

PARLIAMENT OF BHUTAN



PROCEEDINGS AND RESOLUTIONS (TRANSLATED) OF THE TWENTY-FOURTH SESSION OF THE NATIONAL COUNCIL OF BHUTAN

(20th Day of the 11th Month of Earth Female Pig Year to 10th
Day of the 1st Month of Iron Male Mouse Year corresponding
to 15th January to 5th March 2020)

Contents

A. Proceedings for the Opening Ceremony	1
B. Opening Address of the Hon’ble Chairperson	1
C. Implementation Report on the Resolutions of the 23rd Session of National Council	3
D. Legislative Issues	4
1. Introduction of Penal Code (Amendment) Bill of Bhutan 2019.....	4
2. Introduction of Civil and Criminal Procedure Code (Amendment) Bill of Bhutan 2019.....	21
3. Introduction of Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020	30
4. Introduction of Entitlement and Service Conditions (Amendment) Bill for the Holders, Members and Commissioners of Constitutional Offices of Bhutan 2020.	31
5. Introduction of Income Tax (Amendment) Bill of Bhutan 2020.....	35
6. Re-deliberation on the Impeachment Procedure Bill of Bhutan 2019.....	39
7. Re-deliberation on the Minister and Minister Equivalent Post Holders Entitlement Bill of Bhutan 2019	41
8. Introduction of Tax (Amendment) Bill of Bhutan 2020	43
9. Introduction of Tourism Levy Exemption (Amendment) Bill of Bhutan 2020	46
10. Introduction of Property Tax Bill of Bhutan 2020.....	49
11. Introduction of Fiscal Incentives (Amendment) Bill of Bhutan 2020.....	53
12. Introduction of Supplementary Budget Appropriation Bill for the Financial Year 2019-2020.....	54

13. Introduction of Pay Revision (Amendment) Bill of Bhutan 2020.....	59
14. Introduction of Goods and Services Tax Bill of Bhutan 2020.	61
E. Policy Review Issues.....	67
1. Review Report on the Policies related to Vehicle Imports.....	67
2. Interim Review Report on the RNR Marketing Policy and Strategies.....	70
3. Review Report on the Review of Legislation and Strategies for addressing Human Trafficking in Bhutan ...	71
4. Review Report on the Program Initiative towards improving the Quality of Education	76
F. Proceedings of Question Time.....	82
1. Hon’ble Minister for Education	82
2. Hon’ble Minister for Works and Human Settlement ..	84
3. Hon’ble Minister for Agriculture and Forests.....	87
G. Closing Ceremony	89
1. Closing Address of the Hon’ble Chairperson	89

ANNEXURE I: The Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020 91

ANNEXURE II: List of Members of the National Council of Bhutan 112

**PROCEEDINGS AND RESOLUTIONS (TRANSLATED)
OF THE TWENTY-FOURTH SESSION OF THE
NATIONAL COUNCIL OF BHUTAN**

*(20th Day of the 11th Month of Earth Female Pig Year
corresponding to 15th January 2020)*

A. Proceedings for the Opening Ceremony

The 24th Session of the National Council of Bhutan commenced on 15th January 2020 corresponding to the 20th Day of the 11th Month of Earth Female Pig Year of the Bhutanese Calendar with traditional *Marchhang Tendrel*.

B. Opening Address of the Hon'ble Chairperson

The Hon'ble Chairperson shared the immense joy people felt when His Majesty the *Druk Gyalpo* announced that Their Majesties are expecting a second Royal Child during the 112th National Day Celebration. He submitted his prayers to have audience of the Royal Child soon that the *Gyaltsun* is expecting.

The Chairperson conveyed his appreciation to His Majesty for addressing that *Gyalsung* will be instituted to make our youth strong and capable. He also thanked His Majesty for the command, granting the Parliament the opportunity to deliberate and adopt the Act for *Gyalsung*.

The Chairperson expressed his gratitude to His Majesty for strengthening the existing ties with Japan after attending the Enthronement Ceremony of His Majesty the Emperor of

Japan. Similarly, he offered his acknowledgement to His Majesty for visiting England and USA thereby enhancing close relationship with two of these countries. He highlighted that His Majesty's visit has provided opportunity for Bhutanese working in these countries to receive gracious advices from the Royal audience.

His Majesty has always had the foresights for the plans and policies which are indispensable for the present as well as the future of the country. The Chairperson expressed his gratefulness to His Majesty for providing guidance and advice towards achieving the plans and policies. Moreover, to have a sovereign nation for eons, His Majesty has emphasized on establishing a sustainable economic roadmap as per the development trend of the 21st century. The Chairperson expressed that the National Council, while reviewing laws, policies, government programs and budget, shall bear in mind the advice of His Majesty and pledge its service that would contribute in charting out a roadmap for economic development.

The Chairperson offered sincere appreciation and deepest gratitude to His Majesty for his constant guidance and advice to the appeals the House makes during the times of need.

In conclusion, the Chairperson sought the guidance and prayers for the successful completion of the 24th Session of National Council with the continued advice and guidance of His Majesty the Druk Gyalpo, blessings of His Holiness the Je Khenpo and Zhung Dratshang, and the support of the people. He also urged the Members to reflect the future benefits while engaging for deliberations.

*(21st Day of the 11th Month of Earth Female Pig Year
corresponding to 16th January 2020)*

C. Implementation Report on the Resolutions of the 23rd Session of National Council

The concerned Committees presented the implementation reports received for the policy issues deliberated during the 23rd Session of the National Council of Bhutan.

The Committees, during the presentation, also reported the additional responses sought from the government and concerned agencies through hearings on the implementation reports that were unsatisfactory. They proposed that some of the issues, which have not received any responses, would be raised to the concerned Ministers during the Question Time of this Session.

After presenting implementation reports on 16th January 2020, the House resolved to continue looking into the unsatisfactory responses while deliberating on other relevant issues in this Session. The House will also deliberate the issues further in the coming Sessions as per the convenience of time.

*(22nd Day of the 11th Month of Earth Female Pig Year
corresponding to 17th January 2020)*

D. Legislative Issues

1. Introduction of Penal Code (Amendment) Bill of Bhutan 2019

The Member-in-charge of the Bill and the Chairperson to the Legislative Committee, Hon'ble Member of Pemagatshel Dzongkhag reported that considering the importance of the Bill, the Committee had carried out review on the amendments received during the 2nd Session of the 3rd National Assembly.

The Committee presented the Penal Code (Amendment) Bill of Bhutan 2019 for adoption by the House with new sections and other changes that were incorporated after conducting meetings and consultations with relevant Ministries, agencies and the Justices from the Judiciary.

1.1. Deliberation and adoption of Penal Code (Amendment) Bill of Bhutan 2019

The National Council thoroughly deliberated on the Committee's recommendations on the Penal Code (Amendment) Bill of Bhutan 2019 on 17/1/2020 and 20/1/2020. The House adopted the Bill on 10/2/2020 and resolved to submit the following amendments to National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of the Kingdom of Bhutan.

New Sub-sections after 7(c) as Sub-section 7(d) of the Penal Code of Bhutan 2004

(d) of statutory rape as provided in section 182(b).

Section 18 of the Penal Code (Amendment) Act of Bhutan 2011

Value based sentencing

The offences graded as value based under this Code shall be:

- (a) a felony of the second degree, if the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period of sixty years or more;**
- ~~(a)~~**(b)** a felony of the third degree, if the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period of **less than sixty years and** for a period of thirty years or more;
- ~~(b)~~**(c)** a felony of the fourth degree, if ~~the item of the crime is not of a type described in Section 18(a) and~~ the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period less than thirty years and for period of fifteen years or more;
- ~~(e)~~**(d)** a misdemeanour, if ~~the item of the crime is not of a type described in Section 18 (a) & (b) above and~~ the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period less than fifteen years and for a period of seven years or more; or
- ~~(d)~~**(e)** a petty misdemeanour, if ~~the item of the crime is not of a type described in Section 18(a) (b) and (c) above and~~ the value or the amounts are less than the total

amount of the minimum wage at the time of the crime for a period less than seven years.

Section 28 of the Penal Code of Bhutan 2004

Thrimthue

~~Except for the recidivist and accustomed or habitual offender, the Court may make an order to pay fine in lieu of imprisonment, if the offence is not a felony.~~

A court may make an order to pay fine in lieu of imprisonment, if the offence is not a felony and in the cases of:

- (a) a recidivist;**
- (b) an accustomed or habitual offender; and**
- (c) an accomplice to and a person who aids and abets, conspires, attempts and solicits, commission of a felony, if the term of imprisonment thereof is three years and above.**

In this Code, unless the context otherwise requires:

- (i) “recidivist” means a person who has been convicted of a criminal offence that is same or similar in nature for more than once; and**
- (ii) “habitual or accustomed offender” means a person who has been convicted of a crime for more than twice.**

Section 39 of the Penal Code (Amendment) Act of Bhutan 2011

Compensatory Damages

If the Court determines that compensatory damages are appropriate, then a defendant convicted of a crime shall pay appropriate compensatory damages at the rate of the minimum wage at the time of the crime for:

- (a) **Maximum of T**ten years to the surviving spouse or next of kin of the victim and the cost for forty-nine days for seven people towards the expenses incurred in the funeral rites of the deceased victim, when the crime has resulted in the death of the victim;
- (b) **Maximum of T**ten years, if the crime causes permanent total disability to the victim;
- (c) **Maximum of S**seven years, if the crime causes permanent partial disability to the victim;
- (d) **Maximum of F**five years, if the crime causes temporary total disability to the victim;
- (e) The daily wage lost to the victim, when the crime has resulted in temporary loss of wage”.

Section 114 of the Penal Code (Amendment) Act of Bhutan 2011

Child in conflict with law

If the defendant is a child of 12 years and below, he/she shall not be held liable for any offence committed by him/her except as otherwise provided for in section 117 of this Code.

New sub-section after 135 (b) as Sub-section 135(c) of the Penal Code Act of Bhutan 2004

Grading of aiding and abetting

~~No *Thrimthue* shall be payable, if the defendant is convicted of an offence of aiding and abetting that is felony of fourth degree and above.~~

Section 154 of the Penal Code (Amendment) Act of Bhutan 2011

Trafficking a person

~~A defendant shall be guilty of the offence of trafficking a person if the defendant recruits, transports, sells or buys, harbours or receives a person through the use of threat or force or deception within, into or outside of Bhutan for any illegal purpose or exploitation.~~

Trafficking in Person

A defendant shall be guilty of an offence of trafficking in persons if the defendant recruits, transports, transfers, harbours or receives a person by means of the threat or use of force, or any other form of coercion, abduction, fraud or deception, the abuse of power, the abuse of the position of vulnerability, or the giving or receiving of payments or other benefit to achieve the consent of a person having control over another person for the purpose of exploitation. For the purpose of this Code, “exploitation” includes, but not limited to, sexual exploitation, involuntary domestic servitude, forced labour, child labour and trafficking of human organs.

Section 177 of the Penal Code (Amendment) Act of Bhutan 2011

Rape

A defendant shall be guilty of the offence of rape, if the defendant commits any act of sexual intercourse whatever its nature against any other person, **including any penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.**

Section 178 of the Penal Code of Bhutan 2004

Grading of Rape

The offence of rape shall be a felony of the ~~fourth~~ **third** degree.

Section 180 of the Penal Code of Bhutan 2004

Grading of Rape of a married person

The offence of rape of a married person shall be a felony of the ~~fourth~~ **third** degree and shall also be liable to pay “GAO” in accordance with the other laws.

Section 182 of the Penal Code (Amendment) Act of Bhutan 2011

Grading of statutory rape

The offence of statutory rape shall be ~~a felony of the first degree~~:

- (a) **a felony of the first degree; or**
- (b) **a life imprisonment if the defendant:**
 - (i) **is in a position of trust or authority towards a child;**
 - (ii) **is a person with whom the child is in a relationship of dependency; and**
 - (iii) **is in a relationship with a child that is exploitative of the child.**

Section 183 of the Penal Code (Amendment) Act of Bhutan 2011

Rape of a child above twelve years of age

A defendant shall be guilty of the offence of rape of a child above the age of twelve years if the defendant commits any act of sexual intercourse against a child between the ages of twelve to eighteen years. However, if the **sexual intercourse**

~~consensual sex~~ between children of sixteen ~~years~~ **to eighteen years was consensual when it occurred, it and above** shall not be ~~deemed considered~~ to be rape **thereafter even if one of the children has become an adult when a complaint is lodged.**

Section 186 of the Penal Code of Bhutan 2004

Grading of Rape of Pregnant Women

The offence of rape of pregnant woman shall be:

- (a) a felony of the ~~fourth~~ **third** degree; or
- (b) **a felony of the second degree, if the fetus is harmed as a direct result of rape; and**
- (c) ~~and shall also be liable to pay “GAO” in accordance with other laws wherever applicable.~~

Section 188 of the Penal Code of Bhutan 2004

Grading of Gang rape

The offence of gang rape shall be a felony of the ~~third~~ **second** degree.

Section 196 of the Penal Code of Bhutan 2004

Grading of Gang rape of pregnant women

The offence of rape of pregnant woman shall be:

- (a) a felony of the ~~third~~ **second** degree; or
- (b) **a felony of the first degree, if the fetus is harmed as a direct result of rape; and**
- (c) ~~and shall also be liable to pay “GAO” in accordance with other laws wherever applicable.~~

Section 197 of the Penal Code of Bhutan 2004

Custodial rape

A defendant shall be guilty of the offence of custodial rape, if

the defendant who ~~has custody of a person, or being a legal guardian takes advantage of one's official position and engages in sexual intercourse with such person~~ **is in a position of trust or authority towards a person, including a child between the ages of twelve to eighteen years takes advantage of one's official position or authority and engages in sexual intercourse with such person or child by takeings** advantage of one's official position or authority.

Section 203 of the Penal Code of Bhutan 2004

Child molestation

Accepted National Assembly's Amendment

Section 204 of the Penal Code of Bhutan 2004

Grading of child molestation

The offence of child molestation shall be a felony of the fourth degree and liable for compensatory damages as determined by the Court.

Section 213 of the Penal Code of Bhutan 2004

Unnatural sex

A defendant shall be guilty of the offence of unnatural sex, if the defendant ~~engages in~~ **commits sodomy** or any other sexual conduct that is against the order of nature. **However, any consensual sexual conduct that is against the order of nature committed in private between any adult human beings shall not be considered unnatural sex.**

For the purposes of this section:

- (a) unnatural sexual conduct is considered not to have been committed in private, if it is committed in a public place; and**

- (b) unconsent has the same meaning as defined in section 177 (a) –(d) of this Code.**

Section 214 of the Penal Code of Bhutan 2004

Grading of Unnatural sex

The offence of unnatural sex shall be:

- (a) a petty misdemeanor; or**
- (b) a third degree felony if it's unnatural sexual conduct committed without consent as described within the exception to this section;**
- (c) a second degree felony if it's unnatural sexual conduct committed between minors between the ages of sixteen to eighteen years, committed with or without consent.**

Section 215 of the Penal Code of Bhutan 2004

Abandonment of an infant or a child

Retain as in the Code

Section 236 of the Penal Code of Bhutan 2004

Grading of burglary

The offence of burglary shall be ~~a felony of the:~~

- (a) ~~Fourth degree~~ a misdemeanor; or**
- (b) ~~Third~~ a felony of fourth degree, if in the course of committing the burglary the defendant purposely, knowingly, or recklessly inflicts or attempts to inflict bodily injury on another person, who is not a participant in the crime; or is armed with explosives or a deadly weapon.**

Section 277 of the Penal Code of Bhutan 2004

~~Money laundering~~

~~A defendant shall be guilty of the offence of money-laundering, if the defendant knowingly:~~

- ~~(a) Acquires, owns, possesses or transfers any proceeds of crime;~~
- ~~(b) Enters into any financial transaction which is related to the proceeds of crime either directly or indirectly; or~~
- ~~(c) Conceals or aids in the concealment of the proceeds of crime.~~

New Section after Section 284 as Section 284A of the Penal Code of Bhutan 2004

Market Abuse

A defendant shall be guilty of an offence of market manipulation, if the defendant influences the market price or the value, of securities as defined in the Financial Services Act by means of unfair, improper or fraudulent means.

