fund.

10. **Daily allowance and travelling allowance:** (1) The Judge shall be entitled to the following daily allowance while going to the place where he or she is appointed or transferred or deputed to or going on tour within Nepal in the course of business of his or her office:

(a) Five Hundred Rupees for the Chief Judge of Court of Appeal,

(b) Five Hundred Rupees and Four Hundred Rupees for other Judge of Court of Appeal, and the Judge of District Court, respectively.

(c)¹¹ If a Judge is entitled to additional travelling allowance for having visited any district of a remote area pursuant to the laws in force, he or she shall be entitled to that allowance also.

(2) The Judge shall be entitled to the following travelling allowance while making travelling pursuant to Sub-section (1):

(a) ¹²

(b) ¹³

(b1) ¹⁴

(c) Ticket expenses chargeable for one person while travelling by air, rail, bus or other motor vehicle.

(2a)¹⁵ Where it is required to make a night halt in the course of travelling pursuant to Sub-section (1), the Judge of Court of Appeal and the Judge of District Courts shall be entitled to hotel expenses as per the bill for each night, but not in excess of One Thousand Two Hundred Rupees and Eight Hundred Rupees, respectively, for a maximum of Seven days at a time.

¹¹ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

¹² Deleted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

¹³ Deleted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

¹⁴ Deleted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

¹⁵ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(3) A Judge shall be entitled to the daily allowance at the rate referred to in Sub-section (1) only for the first Ninety days deputed from the Court of his or her posting to another Court on deputation.

11. Daily and travelling allowance while travelling abroad: (1) In travelling outside Nepal in order to participate in a ceremony, event, conference etc., the Judge shall be entitled to the following daily allowance:

(a)¹⁶ Daily allowance: The Judge of Court of Appeal and Judge of District Court shall be entitled to a daily and travelling allowance of 175 and 150 US Dollars, respectively.

Provided that, in making a night haltage in any place other than Chennai, Haidarabad, Bangalore, Mumbai, Delhi and Kolkata of India and Dhaka and Chitgown of Bangladesh, they shall be entitled to only Fifty percent of that rate.

(b) Travelling allowance: In making travel by rail, bus or other motor vehicle, the ticket expenses chargeable for one person, and in making travel by air, ticket expenses of economic class chargeable for one person shall be provided..

(2) If any foreign government or organization bears all expenses of a Judge who participates in any ceremony, event or conference, the Judge shall be entitled of pocket expenses of only One Fourth of the daily allowance as referred to in Sub-section (1).

¹⁶ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(3)¹⁷ The Judge of Court of Appeal and Judge of District Court shall in the course of making travel outside Nepal to take part in any ceremony, event or conference pursuant to Sub-section (1), be entitled to a cloth allowance of Ten Thousand Rupees and Eight Thousand Rupees, respectively, once in Two years.

12. **Insurance expenses:** In making travel by a Judge in the course of performing the duties of his or her office, he or she may procure personal accident insurance of Two Hundred Thousand Rupees. The Government of Nepal shall bear the expenses incurred in that respect.

13. **Other facilities relating to daily and travelling allowance:** (1) While making travelling in the course of joining the Court to which a Judge is newly appointed to or has been transferred, the daily and travelling allowance shall be provided at the following rate to his or family member for one time in order to take his family from the place where he or she is in service for the time being to his or her house or to the place where he or she has been appointed or transferred to:

- (a) Equivalent to the daily and travelling allowance to a member who is Ten years old or above,
- (b) Half the allowance receivable by the Judge to a member who is below Ten years of age.

(2) While joining a Court where a Judge has been newly appointed or while joining a Court upon being transferred from One Court to that Court, the Judge shall be entitled to additional weight luggage fare for up to Forty kilograms in making travel by rail, bus or aircraft.

¹⁷ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(3) If a Judge is detached from the service for any reason whatsoever and is to return home, he or she and his or her family member shall be entitled to the daily and travelling allowance pursuant to this Act and such allowance shall be provided by the Court where he or she is so detached from service.

