

RESOLUTIONS (TRANSLATION) OF THE 6th SESSION OF THE NATIONAL COUNCIL OF BHUTAN

*(13th Day of the 10th Month of the Iron Male Tiger Year
corresponding to 19th November 2010)*

A Proceedings of the Opening Ceremony

The 6th Session of the National Council of Bhutan commenced on the 13th Day of the 10th Month of the Iron Male Tiger Year with the offering of *Marchang* presided over by the Hon'ble Chairperson.

B Hon'ble Chairperson's Address

The Hon'ble Chairperson welcomed the Hon'ble Members, guests, media personnel and all the people watching television and listening to the radio to the opening ceremony of the 6th Session of the National Council of Bhutan. At the outset, he thanked His Majesty the King Jigme Khesar Namgyal Wangchuck for further strengthening the Indo-Bhutan friendship with his state visit to India. He said that His Majesty's exemplary speech and wise counsel had gained worldwide popularity. Similarly, the Government Ministries under the leadership of Hon'ble Prime Minister had carried out commendable work for the benefit of the country and the people. The National Council, through review and Question Time, had supported the Government by providing recommendations and serving reminders. The Hon'ble Chairperson assured that the National Council would similarly continue to render its full support to the Government in the future.

He also thanked the Hon'ble Members who visited colleges and schools in a group to brief them on the mandate and functions of the National Council as well as the principles of parliamentary democracy in accordance with the resolution of the 5th session. He said that the program would continue in those colleges and schools that could not be visited so far.

The Hon'ble Chairperson informed that the various Committees of the National Council had carried out preparatory works to facilitate deliberations during the 6th Session in keeping with their assigned responsibilities. The Environment & Natural Resources Committee had discussed on the Water Bill of Bhutan 2010, the Social & Cultural Affairs Committee on the Adoption Bill of Bhutan 2010, the Good Governance Committee on the Income Tax (Amendment) Bill 2010, the Economic Affairs Committee on the Financial Services Bill of Bhutan 2010 and the Legislative Committee on the two international conventions. They had also conducted consultative meetings with relevant ministries and institutions. Likewise, the House Committee had finalized the Rules of Procedure of the National Council and the Committee Rules. He expressed his appreciation and thanked all the Committees for their hard work. He also thanked the Secretariat for its unfailing services rendered towards fulfilling the mandates of the National Council and expressed hope for its continued support.

The Hon'ble Chairperson offered his condolences and expressed sadness on the destruction of 66 shops, hotels and residential houses, and death of two people in the fire accident that took place on 26th October in

Chamkhar town in Bumthang. He also offered his sympathies on the destruction of crops and rooftops recently in a few *Gewogs* under Pemagatshel *Dzongkhag* due to windstorms.

Although the country was afflicted by such natural disasters, Their Majesties the Kings and the Royal Family had always stood by the people and provided all necessary assistance including food and housing. They had personally visited the affected areas to console the people. The Hon'ble Chairperson expressed his sincere gratitude to Their Majesties the Kings and the Royal Family. He also thanked the Hon'ble Prime Minister, Cabinet Ministers and government officials for visiting the affected areas and providing immediate relief and assistance in terms of labor and materials.

The Hon'ble Chairperson acknowledged that the service personnel in the three branches of the armed forces not only served day and night by sacrificing their lives for security of the country, but also contributed labor during such natural disasters. He thanked His Majesty the King for granting raise in salary of the armed forces in recognition of their vital services.

The Hon'ble Chairperson recalled that in its 5th Session, the National Council had deliberated on 10 legislative, 6 policy related and other general issues, and submitted its recommendations to the Government and relevant institutions. He expressed hope that the agencies concerned would welcome these and accordingly take necessary actions.

With the blessings of the *Tsa-Sum Damchen Jamtsho*, the guidance of Their Majesties the Kings and the wisdom of the Hon'ble Members, the Hon'ble Chairperson prayed that the deliberations of the 6th Session may conclude successfully in keeping with the present and future interest of the country and the people.

C Adoption of the Session's Agenda

Under legislative issues, the National Council resolved to include new Bills, namely, the Adoption Bill of Bhutan 2010, the Water Bill of Bhutan 2010, the Financial Services Bill of Bhutan 2010, the Income Tax (Amendment) Bill 2010, the International Convention against Doping in Sports and the SAARC Convention on Cooperation on Environment in the agenda for its 6th Session. The House would also re-deliberate on the Child Care & Protection Bill of Bhutan 2010, the Anti-Corruption (Amendment) Bill 2010, the Penal Code of Bhutan (Amendment) Bill 2010, and the Civil & Criminal Procedure Code of Bhutan (Amendment) Bill 2010, which had been submitted to the National Assembly after deliberation in the 5th Session, if the two Houses could not reach consensus on these Bills.

In addition, the National Council shall discuss on the Report on Salary Revision to be submitted by Ministry of Finance on 3rd December. Like in the past, Ministers would come and take part in the Question Time of the National Council every Tuesday and Friday. On the last day of the session, the National Council shall deliberate on "Any Other Business".

However, the new Bills received recently from the Government for deliberation in the 6th Session, namely, the Bhutan Institute of Medical Sciences Bill 2010, the Consumer Protection Bill of Bhutan 2010 and the SAARC Agreement on Trade in Services (SATIS) could not be included in the agenda since there were too many Bills to be taken up within a short period of time. Moreover, a resolution required that Bills for deliberation in the National Council be submitted three months prior to the commencement of the session. The House resolved to take up these Bills in the 7th Session.