New Section after Section 284 as Section 284B of the Penal Code of Bhutan 2004

Grading of Market Abuse

The offence of market manipulation shall be a value-based sentencing.

New Section after Section 284 as Section 284C of the Penal Code of Bhutan 2004

Serious Organized Crime

A defendant shall be guilty of a serious organized crime, if the defendant commits serious organized crime. Serious organized crime means a group of three or more persons, existing for a period of time and acting in concert with the

aim of committing one or more serious crimes, in order to obtain, directly or indirectly, a financial or other material benefits.

New Section after Section 284 as Section 284D of the Penal Code of Bhutan 2004

Grading of Serious Organized Crime

The offence of serious organized crime shall be a value-based sentencing in addition to fines of a daily minimum wage as considered fit by a Court of law.

New Section after Section 284 as Section 284E of the Penal Code of Bhutan 2004

Clandestine foreign investment

A defendant shall be guilty of an offence of clandestine foreign investment in Bhutan, if the defendant who is a foreign national makes and a Bhutanese national receives, an investment in any manner or form in any sector or field not permitted by laws, or policies. For the purpose of this section, “investment” includes any expenditure to acquire property or assets to produce revenue in the future.

New Section after Section 284 as Section 284F of the Penal Code of Bhutan 2004

Grading of Clandestine foreign investment

The offence of clandestine foreign investment shall be a felony of the fourth degree, or a value-based sentencing, whichever is higher.

New Section after Section 284 as Section 284G of the Penal Code of Bhutan 2004

Fronting

A defendant shall be guilty of an offence of fronting, if the defendant leases or subleases, hires or otherwise permits another person to use or operate one's license unless otherwise permitted by laws or policies. For the purpose of this section, "license" includes any clearance, approval, consent, no objection, registration, concession and the likes issued by a competent authority.

New Section after Section 284 as Section 284H of the Penal Code of Bhutan 2004

Grading of Fronting

The offence of fronting shall be:

- (a) if the fronting takes place between or among Bhutanese nationals:
 - (i) a violation for the first conviction; and**
 - (ii) a violation and cancellation of license for the second conviction; and****
- (b) a felony of the fourth degree, or a value-based sentencing, whichever is higher, if the fronting takes place:
 - (i) between or among Bhutanese and a person other than a Bhutanese national; and**
 - (ii) between or among persons other than a Bhutanese national.****

Section 285 of the Penal Code of Bhutan 2004

~~Breach of contract~~

~~A defendant shall be guilty of the offence of breach of contract, if the defendant fails without any legal excuse, to perform any promise that forms the whole or part of a contract or any agreement.~~

Section 286 of the Penal Code of Bhutan 2004

~~Grading of breach of contract~~

~~The offence of breach of contract shall be a petty misdemeanour.~~

Section 328 of the Penal Code of Bhutan 2004

Grading of treason

~~The offence of treason shall be a felony of the first degree.~~
life imprisonment.

Section 329(b) of the Penal Code of Bhutan 2004

Terrorism

~~Participate in financing, planning or preparation of terrorists acts or in supporting terrorist acts directly; or~~

Section 330 of the Penal Code of Bhutan 2004

Grading of terrorism

~~The offence of terrorism shall be a felony of the first degree.~~
life imprisonment.

Section 406 of the Penal Code of Bhutan 2004

~~Endangerment of a public water source~~

~~A defendant shall be guilty of the offence of endangerment of a public water source, if the defendant intentionally or recklessly contaminates a public water source.~~

Section 407 of the Penal Code of Bhutan 2004

~~Grading of endangerment of a public water source~~

~~The offence of endangerment of a public water source shall be:~~

~~(a) — A misdemeanour;~~

- ~~(b) — A felony of the third degree, if it creates a substantial risk of serious physical injury to the public; or~~
- ~~(c) — A felony of the first degree, if the contamination results in an epidemic, death or serious public hazard.~~

Section 412 of the Penal Code of Bhutan 2004

Entrapment

Retain as in the Code

Section 438 of the Penal Code of Bhutan 2004

Crime against public election

A defendant shall be guilty of the offence of crime against public election, if the defendant:

- ~~(a) Offers or pays a bribe or otherwise uses undue influence in an election;~~
- ~~(b) Receives or gives an illegal payment or other gratification in connection with an election;~~
- ~~(c) Fails to keep an infallible election account;~~
- ~~(d) Defects to the other party before the expiry of term or the next general election;~~
- ~~(e) Does any act which is prohibited under the Election Act; or~~
- ~~(f) Impersonates a person in voting~~

Section 440 of the Penal Code of Bhutan 2004

Illegal immigration

~~A defendant shall be guilty of the offence of illegal immigration, if the defendant enters or obtains entry or stays in Bhutan by false or misleading representation or by the concealment of a material fact or without a valid immigration documents.~~

Section 441 of the Penal Code of Bhutan 2004

~~Grading of Illegal Immigration~~

~~The offence of illegal immigration shall be a petty misdemeanour and the defendant shall be deported.~~

Section 447 of the Penal Code of Bhutan 2004

~~Grading of an illegal document~~

The offence of drawing an illegal document shall be:

- (a) ~~a petty misdemeanour violation~~, if the commission of an illegal act is of a misdemeanor or a petty misdemeanour; or
- (b) ~~a misdemeanour~~ **petty misdemeanor**, if the commission of an illegal act is of the ~~first, second,~~ third- or fourth degree felony.
- (c) **a misdemeanor, if the commission of an illegal act is of the first or second degree.**

Section 472 of the Penal Code of Bhutan 2004

~~CHAPTER 31~~

~~COMPUTER OFFENCES~~

~~Tampering with computer materials~~

~~A defendant shall be guilty of the offence of tampering with computer materials, if the defendant interferes, alters, or destroys any data or hacks in a computer system or computer program of another person or plants a virus in a computer without the right to do so.~~

Section 473 of the Penal Code of Bhutan 2004

~~Grading of Tampering with computer materials~~

~~The offence of tampering with computer materials shall be a felony of the fourth degree.~~

Section 474 of the Penal Code of Bhutan 2004

~~Unlawful possession of computer materials~~

~~A defendant shall be guilty of the offence of unlawful possession of computer materials, if the defendant knowingly possesses in any form any copy, reproduction, or duplicate of any computer data procured by someone else with intent to benefit the defendant or a person other than the owner thereof.~~

Section 475 of the Penal Code of Bhutan 2004

~~Grading of Unlawful possession of computer materials~~

~~The offence of unlawful possession of computer materials shall be a petty misdemeanour.~~

Section 476 of the Penal Code of Bhutan 2004

~~Computer pornography~~

~~A defendant shall be guilty of the offence of computer pornography, if the defendant:~~

- ~~(a) Publishes and distributes an obscene photograph or picture on the computer or over the internet; or~~
- ~~(b) Is an internet service provider, who knowingly acts as a host for pornographic material or acts as a channel for the image to be transmitted to an individual user.~~
- ~~(c) **Records an obscene video without the consent of the person video is being taken.**~~

Section 477 of the Penal Code of Bhutan 2004

~~Grading of Computer pornography~~

~~The offence of computer pornography shall be a misdemeanour.~~

Section 492 of the Penal Code of Bhutan 2004

Illegal hunting or fishing

Retain as in the Code

Section 493 of the Penal Code of Bhutan 2004

Grading of illegal hunting or fishing

Retain as in the Code

Section 496 of the Penal Code of Bhutan 2004

~~Illegal cultivation, production or manufacturing~~

~~A defendant shall be guilty of the offence of illegal cultivation, production or manufacturing of controlled substances, if the defendant unlawfully cultivates, produces, or manufactures:~~

~~Coca plant or any of its derivatives including cocaine;~~

~~Opium, poppy or any of its derivatives;~~

~~Any narcotic drug or psychotropic substance; or~~

~~Any controlled medicinal products and precursor chemicals.~~

Section 497 of the Penal Code (Amendment) Act of Bhutan 2011

~~Grading of illegal cultivation, production or manufacturing~~

~~The offence of illegal cultivation, production, or manufacturing of controlled substances shall be a felony of the second degree.~~

Section 498 of the Penal Code of Bhutan 2004

~~Illegal transaction of controlled substances~~

~~A defendant shall be guilty of the offence of illegal transaction of controlled substances, if the defendant unlawfully imports, exports, sells, purchases, hoards and stores or transports any psychotropic substance or narcotic drug.~~

Section 499 of the Penal Code of Bhutan 2004

~~Grading of illegal transaction of controlled substances~~

~~The offence of illegal transaction of controlled substances shall be a felony of the fourth degree.~~

Section 500 of the Penal Code of Bhutan 2004

~~Possession of a controlled substance~~

~~A defendant shall be guilty of the offence of possession of a controlled substance, if the defendant possesses or uses any psychotropic substance or narcotic drug without the prescription of a registered doctor.~~

Section 501 of the Penal Code of Bhutan 2004

~~Grading of possession of controlled substance~~

~~The offence of possession of a controlled substance shall be:~~

- ~~(a) A petty misdemeanour; or~~
- ~~(b) A misdemeanour, if the amount possessed is of a quantity such that the Court is of the opinion that the defendant intended to sell.~~

*(27th Day of the 11th Month of Earth Female Pig Year
corresponding to 21st January 2020)*

2. Introduction of Civil and Criminal Procedure Code (Amendment) Bill of Bhutan 2019

The Civil and Criminal Procedure Code (Amendment) Bill of Bhutan 2019 was passed by the National Assembly during the 2nd Session of the 3rd National Assembly and sent to the National Council for deliberation during the 24th session. The Legislative Committee was assigned to review the amendments and prepare for the deliberation on the Bill.

Besides conducting consultations with relevant agencies, the Committee also consulted Dzongkhag and Drungkhag Courts, and the public to seek their views for in-depth review of the Bill. The Member-in-charge of the Bill and the Chairperson to the Legislative Committee, Hon'ble Member of Pemagatshel Dzongkhag introduced the Civil and Criminal Procedure Code (Amendment) Bill of Bhutan 2019.

2.1. Deliberation and adoption of Civil and Criminal Procedure Code (Amendment) Bill of Bhutan 2019

The National Council deliberated on eighteen amendments and two new insertions to the Bill proposed by the Committee on 21/1/2020. The House adopted the Bill on 10/2/2020 and resolved to submit the following amendments to National Assembly for re-deliberation as per the Article 13.7 of the Constitution of the Kingdom of Bhutan.

Sections 6.1 of the Civil and Criminal Procedure Code of Bhutan 2001

Impartiality

~~A Drangpon/Rabjam shall disqualify himself/herself or be disqualified from presiding or dealing with a case where:~~

- ~~(a) — he/she is related to any party to the case;~~
- ~~(b) — circumstances exist which affects or could be construed to affect his/her impartiality; or~~
- ~~(c) — his/her act contravenes the Code of Conduct.~~

(Section 6.1 may be substituted in whole by the following new amendments)

(+) 6.1 ~~A drangpon may~~ **shall** recuse from adjudicating ~~of~~ a case ~~on any of the following grounds if:~~

- (a) **one of the litigants is** ~~Conflict of interest by a cognate, agnate of or by related to~~ **the drangpon by** matrimonial relations ~~to litigant or litigants;~~ or
- (b) **the drangpon has an** ~~By~~ investment or pecuniary interest **in the matters related to the case;** or
- (c) **the drangpon's act of adjudicating the case contravenes the applicable code of conduct.**

6.2 If the drangpon fails to recuse from adjudicating the case, one of the litigants may motion for his or her recusal.

- (2) ~~A litigant may motion for recusal of a Drangpon from court proceedings on the following grounds:~~
 - (a) ~~Litigant is of the knowledge that the Drangpon has a conflict of interest by way of investment, personal or pecuniary interest, or cognate, agnate or by matrimonial relation to a litigant;~~
 - (b) ~~Litigant with reasonable grounds is of the view that the Drangpon is biased or prejudiced; or~~
 - (c) ~~Litigant is of the knowledge that the Drangpon's act contravenes the Code of conduct.~~

Section 8 of the Civil and Criminal Procedure Code of Bhutan 2001

The Structure of the Courts

The Courts shall be:

- (a) the Supreme Court of Bhutan;
- (b) the High Court;
- (c) the Dzongkhag Courts; ~~and~~
- (d) the Dungkhag Courts; ~~and~~
- (e) **such other Courts or Tribunals as may be established from time to time by the Druk Gyalpo on the recommendation of the National Judicial**

Commission.

Section 30 of the Civil and Criminal Procedure Code of Bhutan 2001

Power to make Rules

The Supreme Court ~~and the High court~~ **may shall** make rules for the purpose of giving effect to the provisions of this Code.

Section 30.1 of the Civil and Criminal Procedure Code of Bhutan 2001

The rules made under this section ~~may~~ **shall**:

- (a) be with regard to the use of forms or registers, etc. to be used in the Courts;
- (b) be with regard to the amount of compensation or damages to be assessed by the Courts;
- (c) **be with regard to the sentencing guidelines to be used by the courts, including on when to apply sentences concurrently or consecutively;**
- ~~(d)~~ (d) **be** with regard to any other matter which is to be or may be prescribed; and
- ~~(e)~~ (e) not be inconsistent with the provisions or the intentions of this Code or any other law in force in Bhutan.

New Sub-section after sub-section 31.2 of the Civil and Criminal Procedure Code of Bhutan 2001 as Sub-section 31.3

Notwithstanding any provision to the contrary in this Code, a court shall accept a case for registration if it's satisfied that a defendant or accused has knowingly, purposefully or willfully evaded the suit or prosecution.