(4) After the death of a Judge, his or her family member shall be entitled to the daily and traveling allowance pursuant to this Act from the Court where the deceased Judge was in service.

Provided that, the daily and travelling allowance shall not be given pursuant to this Sub-section to the family member who has resided elsewhere than the headquarters of the Court.

(5) A Judge who has already served for Three years in the same Court without taking any other leave than the casual leave and the festival leave shall, while going to and coming from his or her home on the home leave, be entitled to half the daily and travelling allowance of the daily and travelling allowance to which he or she is entitled pursuant to this Act.

Provided that, his or her family member shall not be entitled to the daily and travelling allowance pursuant to this Sub-section.

(6) A Judge who is transferred shall be entitled to an advance of the daily and travelling allowance receivable pursuant to this Act from the Court where he or she is in service on the condition that he or she would settle the advance in the Court of transfer.

13A.¹⁸ Entitlement to recruit assistant: A Judge shall be entitled to recruit one classless peon, equivalent to first level, as his or her assistance during his or

¹⁸ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

her term of office, and Government of Nepal shall bear the remuneration of the assistant.

14.¹⁹ Festival expenses: (1) A Judge shall be entitled to the yearly festival expenses equivalent to One month's remuneration being drawn by him or her for the festival observed by him or her as per his or her religion, culture and tradition.

(2) The Judge may take payment of the amount as referred to in Sub-section (1) on the occasion of a main festival to be observed as per their religion, culture and tradition, once in one financial year.

15. Leave: (1) A Judge may be entitled to the following leaves:

- (a) Casual leave,
- (b) Festival leave,
- (c) Home leave,
- (d) Sick leave,
- (e) Obsequies leave,
- (f) Extra-ordinary leave, and
- (g)²⁰ Maternity care leave.

(2) A Judge of District Court may also be entitled to a study, in addition to the leaves as referred to in Sub-section (1).

16. Casual leave and festival leave: (1)²¹ A Judge shall be entitled to a casual leave of Six days and a festival leave of Six days with full pay every year.

¹⁹ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

²⁰ Inserted by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

²¹ Amended by the First Amendment.

(2) The casual leave and the festival leave of One year may not be accumulated and enjoyed in another year.

17. **Home leave:** (1) A Judge may be entitled to a home leave with remuneration not exceeding Thirty days every year. The home leave can be accumulated for a maximum of One Hundred Fifty days.

(2) If a Judge is detached from service for any reason, the Judge shall be entitled to receive payment of such amount in lump sum as may be set at the rate of remuneration being drawn by him or her in lieu of the home leave for a maximum period of One Hundred Twenty days out of his or her home leave accumulated.

Provided that, this Sub-section shall not be deemed to prevent a Judge whose home leave is accumulated for more than One Hundred Twenty days from receiving payment of such amount in lump sum by the end of every financial year as may be set at the rate of remuneration being drawn by him or her in lieu of the home leave for a maximum period of Thirty days out of that excess home leave accumulated by the last day of the month of Chaitra of that financial year.

(3) If a Judge dies prior to using or receiving the accumulated home leave or amount in lieu thereof, the person as referred to in Sub-section (1) of Section 29 shall be entitled to obtain such amount.

(4) A Judge shall, while going to and coming back from his or her home on home leave shall be entitled to the time for journey at the rate of One day for Eight *Kosh* in the case of journey on foot and for such days as required for journey by motor vehicle, rail and air for one time a year.

18. **Sick leave:** (1) A Judge shall be entitled to a sick leave with remuneration at the rate of Twelve days each year. A maximum of Twelve days of home leave may be enjoyed even prior to expiration of the year.

(2) If a certificate is submitted that ²²..... a Judge has suffered from any severe and serious disease, he or she may be entitled to an additional sick leave with remuneration for up to Two months if his or her sick leave or home leave is not remaining, and additional sick leave without remuneration for a period not exceeding Four months.