(16th, 17th and 20th Days of the 10th Month of the Iron Male Tiger Year corresponding to 22nd, 23rd and 26th November 2010)

D Legislative Issues (Bills/Amendments of Acts)

1 The Water Bill of Bhutan 2010

1.1 Introduction of the Bill by Hon'ble Minister for Works & Human Settlement

The Hon'ble Minister said that while our country was endowed with rich natural resources unlike other countries, it was important to take proper care of the forests and water resources in keeping with the changing times. Although Bhutan had abundant water in the past, we were currently faced with scarcity due to climate change, urbanization, industrial development and increase in population. There were also water related disputes within families, neighbors, villages, *gewogs*, *dzongkhags* and between countries.

Water was indispensable for sustenance of life. It was required for drinking, sanitation and irrigation, as well

as for hydro-electricity which was the backbone of our country's economy. If water dried up and became scarce, human population could not survive on earth. While we had traditional systems and laws, it was essential to have in place a Water Act for proper management, cleanliness, distribution and sustainability of water in keeping with changing times. Therefore, the National Environment Commission on the directives of the Royal Government had drafted the Water Bill. The Hon'ble Minister said that the draft had been deliberated in the National Assembly and was submitted to the National Council for adoption.

However, the Hon'ble Members from Paro and Haadzhongkhags cautioned that the enactment of Water Act despite the existence of traditional systems for management and protection of water might create problems. Further, they felt that instead of the National Environment Commission, it would be more effective if a new Commission was established for implementation of the Water Act and management of water resources.

On this, the Hon'ble Minister for Works & Human Settlement clarified that the implementation of the Act and management of water resources had been entrusted to the National Environment Commission as water was part of the environment. Moreover, he said that the establishment of a separate Commission would create more problems to the Government.

1.2 Submissions on the Bill by the Chairperson, Natural Resources & Environment Committee

The Chairperson said that in accordance with the Government's directive, the National Environment Commission had drafted the Water Bill of Bhutan 2010 after thorough consultative meetings both within and outside the country. The draft had been endorsed by the Cabinet after which it was deliberated and passed in the National Assembly during the 5th Session of Parliament. The Bill had now been received in the National Council for its consideration.

As directed by the House, members of the Natural Resources & Environment Committee along with Hon'ble Tashi Wangmo had discussed on the Bill, thoroughly. The Committee had also held numerous consultations with two *dzongkhags* and other relevant agencies. He said that against 75 sections in the original Bill, the Committee had now come up with 103 sections with amendments, which were submitted to the House for further deliberations.

1.3 Amendments and Changes to the Bill

The Water Bill of Bhutan 2010 was thoroughly deliberated upon by the National Council on 19/11/2010, 22/11/2010, 23/11/2010 and 26/11/2010. The House resolved to submit the following amendments/changes to the National Assembly for re-deliberation.

PREAMBLE

Recognizing that water is one of the most important natural resources of the Kingdom;

Recognizing the seasonal and local scarcity of water for drinking and agricultural purposes, despite the country being endowed with abundant water resources;

Being mindful that rapid socio-economic development results in increasing pressure on the environment including water resources;

Recognizing the threat from climate change **in addition to increasing anthropogenic threats on water resources and watershed conservation even with the existing policy of sustainable management of natural resources;**

Being determined to protect the environment and human health through integrated water resources management, **where appropriate, decentralize the management function to enable everyone to participate,** in pursuit of Gross National Happiness and the age old tradition of living in harmony with nature;

Acknowledging water resource as a State property and the State's rights over mineral resources, rivers, lakes and forests are enshrined in the Constitution of the Kingdom of Bhutan;

Bearing in mind that every Bhutanese have assured access to adequate, safe and affordable water to enhance the quality of lives;

And realizing the need for a comprehensive legislation, which shall also foster institutional linkages to guide various water user sectors in the best interest of the nation and the people;

Parliament of the Kingdom of Bhutan do hereby enact the Water Act at itsSession of the Parliament held on..... as follows:

Section 3

(Did not accept National Assembly's amendment; retained as in the draft).

Section 4

The purpose of this Act shall be:

- a) to ensure that the water resources are protected, conserved and/or managed in an economically efficient, socially equitable and environmentally sustainable manner.

b) to establish suitable institutions.

New Section after Section 5

Water use Priorities

5A. The use of water shall observe following order of priorities:

- a) **water for drinking and sanitation;**
- b) **water for agriculture;**
- c) **water for energy;**
- d) **water for industry;**

e) **water for tourism and recreation; and**

f) **water for other uses.**

New Sections after Section 6

Community Based Water Resources Management

6A. Communities shall participate in the integrated management of water resource pursuant to this Act, and beneficiaries and stakeholders shall be consulted in the manner set out in this Act.

Protection of Water Catchment

6B. All persons shall cooperate in the conservation, protection and management of the water catchment areas. The right and responsibility to co-operate shall extend to all aspects of achieving the purpose of the Act.