New Sub-section after Sub-section 90.3 of the Civil and Criminal Procedure Code of Bhutan 2001 as Sub-section 90.4

(Amended in Dzongkha)

Section 99 of the Civil and Criminal Procedure Code of Bhutan 2001

CHAPTER 14 Judicial Sale

Judicial Sale

~~Where a judgment debtor is unable to pay the Judgement debt/ the financial penalty awarded by a Court, the Court shall sell the judgment debtor's property at a judicial sale and apply the proceeds for the repayment of the judgment debt in accordance with this Code and other laws.~~

The Court shall sell the property of a judgment debtor or a person against whom a financial penalty has been awarded by it at a judicial sale in accordance with this Code or other laws and apply the proceeds for the payment thereof to enforce its judgment in absentia if:

- (a) **the judgment debtor fails to pay, or evades the payment of the judgment debt; or**
- (b) **the person fails to pay, or evades the payment of the financial penalty.**

Section 101 of the Civil and Criminal Procedure Code of Bhutan 2001

CHAPTER 15

Professional Conduct of *Jabmi*

Professional Conduct

~~A *Jabmi* is an officer of the legal system, a representative of clients and a public citizen having special responsibility for the quality of justice.~~

Section 101.1 of the Civil and Criminal Procedure Code of Bhutan 2001

In all professional functions, a *Jabmi* shall:

- (a) ~~at all times uphold the honour, and maintain the dignity and integrity of the profession and to improve not only the law but the administration of justice;~~
- (b) ~~faithfully conduct himself/herself in a manner befitting to or worthy of belonging to the noble fraternity of *Jabmis*;~~
- (c) ~~assist the Court in expediting the case to ensure the just, fair and prompt dispensation of justice by being punctual in attending court hearing, conferences and depositions and being concise and direct in the trial and disposition of the causes;~~
- (d) ~~adhere to the principles of honesty, moral, ethics and good conduct befitting to the dignity of the legal profession;~~
- (e) ~~not resort to fraudulent means;~~
- (f) ~~not advance a claim, defense, position, or argument that misstates a material fact or is false, deceptive, unwarranted, obstructionist, or frivolous, in light of the law and the facts involved;~~
- (g) ~~maintain professional norms of courtesy between them;~~
- (h) ~~not attribute the loss of the case to the incompetence, bias, or other effect of a judge/to countenance a client's suggestion to the same effect;~~
- (i) ~~not abuse the process of the court on behalf of his/her client in order to injure the opponent or use unfair methods against the opponent or to benefit himself/herself;~~
- (j) ~~not utilize litigation or any other course of conduct to harass the opposing party;~~

- ~~(k) represent a client zealously within the bounds of the law at all stages and deal with the case honestly and carefully in accordance with instructions;~~
- ~~(l) preserve the confidences and secrets of a client unless required by law or by the standards of the legal profession;~~
- ~~(m) avoid conflict of interest, impropriety, and the appearance of impropriety;~~
- ~~(n) provide competent representation that includes appropriate legal knowledge, skill, thoroughness, diligence, preparation, and promptness;~~
- ~~(o) not, because of professional duties, be identified with a client or a cause of a client;~~
- ~~(p) not acquire or use any information or evidence obtained by unlawful or unethical means;~~
- ~~(q) not initiate, continue, or participate in any criminal case or any civil case that is not supported by adequate cause; and~~
- ~~(r) be courteous and civil, both in oral and written communications.~~

Section 101.2 of the Civil and Criminal Procedure Code of Bhutan 2001

~~**Punishment of *Jabmis* for Professional or other Misconduct** Where a *Jabmi* engages in professional or other misconduct, the Court may:~~

- ~~(a) admonish/reprimand the *Jabmi*; or~~
- ~~(b) suspend the *Jabmi* from appearing before a Court for such period as it may deem fit.~~

Section 107.1 of the Civil and Criminal Procedure Code (Amendment) Act of Bhutan 2011

Civil Contempt

Finding of civil contempt shall result in fine or imprisonment until the civil order has been complied with. However, ~~for the monetary case the person shall be imprisoned for a number of years calculated based on value based sentencing.~~

- (a) ~~For the monetary cases,~~ **a person shall be imprisoned for a number of years calculated based on value based sentencing subject to section 18 of the Penal Code.**
- (b) ~~For the restitution in criminal cases, the person shall be imprisoned for a number of years calculated based on the minimum wage rate.~~

Section 152 of the Civil and Criminal Procedure Code of Bhutan 2001

(Amended in Dzongkha.)

Section 153 of the Civil and Criminal Procedure Code of Bhutan 2001

Retain as in the Code

Section 153.1 of the Civil and Criminal Procedure Code (Amendment) Act of Bhutan 2011

Accepted National Assembly's amendment

New sub-section after Section 198 of the Civil and Criminal Procedure Code of Bhutan 2001 as Sub-section 198.1

If a person fails to pay the restitution in accordance with the order of the court, the person shall be imprisoned for a number of years calculated based on the minimum wage.

Section 199 of the Civil and Criminal Procedure Code of Bhutan 2001

Bail and Bond

~~Where a suspect other than a person accused of non-bailable offence in the Preliminary Hearing submits that he/she is not guilty and~~ The **Court shall**, upon execution of a bond for such sum of money by one or more sureties, **grant bail at any stage after the arrest of a suspect if** ~~subject to the conditions of bail stated in this Code are fulfilled.~~ ~~the Court may decide to release him/her on bail upon execution of a bond for such sum of money by one or more sureties.~~

Section 199.8A of the Civil and Criminal Procedure Code (Amendment) Act of Bhutan 2011

Non-Bailable Offence

The Court shall not grant bail to a person who has been charged **or anticipated to be charged with**;

(a) an offence against security and sovereignty of the country.
; and

(b) ~~an offence of or above felony of the second degree~~”.

Section 201 of the Civil and Criminal Procedure Code of Bhutan 2001

Bond amount

~~The amount of bond shall be fixed at ten to thirty percent of the income of the surety.~~

The amount of the bond shall be fixed **as the Court considers fit** based on the offence for which the accused has been charged or anticipated to be charged.

Section 205 of the Civil and Criminal Procedure Code of Bhutan 2001

Retain as in the Code.

New Definition after Section 216.19

~~“Police Officer” includes the forest officer, immigration official, custom official and other law enforcement officers who exercise the power of a police by virtue of their work nature~~

*(29th Day of the 11th Month of Earth Female Pig Year
corresponding to 23rd January 2020)*

3. Introduction of Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020

The Deputy Chairperson to the Social and Cultural Affairs Committee, Hon’ble Member of Haa Dzongkhag reported that after the 22nd Session of the National Council of Bhutan, and during the 11th Plenary Session, the House assigned the Committee to review the Lhengye Zhungtshog Act 1999.

Since the Lhengye Zhungtshog Act of 1999 was enacted before the Constitution came into force, with the enactment of the Constitution and a Democratic Constitutional Monarchy system in our country, it was found that most of the Sections in the existing Act contradict with the Constitution of Bhutan. Likewise, the National Law Review Taskforce in 2018 found the Lhengye Zhungtshog Act of Bhutan 1999 redundant and recommended for repeal. In addition, as per Chapter 2(7) of the National Council Act of the Kingdom of Bhutan, the National Council initiated legislative drafting of the Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020 for the Members of Lhengye Zhungtshog.

While reviewing the Bill, the Committee held consultative meetings with Members of Lhengye Zhungtshog, Cabinet Secretariat, Office of the Attorney General and the Royal Civil Service Commission on the draft Bill to get collective consensus, varying views and suggestions for further improvement on the Bill.

The Bill was drafted with the objectives to enable the Lhengye Zhungtshog and its Secretariat to discharge their responsibilities in an efficient, fair and transparent manner with accountability and integrity to preserve and enhance public's confidence and trust in them.

3.1. Deliberation and adoption of Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020

The National Council extensively deliberated on the Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020 on 23/1/2020, 24/1/2020 and 27/1/2020. The House adopted the Bill on 28/2/2020 and resolved to submit it to the National Assembly for deliberation as per Article 13.5 of the Constitution as given in ANNEXURE I.

*(3rd Day of the 12th Month of Earth Female Pig Year
corresponding to 27th January 2020)*

4. Introduction of Entitlement and Service Conditions (Amendment) Bill for the Holders, Members and Commissioners of Constitutional Offices of Bhutan 2020

The Member-in-charge of the Bill and the Chairperson to the Good Governance Committee, Hon'ble Member of Tashigang

Dzongkhag stated that the Committee was initially assigned by the House to review the “Rules of Procedure for the submission of a list of names to His Majesty the Druk Gyalpo for Appointments to the Constitutional Offices, 2015”. However, while reviewing the issue, the Committee felt the need for proper check and balance of the Holders of Constitutional Offices, and a proper guideline for their nominations and resignations. In view of this, the Committee decided to review some of the provisions of the Act.

In reviewing the Bill, the Committee conducted consultative meetings with all the five Members of the Nomination Panel who jointly nominate a list of Holders of Constitutional Offices to the Druk Gyalpo. The Committee reported that the amendments made to the Act would greatly benefit towards enhancing the system thereby curbing politicization of Members of the Nomination Panel and selecting nominees in a transparent manner.

4.1. Deliberation and adoption of Entitlement and Service Conditions (Amendment) Bill for the Holders, Members and Commissioners of Constitutional Offices of Bhutan 2020

The National Council thoroughly deliberated on the Entitlement and Service Conditions (Amendment) Bill for the Holders, Members and Commissioners of Constitutional Offices of Bhutan 2020 on 17/1/2020. The House adopted the Bill on 28/2/2020 and resolved to submit the following amendments to National Assembly for deliberation as per Article 13.5 of the Constitution of Bhutan.

Section 4

A person appointed as the Holder, ~~Member~~ and ~~Commissioner~~ of a Constitutional Office shall resign from his/her previous office with post service benefits.

New sub-section after 5 (f) as sub-section 5 (g)

With proven track record of integrity, professionalism, leadership, and visibly/substantially contributed to the system.

New Section 5A

Submission of list of names

The Nomination Panel comprising of the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council and the Leader of the Opposition Party shall submit to Druk Gyalpo the list of names jointly recommended for appointment to the Constitutional Offices. In case of Judiciary, the National Judicial Commission shall submit to Druk Gyalpo the list of names recommended for appointment to the Offices of the Supreme Court and the High Court.

New Section 5B

Code of Professional Conduct

The Nomination Panel shall prepare the list of names recommended for appointment in a manner that:

- a) Is transparent and objective;**
- b) Is fair, reasonable and efficient for the system;**
- c) Is non-discriminatory; and**
- d) Display a highest level of moral integrity required to competently, efficiently and professionally carry out his/her task.**

New Section 5C

Sessions

The Nomination Panel shall meet on a regular basis to finalize the list of names recommended for appointment.

New Section 5D

Such meeting shall be held on the initiative of the Chairperson or at the request of two-third of its members.

New Section 5E

Two-third of the total members of the Nomination Panel shall form the quorum.

New Section 5F

Procedure

The meetings of the Nomination Panel shall be presided over by the Chairperson. In the absence of the Chairperson, a member chosen on consensus shall preside over the meeting.

New Section 5G

Decisions of the Panel shall be taken by a simple majority of the members present. In the event of a tie, the Chairperson or the person presiding over the meeting shall break the tie.

New Section 5H

Procedure for selecting the list of names including populating potential candidates, thorough screening process, deadline for final selection of names, etc. shall be as laid down in the rules of procedure.

New Section 5I

Time bound Secretariat

A time bound Secretariat shall be established to provide necessary administrative support to the nomination panel.

Section 11

The salaries, allowances, benefits and other entitlements of the Holders, Members and Commissioners of Constitutional Offices shall be as per the ~~Annexure~~ Pay Revision Act of Bhutan.

Section 12

~~Any revision or change in the Annexure may be done in accordance with the Constitution.~~

*(6th Day of the 12th Month of Earth Female Pig Year
corresponding to 31st January 2020)*

5. Introduction of Income Tax (Amendment) Bill of Bhutan 2020

The Member-in-charge of the Bill, Hon'ble Finance Minister, introduced the Income Tax (Amendment) Bill of Bhutan 2020. After the Hon'ble Speaker declared the Bill as Money Bill during the 3rd Session of the 3rd National Assembly, the Bill as amended in 2001 and 2016 respectively was adopted and forwarded to the National Council for deliberation.

Introducing the Bill, the Hon'ble Minister reported that the tax reforms would enable narrowing the gap of income inequality between the rich and the poor through equity and justice. Besides, he highlighted that the objectives of the tax reforms

are to manage financial sustainability, modernize existing taxation system, give shared responsibility, accomplish His Majesty the Druk Gyalpo's vision of achieving economic growth, and fulfil the government plans to move towards digital transformation.

5.1. Deliberation and adoption of Income Tax (Amendment) Bill of Bhutan 2020

The National Council deliberated on the Income Tax (Amendment) Bill of Bhutan 2020 on 31/1/2020, 4/2/2020 and 5/2/2020 respectively. The House adopted the Bill on 5/2/2020 and resolved to submit the following amendments and recommendations to National Assembly for re-deliberation.

General Recommendations:

The National Council,

Noting that:

- The overall estimated revenue foregone from the tax revisions proposed by the National Assembly is Nu. 826.03 million per annum. The Income Tax (Amendment) Bill of Bhutan 2020 alone provides tax exemptions/reductions to the tune of Nu. 633.620 million;
- The estimated revenue losses are expected to be recovered from imposition of SDF on regional tourists, tax on lottery winning and surcharge on the PIT. The expected revenue generation from the SDF of Nu. 933.560 million is subject to change depending on the

number of tourist arrivals. The realization of the revenue amount as projected is further put to doubt for two reasons: firstly, there is no assurance whether there will be a sustained number of regional tourists with the introduction of the SDF of Nu. 1200 per person per day; and secondly, the tourism industry is generally sensitive to other factors such as the global economic situation and unfortunate epidemics like the recent outbreak of Novel Corona virus; and

- One major proposal from the government to raise revenue is through enhancement of tax revenue by transitioning to GST system. As per Section 5 of the Goods and Services Tax Bill 2020, the Bill will come into force on a day fixed by proclamations through an executive order of the Lhengye Zhungtshog. Since the actual timeframe for the Lhengye Zhungtsho's proclamation is not yet set, it is equally unknown when the revenue from GST will be realized.

Deeply concerned that any revision of income taxes resulting in substantial loss of revenue to the government would have direct repercussion on the attainment of national goal of economic self-reliance,

Hereby, recommends the amendment of Sections in the Income Tax (Amendment) Bill 2020 as provided in the annexure.

Commencement

2. This Act comes into force from ~~Income Year 2020~~ as per Section 46B of Public Finance (Amendment) Act of Bhutan 2012.

7. In the Act, after section 45.1 of Chapter 9 under Part I, new section is inserted, namely:

“45.1 A THE RATE OF INCOME TAX FOR COMPANIES OTHER THAN THE STATE ENTERPRISE UNDER FULL TAX LIABILITY SHALL BE ~~25~~ **30** PERCENT OF THE NET PROFIT”.

8. In the Act, section 45.2(a) of Chapter 9 under Part I is amended as:

“Permanent establishment at the rate of ~~25~~ **30** percent of the net profit;

9. In the Act, section 4.1 of Chapter 2 under Part III is amended as:

“Nu.~~300,000.00~~ **200,000** per annum of the net taxable amount under section 13.1 shall be exempt from taxation as a basic exemption”.

12. In the Act, section 8.3 of Chapter 3 under Part III is amended as:

“Total dividend income from Bhutanese companies not exceeding Nu. ~~30,000.00~~ **10,000** per annum shall be exempt from PERSONAL INCOME TAX”.