Provided that,

- (1) Where the additional sick leave with remuneration has been taken, such additional sick leave shall be deducted from his or her home leave and sick leave to be accumulated subsequently.
- (2) The Judge shall not be entitled to the additional sick leave without remuneration for a period exceeding a total of Twelve months during the period of service.

(3) The sick leave to which a Judge is entitled may be accumulated, and if the Judge is detached from service for any reason whatsoever, he or she shall be entitled to such lump sum amount to be set at the rate of remuneration being drawn by him or her in lieu of his or her accumulated sick leave.

(4) A Judge who requests for the sick leave of more than Seven days ²³..... has to submit a certificate issued by a recognized doctor.

Provided that, in cases where the Chief Justice, in the case of the Chief Judge of an Court of Appeal, or the Chief Judge of an Court of Appeal, in the case of other Judges, ²⁴ believes that submission of such a

²² Deleted by the First Amendment.

²³ Deleted by the First Amendment.

²⁴ Inserted by the First Amendment.

certificate was not generally possible, he or she may sanction that leave even without certificate, by having recorded the matter accordingly.

(5)²⁵ In cases where a Judge taking the sick leave pursuant to Sub-section (2) dies, the leave taken in advance shall *ipso facto* be remitted.

(6)²⁶

(7) If a Judge dies prior to taking his or her accumulated sick leave or receiving the amount payable in lieu of the accumulated sick leave, the person as referred to in Sub-section (5) of Section 29 of the Act shall be entitled to receive a lump sum of that amount.

19. **Obsequies leave:** If a Judge has to observe obsequies himself or herself, he or she shall be entitled to an obsequies leave with remuneration for a period not exceeding 15 days according to his or her traditional rites and rituals.

20. **Extraordinary leave:** (1) If a Judge shows a special reason, the Judge may be entitled to an extra-ordinary leave for a period not exceeding One month each year.

(2) An extra-ordinary leave of One year cannot be accumulated in another year and be taken in that other year.

(3) A Judge who is on the extra-ordinary leave shall not be entitled to remuneration for that period.

21. **Maternity leave:** (1) A female Judge shall be entitled to a maternity leave of a maximum of Ninety Eight²⁷ days, with remuneration, before and/or after delivery.

²⁵ Amended by the First Amendment.

²⁶ Deleted by the First Amendment.

²⁷ Amended by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

(2) The maternity leave may be taken only for Two times during the entire service period.

(3) The Court approving the leave of Judge shall have to maintain updated records of the maternity leave taken pursuant to Sub-section (2).

21A.²⁸ Maternity care leave: (1) In cases where the wife of any Judge delivers a baby, such a Judge shall be entitled to a maternity care leave of Fifteen days with remuneration.

(2) The maternity care leave may be taken for Two times only during the period of service.

22. Study leave: A Judge of District Court shall be entitled to a study leave with remuneration to study a subject that is useful and necessary for the dispensation of justice, upon being selected in a scholarship of the Government of Nepal or a scholarship provided to the Government of Nepal.

Provided that, such a leave shall not exceed for a period more than Three years.

23. Leave sanction authority: (1) The Chief Judge of Court of Appeal shall have to obtain approval of any leave other than the casual leave and the festival leave from the Chief Justice.

(2) The other Judges of Court of Appeal shall have to obtain approval of any leave other than the casual leave and the festival leave from the Chief Judge of Court of Appeal.

(3) The Judge of District Court shall have to obtain approval of any leave other than the casual leave and the festival leave from the Chief Judge of the concerned Court of Appeal hearing appeal.

²⁸ Inserted by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

(4) A Judge himself or herself may take the casual leave and the festival leave.

²⁹ Provided that, prior to so taking leave, a Judge of Court of Appeal shall, to the extent possible, give verbal information thereof to the Chief Judge and an Additional Judge of District Court shall give such information to the District Judge.

(5) In approving the leave of more than One month to any Judge pursuant to this Section, the Chief Judge of Court of Appeal shall consult the Chief Justice.