Section 10

- a. The National Environment Commission shall be an independent authority established ~~by an Act of Parliament and shall exercise~~ **in exercising** the powers and **discharging the** functions conferred under this Act. *(National Assembly's amendment)*
- b. **The members of the Commission shall include all major water users.**

Section 11

The **National Environment** Commission shall ~~have the following powers and functions:~~

- i) **Ensure implementation of this Act.**
- ii) **Co-ordinate national integrated water resources management.**
- iii) **Issue directives that are binding on all persons and Competent authorities for following purpose pertaining to water and water resources:**
 - a) **Restorative, corrective or mitigating measures;**
 - b) **planning, protection and management within certain areas, zones, regions or nationwide;**
 - c) **Promotion of water education, research or studies;**
 - d) **Promotion of water friendly and water efficient technologies;**
 - e) **Mainstream water into the national Policy, Plan and Program;**
 - f) **Any other matter in specific or general deemed important for the betterment of water quality or sustainable management and use of water resources.**
- iv) **Adopt Strategies, plans and Programs for achieving the purpose of this Act.**
- v) **Designate any Ministry, Organization, Agency or Committee as a Competent Authority to effectively enforce and implement the provisions under this act**
- vi) **Set water quality standards and guidelines.**
- vii) **Set effluent discharge standards for discharge of certain substances into water resources.**
- viii) **Establish procedures for monitoring of water quality standards and discharge standards.**

- ix) **Without prejudice to charges and fees payable in respect of water supply and waste water disposal services provided by a service provider, develop criteria for waste water charges, abstraction charges and other fees.**
- x) **Review, revise and advice the government on water policy, regulations, standards, guidelines and other matters related to emerging water issues.**
- xi) ~~To~~ **Declare any lake, river or waterway or any part thereof for environmental conservation and other uses in consultation with the relevant stakeholders. In making the declaration the commission may impose such conditions and restrictions as it deems fit.**
- xii) **Recommend to Parliament to declare any lake, river or waterway or any part thereof for mega hydro projects.**
- xiii) **Monitor overall compliance by the competent authorities under this Act.**
- xiv) Prepare and submit reports to the Cabinet **and the Parliament, periodically.**
- xv) Recommend ratification of bilateral and multilateral water related instrument to the Parliament;
- xvi) May delegate its powers to such person or competent authorities as prescribed in the regulations under this Act.

(Provisions of the draft not reflected in the amendments have been deleted)

New Section after Section 12

Competent Authorities

12A. Government agencies, including ministries and local authorities delegated with specific functions relevant to water supply, protection and its management under this Act shall be designated as Competent Authorities.

Section 13 (a), (b) & (e)

- a. The Ministry of Works & Human Settlement and municipal bodies for ensuring safe, adequate and potable water supply, **and proper sewage management** in the Throms and Thromdes.
- b. The Dzongkhag Tshogdu and Gewog Tshogde supported by the Dzongkhag, Dungkhag and Gewog Administration in collaboration with the Ministry of Health for ensuring safe, adequate and potable water supply at Dzongkhag, Dungkhag, Gewog and Chiwog level not covered under **subsection (a)**.
- e. The Ministry of Economic Affairs for:
 - i) issuance of trade license for water related commercial activities,**
 - ii) collection, analyses and dissemination of water resources data and monitoring of water flows including discharge level and sediment for the purposes of the National Integrated Water Resources Management Plan, planning and design of water resource infrastructure including dams and GLOF issues.

Section 17

The Competent Authorities may enter into contracts or other forms of arrangements with private parties,

including ~~Non-Governmental Organizations~~ and civil society organizations to provide for water related infrastructure and services.

New Section after Section 17

17A. The Commission shall regulate the water pricing in keeping with section 5 (c) of this Act in case of privatization of water related infrastructure and services.

Section 20

- a) The Secretariat, with the assistance of the Competent Authorities, shall prepare and periodically update a National Integrated Water Resources Management Plan for the conservation, development and management of water resources.
- b) The Secretariat shall consult the public, prior to submission of a plan to the Commission for its approval.
- c) **The Plan shall include but not limited to *inter alia* national goals, and priorities of water resources development and integrated management, establishment of minimum environmental flow requirements, designation and protection of wetlands and other critical water sheds, reservation of volumes of water for priority usages, as well as an assessment of the water resources.**
- d) The Plan shall be mainstreamed into National Policies, Plans and Programs,

Section 21

- a) The Secretariat **with the assistance of River basin Committee**, ~~in consultation with the Competent Authorities and stakeholders, may~~ **shall** prepare, and periodically update, a River Basin Management Plan for each river basin gazetted pursuant to section 24 of this Act.
- b) ~~River Basin Management Plans shall mainstream the goals, the strategies and the implementation measures foreseen in the National Integrated Water Resources Management Plan.~~ **The National Integrated Water Resources Management Plan developed as per section 20 (a) shall serve as a binding guideline for the preparation of plans under this section.**

Section 22

(Deleted)

Section 23 (c)

(Did not accept National Assembly's amendment)

Section 24

- a) The Commission **shall** ~~may~~ establish river basin committees within a basin for the purpose of proper management of water resources.
- b) In determining the composition of a river basin committee, the Commission shall ensure adequate representation from among any or all but not limited to the following groups:

- i) **Federation of** Water Users' Associations;
 - ii) Hydropower generation agency;
 - iii) Industries;
 - iv) Drinking water supply and sanitation service providers;
 - v) Recreation and tourism operators;
 - vi) Registered environmental non-governmental organizations;
 - vii) Traditional communities with particular regard to those engaged in subsistence farming;
 - viii) Department of Forest;
 - ix) Local Governments; and
 - x) National Environment Commission.
- c) ~~The composition and functioning of the river basin committees shall be determined in Regulations pursuant to this Act. After having established a river basin committee, the Commission shall declare an area within which the committee will carry out its functions.~~**

New Sections after Section 24

Functions of river basin committees

24A. The functions of river basin committees are:

- (a) **to promote community participation in the protection, use, development, conservation, management and control of water resources in**

its area of operation through education and other appropriate activities;