14. In the Act, section 12.2 of Chapter 3 under Part III is amended as:

“THE ALLOWABLE DEDUCTIONS FOR EDUCATION EXPENSES FOR STUDENTS SHALL BE ACTUAL COST OF THE EDUCATION EXPENSES OR NU. ~~250,000,~~ **350,000** WHICHEVER IS LOWER AS PRESCRIBED IN THE RULES. FOR THE PURPOSE OF THIS ACT, EDUCATION EXPENSES MEANS EXPENSES INCURRED TO EDUCATE BIOLOGICAL CHILDREN, LEGALLY ADOPTED CHILDREN AND SPONSORED STUDENT AS PRESCRIBED IN THE RULES”.

*(9th Day of the 12th Month of Earth Female Pig Year
corresponding to 3rd February 2020)*

6. Re-deliberation on the Impeachment Procedure Bill of Bhutan 2019

The Natural Resources & Environment Committee presented the objections received from National Assembly with the submission of the Committee's observations. The Legislative Committee of the National Assembly introduced the Bill in the ongoing Session. However, with the majority show of hands by the Members, the House decided not to deliberate on the Bill.

The objections from the National Assembly were as follows:

1. All the provisions of the Constitution are not made into separate laws and therefore, the National Assembly requests the National Council to introduce the Bill at an appropriate time in the future as per requirement;
2. The constitutional post holders are all capable persons selected for best candidates and appointed by His Majesty the Druk Gyalpo. If the holders of the constitutional offices are to be impeached based on law, it poses risk of contravening with our age-old tradition;
3. As per Article 17.6 and 17.7 of the Constitution of the Kingdom of Bhutan, there is a need of Rules of Procedure for no confidence votes against the government at the time of drafting this Bill. Hence, this Bill can be drafted and consolidated with other necessary laws in the future.

The House re-deliberated on the review of Impeachment Procedure Bill of Bhutan 2019 on 12/2/2020. It was reported that in carrying out the discussions on the Bill, the Committee referred relevant documents such as the National Assembly and National Council Acts, the Rules of Procedures of both the Houses, Legislative Rules of Procedure, forwarding letters received from National Assembly and the Constitution of the Kingdom of Bhutan. The Committee submitted that the National Assembly's decision to not deliberate the Bills and forwarding them back for re-deliberation was found to be unclear in all the referred documents.

The Committee therefore, recommended initiating a discussion between the Hon'ble Chairperson and the Hon'ble Speaker to set a clear procedures between the two Houses of Parliament in rejecting a Private Members Bill during the first reading by a House.

6.1. Adoption of Impeachment Procedure Bill of Bhutan 2019

In keeping with the established parliamentary procedure and practices to harmoniously resolve the differences, the Chairperson of the National Council decided to initiate the discussion with the Speaker of the National Assembly to a suggested way forward before deciding on the Bill. Despite the effort, the National Assembly refused to discuss the Bill and failed to complete the full legislative process as the decision not to discuss the Bill was made in the first reading itself.

On 4/3/2020, the National Council resolved to withdraw the Impeachment Procedure Bill of the Kingdom of Bhutan 2019 supporting the following statement of reasons proposed by the Committee:

1. The National Council does not deem it proper to seek approval of His Majesty the King for convening a Joint Session when one House has not discussed the Bill and dismissed it in the first reading;
2. The National Council foresees the emergence of larger constitutional, legal and procedural issues beyond the ambit of the Impeachment Bill that needs to be addressed as a result of the recent position and decision of the National Assembly including the one on the Ministers and Equivalent Post Holders' Entitlement Bill;
3. The National Council is not convinced that the steps laid out in the Legislative Rules of Procedure have been complete and followed in the letter and spirit by the National Assembly. There is hence the need to establish a clear path forward to avoid such instances repeating in the future. Once done, the option of reintroducing the Bill always exists.

7. Re-deliberation on the Minister and Minister Equivalent Post Holders Entitlement Bill of Bhutan 2019

The Legislative Committee presented the objection received from National Assembly and submitted the Committee's proposal on the Minister and Minister Equivalent Post Holders Entitlement Bill of Bhutan 2019.

The objections from the National Assembly were as follows:

1. As recommended by the Pay Commission, the Parliament adopted the entitlements for the Minister and Minister Equivalent Post Holders. The Bill proposes recommendations on entitlements that are beyond what was resolved by the Parliament such as other entitlements or providing official vehicles and its related expenses. In addition, the Bill included new recommendations on provision of vehicle quota that is worrisome.
2. If the entitlements are provided based on the new recommendations proposed in the Bill, the government submitted that it would pose worrisome risk to the national economy.
3. Relevant law on the public servants in the country could be consolidated with drafting single entitlement Act for clear existing notion of small population with so many laws.

The House re-deliberated on the review of Minister and Minister Equivalent Post Holders Entitlement Bill of Bhutan 2019 on 12/2/2020. It was reported that in carrying out the discussions on the Bill, the Committee referred relevant documents such as the National Assembly and National Council Acts, Legislative Rules of Procedure, forwarding letters received from National Assembly and the Constitution of the Kingdom of Bhutan. The Committee submitted that the National Assembly's move not to deliberate the Bills and forwarding them back for re-deliberation was found to be unclear in all the referred documents.

The Committee therefore, recommended initiating a discussion between the Hon'ble Chairperson and the Hon'ble Speaker to set a clear procedures between the two Houses of Parliament in rejecting a Private Members Bill during the first reading by a House.

7.1. Adoption of Minister and Minister Equivalent Post Holders' Entitlement Bill of the Kingdom of Bhutan 2019

Highlighting the intent and the background of legislating the Bill, the Chairperson of the Legislative Committee explained that despite National Council's initiative, the National Assembly neither decided to discuss the Bill nor requested the National Council to withdraw the Bill.

On 4/3/2020, the National Council adopted the proposal of the Committee to seek the opinion of the Supreme Court on the constitutionality or legality of the decision of the House of Parliament not discussing a Bill that has originated in another House. The Committee also proposed seeking the guidance of the Supreme Court on whether the provisions of the National Assemble Act, National Council Act, and their Rules of Procedures merit amendments to be harmonized with the Constitution.

*(10th Day of the 12th Month of Earth Female Pig Year
corresponding to 4th February 2020)*

8. Introduction of Tax (Amendment) Bill of Bhutan 2020

Introducing the Tax (Amendment) Bill of Bhutan 2020, Hon'ble Finance Minister reported that the Bill focused on

four areas such as: telecom services on prepaid and post-paid as well as tourist sim cards; electronic device such as on telephone, mobile and hand-set to move towards digital transformation; energy-efficient appliances; and hybrid vehicles. The Bill was presented for deliberation based on the amendments made in 2012 and 2014.

8.1. Deliberation and adoption of Tax (Amendment) Bill of Bhutan 2020

The National Council deliberated on the Tax (Amendment) Bill of Bhutan 2020 on 5/2/2020. The House adopted the Bill on 6/2/2020 and resolved to submit the following amendments and recommendations to National Assembly for re-deliberation.

General Recommendations:

The National Council,

Noting that:

- The overall estimated revenue foregone from the tax revisions proposed by the National Assembly is Nu. 826.03 million per annum. The Tax (Amendment) Bill of Bhutan 2020 alone provides tax exemptions/reductions to the tune of Nu. 232.180 million;
- The estimated revenue losses are expected to be recovered from imposition of SDF on regional tourists, tax on lottery winning and surcharge on the PIT. The expected revenue generation from the SDF of Nu. 933.560 million is subject to change depending on the

number of tourist arrivals. The realization of the revenue amount as projected is further put to doubt for two reasons: firstly, there is no assurance whether there will be a sustained number of regional tourists with the introduction of the SDF of Nu. 1200 per person per day; and secondly, the tourism industry is generally sensitive to other factors such as the global economic situation and unfortunate epidemics like the recent outbreak of Novel Corona virus; and

- One major proposal from the government to raise revenue is through enhancement of tax revenue by transitioning to GST system. As per Section 5 of the Goods and Services Tax Bill 2020, the Bill will come into force on a day fixed by proclamations through an executive order of the Lhengye Zhungtshog. Since the actual timeframe for the Lhengye Zhungtsho's proclamation is not yet set, it is equally unknown when the revenue from GST will be realized.

Deeply concerned that any revision of income taxes resulting in substantial loss of revenue to the government would have direct repercussion on the attainment of national goal of economic self-reliance,

Hereby, recommends the amendment of Sections in the Tax (Amendment) Bill 2020 as provided in the annexure.

Commencement

2. This Act comes into force ~~on the.....day of the Month..... of the.....Year of the Bhutanese calendar corresponding to the.... Day of the.....Month..... of 2020~~ as **per Section 46B of Public Finance (Amendment) Act of Bhutan 2012.**

6. In the Act, section 5.2.2 of Chapter 5 is amended as:

“The sales tax rate at **5 %** shall be applicable on all POST PAID AND **7%** shall be applicable to TOURIST SIM telecom services ~~AS notified by the Ministry~~”.

7. In the Act, after section 5.2.2 of Chapter 5, new sections is inserted, namely:

“The sales tax rate at **5 %** on all prepaid and postpaid telecom services shall be ~~exempt~~ applicable”.

*(11th Day of the 12th Month of Earth Female Pig Year
corresponding to 5th February 2020)*

9. Introduction of Tourism Levy Exemption (Amendment) Bill of Bhutan 2020

The Member-in-charge of the Bill, Hon’ble Finance Minister introduced the Tourism Levy and Exemption Bill of Bhutan 2020 to the House. He said that the National Assembly deliberated on the Bill based on the amendments made in 2018 and presented to the National Council for deliberation.

With increasing number of tourists visiting Bhutan every year, Tourism has become a vital sector, contributing major source of income to the country’s economy. Hence, it has become integral for the Parliament to amend the Bill to make it consistent with the laws.

The Bill is aimed at promoting Bhutan as a year round destination; fostering regional spread of tourism; and creating an enabling environment for a vibrant tourism industry.

9.1. Deliberation and adoption of Tourism Levy Exemption (Amendment) Bill of Bhutan 2020

The National Council deliberated on the Tourism Levy Exemption (Amendment) Bill of Bhutan 2020 on 5/2/2020, 6/2/2020 and 7/2/2020 respectively. The House adopted the Bill on 7/2/2020 and resolved to submit the following amendments and recommendations to National Assembly for re-deliberation.

General Recommendations:

Visitors to Bhutan are attracted by the unique culture and tradition of the country and it is evident that Bhutan is a cultural tourism hotspot. Tourism is the country's second highest revenue earner; however, the increasingly large numbers visiting the country is also threatening the preservation of our rich cultural heritage. Therefore, it is critical that we invest in our culture and tradition to sustain it for our future generations and to protect our security and sovereignty of the nation. This will in turn also continue to make Bhutan a popular cultural tourist destination for many decades.

The Culture Trust Fund was established through a Royal Kasho in 1999 by His Majesty the Fourth Druk Gyalpo. Except for the seed money and interest earned in the bank, no efforts have been made to invest any funds into this Trust Fund. That is why the Trust Fund is unable to be utilized since it hasn't reached US \$ 5 million.

In order to support the efforts of cultural preservation in the country for all times to come, the National Council

recommends a minimum of 2% of tourism levy of USD 65 and concessional tourism levy of Nu. 1200 to be directly deposited into the Culture Trust Fund.

Commencement

2. This Act ~~comes into force on theDay of theMonth of theYear corresponding to theDay of.....2020~~ **comes into force as per Section 46B of Public Finance (Amendment) Act of Bhutan 2012.**

Implementation

3. ~~The Act shall be implemented from 1st July 2020~~

8. A leisure tourist visiting selected Dzongkhags as per schedule **I** shall be exempted from payment of applicable tourism levy for the duration of their stay.

(Amended in Annexure I)

10(3). submit a bi-annual report on the tourism levy exemption to the Ministry of Finance **and to the Parliament.**

SCHEDULE I: LIST OF THE DZONGKHAGS

མང་གཙང་ལ།	ཚོང་ཁག།	DZONGKHAG
༡	ལུན་ཅེ།	LHUNTSE
༢	མོང་གཙང་།	MONGAR
༣	བཀྲིས་གཙང་།	TRASHIGANG
༤	བཀྲིས་གཡང་ཅེ།	TRASHI YANGTSE
༥	པལ་གཙང་ལེ།	PEMAGATSHEL
༦	བསམ་བྱུང་གློང་མ་ལེ།	SAMDRUP JONGKHAR

ཨ	ཚེ་རང།	TSIRANG
༤	དར་དཀར་ན།	DAGANA
༩	གཞལ་མ་སྒང།	ZHEMGANG
༡༠	གྲོང་གསར།	TRONGSA
༡༡	གསར་ལྗང།	SARPANG
༡༢	ཇུག།	CHUKHA
༡༣	དགའ་ས	GASA
༡༤	ཧཱ།	HAA
༡༥	བསམ་ཇེ།	SAMTSE

*(17th Day of the 12th Month of Earth Female Pig Year
corresponding to 11th February 2020)*

10. Introduction of Property Tax Bill of Bhutan 2020

The Member-in-charge of the Bill, Hon'ble Finance Minister introduced the Property Tax Bill of Bhutan 2020 to the House. The Hon'ble Minister said that the Property Tax Bill covers the properties of land, house and motor vehicles. He informed the House that the property transfer tax for land and house will be reduced to 3 percent and motor vehicles to 1 percent. He said that the property transfer tax will be paid by the seller. He further stated that the tax will be exempted if the property is transferred between immediate family members; from grandparents to grandchildren; or shared under a divorce settlement amongst others as specified in the Bill.

10.1. Deliberation and adoption of Property Tax Bill of Bhutan 2020

The National Council deliberated on the Property Tax Bill of Bhutan 2020 on 11/2/2020, 12/2/2020 and 14/2/2020. The House adopted the Bill on 14/2/2020 and resolved to submit the following amendments and changes to National Assembly for re-deliberation.

Preamble

An Act ~~A Bill~~ to provide for the levy of property ownership transfer tax and to regulate the collection thereof; Parliament of the Kingdom of Bhutan hereby enacts as follows:

Title

1. This is the Property **Ownership Transfer** Tax Act of Bhutan 2020.

Commencement

2. ~~This Act comes into force on the Day of the Month of Year corresponding to the Day of the Month of 2020~~ **This Act comes into force as per Section 46B of Public Finance (Amendment) Act of Bhutan 2012**

Extent

3. **Amended in Dzongkha**

4. The property **ownership** transfer tax shall be levied at the rate of 3% on ~~the~~

(1) ~~The sale value of the land~~ **during the transaction** or the value of the land as ~~determined~~ **assessed** by the Property Assessment and Valuation Agency under the Ministry of ~~Finance~~, whichever is higher; and

(2) ~~sale value of the building~~ or the assessed value **of the building** whichever is higher. ~~as prescribed in the rules.~~

5. The Property transfer tax shall be levied at the rate of 1 % of the sale value of motor vehicle or ~~the assessed value as determined~~ **assessed** by the Competent Authority, whichever is higher ~~as prescribe in the rules.~~

6. Amended in Dzongkha

7. The property transfer tax shall be payable by the **seller** person as specified in the **genuine** sale deed.

8. Notwithstanding section 7 of this Act, the **buyer shall pay applicable tax rate on the minimum reserve price** ~~property transfer tax shall be payable by the buyer if~~ **of the property is if:**

(1) purchased from the government/ **Financial Institutions and other agencies through public auction;**
and

(2) purchased from international and diplomatic agency ~~and personnel;~~ ~~and~~

~~(3) purchased from financial institution and other agency through public auction.~~

9. Amended in Dzongkha

(1) Amended in Dzongkha

(2) Amended in Dzongkha

(3) Amended in Dzongkha

(4) Amended in Dzongkha

(5) Amended in Dzongkha

(6) shared under a divorce settlement **agreement as per the Marriage Act of Kingdom of Bhutan** ~~as per the judgment of the Royal Court of Justice;~~

(7) transferred to registered Religious Organizations and registered public benefit organization registered under **Chhoedey Lhentshog and Civil Society Organizations respectively;**

(8) Amended in Dzongkha

(9) Amended in Dzongkha

(10) Transferred to Zhung Dratshang or Dratshang Lhentshog; and

(11) Transferred between members registered under the same census record.