24. Accumulated leave while in other service: If a person who is holding a constitutional position or office in the service of the Government of Nepal is appointed to the office of Judge, the accumulated home leave or sick leave while he or she was in that position or office shall be deemed to have been earned and accumulated pursuant to this Act.

25. Time for assumption of office: (1) A person who is appointed to the office of Judge has to assume the duties of his or her office within One month after his or her appointment. He or she shall be entitled to remuneration only after the date of his or her assumption of office.

(2) If a Judge does not assume the duties of his or her office without any reasonable reason within the time limit as referred to in Sub-section (1), his or her office shall be deemed to be vacant.

(3) A Judge who is transferred from one Court to another Court shall have a time limit of a maximum of Seven days preparation.

26. Provision of acting and deputation: (1) If the office of the Chief Judge of Court of Appeal falls vacant or the Chief Judge is not competent to perform the duties of his or her office because of health or for any other reason or if

²⁹ Inserted by the First Amendment.

the Chief Judge remains absent from the Court because he or she is on leave or has gone outside Nepal, the Chief Justice may appoint the senior-most Judge of the same Court of Appeal to act as the Acting Chief Judge.

(2) A Judge of Court of Appeal who acts as the Acting Chief Judge pursuant to Sub-section (1) shall receive such remuneration as receivable by the Chief Judge during the period of such acting arrangement.

(3) The senior-most Judge of the same Court shall act as the officiating Chief Judge until acting arrangement is made pursuant to Sub-section (1).

(4) If the office of Judge of any District Court falls vacant for any reason or if the Judge of any District Court is not able to attend the Court, the Chief Justice may designate the senior-most Judge of such District Court to act as the Judge of that District Court. If there is not Additional Judge in such District Court, the Chief Justice may designate an Additional Judge of another District Court to act as the Judge of that District Court for a certain period, and in so making designation, information thereof has to be given to the Judicial Council.

(5) A Judge who acts as the Judge of District Court pursuant to Sub-section (4) shall receive administrative allowance during the period while he or she so acts.

(6)³⁰ The Chief Justice may, in view of the work load in a District Court, depute any Judge of a District Court to another District Court, and in so making deputation, information thereof has to be given to the Judicial Council.

³⁰ Inserted by the First Amendment.

27. **Treatment expenses:** (1) A Judge shall be entitled to the medical expenses in the following amount incurred in his or her treatment upon falling ill.

- (a) Expenses according to the bills of a hospital of expenses incurred in admitting to the hospital and doing treatment there, and expenses of medicines purchased according to the prescription of the doctor of the hospital.

Provided that, the prescription of doctor has to set down the diagnosis of disease.

- (b) Fees charged by and expenses of medicines purchased as per the prescription issued upon examination by any registered or recognized doctor, Kaviraj, Vaidhya, or health assistant for the treatment of disease where there is no hospital or where it is not necessary to be admitted to a hospital despite the existence of a hospital or where he or she could not admit into the hospital or after discharge from the hospital.

Provided that, the prescription of doctor has to set down the diagnosis of disease.

- (c) Expenses as per the bill of expenses incurred in doing surgical operations.
- (d) Expenses as per the bill of expenses in an amount not exceeding Seven Hundred Rupees at a time not exceeding Two Thousand Three Hundred Rupees

during the whole period of service³¹ for the equipment including spectacles, teeth, earphone etc.

- (e) Where it is required to leave his or her house or rented house and undergo treatment in another district or a foreign country, the whole amount incurred in the transportation of the patient to and from such a place and the whole amount incurred in the transportation of one attendant is such attendant is required, and Seventy Five percent of the daily allowance to which he or she is entitled for the food expenses.

(2) Notwithstanding anything contained in Sub-section (1), no treatment expenses shall be provided for the expenses of less than Two Hundred Rupees at a time, and no treatment expenses of more than Twelve months' remuneration receivable by the Judge throughout the whole period of service shall be provided.