- (b) to prepare a River Basin Management Plan for the basin;**
- (c) to make recommendations regarding the issuance or cancellation of approvals and permits under this Act;**
- (d) to promote community self-reliance, including the recovery of costs for the operation and maintenance of water-related infrastructure;**
- (e) to monitor and report on the effectiveness of policies and action in achieving sustainable management of water resources in its area of operation;**
- (f) to collect, manage and share such data as are necessary to properly manage the basin in coordination with the Commission;**
- (g) to develop a water research agenda appropriate to the needs of water management institutions and water users within its area of operation;**
- (h) to help resolve conflicts relating to water resources in its area of operation; and**
- (i) to perform any such additional functions as the Commission may direct.**

Dissolution of river basin committees

24B. The Commission, by notice may dissolve a river basin committee if it is necessary to do so:

- (a) for purposes of re-organizing water management institutions in its area of jurisdiction in the interests of effective water resources management; or**
- (b) if the circumstances which supported the establishment of the river basin committee no longer exist.**

Establishment of Dzongkhag Water Management Committees

24C. For the purpose of proper management of water resources at every Dzongkhag, the existing Dzongkhag Environment Committees shall function as Dzongkhag Water Management Committees.

Functions of Dzongkhag Water Management Committees

24D. The Dzongkhag Water Management Committees shall carry out the function of River Basin Committee as provided in section 24A at Dzongkhag level.

Section 25 & Section 26 *(Replaced by the following)*

Prohibition to abstract or use water without permit

25. a) Unless this Act provides otherwise, a person shall not abstract and use water, except in accordance with permit issued under this Act.

b) A person who violates the provision of subsection (a) shall be guilty of an offence under this Act.

New Section after Section 26

(Did not accept National Assembly's amendment)

Section 27

a) Subject to subsection (c), abstraction and use of water for the following purposes shall be exempted from the requirement to obtain a permit to abstract and use water under this Act.

i) domestic use;

ii) small scale drinking water supply and irrigation schemes as determined in regulation under this Act.

iii) customary practice of water abstraction and use for:

a) household purposes on an individual or collective basis including the digging of wells and abstraction of ground water.

b) agricultural purposes on an individual or collective basis,

- c) running small water mills, water grinders or prayer wheels as determined in the regulation under this Act.
- b) A person may abstract and use water for domestic use, subject only to such public health limitations and environmental limitations, and limitations imposed from time to time for purposes of good water management practices.**
- c) Subsection (a) does not apply to a person who abstracts water in bulk from water resource and supplies it to others for domestic use.**

(Provisions of the draft not reflected in the amendments have been deleted)

New Section after Section 27

Right to collect and use rainwater

27A. A person has the right to collect rainwater falling on his or her own land and use it for the domestic purposes of his/her household and for subsistence irrigation.

Section 28 *(Replaced as follows)*

Application for permit to abstract and use water

- (a) A person who wishes to abstract and use water may apply to the commission for permit to abstract and use water in the prescribed manner but not limited to:**
 - (i) the proposed location of the abstraction;**

- (ii) the proposed rate and volume of the abstraction;**
- (iii) the proposed timing of the abstraction;**
- (iv) detail plan of catchment/source protection;**
- (v) a description of any waterworks necessary to accomplish the proposed abstraction and put the abstracted water to beneficial use and a proposed schedule for the completion of such waterworks;**
- (vi) a description of the proposed treatment that will be given to the abstracted water, including any chemicals proposed to be applied to the water;**
- (vii) a description of the volume, rate and chemical composition of any effluent or return flow resulting from application of the abstracted water to beneficial use and a description of the location where any such effluent or return flow is expected to enter a water resource;**
- (viii) an Environmental Clearance obtained pursuant to the Environmental Assessment Act, 2000, which shall contain, among others, an impact analysis of the proposed abstraction of water upon the environment and upon existing water users and water resources; and**

- (ix) any additional information the Commission may prescribe.
- b) The Commission shall, at least 30 days upon receiving the aforementioned application, issue a notice:
 - (i) inviting all interested persons to submit their objections in writing, if any; and
 - (ii) stating the place at and period within which objections are to be submitted.

Section 29 *(Replaced as follows)*

Consideration of application for permit to abstract and use water

- (a) Upon receipt of an application referred to in Section 28, the Commission shall:
 - (i) investigate all matters pertaining to the application;
 - (ii) consider objections, if any;
 - (iii) give the applicant an opportunity to make representations in support of his or her application in case of any objection; and
 - (iv) consult with the River Basin Committee and/or Dzongkhag Water Management Committee concerned.
- (b) After considering:
 - (i) any recommendations of the River Basin Committee and/or Dzongkhag Water Management Committee;

- (ii) the objections by interested persons, if any;
 - (iii) the representations of the applicant, if any;
 - (iv) the Environmental Clearance and the environmental impact analysis there under; and
 - (v) the compliance with the criteria referred to in section 30, the Commission may accept the application to abstract water, with or without conditions, or reject the application.
- (c) A person who wishes to appeal against the decision of the Commission regarding an application for permit to abstract and use water may file a notice of appeal to the Court of Jurisdiction within 10 days of the decision.