Authoritative Text

12. The Dzongkha text shall be the authoritative text, if there exist any differences in meaning between the Dzongkha and English texts.

DEFINITIONS:

13. In this Act, unless the context indicates otherwise:

- 1. Amended in Dzongkha**
- 2. Amended in Dzongkha**
- 4. Amended in Dzongkha**
- 5. Amended in Dzongkha**
- 6. Amended in Dzongkha**

New Sections in Definition

7. “Religious Organization” means any organization registered under the Religious Organizations Act of Bhutan 2007

8. “Zhung Dratshang” means the monastic body of the Kingdom of Bhutan

11. Introduction of Fiscal Incentives (Amendment) Bill of Bhutan 2020

Introducing the Fiscal Incentives (Amendment) Bill of Bhutan 2020 to the House, the Member-in-charge of the Bill, Hon’ble Finance Minister stated that the Bill will commence retrospectively from the income year 2019 and the time-bound incentives will expire by 2024 as endorsed by the National Assembly. He clarified that the Fiscal Incentives Bill introduced in 2010 was initially presented as part of the Annual Budget Report. It was during the term of the second government in 2017 that they started to present it as a separate Bill as recommended by the then opposition party. He said that even though the government loses about Nu. 32 million per annum through the provision of fiscal incentives, this would benefit about 13,000 small and micro businesses in the country.

11.1. Deliberation and adoption of Fiscal Incentives (Amendment) Bill of Bhutan 2020

The National Council deliberated on the Fiscal Incentives (Amendment) Bill of Bhutan 2020 on 11/2/2020 and 12/2/2020. The House adopted the Bill on 12/2/2020 and resolved to submit the following amendments to National Assembly for re-deliberation.

Commencement

2. This ~~Bill Act~~ comes into force ~~retroactively from Income Year 2019.~~ **as per Section 46B of Public Finance (Amendment) Act of Bhutan 2012.**

*(21st Day of the 12th Month of Earth Female Pig Year
corresponding to 14th February 2020)*

12. Introduction of Supplementary Budget Appropriation Bill for the Financial Year 2019-2020

The Hon'ble Finance Minister presented the Supplementary Budget Appropriation Bill for the Financial Year 2019-20 to the National Council. He informed the House that the proposed supplementary budget appropriation as adopted by the National Assembly is for a sum not exceeding Nu. 903.277 million including the supplementary budget of Nu. 5 million passed on the parliamentary committee and secretariat services. The Hon'ble Minister said that the revised budget with the inclusion of the supplementary appropriation is estimated at Nu. 65,730.002 million.

The appropriation is to defray the expenditure on the account of revision of pay and allowances for the Royal Bhutan Police, Khesar Gyalpo University of Medical Sciences of Bhutan, Jigme Singye Wangchuk School of Law, and revision of stipend and subsidy to State Owned Enterprises.

12.1. Deliberation and adoption of Supplementary Budget Appropriation Bill for the Financial Year 2019-2020

The National Council deliberated on the Supplementary Budget Appropriation Bill for the Financial Year 2019-2020 on 14/2/2020, 17/2/2020 and 18/2/2020. The House adopted the Bill on 18/2/2020 and resolved to submit the following amendments and changes to National Assembly for re-deliberation.

SUPPLEMENTARY APPROPRIATION

1. Supplementary appropriation is for a sum not exceeding Nu. ~~898,277,903,277~~ **898,277,903,277** million to defray the expenditure on account of revision of pay and allowances for the Royal Bhutan Police, Khesar Gyalpo University of Medical Sciences of Bhutan, Jigme Singye Wangchuk School of Law, revision of stipend and subsidy to SoEs considered by the Lhengye Zhungtshog in accordance with section 4(2) and 63 of the Pay Revision Act 2019;
3. The revised budget with the supplementary appropriation is estimated at Nu. ~~65,730,002~~ **65,725,002** million. The fiscal deficit as percent of

GDP is estimated to increase from 3.04 percent to ~~3.4~~
3.08 percent for the FY 2019-20.

The National Council deliberated on the Supplementary Budget Appropriation Bill 2019-2020 on 14th, 17th and 18th February 2020.

The National Council accepted all the recommendations made by the National Assembly with the exception of Nu. 5 million proposed as Supplementary appropriation for the Parliamentary Committees and Secretariat Services.

While the House recognized the importance of adequate budgetary support needed for effective functioning of the National Assembly, the members expressed major concerns on approving the supplementary budget for the following reasons:

1. As per existing procedures, supplementary budget is proposed by an agency to the Ministry of Finance which presents it to the Parliament.
2. Most agencies of the Royal Government have budgetary shortage, however, supplementary budget is never granted directly by the Parliament without routing through the Ministry of Finance.
3. There is a direct conflict of interest when an approving body such as a house of parliament also proposes such supplementary budget by circumventing the established procedures.

Therefore, in order to uphold the existing procedures for proposing and approving supplementary budget, the National

Council recommends the National Assembly to withdraw the proposal for supplementary appropriation of Ngultrum 5 million for the Parliamentary Committees and Secretariat Services.

Schedule of Supplementary Budget Appropriation for FY 2019-20

Sl. No.	Agency	Amount Nu. in Millions	Justifications
1	Royal Bhutan Police	684.752	Revision of pay and allowance for RBP not included in the approved budget.
2	Khesar Gyalpo University of Medical Science	35.455	Revision of pay and allowances for staffs and revision of stipend for trainees (Nu. 45.325 27.797 million for pay revision and Nu. 43.428 7.658 million for stipend revision)
3	Jigme Singye Wangchuk School of Law	8.961	Revision of pay and allowances for staffs and revision of stipend for students (Nu. 7.499 million for pay revision and Nu. 1.512 million for stipend revision)
4	Ministry of Education/Dzongkhag	114.409	Revision of stipend for students
			1. Proposed increased rate in following three categories :
			a) Nu. 1500 from Nu.1000 per month for 3 meals (41,737 stds)
			b) Nu. 700 from Nu. 670 per month for 2 meals (25,434 stds)
			c) Nu. 400 from Nu. 335 per month for 1 meal (19,236 stds)
			Implication calculated for 5 months.
5	State Owned Enterprises	54.7	Subsidy for SoEs to support revision of pay and allowances.
6	National Assembly of Bhutan	5.00	Parliamentary Committees and Secretariat services
	Grand Total	898.277 903.277	

13. Introduction of Pay Revision (Amendment) Bill of Bhutan 2020

Introducing the Pay Revision (Amendment) Bill of Bhutan 2020, the Member-in-charge of the Bill, Hon'ble Finance Minister said that the Bill is presented for amendment to correct the inconsistencies in the Pay Revision Act and its Annexure, which was passed by the Parliament six months ago. The amendments in the Bill included pay revision of NFE Instructors and ECCD facilitators; house rent allowances for ESP, NFE instructors and Gaydrungs; discretionary grants; designated duty vehicle for dzongdags; and Children Education Allowance for the officials in foreign posting.

13.1. Deliberation and adoption of Pay Revision (Amendment) Bill of Bhutan 2020

The National Council deliberated on the Pay Revision (Amendment) Bill of Bhutan 2020 on 14/2/2020, 17/2/2020 and 18/2/2020. The House adopted the Bill on 18/2/2020 and resolved to submit the following amendments and changes to National Assembly for re-deliberation.

PREAMBLE

Amended in Dzongkha

Commencement

~~This Bill comes into force retroactively from 1st July 2019.~~

2. This Act comes into force as per Section 46B of the Public Finance (Amendment) Act of Bhutan 2012.

5. In the Pay Revision Act of Bhutan 2019, herein referred to as the Act, Section 15 is amended as:

Retain as in original Bill. However, made changes in the table as follows:

Add following table to Table 10: Revised Pay Scale of NFE and ECCD Instructors (Nu.) of the Pay Revision Act of Bhutan 2019.

Position level	Existing Pay Scale			Revised Pay Scale			% change
	Min.	Incr.	Max.	Min.	Incr.	Max.	
ECCD Facilitator	11,125			13,575	275	17,700	22%

(Justification: The row for NFE instructors (revised pay scale) in table 10 is excluded in the Amendment Bill since there is no changes from the Pay Revision Act 2019. This new row (revised pay for ECCD Facilitator) will replace the existing row under table 10).

6. In the Act, Section 30 (2) is amended as:

House Rent Allowance (HRA) shall be as follows:

(2) The HRA for positions S3 and below shall be revised as lump sum of Nu. 3,500 per month and extended to ESP employees, Gaydrung and NFE Instructors.

Add following table to Table 13: Revised House Rent Allowance for Civil Servants and others of the Pay Revision Act of Bhutan 2019.

Sl. No.	Position Level	Existing	Revised (Nu.)	% change
20	GSP	1,540	3,500	127%
21	ESP	-	3,500	New
22	NFE Instructor	-	3,500	New
23	Gaydrungs	-	3,500	New

(Justification: The rows from serial no. 20 – 23 in the Pay Revision (Amendment) Bill 2020 shall replace the bottom rows 2-5 in the Bill. Rest of the rows have been excluded since there are no changes as per the Pay Revision Act 2019).

7. In the Act, Section 32 is amended as:

Discretionary Grant

The term Discretionary Allowance in Annexure 2, 3, 4, 5 & 6 7 shall read as Discretionary Grant.

9. In the Act, Section 56 is amended as:

Children Education Allowance (CEA)

Retain as in the Bill.

10. New Section: In the Act, Section 65 is amended as:

The amendment of this Bill shall be by way of addition, variation or repeal effected by Parliament as per ~~the recommendation of the Pay Commission~~ **Article 30 of the Constitution of Kingdom of Bhutan.**

11. New Section: In the Act, Section 47 is amended as:

Porter and Pony Charges

The porter and pony charges shall be lump sum Nu.1,200 per dholam for the places with no motorable road connectivity **of which Nu. 800 shall be paid as pony charges.**

14. Introduction of Goods and Services Tax Bill of Bhutan 2020

The Hon'ble Finance Minister presented the Goods and Services Tax Bill of Bhutan 2020 to the House. The intend of

the Bill were to broaden the taxation base and modernize taxation system to facilitate the development of a vibrant economy. The Hon'ble Minister reported that the Bill would impose GST at the rate of 7 percent and that the proposed rate would provide an ideal balance between impacts on revenue collection versus burden of tax on the taxpayers. The Goods and Services Tax would be payable on most goods and services consumed in Bhutan, apart from some exceptional categories of supplies.

14.1. Deliberation and adoption of Goods and Services Tax Bill of Bhutan 2020

The National Council deliberated on the Goods and Services Tax Bill of Bhutan 2020 on 14/2/2020, 18/2/2020 and 19/2/2020. The House adopted the Bill on 19/2/2020 and resolved to submit the following recommendations to National Assembly for withdrawal of the Bill.

Recommendations on the Goods and Services Tax Bill of Bhutan 2020

National Council fully recognizes the merit of introducing the GST system as it would help promote modernization of taxation system through digitization, broaden the tax base, and address the issues of double taxation and tax evasion.

The Council also acknowledges the government for the initiative to introduce the GST system in the country.

However, upon thorough study of the Goods and Services Tax Bill of Bhutan 2020, the Council noted the following issues:

A. Legality of the commencement date

As per the proposal of National Assembly, the enforcement dates of the Goods and Services Tax Act 2020 are as follows:

- Chapters 7, 8, 9 &10 to be enforced with effect from 1st day of July 2021; and
- Chapters 1 to 6, and 11 to 30 to be enforced from the day of enacting this Bill as Law.

Firstly, it is unprecedented for one Bill to have two different dates of commencement. Secondly, as per the Section 46B of Public Finance (Amendment) Act 2012, “the imposition or increase of any tax or abolition, reduction or remission of any existing tax once passed as law by Parliament, shall be applied retroactively from the date it was initially tabled in the National Assembly”.

The Goods and Services Tax Bill of Bhutan 2020 is already endorsed as Money Bill by the National Assembly, and the definition of Money Bill as per Section 46A(a) of PFAA 2012 is,

“A Bill which contains only provisions dealing with imposition or increase of any tax or abolition, reduction or remission of any existing tax”.

The commencement date of the Bill should therefore, be in accordance with Section 46B of PFAA 2012. In other words, till such time the Section 46B of the PFAA 2012 is amended, any deviation from it would amount to willful violation of the prevailing law.

B. Preparedness of the government for immediate implementation

The government has clearly indicated that the necessary facilities required for implementation of GST system are yet to be established. Although the National Assembly has proposed the deadline for enforcement of Chapters 7, 8, 9 and 10 to be with effect from 1st of July 2021, it is not certain whether this timeframe is realistic considering the amount of preparatory works that are required to be carried out.

Besides, it appears that digital application software system is a pre-requisite for the enforcement of GST and EET rates. The House was informed by the Finance Minister during the introduction of the GST Bill to the National Council that the development of application software is still underway. Considering this scenario, it may be appropriate for the Parliament not to rush in passing the Bill.

There are also provisions in the Bill that can be implemented even without the Act in place immediately. For example, Chapter 2 designates Department of Revenue & Customs as the authority for implementation and administration of GST system. The GST regime subsumes the existing Sales Tax and Excise Duty, which are currently being implemented and

administered by the Department of Revenue and Customs. Moreover, those provisions in the Bill pertaining to principles and procedural matters can be adopted once the GST rates are fully digitized and ready for implementation.

Therefore, the need for the Bill to be passed within this Session is questionable.

C. Need to draw a clear distinction between the Money Bill and the Financial Bill

Article 13(2) of the Constitution implies that the Money Bill and Financial Bill are two different Bills. However, Section 46A of Public Finance (Amendment) Act 2012 treats Financial Bills as synonymous with Money Bill. This provision is not in consistence with Article 13(2) of the Constitution.

Article 13(5) of the Constitution further states that only Budget and Urgent Bills shall be passed in the same session of Parliament. However, so far all the Bills that are deliberated and passed as Money Bills by the National Assembly are passed in the same session as per the Section 46E of Public Finance (Amendment) Act 2012 that states:

“A Money or Financial Bill, after being passed by the National Assembly shall be presented to the National Council and that Bill shall be passed during the same session of Parliament”.

This provision of PFAA 2012 directly contravenes Article 13(5) of the Constitution.

Fully aware that there is a genuine need to provide adequate time for the government to get ready with required infrastructural facilities for smooth transition to GST system; and

Deeply concerned that adoption of Goods and Services Tax Bill of Bhutan 2020 within this session could result in willful violation of Articles 13(2 & 5) and Section 46B of Public Finance (Amendment) Act 2012.