³²Provided that, Government of Nepal may provide additional financial assistance in such a sum as it considers appropriate for the treatment of a Judge within Nepal if the medical board constituted by the Government of Nepal recommends for such treatment and for treatment in a foreign country if such medical board recommends that his or her treatment cannot be done within Nepal and should be done in a foreign country, and this assistance shall be in addition to the treatment expenses to which he or she is entitled pursuant to Sub-section (1).

(3) If a Judge wishes to obtain the treatment expenses receivable pursuant to this Section as an advance, such advance may be provided on the condition of adjustment of amount subsequently, subject to Sub-section

³¹ Amended by the First Amendment.

³² Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

(2), and if, upon such subsequent adjustment, the amount to received as an advance exceeds the amount to which he or she is entitled, such excess amount shall be deducted by installments from his or her remuneration.

Provided that, if the Judge dies prior to payment of the amount to be so deducted, the remaining amount to be deducted shall be remitted.

(4) If any of his or her family members falls ill, a Judge shall be entitled to Ninety percent amount of the treatment expenses as per the bill up to half the amount of treatment expenses receivable pursuant to Sub-section (2) on the condition that such amount shall be deducted from the maximum amount of treatment expenses receivable pursuant to that Sub-section. In making a request for such treatment expenses, a doctor's prescription mentioning the diagnosis of disease has also to be submitted. Provided that the treatment expenses receivable pursuant to this Sub-section shall, at one time, not exceed One month's remuneration of the Judge.

(5) If any of his or her family members falls ill and has to undergo treatment in a foreign country or to undergo operation or treatment upon being admitted to a hospital within Nepal, a Judge shall be entitled to Ninety percent amount of the treatment expenses as per the bill of expenses and treatment expenses incurred as per the treatment prescription of hospital, out of the amount receivable by the Judge pursuant to Sub-section (2).

(6) Notwithstanding anything contained in Sub-sections (4) and (5), if the husband or wife, mother or father of a Judge, living in an undivided family, is an incumbent employee in any governmental service or in the service of a corporation under governmental ownership and control, he or she shall not be entitled to such treatment expenses.

(7) If, at the time of retirement of a Judge, the treatment expense is remaining, with or without taking some or none of the treatment expenses receivable during the total period of service pursuant to Sub-section (2), the Judge shall be entitled to³³ a lump sum amount to be set by Two-Thirds of that remaining amount of treatment expenses after his or her retirement.

Provided that, a Judge who is retired with entitlement to pension shall, at the time of such retirement from service, be entitled to a lump sum payment of the whole of such remaining amount, and to a lump sum amount of additional Ten percent amount, in addition to such remaining amount, if a Judge of Court of Appeal has served for Fifteen years and a Judge of District Court has served for Twenty Five years.

(8) Notwithstanding anything contained in Sub-section (7), a Judge who has already taken treatment expenses for having served in the government service shall be entitled to only the amount that remains after deducting the treatment expenses so taken previously.

(9) Except in the following circumstances, no treatment expenses, in relation to himself or herself and his or her family as well, shall be provided to a Judge in a sum exceeding One and half month's remuneration being earned by him or her, in one year:

- (a) If it is necessary to undergo treatment in a foreign country or to undergo treatment upon being admitted to a hospital in Nepal pursuant to this Section.
- (b) In having treatment of family pursuant to Sub-section (5).

³³ Amended by the First Amendment.

(10) If a Judge dies prior to receiving the treatment expenses receivable pursuant to this Section, the person as specified in Sub-section (1) of Section 29 shall be entitled to such treatment expenses.

(11) The details of the treatment expenses received by a Judge pursuant to this Section shall be maintained in the records of leave and personal records of the Judge.

28.³⁴ Pension and gratuity: (1) If a Judge of Court of Appeal has completed a service period of Twelve years in that office or a Judge of District Court has completed a service period of Twenty years in that office, he or she shall be entitled to a monthly pension of Fifty percent amount of his or her monthly remuneration.