Section 30 *(Replaced as follows)*

Criteria upon which permit to abstract and use water may be issued

- (a) In deciding whether a permit to abstract and use water should be granted, the Commission shall consider the following criteria:
 - (i) whether the proposed abstraction and use of water are consistent with:
 - (1) the objectives and principles referred to in sections 5A and 6A, respectively; and
 - (2) the National Integrated Water Resource Management Plan;

- (ii) the impact of the proposed abstraction upon existing water users, water resources and the water reserved or allocated for environmental uses;**
- iii) the likely effect of the proposed abstraction –**
 - (1) on the quality of any water resource, and on aquatic ecosystems dependent on the resource;**
 - (2) on the international obligations of Bhutan relating to freshwater bodies which form or are traversed by the international boundary lines with neighboring States;**
- (iv) the need to ensure the efficient and beneficial use of water resources;**
- (v) the existence of any traditional community and the extent of customary rights and practices in, or dependent upon, the water resource to which an application for the permit relates; and**
- (vi) any additional criteria the Commission may prescribe.**
- (b) The Commission may issue more than one permit to abstract and use water from one water resource, subject to such terms and conditions as will enable concurrent use of the same resource by the applicants.**

Section 31 & 32 *(Replaced as follows)*

Contents of permit to abstract and use water

- 31. A permit to abstract and use water shall specify:**
- a. The duration of the permit, which shall not be less than the time required to recover the amortization costs of the investments made, if any;**
 - b. The location of the abstraction and the location of the use;**
 - c. The water use or uses for which it is granted;**
 - d. The person to whom it is granted;**
 - e. The terms and conditions subject to which it is granted; and**
 - f. Any other matter as may be prescribed by the Commission.**
- 32. The Commission shall determine detailed rules regarding permit to abstract and use water, which shall include but not limited to the following:**
- renewal, amendments, suspension and cancellation of permit.**

Section 33 (a)

In dealing with applications under preceding sections, the Commission shall observe the ~~following~~ order of priorities **as prescribed under section 5A of this Act.**

- ~~i) water for drinking and sanitation;~~
- ~~ii) water for agriculture;~~
- ~~iii) water for energy;~~
- ~~iv) water for industry;~~
- ~~v) water for tourism and recreation; and~~

~~vi) — water for other uses~~

(Did not accept National Assembly's amendment)

Section 34 *(Replaced as follows)*

- (a) Except as otherwise provided in this Act, a person may not discharge any effluent directly or indirectly to any surface water resource unless the discharge is in compliance with a permit issued under the regulation in pursuance with the Act.**
- (b) Effluents must be treated using best available technology before discharging into the environment. *(National Assembly's amendment)*
- (c) Notwithstanding any other provisions, it shall be unlawful to discharge any chemical, radiological, radioactive, medical or any other hazardous waste into water bodies. *(National Assembly's amendment)*
- (d) Any person who acts in breach of the provisions of this section shall be guilty of an offence under this Act.**

(Did not accept (a) & (d) of National Assembly's amendments)

New Sections after Section 34

Discharge of effluent into groundwater prohibited

- 34A. (a) No effluent shall be discharged into groundwater, directly or indirectly, including through a borehole.**

(b) Any person who acts in breach of the provisions of this section shall be guilty of an offence under this Act.

Exemption of certain discharges from permit requirements

34B. The Commission may, through Regulations under this Act, exempt any person who discharges effluents from any septic tank, drain or similar private sewerage facility for the disposal of household waste to any watercourse or groundwater from the application of section 34.

No discharge from public sewer without permit

34C. (a) A person shall not discharge effluent from a public sewer or public sewerage system directly or indirectly to any water resource, including through a borehole, unless the discharge is in compliance with a permit issued the regulation in pursuant with the Act.

(b) A person who acts in breach of the provisions of this section shall be guilty of an offence under this Act.

Water Quality Standards and Effluent Discharge Standards

34D. (a) Subject to sub-section (b), the Commission shall develop and, from time to time, review Water Quality Standards as well as Effluent Discharge Standards of certain substances into water resources.

(b) The Commission in consultation with the Ministry of Health and with the Ministry of Works & Human Settlement shall develop and, from time to time review Water Quality Standards for water resources used for or intended to be used for drinking water purposes.

(c) All competent authorities under this Act are required to give effect to these standards in exercising their powers and duties under this Act.

New Sections before Section 35

General

34E. Allocation of water shall be done based on the principle that water is a resource owned by the State and that every citizen has an equal right to these resources.

34F. Customary practices of water allocation may continue provided that these are fair and equitable and do not result in denial of water to any individual or community, including downstream and upstream needs, and are acknowledged by a Water Users' Association or other local beneficiaries' groups in the area.

Section 35 (a) & (d)

a) Notwithstanding the provisions of section 34 of this Act, no discharge of effluents of any kind shall be allowed into water resources used or allocated for drinking purposes.

- d) If there is a risk of contamination **and/or degradation** of a water resource allocated for drinking purposes, the Commission may declare relevant area as Water Management Area.

Section 36 (b) & (d)

- b) Labour contribution by the beneficiaries of an irrigation channel shall depend on the size of their land **under cultivation** holding.
- d) Water shall flow in adjacent plots as per established practice. If a new plot is terraced nearer to the water source, water for the old plot shall flow through the new plot provided there is no other way of bringing water to the old plot. ~~If the water is not sufficient, the new plot shall not get water.~~

New Section 36 (k)

(Did not accept National Assembly's amendment)

New Sub-sections after Sub-section 36 (j)

- k. For the benefit of landed property, renovation of existing irrigation channels and embankments can be done on existing alignment in consultation with Water Users Associations.**
- l. Existing irrigation channels passing through ones landed property cannot be made small and blocked even if not required by the owner.**
- m. If water has not flown through old irrigation channels and no repair has been done on the embankments for the last five years then renovation and repairs on the existing alignment will be treated as new construction.**

New Section after Section 36

36A. Sufficiency of water shall be determined by the Competent Authority by employing scientific methods.