The National Council hereby, recommends:

- The National Assembly to withdraw the adoption of the GST Bill 2020 until all necessary systems are put in place including training of staff and creating public awareness; and
- The Government to introduce the amendment of the Public Finance (Amendment) Act 2012.

*(4th Day of the 12th Month of Earth Female Pig Year
corresponding to 29th January 2020)*

E. Policy Review Issues

1. Review Report on the Policies related to Vehicle Imports

After the 23rd Session of the National Council, the House identified “rising vehicle imports” as an important issue during the retreat workshop held at Paro in July 2018. Accordingly, the Economic Affairs Committee was directed to conduct a policy review of the issue and present the findings in the 24th Session. The Committee presented the review report along with the findings on the issue.

The Committee presented its review report divided into six parts, viz. the background, situation analysis, causes of growth in vehicle imports, impact of increase in number of vehicles, government policies to control increase in number of vehicles, and effect of policies on vehicle imports.

1.1. Deliberation on the Report and adoption of the Recommendations

The National Council thoroughly deliberated on the review report on the policies related to vehicle imports on 29/1/2020 and 31/1/2020. The House adopted the following recommendations of the Committee on 28/2/2020.

The National Council of Bhutan,

- (1) *Upholding* its mandates enshrined in the Constitution (Article 10.2 and Article 11.2) and in the National Council Act of the Kingdom of Bhutan 2008 (Chapter 2, Sections 7 and 10) as a House of Review;
- (2) *Respecting* the Constitution, and in particular adhering to the following provisions: Article 8.8, Article 8.9, Article 14.15, among others;
- (3) *Conscious* that transport sector plays an important role in nation building; stimulating economic growth; easing cost of mobility etc;
- (4) *Recognizing* that at the same time there are adverse economic, social and environmental concerns related to rapid growth in the import of vehicles into the country;
- (5) *Cognizant* that current policies, laws and strategies have not been potent enough to stem the growth in the number of vehicles;
- (6) *Considering* that improvement of public transport systems is the most effective means to reduce the demand for private vehicles and the negative externalities of rising vehicle numbers.

Hereby calls on the Royal Government to:

1. Improve Coordination of the transport sector through adequate policy and legislative reforms of the transport sector through:
 - I. Fast track adoption of a comprehensive National Transport Policy in accordance with the policy formulation protocol and pursue the necessary

- institutional reforms and restructuring to improve the Transport Sector;
- II. Amend the Road Safety and Transport Act 1999 to align with changing needs of the sector; and
 - III. Coordinate with the Dzongkhags to ensure that adequate space is reserved for urban transport infrastructure in the Dzongkhags towns to incorporate public transport in the future.
2. Address issues arising from vehicular congestion in the urban areas by:
- a) Improving Pedestrian experience by making certain areas free of personal vehicles to encourage people to walk and/or use public transport including making it disabled friendly;
 - b) Requiring Local Governments, particularly Thromdes, to strictly enforce parking requirements in buildings; and
 - c) Requiring Local Governments, particularly Thromdes, to strictly enforce no parking on public roads to ensure smooth traffic flow.
3. Improve public transport in the growing towns and across the country by:
- a) Continued government support to expand public bus transport including the implementation of the Bus Rapid Transit System to improve its efficiency and reliability;
 - b) Continued subsidies to improve public bus transport; and

- c) Providing fiscal incentives and low interest loans to encourage private operators to expand public transport options for inter and intra dzongkhag connectivity.

Note: The Recommendations of the National Council outlined above should be read in conjunction with the accompanying detailed report.

*(4th Day of the 12th Month of Earth Female Pig Year
corresponding to 29th January 2020)*

2. Interim Review Report on the RNR Marketing Policy and Strategies

The Chairperson of the Natural Resources and Environment Committee, Hon'ble Member of Trongsa Dzongkhag stated that the House assigned the Committee with the task to review the buyback program during the 14th Plenary Session. The House further directed the Committee to relook at the ongoing review on the buyback program presented during the 15th Plenary Session since the review report does not have critical issue to come up with comprehensive recommendations. The Committee, therefore, submitted that extensive research have to be carried out on the interim review report which was prepared after conducting consultative meetings with relevant ministries and agencies. The Committee will present the final report on the RNR Marketing Policy and Strategies in the 25th Session of the National Council.

*(26th Day of the 12th Month of Earth Female Pig Year
corresponding to 19th February 2020)*

3. Review Report on the Review of Legislation and Strategies for addressing Human Trafficking in Bhutan

The Social and Cultural Affairs Committee introduced the report on the review of legislation and strategies for addressing human trafficking in Bhutan to the House. The Committee conducted the review work in pursuant to Article 11(2) of the Constitution of the Kingdom of Bhutan which mandates the House to “*act as the House of review on matters affecting the security and sovereignty of the country and the interests of the nation and people that need to be brought to the notice of the Druk Gyalpo, the Prime Minister and the National Assembly*”. Further, the Article 10(2) prescribes the Parliament to “*ensure that the Government safeguards the interests of the nation and fulfils the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions*”.

The Chairperson of the Committee reported that the review task had been assigned since 22nd Session of the National Council. However, owing to extensive studies and consultations that needed to be carried out, the Committee could complete the review work and present the report only this session.

The Chairperson of the Committee said that human trafficking is a global problem and Bhutan is also affected by this crime. There are five commonly reported types of human trafficking

- sexual exploitation, forced labour, child labour, involuntary domestic servitude and trafficking in human organs. Concerns were also shared on increasing reports of Bhutanese being allegedly trafficked abroad as well as people being trafficked into and within the country.

In reviewing the issue, the Committee held numerous consultations with ministries, departments, agencies and Civil Society Organizations. Relevant international and domestic laws were also referred during the course of the review process.

3.1. Deliberation on the Report and adoption of the Recommendations

The National Council thoroughly deliberated on the review report on legislation and strategies for addressing human trafficking in Bhutan on 19/2/2020 and 20/2/2020. The House adopted the Committee’s recommendations on the issue on 28/2/2020 as follows:

The National Council,

Upholding the following Articles of the Constitution of the Kingdom of Bhutan:

- Article 10(1) that states, *“There shall be a **Parliament** for Bhutan in which all legislative powers under this Constitution are vested and which shall consist of **the Druk Gyalpo, the National Council and the National Assembly**”*

- Article 10(2) states, “Parliament shall ensure that the Government safeguards the interests of the nation and fulfils the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions”;
- Article 11(2) that states, “Besides its legislative functions, the National Council shall act as the **House of review** on matters affecting the security and sovereignty of the country and the interests of the nation and people that need to be brought to the notice of the Druk Gyalpo, the Prime Minister and the National Assembly”;
- Article 9(17) states, “The State shall endeavour to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres”;and
- Article 9(18) states, “The State shall endeavour to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation”.

Noting that:

- there are increasing reports in mass media of Bhutanese being allegedly trafficked abroad as well as people being trafficked into and within the country; and

Concerned that:

Bhutan has been recently downgraded to the **lowest ranking, Tier 3**, from Tier 2 Watch list in the Trafficking in Persons report by the US State Department.

Hereby calls on the government to:

1. Legislation, Policy and International Convention

- a. Develop a comprehensive national policy and national action plan on combating Human Trafficking in Bhutan.
- b. Assess Bhutan's readiness to accede to the United Nations Transnational Organized Crime Convention (Palermo Protocol) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

2. Strengthen efforts to combat Human Trafficking

- a. Provide adequate financial and human resource support including creation of a separate unit/division in the DLO, and allocation of a separate emergency fund for repatriation and investigation efforts.
- b. Ensure that Bhutan's efforts to combat trafficking is recorded and reported on timely basis to improve Bhutan's current ranking by the next TIP report.
- c. Ensure efficient and effective implementation of the Standard Operating Procedure.
- d. Explore the possibility of including "Reduction of Human Trafficking cases" and "Locate Missing Persons"

as indicators under the Ministry of Home and Cultural Affairs' Annual Performance Agreement.

3. Sensitization and Awareness Programmes

- a. Organize Special Sensitization programmes to be conducted especially for the judiciary so that everyone has a common understanding of Human Trafficking.
- b. Extend Sensitization and awareness campaigns to Local Government leaders, public transport, taxi operators, guides, hoteliers, civil aviation and airline staff in combating HT.
- c. Conduct regular nationwide awareness and advocacy programmes for the general public on the risks of human trafficking, laws and where to go for help.

4. Trafficking in Persons Emergency Helpline

Create a central Bhutan 24/7 emergency helpline and social media contact address for victims of trafficking and or concerned persons can contact for assistance.

5. Employment

- a. Prioritize creation of job opportunities and skill trainings for vulnerable group especially unemployed women and youth with limited qualification.
- b. Conduct a study on the feasibility of relaxing the current criteria of age and qualifications as well as explore work opportunities abroad so that any interested unemployed Bhutanese can safely apply for overseas employment opportunities through a licensed agent.

*(27th Day of the 12th Month of Earth Female Pig Year
corresponding to 20th February 2020)*

4. Review Report on the Program Initiative towards improving the Quality of Education

The Good Governance Committee presented the report on the review of programme initiatives towards improving the quality of education to the House.

The Chairperson of the Committee said that the rapid expansion of access to education over the past decades resulted in increased number of youth attaining school education. At the same time, the issue of quality of education started surfacing as the subject of public discourse. The National Council, as a House of Review, deeply concerned by what seemed like a declining quality of education, through its Special Committee on Education conducted a review on the education policy and strategy. The review report was deliberated extensively during the 18th Session of the National Council in 2016.

The National Council passed 21 resolutions calling the attention of the government on improvement or reformatory measures in the areas of: teacher performance, curriculum, student learning outcomes, and resource allocation. The follow-up report from the government on the implementation status of the resolutions indicated that all 21 resolutions were acknowledged either as part of reform initiatives reflected in the Bhutan Education Blueprint 2014-2024 or initiatives under implementation by the Ministry of Education. One of

the resolutions was on the need to find appropriate measures to ensure financial sustainability of the Central Schools.

Upon convening a consultative meeting with the Ministry of Education, the Committee was informed that an in-house assessment was conducted on the Central School Management System and that adequate measures were planned to be undertaken by the Ministry to address concerns related to financial sustainability of the Central Schools. Against this backdrop, the Committee decided to shift the focus of the review from central school to a broader topic: Review of programme initiatives towards improving quality of education.

The Chairperson of the Committee reported that the review was undertaken to determine the reformatory initiatives undertaken to enhance the quality of education; gap between the intended purposes and implementation of these initiatives; and areas requiring review and improvement to ensure optimal efficacy of the reform initiatives.

4.1. Deliberation on the Report and adoption of the Recommendations

The National Council thoroughly deliberated on the review report on the program initiative towards improving the quality of education on 20/2/2020 and 26/2/2020. The House adopted the Committee's recommendations on the issue on 28/2/2020 as follows:

The National Council,

Upholding the Article 11(2) of the Constitution of the Kingdom of Bhutan that states:

“Besides its legislative functions, the National Council shall act as the House of Review on matters affecting the security and sovereignty of the country and the interests of the nation and the people that need to be brought to the notice of the DrukGyalpo, the Prime Minister and the National Assembly”; and

Further upholding Sections 7, 8 and 10 of the National Council Act of Bhutan 2008 that provide for the National Council to review any policy, programme and plan of the government.

Acknowledging that the unwavering emphasis of the Royal Government on continuous strengthening of the education system has resulted in unprecedented socio-economic development gains for the country;

Recognizing that enhancement of quality of education is critical for equipping Bhutanese youth with knowledge and skills relevant to the human resources needs of the 21st century;

Acknowledging that the Royal Government has made consistent effort in improving the quality of education through various policy and programme initiatives;

Noting that despite these efforts, challenges are aplenty and attaining quality education is a constant strive;

Further Noting that:

- Access to quality ECCD programmes for children of ages 3 to 5 years currently represents only 26% coverage. This leaves out about 74% of the eligible children from availing the ECCD services. As a consequence this group of children would not only be deprived of attaining full human potential but would also have repercussions on the overall socio-economic progress of the country.
- One of the common issues raised especially by the primary schools is the lack of adequate budgetary support to procure teaching learning materials, and to implement other school-based initiatives. The current practice of allocating consolidated budget for primary schools with the Dzongkhag/Thromde administrations has not resulted in fair distribution of the budget amongst primary schools under their respective jurisdictions in absence of dedicated budget heads assigned for individual schools.
- The well-intended purpose of school ranking system has come under heavy criticism from the stakeholders mainly the principals and teachers due to some shortcomings with its implementation such as linking of school performance with IWP of teachers and principals and their promotion thereof, using the same parameters for the assessment despite not having level playing field amongst schools, etc.
- Any attempt by REC to either develop a new curriculum or revise/update the existing one, is aimed to equip students with 21st century knowledge and skills. To ensure that the intended purpose of the new/updated curriculum is translated into actual

learning outcome of students, it is imperative for the teachers to be adequately oriented. However, it is found that other than just handful number of teachers, REC has not been able to provide timely orientation to majority of the teachers for every curriculum that is either newly developed or revised due to lack of adequate financial resources. As a result, the intended purpose of the curriculum in most cases, have at best remained just on paper without effecting much change on the actual learning outcome of students. In other words, there is a huge disconnect between the design of the curriculum and its implementation in the field.

- The multi layered process of delivering PD programmes has often resulted in compressed contents and reduced number of hours owing to lack of adequate fund. This is further compounded by the lack of quality impact assessment and monitoring of PD courses carried out either centrally or in schools by the concerned authorities. Consequently, it has resulted in disparity in the hours of providing PD courses among schools. Likewise, the effective implementation of transformative pedagogy in a classroom is hindered due to lack of adequate support for teaching learning materials, such as smart boards/green boards on all sides of the wall.
- There are currently two different agencies working on the provision of PD courses for the teachers. While the REC is responsible for designing the PD programmes, the Teacher Professional Support Division (TPSD) under MoE is responsible for coordination and delivery of the PD programmes. Thus, the efficacy of the PD

programmes may be compromised due to lack of single agency responsible for both design and delivery of the programmes.

Hereby, calls on the government to:

- Expedite the expansion of access to quality ECCD programmes to attain 100% coverage prior to 2030;
- Consider raising the Bhutan Education Blueprint's target on ECCD coverage from the existing target of 50% by 2024;
- Ensure adequate financial support by revisiting the current practice of budget allocation for the primary schools;
- Revisit the current practice of school ranking system including linking of school performance with promotion of individuals to ensure that its implementation does not deviate from its intended purpose, and submit the report to National Council by **upcoming summer session**;
- Ensure adequate provision of facilities and tools for effective implementation of any new or revised curriculum; and
- Consider reviewing the roles of REC and TPSD in designing and delivering of PD programmes respectively, to ensure effectiveness of the PD programmes for both teaching and non-teaching staff.

*(3rd Day of the 12th Month of Earth Female Pig Year
corresponding to 27th January 2020)*

F. Proceedings of Question Time

1. Hon'ble Minister for Education

The government has decided to remove examinations for Classes PP-III from the academic year 2020 and as an alternative to examinations, a new package of Continuous Formative Assessment (CFA) has apparently been developed by the Royal Education Council (REC). The House asked what study has been conducted to prove that removal of examinations would be a better option for the learning outcome of children from PP-III. A question was also raised on how the Ministry plans to ensure effective implementation of the new CFA methods since the House has found that the new system has not been effectively implemented in most schools due to various reasons.