Provided that, if a person who is appointed from the service of Government of Nepal to the office of Judge and retires from the service and he or she has completed the service period of Twenty years or more upon computing the period of his or her such previous service and the period of service in the office of Judge, he or she shall, upon his or her retirement, be entitled to choose any one out of the monthly pension as mentioned above or the monthly pension to be set as follows:

Total year of service X monthly remuneration

50

(2) A Judge who retires before completing the service period entitling to pension pursuant to Sub-section (1) shall be entitled to a lump sum gratuity in an amount equal to the figure to be set by multiplying the total years of his or her service with the figure of One's remuneration being drawn by him or her.

³⁴ Amended by the First Amendment.

(3) A Judge who has served in the office of Judge of Court of Appeal serves for more than Twelve years shall be entitled to an additional pension to be set by 0.5 percent of the monthly remuneration drawn by him or her for each of such service, in addition to the monthly pension receivable pursuant to Sub-section (1).

(4) The period of service performed in the office of judge of a regional court prior to the constitution of Court of Appeal shall also be considered as the period of service performed in the office of a Judge of Court of Appeal for the purposes of pension or gratuity as referred to in Sub-sections (1) and (2).

(5) When the remuneration of the Judge is increased, the figure of pension being drawn by the Judge who is receiving pension shall also be increased by Sixty-six percent of the percent of increase in the figure of remuneration.

(6) If a person who is receiving pension for having served in the office of judge of a regional court or in the service of the Government of Nepal is appointed to the office of Judge and is also eligible to pension pursuant to this Act, he or she may choose any one out of the pension being received by him or her previously and the pension receivable pursuant to this Act.

(7) Notwithstanding anything contained in the foregoing Sub-sections, a Judge who is removed from office for the reason of misconduct failure to perform duties of his or her office honestly shall not be eligible to receive pension or gratuity pursuant to this Act.

29. Family pension and gratuity: (1) The pension as referred to in Section 28 shall, in the following circumstance and for up to the following period, be provided to such person out of his or her family members as has been

nominated by a Judge and to the nearest heir out of his or her family members if the person so nominated has died or failing such nomination by the Judge:

- (a) If the Judge dies while in service, up to Seven years after the death,
- (b) If he or she dies prior to expiration of Seven years after starting to receive pension, up to the period that remains to complete Seven years.

(2) If a Judge dies while in service and is entitled to gratuity but not to pension pursuant, the person as referred to in Sub-section (1), out of his or her family members, shall be entitled to the amount of that gratuity.

(3) After the expiration of the period entitling to the family pension as referred to in Sub-section (1), the widow or widower of the deceased Judge shall be entitled to half the amount of such pension during his or her life.

Provided that, a person who is receiving pension shall not be entitled to double pension.

30. Disability allowance: (1)³⁵ If a Judge is injured seriously or wounded in an accident in the course of performing his or her duties and has become incompetent to perform the functions of his or her office, such a Judge shall be entitled to the disability allowance as referred to in Sub-section (3), in addition to the pension set forth in Sub-section (2) during his or her life.

(2)³⁶ If a Judge who has become incompetent pursuant to Sub-section (1) has completed the period of service entitling to pension pursuant to Section 28, he or she shall be entitled to pension accordingly, and if such

³⁵ Amended by the First Amendment.

³⁶ Amended by the First Amendment.

a Judge has not completed such period of service, he or she shall be entitled to such remaining amount of pension as set by deducting the amount of pension on pro rata for the period that remains to complete that period.

Provided that, in so making deduction, deduction shall not be made in excess of one part of the three parts of the minimum pension to which he or she may be entitled if the pensionable period of service is completed by him or her.

(3)³⁷ The Judge who has become incompetent pursuant to Sub-section (1) may be provided with a lump sum of Ten Thousand Rupees as a financial assistance taking into account of the circumstance.

(4) Such a Judge shall be entitled to the cent percent of the medical expenses incurred in the treatment of wound or injury sustained pursuant to Sub-section (1).

(5) The amount of the monthly disability allowance, in addition to the pension, receivable for disability pursuant to Sub-section (2), shall be as follows for the following disability:

Percentage of disability	Allowance percentage
100	Rs. 125.00
90	Rs. 112.50
80	Rs. 100.00
70	Rs. 87.50
60	Rs. 75.00

³⁷ Amended by the First Amendment.

