

Judicial Service Commission Act, 2048 (1991)

Date of Authentication and Publication

2048.7.28 (14 Nov. 1991)

Amendment

1. Republic Strengthening and Some Nepal Laws
Amendment Act, 2066 2066.10.7 (21 Jan 2010)

Act Number 26 of the year 2048

An Act made to provide for provisions on powers, duties and procedures of Judicial Service Commission

Preamble: Whereas, it is expedient to make provisions on powers, duties and procedures of Judicial Service Commission;

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

1. **Short title and Commencement:** (1) This Act may be called "Judicial Service Commission Act, 2048 (1991)".
(2) This Act shall come into force immediately.
2. **Definitions:** Unless, the subject or context otherwise requires, in this Act;-
 - ⊛(a) "Commission" means Judicial Service Commission constituted pursuant to Article 114 of the Interim Constitution of Nepal, 2063 (2007).
 - (b) "Chairperson" means the Chairperson of the Judicial Service Commission.

⊛ Amended by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

- (c) "Member" means a member of the Commission.
 - (d) "Secretary" means the Secretary of the Commission.
 - (e) "Service" means Nepal Judicial Service constituted by the Government of Nepal under the prevailing law.
3. **The power of recommendation of the Commission:** The Commission shall, subject to the prevailing law, recommend for appointing, transferring or promoting gazetted officers of the service or taking departmental action against any such officer. In case of ambiguity in the prevailing service law or if it appears that there is no provision with respect to any matter in the prevailing law, the Commission may recommend in the matter by making appropriate interpretation without prejudicing the Constitution of Nepal[⊗] and the prevailing law.
4. **The procedure for seeking the consultation of the Commission on departmental action:** (1) While seeking the recommendation of the Commission for taking departmental action against any employee working in the gazetted post of service, the concerned authority shall forward all document relating to the proposed departmental action and clarification submitted by the concerned employee, if any,.
- (2) The commission shall have the power to write to the concerned authority to provide for any other particulars related with such employee besides the document pursuant to Sub-section (1) as per necessity and it shall be the duty of that authority to provide for the particulars sought by the Commission.
5. **Power to conduct inquiry with the employee:** (1) If the commission finds that only the document pursuant to Section 4 is not

[⊗] Amended by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

sufficient to obtain the real fact of the matter, it shall have the power to summon the concerned employee to appear before it and to conduct necessary inquiry.

(2) If the employee inquired by the Commission pursuant to Sub-section (1) requests to the Commission to provide time for him/her to submit his/her written clarification, it shall provide a reasonable time to him/her.

6 **Power to provide consultation (opinion):** The Commission may, on the request of the Government of Nepal or any Constitutional body, provide consultation (opinion) in the matter related with service.

7 **Power to determine curricula and to conduct examination:**
(1) The curricula required for the examination of promotion as per service law, shall be as determined by the Commission.

(2) The Commission shall conduct or cause to conduct the examination for promotion.

8 **Procedure relating to the meetings of the Commission:**
(1) The meetings of the Commission shall be held on the date and at the time as fixed by the Chairperson as per necessity.

(2) The Secretary shall provide the Notice of the meeting along with the date, time and the agenda to be discussed at the meeting and other particulars thereof to every member in advancement of Forty Eight hours of the upcoming meeting.

(3) A member may, with the consent of the Chairperson and members attended in the meeting, put a verbal proposal which is not included in the prescribed agenda pursuant to Sub-section (2) for any matter in the meeting and the Commission may make decision on the matter upon discussing on such proposal.

(4) It shall be deemed to have met the quorum for holding a meeting if any Two members including the Chairperson are present in the meeting.

(5) The decision on every agenda shall be taken at the meeting of the Commission by the majority votes.

Provided that, in case of a tie, the Chairperson shall exercise the casting vote.

(6) The Secretary shall authenticate the minutes of the meeting.

9. **Commission may, seek advice and suggestion:** The commission may seek the advice and suggestion of the gazetted special class officer in the Judicial Service and other concerned experts.
10. **Secretary of the Commission:** (1) The Secretary of Judicial Council shall be *ex-officio* Secretary of the Commission.
- (2) The functions, duties and powers of the Secretary shall be as determined by the Commission.
11. **Liaison with the Government of Nepal:** The Commission shall liaise with the Government of Nepal through the Ministry of Law, Justice and Parliamentary affairs.
12. **Power to frame Rules:** The Government of Nepal may, with the advice of the Commission, frame Rules in order to implement this Act.
13. **Repeal:** Judicial Service Commission Act, 2021 is, hereby, repealed.

⊗ Amended by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.