Highlighting various researches conducted internationally and existing reports within the country, the Hon'ble Minister responded that ample of studies have been already carried out pertaining to the quality of education in the country. He reported that according to these reports and as per the recommendations of international experts, the formative assessment was found essential in maintaining the quality of education.

Explaining on the system of education implemented in the country, the Hon'ble Minister stated that the responsibility to implement formative assessment system effectively falls on

the teachers and for that matter, the Ministry has provided better remuneration and incentives to encourage them to work harder. The Ministry has also proposed the Royal Civil Service Commission for teacher assistants to support the teachers where the student numbers are more than team teaching. He said that capacity building of the teachers will be prioritized and the process of the digitalization of schools is underway to help monitor and assess the education system. Likewise, National Education Assessment Framework will be introduced to evaluate the performance of the education system.

Some of the Hon'ble Members suggested that improving the current system would be more effective towards enhancing the quality of education. Supplementary questions were also raised on when can the National Education Assessment Framework be finalized; practicability of achieving the student-teacher ratio of 24:1 after lowering the class PP admission to five years of age and increasing enrolment in schools; difference between the current education system and the new system of continuous formative assessment; whether the new system can bring equal benefits to the students of both the urban and rural schools; and the plans to build additional infrastructures.

In response to the supplementary questions, the Hon'ble Minister responded that the Ministry has issued directives to submit the list of additional teachers and infrastructures required in all twenty Dzongkhags. He also said that the National Education Assessment Framework will be finalized in 2020. The Hon'ble Minister expressed his concerns over

education system lagging behind if we don't take actions and move forward. He stated that the new system has been introduced in view of this concern, taking all calculated risks. The Ministry, he said, is preparing to serve without hindering the quality of education whatever challenges are faced in the process.

*(4th Day of the 12th Month of Earth Female Pig Year
corresponding to 29th January 2020)*

2. Hon'ble Minister for Works and Human Settlement

1.1 As part of the decentralization process, the government has planned to establish Dzongkhag Thromdes in remaining 16 Dzongkhags in 2016 leading to demarcation of Dzongkhag Thromde boundaries. Prior to implementation of the plan, the Supreme Court issued a writ to withhold the implementation of the Dzongkhag Thromdes. The areas falling under the extended Thromdes are villagers whose livelihood depends on farming. These communities are deprived of both Thromde & rural facilities. Furthermore, these affected communities residing and having property (land) in extended Thromdes are charged with equal tax to that of the core town areas.

In view of the above reasons, the National Council questioned why the extended Thromde areas are not provided with Thromde facilities, while on the other hand they are also deprived of rural facilities. The House also asked whether the communities will be allowed to avail rural facilities until the Thromdes are established.

In response, the Hon'ble Minister said that the Supreme Court of Bhutan has issued a writ on August 05, 2016 suspending delimitation and demarcation of boundaries declared by the Parliament in June 10, 2015 for 16 Dzongkhag Thromdes and 20 Dzongkhag Yenlag Thromdes. Further, the interim government in 2018 advised MoWHS and all government agencies to follow Thromde boundaries of 2010 at the time of collecting taxes until amending orders are issued by the government after seeking endorsement from the Parliament.

The Hon'ble Minister highlighted that until such a time that areas within the Thromdes receive basic infrastructure in the form of road, water supply and sewerage system, they are provided incentives through an executive order such as rural house tax, rural land tax and free units of electricity as it is in the case of rural areas and farming incentives if agriculture is being practiced.

Some of the Hon'ble Members asked the status of establishing Dzongkhag Thromde in Samtse as announced by the government. To this, the Hon'ble Minister responded that the establishment of Dzongkhag Thromde in Samtse will soon be decided since feasibility studies have already been conducted and the report have been submitted to the government.

1.2 The construction of Shingkhargorgan road was approved by Gyalyong Tshogdu in 1997 and got for implementation in the interest of its long term socio-economic benefits. The road construction has been included in the 2007-2027 national road master plan and this has been approved during the 7th session of the First National Assembly. The Ministry of Works and

Human Settlement was directed for implementation but the government failed to construct the road.

The road construction project was again discussed and approved for implementation during the 4th session of the Second National Assembly and the government declared to construct the road but failed to do so. Like the past governments, the present government has promised to go ahead with the construction of Shingkhar-Gorgan road.

The National Council with the concern that there has been no visible progress as of now, asked the status of the implementation of Shingkhar-Gorgan road project. The House also asked whether the road construction project can be commenced in the 12th Five Year Plan.

In response, the Hon'ble Minister said that as per the feasibility study for the construction of Shingkhar-Gorgan road, the feasibility team reported numerous technical difficulties such as icing problem in high altitude areas, destruction to the protected areas, steep rocky terrain, and major portion of the alignment passing through core area of the Thrumshingla National Park.

The Hon'ble Minister reported that in order to fully decide on whether the Ministry should carry out the construction, a detailed EIA for construction of this road capturing both summer and winter season is required and that currently, the Ministry is processing for the EIA. He said that the Ministry also has plans to maintain Ura-Lingmethang road, construct

Yongkola-Dorjiling bridge and construct Gangola-Lhuentse road.

3. Hon'ble Minister for Agriculture and Forests

The House highlighted that damages caused to the crops and livestock by wildlife has been on the rise in the rural areas of the country. In view of this, questions were raised to the Hon'ble Minister on the fund reserved by the government to compensate the loss of crops and livestock, and when is the government going to start compensating the affected farmers.

In response, the Hon'ble Minister said that the ministry has plans to put in place new measures besides initiating various mechanisms to prevent the damages caused by wildlife to the crops and livestock. He stated that until now, damages caused by wildlife despite the measures in place, are being compensated through Kidu and that the Ministry has plans to establish the Endowment Fund for Crop and Livestock Conservation which is to be implemented under a Royal Charter. The targeted fund size of the Endowment Fund is Nu. 1.77 billion which will be maintained as seed money and the government has provided the start-up fund of Nu. 50 million.

The Hon'ble Minister clarified that projects for natural resources like banks for small-scale industries will soon be opened for long-term benefits. Besides, the Ministry is also working on crop insurance scheme to help farmers who have lost their crops to wildlife and natural calamities.

Some of the Hon'ble Members raised questions on the status of special programmes initiated for the highlanders. Questions were also asked on, whether the Endowment Fund will be utilized in compensating the damages caused by natural disasters; approaches to deal with the damages caused by domesticated animals from the bordering countries and; the strategies to lease out state land to the people.

The Hon'ble Minister responded that the special programmes formulated for the highlanders have been reviewed to cover 12 Dzongkhags. He said that many projects related to climate change and environmental conservation are in place, which are already providing funds for the damages caused by natural calamities. The Hon'ble Minister reported on the plans to hold bilateral talks to solve the issues of damages caused by the domesticated animals from bordering countries. He stated that the Ministry is currently working on the Commercial Agriculture and Resilient Livelihood Enhancement Programme which includes land lease provisions.

*(10th Day of the 1st Month of Iron Male Mouse Year
corresponding to 5th March 2020)*

G. Closing Ceremony

1. Closing Address of the Hon'ble Chairperson

The 24th Session of the National Council of Bhutan, which commenced from 15 January 2020 with an official opening ceremony, has successfully concluded. The Hon'ble Chairperson, on behalf of the National Council, expressed his gratitude to all the guests for their presence during the closing ceremony.

The Hon'ble Chairperson informed that during the 24th Session of the National Council, the House had effectively deliberated and passed resolutions on 5 legislative issues, 4 issues related to review of policies, 8 money Bills and the Annual Review Report of the Public Accounts Committee which was deliberated in the joint sitting of the parliament.

The Hon'ble Chairperson expressed his appreciation on the dedication and hard work put in by the Committees and the Members in conducting research and preparing reports and bills for deliberation. He requested the Members for the same support and dedication in the future. He also thanked the Government Ministers for participating in the Question Hour Sessions of the National Council without failure to respond to the questions raised by the House.

The Hon'ble Chairperson accredited the success of the session to the Department of National Properties for all logistical arrangements and supports; the Royal Bhutan Police for providing security services; Bhutan Agriculture and Food Regulatory Authority for inspecting and ensuring good quality food; Ministry of Health for providing health services; Bhutan Broadcasting Service Corporation for live telecast of the entire proceedings of the session; other media houses for disseminating news and information related to the session; and all the secretariat staff for their efforts and hard works during the session.

In conclusion, the National Council offered *Zhabten* and *Tashi Moenlam* to seek blessings of the Kenchog Sum and protection of the guardian deities for the long lives and prosperity of His Majesty the Druk Gyalpo, His Majesty the Fourth Druk Gyalpo, Her Majesty the Gyaltsuen, His Royal Highness the Gyalsay, members of the Royal Family, His Holiness the Je Khenpo, Lamas and Truelkus. The 24th Session of the National Council concluded on 5/3/2020 coinciding with the auspicious occasion of the 10th Day of the 1st Month of Iron Male Mouse Year of the Bhutanese Calendar.



(Tashi Dorji)
Chairperson
National Council of Bhutan

ANNEXURE I: The Lhengye Zhungtshog Bill of the Kingdom of Bhutan 2020

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THE LHENGYE ZHUNGTSHOG BILL OF KINGDOM OF BHUTAN 2020

PREAMBLE

WHEREAS the Constitution of the Kingdom of Bhutan requires that the Government shall protect and strengthen the sovereignty of the Kingdom, provide good governance, and ensure peace, security, well-being and happiness of the people;

WHEREAS the Government shall perform functions that safeguards the interests of the nation and fulfills the aspirations of the people through formulation and implementation of policies, plans and programmes; implement legislations passed by the Parliament; and carrying out State functions;

WHEREAS the Lhengye Zhungtshog, in exercise of Executive Power, shall be collectively responsible to the Druk Gyalpo and to Parliament;

WHEREAS the Lhengye Zhungtsho Act 1999 requires to be made consistent with the Constitution of the Kingdom of Bhutan;

The Parliament of the Kingdom of Bhutan do hereby enacts as follows:

**CHAPTER 1
PRELIMINARY**

Title

1. This Act is the Lhengye Zhungtshog Act of the Kingdom of Bhutan 2020.

Commencement

2. This Act comes into force on the ...Day, of the ...Month of the ...Year of the Bhutanese Calendar corresponding to the ...Day of the ...Month of the ... Year.

Extent

3. This Act extends to the whole of the Kingdom of Bhutan.

Application

4. This Act applies to the members of the Lhengye Zhungtshog.

Principal Objects

5. The principal objects of this Act are:
 - (1) To set out the procedures for the formation and composition, powers, responsibilities and functions of the Lhengye Zhungtshog, including its Secretariat to enable the Lhengye Zhungtshog to discharge its responsibilities in an efficient, fair and transparent manner with accountability and integrity;
 - (2) To prescribe code of conduct for the Members of the Lhengye Zhungtshog to preserve and enhance the public's confidence and trust in the dignity, good reputation and integrity of the Lhengye Zhungtshog; and

- (3) To provide for any matter which is consequential, ancillary or incidental thereto.

Repeal

6. The Lhengye Zhungtsho Act 1999 is hereby repealed.

CHAPTER 2 THE LHENGYE ZHUNGTSHOG

Formation and Composition

7. There shall be a Lhengye Zhungtshog in which all executive powers of the government under the Constitution are vested.
8. The Lhengye Zhungtshog shall be composed of the Prime Minister as Chairperson, and Ministers as Members after receiving Dakyen from the Druk Gyalpo in accordance with Article 17(1) and (3) of the Constitution.

Eligibility and Qualification

9. A candidate for the post of Chairperson and Members of Lhengye Zhungtshog shall be an elected member of the National Assembly and a natural born citizen of Bhutan and shall possess the qualifications as prescribed in the Constitution and other relevant laws.

Oath or Affirmation of Secrecy

10. The Chairperson and Members of the Lhengye Zhuntshog shall take an Oath or Affirmation of Secrecy in accordance with Article 10(19) of the Constitution.

Tenure

11. The tenure of the Chairperson and members shall be five years in one term in accordance with Article 10 (24) of the Constitution and subject to resignation or removal or death in accordance with this Act or Article 17 (3) or Article 17 (7) of the Constitution.

Resignation

12. A member may, before the expiry of his or her term, resign after submitting an application of resignation in writing to the Chairperson, at least thirty days in advance and subject to acceptance by the Druk Gyalpo. In case of the Chairperson, the letter of resignation shall be submitted to the Druk Gyalpo.
13. The Chairperson may either accept or reject the application of resignation made by the member before submission to the Druk Gyalpo.
14. A member of the Lhengye Zhungtshog may resign in the manner provided under section 12 of this Act but shall continue to be a Member of the National Assembly.
15. A member of the Lhengye Zhungtshog who has resigned may, with the consent of the Speaker, make a personal statement in explanation of his or her resignation on any day during the session in which the resignation has been accepted by the Druk Gyalpo. There shall be no debate on such statement.

Removal of Chairperson and Member

16. The Chairperson and members shall be removed on the following grounds but not limited to:
 - (1) Marries a person who is not a citizen of Bhutan;
 - (2) Convicted of a criminal offence and sentenced to imprisonment;
 - (3) Is in arrears of taxes or other dues to the Government;
 - (4) Holds any office of profit under the government or public company or public corporation;
 - (5) Suffers physical, mental or other incapacity of a permanent nature;
 - (6) Commits willful violations of the laws of the country; or
 - (7) Repeated or serious breach of Oath or Affirmation of Secrecy and Code of Conduct.

17. If the National Assembly passes a two-third majority of vote of no confidence in a member thereof, the Chairperson shall recommend the removal of that member to the Druk Gyalpo.

18. The Chairperson shall advise the Druk Gyalpo for removal of a member and the removal is effective upon acceptance of such advice.

19. If the Chairperson or a Member is removed from the National Assembly, he or she shall be automatically removed from the Lhengye Zhungtshog.

Vacancy

20. The position of a member of the Lhengye Zhungtshog shall become vacant upon:
- (1) Resignation;
 - (2) Removal;
 - (3) The expiration of the term of office; or
 - (4) Death.

Filling of Vacancy

21. Where the position of a member becomes vacant for any reason before the expiry of its term, the position shall be filled within a period of thirty days from the date of such vacancy.

CHAPTER 3

POWERS, FUNCTIONS AND RESPONSIBILITIES

Independence

22. The Executive shall be separate from the Legislature and the Judiciary and no encroachment of each other's powers is permissible except to the extent provided for by the Constitution.

Powers, Functions and Responsibilities

23. In exercising its Executive Powers, the Lhengye Zhungtshog shall:
- (1) Protect and strengthen the sovereignty of the Kingdom, provide good governance, and ensure peace, security, wellbeing and happiness of the people;
 - (2) Subject to Article 2 (16) and (19) of the Constitution, aid and advise the Druk Gyalpo in the exercise of

His functions including international affairs, provided that the Druk Gyalpo may require the Lhengye Zhungtshog to reconsider such advice, either generally or otherwise;

- (3) Assess the state of affairs arising from developments in the State and society and from events at home and abroad;
- (4) Define the goals of State action and determine the resources required to achieve them;
- (5) Plan and co-ordinate government policies and ensure their Implementation;
- (6) Represent the Kingdom at home and abroad;
- (7) Promote an efficient civil administration based on the democratic values and principles enshrined in the Constitution;
- (8) Collectively be responsible to the Druk Gyalpo and to Parliament;
- (9) Not issue any executive order, circular, rule or notification which is inconsistent with or shall have the effect of modifying, varying or superseding any provision of a law made by Parliament or a law in force;
- (10) Institute, oversee or dissolve the Committee of Secretaries, including the approval of the approved Rules of Procedures or Guidelines thereof;
- (11) Comply with the Protocol for Policy Formulation adopted by the Government and ensure policy implementation through regular monitoring; and
- (12) Exercise any other powers, functions or discharge responsibilities as may be provided for in the Constitution, this Act and other laws.