50	Rs. 62.50
40	Rs. 50.00
30	Rs. 37.50
20	Rs. 25.00

Explanation:

- (a) Disability that is less than Twenty percent shall not be deemed to be disability.
- (b) A Judge who has started getting the disability allowance becomes competent to assume his or her functions, he or she shall not be entitled to the disability allowance as referred to in this Section.

(6) If a Judge who is getting the disability allowance dies within Seven years after the date when he or she has started getting it, the amount of disability allowance receivable by him or her for the period that remains to complete that Seven years shall be given as gratuity in lump sum to the person specified in Sub-section (1) of Section 29.

31. Facility for grievous injury: (1) If a Judge sustains injury in the course of performing duties of his or her office and such injury prevents his or her capacity building despite that he or she has to retire from the service, a financial assistance in an amount not exceeding Ten Thousand Rupees may, in consideration of the condition of injury sustained by such a Judge, be given in lump sum to him or her.

(2) The Judge shall obtain such additional sick leave with full pay as not to be deducted from any accumulated leave for such period as required for the treatment of the injury as referred to in Sub-section (1).

(3) Such a Judge shall be entitled to the cent percent of the treatment expenses incurred in having treatment pursuant to Sub-section (2). Such expenses incurred in treatment shall not be deducted from the treatment expenses to which he or she may be entitled pursuant to Section 27.

(4) If a Judge sustains grievous injury because of being wounded owing to his or her own serious recklessness knowingly, he or she shall not be entitled to the facility as referred to in this Act.

32. **Extra-ordinary family pension and gratuity:** (1) If a Judge dies immediately in an accident in the course of performance of the duties of his or her office or dies subsequently as a result thereof prior to recovery, the widow wife or widower husband of such a Judge shall be provided with a separate life-long monthly family allowance as follows and also the following occasional gratuity in addition thereto:

	Monthly rate of family allowance	Occasional gratuity
(a) Judge of Court of Appeal	Rs. 250.00	Rs. 8,750.00
(b) Judge of District Court	Rs. 195.00	Rs. 6,500.00

(2) The widow or widower of a Judge shall be recognized only on the following conditions:

- (a) Marital relationship should have already been maintained prior to the death of the Judge.

- (b) He or she should be living jointly with the Judge at the time of his or her death.

(3) The occasional gratuity as prescribed in Sub-section (1) may be given proportionately in lump sum to the offspring³⁸ born from the widow wife in cases where there is no widow or she had separated from him before the death of husband or the widow wife has remarried.

Provided that, if the offspring³⁹ is below Sixteen years of age, the Government of Nepal may also give an additional family allowance at such rate as deemed appropriate on pro rata basis, not exceeding Two-thirds of the family allowance receivable by the widow for their subsistence for such a person as the Government of Nepal may think appropriate.

(4) In cases where there is no widow, widower or offspring⁴⁰ of the deceased Judge, both the dependent mother and father of the Judge or any one among them, whoever is there, shall be provided with such an amount as determined reasonable by the Government of Nepal but not exceeding two Thirds of the family allowance receivable by the widow as the family allowance for their subsistence, for such a period as deemed reasonable by the Government of Nepal.

(5)⁴¹

(6) In cases where there is no widow, offspring,⁴² mother or father of the deceased Judge but there is any of dependent brothers or unmarried sisters of the Judge, they shall be provided with such an amount as determined reasonable by the Government of Nepal but not exceeding two Thirds of the family allowance receivable by the widow as the family

³⁸ Amended by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

³⁹ Amended by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

⁴⁰ Amended by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

⁴¹ Deleted by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

⁴² Amended by the Amending Some Nepal Acts to Maintain Gender Equality Act, 2063 (2006).

allowance for their subsistence, for such a period as deemed reasonable by the Government of Nepal.