Section 37

Except in accordance with **a permit** ~~an Environmental Clearance~~ issued by the Commission ~~and/or Competent Authorities~~, the following water resource activities are prohibited in forests:

- a) blocking, storing or diverting any river, stream, irrigation channel, waterfall, underground water source or any other water resource or water course; and
- b) discharging effluents or wastes into any water resource or water bodies.

Section 40

- a. Water related infrastructure may be constructed on or through others' property, in consultation with the affected parties, subject to permit from the Commission.

In the event, where the affected parties do not allow the construction of water related infrastructure on or through their property on baseless ground, the Commission shall have the authority to approve the construction of water related infrastructure after investigating the matter thoroughly.

- b) Compensation shall be paid by the beneficiaries, for damages incurred on others' property as a result of construction or renovation activities. When land is acquired by the Government for activities pursuant to sub section (a), compensation shall be paid as per the Land Act, 2007. **The cost of relocation works of public water infrastructure and compensation to affected private persons shall be borne by the Commission or competent authority.**
- c) **The water users shall ensure that their waste water does not cause inconvenience to downstream settlements.**

Section 40 (c) *(Separated as a new Section as follows)*

Prevention of Flood Risk

- 40A.** For the purpose of preventing or minimizing the risk of flooding and flood damage, the Commission and/or Competent Authorities may:
- i) prohibit the construction of dykes, levees or other structures on submersible lands that may be likely to hinder the water runoff;
 - ii) authorize the construction of such structures if they are necessary for the protection of residences or other structures;
 - iii) alter or demolish dykes, embankments, levees, structures or other works, irrespective of their legal status, if they hinder water runoff or extend the flood plain with harmful results;
 - iv) prohibit the growing of crops, the building of structures or the placing of deposits on land located between a watercourse and any protective dykes, embankments or levees; and

- v) prescribe measures for the control and management of storm water and flood risk.

New Section after Section 42 (b)

(Did not accept National Assembly's amendment)

New Sections after Section 43

Functions of water users' association

43A. (a) The functions of a water users' association shall be:

- (i) to manage the supply of water from a water source; and
- (ii) to maintain a water source and protect it against vandalism and other damages.
- (iii) to coordinate and oversee the activities and management of water supply service by its members so as :
 - (1) to foster a sense of ownership among the users;
 - (2) to promote economic development;
 - (3) to ensure sustainability of such service; and
- iv) to protect the rural water supply scheme concerned against vandalism and other damages.

Powers of Water Users' Association

43B. Subject to this Act, the powers of a water users' association shall include:

- (i) **the power to make rules for the use of the rural water supply scheme or water source by members and non-members;**
- (ii) **the power to prevent any person who does not comply with the rules of a water users' association from using such water source;**
- (iii) **the power to adopt measures to prevent the wastage of water by any person; and**
- (iv) **any other power as may be delegated by the competent authority.**

Section 44

- (a) A group of Water Users' Associations using a particular water supply scheme for their water supply needs may federate to coordinate the activities.
- (b) **The formation, membership, powers, functions and dissolution of Water Users' Associations shall be set out in Regulations under this Act.**
- c) The provision of sections ~~42 and~~ 43 shall apply to the federation of water users' associations.

Section 51 (b)

The **mechanism** procedure for alternative dispute resolution shall ~~include Nangkha Nangdrig (mediation) conducted by the Committee of the relevant Water User Association or the relevant local authority including the office of the Gup~~ **be prescribed in the rules as framed by the Competent Authority.**

New Section before Section 53

Registration requirement

52A. All approvals and permits under this Act for the abstraction of water and discharge of effluents shall be registered. It shall be the responsibility of the authority listed under section 12A to record this information and report it to the Commission, annually.

New Section after Section 53

Stop Order

53A. If an activity relating to a water resource poses an imminent threat to human health or the environment, the activity shall be stopped with immediate effect.

Section 56

(Did not accept National Assembly's amendment)

Section 63 (a) & (b)

- a) abstracts water resource without obtaining **permit** an ~~Environmental Clearance~~ as required under this Act;
- b) discharge effluents without obtaining **permit** ~~Environmental Clearance~~ as required under this Act;

Section 64 (b)

... failure to comply with the terms and conditions of **permit and** ~~an~~ Environmental Clearance; and

New Subsection after Section 64 (c)

d. Vandalism and destruction of water supply infrastructure.

New Subsection after Section 68

b. The subsection (a) shall be applicable to any existing agreement on international water abstraction and use.

Section 69

A person who at the commencement of this Act has discharged effluent without **permit** Environmental Clearance shall be granted a period of 24 months from the commencement of this Act to come under the purview of this Act.

Section 73

(Deleted).

Section 75

~~3. **Agency** means a Throm or Thromde established under the Local Government Act, 2009 or any ministry, department, or autonomous public body of the Royal Government including local government entities or Companies incorporated under the Companies Act~~

~~7. **Competent Authorities** means the Ministries or Agencies listed under Section 13 of this Act, which are either responsible for the implementation and enforcement of this Act under a delegation of authority from the Commission, or which assist the Commission, in the implementation and enforcement of this Act.~~

(Did not accept National Assembly's amendment)

8. **Customary rights and/or practices** mean such rights and practices in relation to water resources management and utilization as have been exercised and practiced by communities or individual members thereof for more than twenty years
26. **Thromde** means a large urban area as defined in the Local Government Act, 2009.