**CHAPTER 4
SESSIONS**

Sessions

24. The Lhengye Zhungtshog shall perform its functions through Lhengye Zhungtshog Sessions.
25. The sessions of the Lhengye Zhungtshog shall be conducted as per the Rules of Procedures approved by the Lhengye Zhungtshog.
26. There shall be an inaugural session of the Lhengye Zhungtshog, which shall be conducted as per the Rules of Procedure.
27. The Prime Minister shall preside over the sessions of the Lhengye Zhungtshog as its Chairperson. In the absence of the Prime Minister, next member as decided by the Chairperson shall preside over the session.

Quorum

28. The quorum for sessions shall be at least two-thirds of its members.
29. If there is no quorum at any time during the Lhengye Zhungtshog's session, it shall be the duty of the Chairperson or any person presiding in his or her absence, either to adjourn the session or to suspend the session until there is a quorum.

30. For the purpose of quorum, the Chairperson may allow members to participate in session through use of secure video conferencing technology.

Conflict of Interest

31. A member shall ensure that no conflict of interest arises, or appears to arise between his or her official duties and his or her private interests, financial or otherwise. A conflict of interest may exist when a member is influenced or appears to be influenced by private interests.
32. A member shall declare conflict of interest in any deliberations on the agenda and the Chairperson may accordingly excuse participation of that member in the session.
33. If a member fails to declare conflict of interest under section 32 of this Act, the Chairperson shall remove that member from attending a session.

Agenda and Minutes of the Session

34. The Ministry or Agency shall submit the agenda in accordance with a format prescribed under the Rules of Procedure approved by the Lhengye Zhungtshog.
35. The Cabinet Secretariat shall keep the record of sessions of every Lhengye Zhungtshog.

Deliberations

36. The sessions of the Lhengye Zhungtshog shall be conducted in Dzongkha.

Decision of the Lhengye Zhungtshog

37. Every decision of the Lhengye Zhungtshog shall be based on consensus. Where there is no consensus, the Chairperson shall require Members to vote by show of hands and the will of simple majority of the total numbers of the Members shall prevail.
38. In the event of a tie, the Chairperson shall cast a deciding vote.
39. The Lhengye Zhungtshog shall regularly monitor its decisions and recommendations for proper implementation.
40. An implementing Agency shall be responsible for:
 - (1) Ensuring timely implementation of the decisions and recommendations of the Lhengye Zhungtshog; and
 - (2) Reporting to the Lhengye Zhungtshog on the implementation status of the decisions and recommendations whenever required.

Record, Confidentiality and Archival

41. All important documents including agenda, papers and minutes of sessions, both in draft and final form of the Lhengye Zhungtshog shall be treated confidential and stored securely.
42. Every record of the Lhengye Zhungtshog sessions shall be the property of the Government.

43. A member of the Lhengye Zhungtshog shall return all official documents to the Secretariat on relinquishing the office.

CHAPTER 5 PRIVILEGES, IMMUNITIES AND REMUNERATION

Privileges and Immunities

44. Any member who has the right to speak or otherwise take part in the proceedings of the Lhengye Zhungtshog shall have the right to freedom of speech, opinion and expression.
45. A member shall have the right to be provided with information by the relevant agencies and to inspect any official document on any matter of relevance in the exercise of his or her Ministerial mandates.
46. A member of the Lhengye Zhungtshog shall be immune from any inquiry, arrest, detention or prosecution on account of any opinion expressed in the course of the discharge of his or her functions or vote cast in the session and no person shall be liable in respect of any report, paper or proceedings made or published under the authority of the Lhengye Zhungtshog.
47. The immunities under section 46 shall not cover corrupt acts committed by any member in connection with the discharge of his or her duties or cover other acts of accepting money or any other valuables in consideration to speak or to vote in a particular manner.

48. Members of the Lhengye Zhungtshog shall not be compelled to give evidence or produce documents in a court of law relating to the proceedings of the Lhengye Zhungtshog without the prior permission of the Chairperson.

Remuneration

49. The salary, allowances, benefits, and other emoluments for a member shall be as determined as per the Pay Revision Act and other relevant laws.

CHAPTER 6 CODE OF CONDUCT

Loyalty and Dedication

50. A member shall not act in ways that is detrimental to Bhutan's sovereignty, territorial integrity and security, nor attack the Institution of Monarchy or undermine the democratic constitutional monarchy.
51. A member shall place the highest importance to serving the *Tsa-Wa-Sum* with utmost loyalty and dedication, and fulfill his or her responsibilities by following the highest moral principles.
52. A member shall uphold and promote core Bhutanese values and essential elements of *Driglam-Nam-Zha, Thadamsi and Ley-Jumdrey*.

Leadership

53. A member shall display high moral values and conduct himself or herself at all times in a manner that befits his or

her dignity and position. A member shall abide by the existing laws, and adhere to the code of conduct prescribed in this Act.

Integrity

54. A Member shall not be influenced in any manner whatsoever by any person in the discharge of his or her official duties on the grounds of personal affinity or obligations;

Transparency

55. The decisions and actions of every member shall be made transparent and he or she shall provide reasons for his or her decisions during the session.

Confidentiality

56. A member shall maintain confidentiality of decisions and shall not disclose the internal process through which a decision has been reached concerning the security of the nation.

Other Obligations

57. A member shall respect the apolitical nature of public service.

58. A member of the Lhengye Zhungtshog shall not maintain or operate bank accounts in any country outside Bhutan.

59. The member shall follow Lhengye Zhungtshog session decorum as prescribed in the Rules of Procedure.

**CHAPTER 7
DISSOLUTION**

Completion of Term

60. The Lhengye Zhungtshog shall be dissolved following the completion of the five year term of the National Assembly in accordance with Article 10 (24) of the Constitution. The Prime Minister and Ministers who were in office immediately before the National Assembly was dissolved shall resign from office after handing over official charges to their respective Secretaries till the appointment of the interim government.

Premature Dissolution

61. The premature dissolution of the National Assembly may take place on the recommendation of the Prime Minister to the Druk Gyalpo.

Vote of no confidence

62. If a vote of no confidence against the Government is passed by not less than two-thirds of the total number of members of the National Assembly, the Druk Gyalpo shall dismiss the Government in accordance with Article 17 (7) of the Constitution.

Declaration by the Supreme Court

63. The Lhengye Zhungtshog shall stand dissolved if the ruling party of the National Assembly is dissolved by the Supreme Court in accordance with Article 15 (11) of the Constitution on the following grounds:

- (1) If the objectives or activities of the party are in contravention of the provisions of the Constitution;

- (2) If it has received money or assistance from foreign sources;
- (3) On such other grounds as may be prescribed by parliament or under a law in force; or
- (4) On violation of the Electoral laws.

Procedure for Dissolution of Lhengye Zhungtshog

64. The procedure for dissolution of the Lhengye Zhungtshog shall be conducted formally as per Rules of Procedure.

CHAPTER 8 OFFENCES AND PENALTIES

65. Except for any criminal offence which shall be dealt with in accordance with the Penal Code of Bhutan, any other offence under this Act shall be dealt with in accordance with this Act.
66. A member who contravenes any provision of this Act shall be guilty of an offence and be liable to one or more of the following penalties, as determined by the Lhengye Zhungtshog:
- (1) A reprimand;
 - (2) A fine;
 - (3) The refund of any illicit profit;
 - (4) The refund of the indemnities, allowances or other sums he or she received as a Member while the offence continued;
 - (5) A suspension; or
 - (6) Loss of his or her position as a Member.

Breach of Privileges

67. When any individual or authority disregards any of the privileges, either of the members or of the Lhengye Zhungtshog, an offence of breach of privileges is committed.
68. Breach of privileges may include:
- (1) Reflection on the character and impartiality of the Chairperson in the discharge of his or her duty;
 - (2) Publication of false, distorted or confidential report of the proceedings of the Lhengye Zhungtshog;
 - (3) Publication of proceedings of the closed door meetings, without the permission of the Chairperson;
 - (4) Intimidation of members to influence them in their conduct, vote, opinion or judgment;
 - (5) Offering of bribes to members to influence them in their conduct;
 - (6) Obstructing or hindering members of the Lhengye Zhungtshog in the execution of their official duties;
 - (7) Deliberately giving false or misleading information to the Lhengye Zhungtshog by a member or a person;
 - (8) Disobedience to orders of the Chairperson;
 - (9) Creating disturbance or disruption in the course of the proceedings of the Lhengye Zhungtshog;
 - (10) Presenting false, forged or fabricated documents to the Lhengye Zhungtshog;
 - (11) Refusing to present information or document that has been requested by a Member or the Lhengye Zhungtshog;

- (12) Obstructing or molesting members, officials or ancillary staff of the Lhengye Zhungtshog in the execution of their executive duties; or
 - (13) Tampering with official documents presented to the Lhengye Zhungtshog.
69. On any inquiry concerning the privileges, immunities and powers of the Lhengye Zhungtshog, any copy of the journals of the Lhengye Zhungtshog shall be admitted as evidence.
70. The penalty for breach of privileges by any person under this Act is guilty of an offence and liable to a maximum fine of five years minimum wage rate.

CHAPTER 9 CABINET SECRETARIAT

Secretariat

71. There shall be a Cabinet Secretariat staffed by the civil servants and headed by the Cabinet Secretary.
72. The Cabinet Secretary shall be appointed by the Druk Gyalpo by warrant under his hand and seal on the recommendation of the Prime Minister in accordance with Article 2(19)(m) of the Constitution.
73. The appointment, terms and conditions of service of the staff of the Secretariat shall be in accordance with the Civil Service Act of Bhutan for the effective discharge of responsibilities for the Lhengye Zhungtshog.

Functions

74. The Cabinet Secretariat shall aid and assist the Lhengye Zhungtshog in the discharge of its duties and responsibilities.
75. The Cabinet Secretary under the supervision of the Prime Minister shall manage the affairs of the Lhengye Zhungtshog and be responsible for the administration of the Secretariat.
76. The Secretariat shall:
- (1) Provide organization, information, legal, other expert and analysis, and logistic support to the operation of the Lhengye Zhungtshog;
 - (2) Provide sound policy advice to the Prime Minister and Lhengye Zhungtshog;
 - (3) Be the custodian of all the documents of the Lhengye Zhungtshog and Interim Government and shall ensure strict confidentiality and safekeeping;
 - (4) Coordinate and ensure timely and smooth implementation of the Lhengye Zhungtshog decisions and directives by various Ministries and Agencies;
 - (5) Be responsible for arranging the Lhengye Zhungtshog's business; submit the agenda for discussion by the Lhengye Zhungtshog; maintain safekeeping of the records of decisions and proceedings of the Lhengye Zhungtshog sessions; convey the Lhengye Zhungtshog's decisions, and conduct follow up actions on such decisions' implementation;

- (6) Effectively manage transition of governments and support continuity of governance;
- (7) Develop rules of procedures, guidelines and manuals for the Lhengye Zhungtshog in consistent with this Act; and
- (8) Perform such other functions as may be determined by this Act or any other rules made under this Act.

CHAPTER 10 MISCELLANEOUS

Rules of Construction

77. In this Act, the singular shall include the plural and vice versa.

Rule Making Power

78. The Lhengye Zhungtshog shall adopt rules for effective implementation of any provision of this Act.

Amendment

79. Parliament may, by way of addition, variation or repeal, amend this Act.

Authoritative Text

80. In any instance of difference in meaning between the Dzongkha and the English texts of this Act, the Dzongkha text shall be regarded as the authoritative text.

Definitions

81. In this Act, unless the context otherwise requires:

- (1) “**Chairperson**” means the Chairperson of the Lhengye Zhungtshog.

- (2) “**Committee of Secretaries**” refers to the high level committee which comprises of the Cabinet Secretary as the Chairperson and the Secretaries to the government.
- (3) “**Conflict of Interest**” means a conflict between the official duties and the private interests of a member of Lhengye Zhungtshog, including not only his or vested interest but also those of his or her family.
- (4) “**Constitution**” means the Constitution of the Kingdom of Bhutan.
- (5) “**Dakyen**” means an award of rank and responsibility.
- (6) “**Incapacity**” means a severe physical, mental or other incapacity of a permanent nature that materially impedes a member from discharging his or her official functions.
- (7) “**Lhengye Zhungtshog**” means Council of Ministers or Cabinet.
- (8) “**Member**” means a Member of the Lhengye Zhungtshog including the Chairperson.
- (9) “**Remuneration**” means the salary, allowances, benefits and other emoluments.
- (10) “**Secretariat**” means the Cabinet Secretariat.
- (11) “**Session**” means meetings of the Lhengye Zhungtshog.

ANNEXURE II: List of Members of the National Council of Bhutan

1. His Excellency Tashi Dorji, Chairperson, Wangduephodrang Dzongkhag
2. Hon'ble Jigme Wangchuk, Deputy Chairperson, Samdrupjongkhar Dzongkhag
3. Hon'ble Dasho Tashi Wangyel, His Majesty's Nominee
4. Hon'ble Phuntsho Rapten, His Majesty's Nominee
5. Hon'ble Tashi Wangmo, His Majesty's Nominee
6. Hon'ble Karma Tshering, His Majesty's Nominee
7. Hon'ble Kesang Chuki Dorjee, His Majesty's Nominee
8. Hon'ble Nima, Bumthang Dzongkhag
9. Hon'ble Sangay Dorji, Chhukha Dzongkhag
10. Hon'ble Surjaman Thapa, Dagana Dzongkhag
11. Hon'ble Dorji Khandu, Gasa Dzongkhag
12. Hon'ble Ugyen Namgay, Haa Dzongkhag
13. Hon'ble Tempa Dorji, Lhuentse Dzongkhag
14. Hon'ble Sonam Pelzom, Mongar Dzongkhag
15. Hon'ble Ugyen Tshering, Paro Dzongkhag
16. Hon'ble Choining Dorji, Pemagatshel Dzongkhag
17. Hon'ble Lhaki Dolma, Punakha Dzongkhag
18. Hon'ble Tirtha Man Rai, Samtse Dzongkhag
19. Hon'ble Anand Rai, Sarpang Dzongkhag
20. Hon'ble Tshewang Rinzin, Thimphu Dzongkhag
21. Hon'ble Karma Gyeltshen, Tashiyangtse Dzongkhag
22. Hon'ble Lhatu, Trashigang Dzongkhag
23. Hon'ble Tashi Samdrup, Trongsa Dzongkhag
24. Hon'ble Dhan Kumar Sunwar, Tsirang Dzongkhag
25. Hon'ble Pema Dakpa, Zhemgang Dzongkhag