- 33. Education and offspring allowance:** (1) In cases where a Judge dies in an accident whilst performing the duties of his or her office or becomes unable to work for life due to such reason, every child of the deceased or disabled Judge shall be provided with yearly education subsistence at the rate of Nine Hundred Rupees, until such child reaches the age of 18 years.

(2) Every child (whose parents are both dead) of a Judge who has died in the course of performing the duties of his or her office shall be provided with the offspring allowance at the rate of Seventy Five Rupees per month, in addition to the education allowance as referred to in Sub-section (1).

(3) The concerned offspring shall be entitled to the allowance pursuant to Sub-section (2) until he or she completes the age of 21 years or he or she joins the civil service whatever is the earlier.

Provided that, in the case of an offspring who gets married prior to the completion the age of Twenty One years, such offspring shall not be provided with such offspring allowance after the date of his or her marriage.

Explanation: For the purposes of this Section, the term "offspring" means the son or daughter of the deceased or disabled Judge.

(4) If a Judge dies or becomes disabled life-long in the course of performing the duties of his or her office, the Judicial Council shall make recommendation to the Government of Nepal in relation to the allowance or gratuity receivable by him or her or his or her family or offspring.

33A.⁴³ **Salary receivable in case of suspension:** If a Judge of Court of Appeal or District Court is suspended upon institution of a case by the Judicial Council, he or she shall be entitled to only half of his or her salary.

Provided that, if he or she is acquitted upon the accusation made against him or her being not proved, he or she shall be entitled to the remaining salary if half salary has been provided to him or her during the period of suspension and to the full salary if he or she has not received the salary. If he or she is convicted, he or she shall not be entitled to the remaining salary after the date of suspension.

34. In relation to amount remaining to be received pursuant to this Act: If a Judge dies prior to obtaining any amount receivable pursuant to this Act, the person as referred to in Sub-section (1) of Section 29 shall be entitled to obtain such amount.

34A.⁴⁴ **Power to make increase in or addition to remuneration:** Government of Nepal may, while making increase in or addition to remuneration, facilities and privileges of the other public servants from time to time, also make increase in or addition to the remuneration, facilities and privileges to which the Judge is entitled pursuant to this Act, by publishing a Notification in the Nepal Gazette.

34B.⁴⁵ **Oath:** Prior to assuming the duties of their office, the Chief Judge of Court of Appeal shall take an oath of office and secrecy before the Chief Justice, and the other Judges of Court of Appeal and Judge of District Court shall take such an oath before the Chief Judge of Court of Appeal concerned, in the form as set forth in the Schedule.

⁴³ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

⁴⁴ Amended by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

⁴⁵ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).

35. Effect of inoperativeness of Remuneration, Facilities and Conditions of Service of Judges of Court of Appeal and District

Courts Ordinance, 2048 (1991): With the Remuneration, Facilities and Other Conditions of Service of Judges of Court of Appeal and District Courts Ordinance, 2048 (1991) being inoperative, unless a different intention appears, the inoperativeness shall not:

- (a) revive anything not in force or existing at the time at which the Ordinance became inoperative;
- (b) affect the matter in operation as per the Ordinance or anything duly done or any punishment suffered thereunder;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Ordinance;
- (d) affect any penalty, punishment or forfeiture incurred under the Ordinance;
- (e) affect any action or remedy made or taken in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced as if the Ordinance were in force.

Schedule⁴⁶

(Relating to Section 34B.)

Oath

I.....solemnly affirm/swear in the name of God that I shall bear true faith and allegiance to the people of Nepal, prevailing Constitution and other laws, and that I shall honestly the duties of the office of..... Upon which I am about to enter, without fear or favor, affection or ill-will, in such a manner not to be contrary to the fairness and dignity of judiciary, and that I shall not disclose, in any manner, any matter known to me in the course of discharging my duties whether or not I hold the office except in the course of observing the prevailing laws.

Date:

Signature:

⁴⁶ Inserted by the Some Nepal Acts Relating to the Remuneration, Terms of Service and Facilities of the Judges (Amendment) Act, 2064 (2008).