(Did not accept National Assembly's amendment; retained as in the draft)

(16th, 17th and 20th Days of the 10th Month of the Iron Male Tiger Year corresponding to 22nd, 23rd and 26th November 2010)

2 The Financial Services Bill of Bhutan 2010

2.1 Introduction of the Bill by Hon'ble Minister for Finance

The Hon'ble Minister for Finance said that financial institutions were very important as the economic development of a country progressed. Therefore, the main objectives of drafting the Financial Services Bill 2010 were to streamline the roles and responsibilities, and further strengthen their capacities for effective delivery of services. The Bill was intended to make the work of the service providers easier and thus promote fair and secure services. It would further prevent money laundering and financing terrorism as well as unlawful and illegal funds.

He said that the Financial Services Bill 2010 was drafted based on the earlier Financial Institutions Act

1992 passed by the National Assembly during its 71st session to make it consistent with the Royal Monetary Authority Act that had recently been adopted by Parliament.

With development and changes taking place in the financial services sector due to the establishment of numerous financial institutions, the existing Act was not able to adequately address when major problems arose. Therefore, to make the operations easier, he said that the Bill had incorporated code of conduct of financial service providers on *do's* and *don'ts* as well as offences and penalties. It also provided in detail:

- 1) Role of the Royal Monetary Authority;
- 2) License;
- 3) Management of financial institutions;
- 4) Information from financial service providers and their examination;
- 5) Types of offences;
- 6) Banking;
- 7) Insurance; and
- 8) Securities business.

The Hon'ble Minister also said that a unit would be established to gather confidential financial information to curb money-laundering and financing terrorism. Offences and penalties were clearly defined. Similarly, financial businesses were segregated among banking, insurance, securities business, pension & provident fund, trust fund, cooperatives, lending companies, foreign exchange, inter-corporate borrowings, and license with rules for financial services. Facilities for protection of investments, increase in number of

investors in financial institutions, and the role of the Royal Monetary Authority for protection of financial institutions were clearly provided in the Bill.

For reasons stated above, the Hon'ble Minister said that the draft Financial Services Bill of Bhutan 2010 had been discussed thoroughly by the National Assembly during the 5th session of Parliament. Considering its importance, he hoped that the National Council would deliberate and pass the Bill.

Seeking clarification, the Hon'ble Member from Mongar Dzongkhag asked whether the word "person" in Section 50 which read as "No person shall hold more than the following percentage of interest in shares of a financial institution" referred to only Bhutanese citizens or whether it included foreigners as well. He also asked whether both Bhutanese and foreigners could invest under Section 295, and what the limit was if an investment was to be made in the investment fund.

On this, the Hon'ble Minister for Finance clarified that the word "person" in Section 50 referred to only Bhutanese citizens and that foreigners could not participate. With regard to investment, he said that the limit was about 51 percent.

2.2 Submission on the Bill by the Chairperson of the Economic Affairs Committee

The Chairperson of the Economic Affairs Committee, the Hon'ble Member from Mongar reported that the Financial Services Bill of Bhutan 2010 had been first drafted by the Royal Monetary Authority in 2003. After

holding consultation meetings with relevant agencies for around 7 years, the draft had been endorsed by the Lhengye Zhuntshog (Cabinet). Having deliberated and passed by the National Assembly during the 5th Session of Parliament, the Bill along with amendments had been submitted to the National Council for adoption.

As directed by the National Council, he said that the Economic Affairs Committee had held thorough discussions on the Bill with the relevant agencies, institutions and Ministries before submission to the House. Within the House, the Committee had worked very closely with the Legislative Committee. The Bill had now been submitted to the House for deliberation during the 6th Session of the National Council.

2.3 Amendments and Changes to the Bill

The Financial Services Bill of Bhutan 2010 was thoroughly deliberated by the National Council from 23/11/2010 to 25/11/2010 and on 29/11/2010. The House resolved to submit the following amendments/changes to the National Assembly for re-deliberation.

Title

(Amended in Dzongkha).

Section 1 (b)

Come into force on day.....month.....of the.....year of the Bhutanese ~~Calendar~~ **Calendar** corresponding to....day of the.....month of 2010; and

Section 2

~~This Act hereby repeals the Financial Institutions Act 1992 however the Prudential Regulations 2002 and other similar regulations shall continue to be applicable under the Financial Services Act 2010.~~ **This Act hereby repeals the Financial Institutions Act 1992 and any provision of any law, by-law, rules or regulations which are inconsistent with this Act.**

Section 3

The objectives of the Authority in exercising the powers provided under this Act shall be to: ~~promote:~~

- (a) **Promote** the stability and soundness of the financial system in Bhutan;
- (b) **Eliminate** ~~ion~~ or control of conflicts of interest in financial services businesses that may be detrimental to the legitimate interests of customers;
- (c) **Promote** competence in the providing of financial services;
- (d) **Ensure** the maintenance of adequate financial resources and operational controls by persons licensed under this Act in order to help assure performance of obligations to customers and compliance with the Act and the regulations issued under it;
- (e) **Enhance** customer understanding of financial products and services;
- (f) **Promote** honesty in financial services businesses;
- (g) ~~Prevent the avoidance of unwarranted burdens on competition in financial services businesses;~~ **Promote optimal competition in the financial sector without bias and prejudice;**

- (h) **Ensure** diligent, loyal and honest service by managers and directors of ~~public companies~~ financial service institutions to the interests of their shareholders; and
- (i) ~~the prevention of~~ **Prevent** money-laundering, financing of terrorism and criminal uses of financial services businesses.; ~~and~~
- (j) ~~in general to promote the maintenance of efficient, competitive, fair, safe and stable markets for financial services and securities to the benefit of and protecting the legitimate interests of customers and investors in Bhutan.~~

Section 4

The functions and powers conferred on the Authority by this Act shall be exercised by the Executive Committee except where this Act **provides** or the Board **directs** ~~shall provide states~~ otherwise.

Section 13

Only a public limited company, listed with the stock exchange in Bhutan, shall be licensed as a financial institution, **except those financial institutions falling under the provisions of Section 50B of this Act.**

Section 14

Any person who knowingly engages without a license or registration required under this Act in activity for which such is required, commits an offence **of misdemeanor** ~~and is liable on conviction to a fine not exceeding Ngultrum one million or imprisonment or both.~~

Section 17

The Authority shall by regulation require applicants for a license to conduct financial services to provide as part of the application such information as the Authority shall specify as necessary to determine whether the applicant meets the standards of Sections 19 to 21 including but not limited to

New Section before Section 19

The Authority shall grant licenses for Financial Institutions in a transparent and unbiased manner and the basis for determining number of licensees shall be based on objective criteria that shall be made public.

Section 20

The Authority may modify these criteria as necessary to take account of applicants who are individual **financial service providers such as Insurance Agents, Introductory Brokers, Investment Advisors, Insurance Surveyors, etc.**

Section 28

The Authority may by regulation impose such application or licensing fees or periodic license fees payable to it as are reasonably calculated to defray the cost of administering this Act, mindful of the need to ~~impose no unwarranted burdens on~~ **ensure optimal** competition and of the scale or likely scale of operations of the persons upon whom such fee is imposed.

Section 32

These requirements are in addition to any **other requirements** specified for Directors under the Companies Act **but there shall be no** ~~they may be amplified and detailed by regulations and guidelines issued by the Authority, including but not limited to~~ requirements for written examinations or other tests of competence.

Section 34

A Chief Executive Officer of a licensed financial institution shall be a full-time employee and shall hold office for such period, not exceeding five years at a time, subject to the approval by the Annual General Meeting.

Section 36

No licensee, or a controller of a licensee, shall appoint a person as Director or Chief Executive Officer except in accordance with prevailing laws and shall thereafter notify the Authority. Where such appointments have been made in contravention of the criteria set out the Authority may by notification require the replacement of any Director or Chief Executive Officer.

Section 37

Where the Authority is satisfied that a financial institution has violated the provisions of this Act, **other relevant laws or repeatedly violated the provisions of the Prudential Regulations the Authority may by notification require the replacement of any Chairman, Director or Chief Executive Officer.**

Section 38

No order under Section 37 shall be made unless the Chairman, Director or Chief Executive Officer ~~or other employees~~ concerned has been given a reasonable opportunity of making a representation to the Authority against the proposed order.

Provided that if in the opinion of the Authority, any delay would be detrimental to the interest of the financial institution or its ~~stakeholders~~ **shareholders**, the Authority may, at the time of giving the opportunity aforesaid or at any time thereafter, by direct order, that pending the consideration of the representation aforesaid, any Chairman or, as the case may be Director or Chief Executive Officer ~~or other officer or employee~~, shall not, with effect from the date of such order.

Section 38 (a)

... act as such Chairman or Director or Chief Executive Officer ~~or other officer or~~ employee of the financial institution; and

Section 39

~~Notwithstanding anything contained in any law or in any contract or any other such documents, on the replacement of person under this Chapter that person shall not be entitled to claim any compensation against the loss of office or termination of office.~~ **Upon removal from office the person shall be dealt in accordance with relevant laws.**

Section 40

Where a notification under Section 37 has been issued the Authority shall require the financial institution to appoint a suitable replacement in accordance with the Companies Act within forty five days.

Section 41

(Deleted)

Section 45

The Authority shall within 30 days of receiving notice under Section 42 notify the person that it has no objection or that it does object to his becoming a significant owner of or increasing his stake in the licensee, in the case of objection **the Authority shall state** ~~stating~~ the legal and factual grounds for objection. Where an objection has been notified, the question shall be determined subject to Chapter IX and X not more than 21 days later, unless the person seeking to become a significant owner agrees to a later time.

Section 50

No person shall hold more than the following percentage of interest in shares of a financial institution:

- (a) in case of a **Bhutanese** individual, ~~10~~ **20** percent;
- (b) in ~~the~~ case of a **Bhutanese** company not being a financial institution, ~~20~~ percent, **51 percent**;

- (c) in ~~the~~ case of a **Bhutanese** company being a financial institution, as per the limit provided under section 53 below, and
- (d) in case of a foreign financial **institution 51 percent** , ~~as per the RMA regulations in line with the foreign direct investment policy;~~
- (e) ~~in case of Ministry of Finance, RGoB, 75%.~~

~~Except where the Authority on being satisfied that it would not be prejudicial to the promotion of a sound financial system in Bhutan may permit a higher limit **subject** However, such limit shall not exceed to maximum of 20 percent for an individual and thirty percent for a company which is not a financial company and **100% for Ministry of Finance, RGoB.**~~

New Sections after Section 50

50A. All new financial institutions shall float at least 35% of the shares to the general public through the initial public offer.

50B. The ownership restrictions covered under Sections 50 & 50A shall not apply to financial institutions where shares are held directly or indirectly by the Royal Government of Bhutan (Ministry of Finance) which shall be permitted to own 100% of the financial institution.

Section 51

For the purpose of Section 50(a) **and (b)**;

- a) Individual **is a natural person and** includes spouse, ~~the individual's~~ dependent children **or other**

dependents of a person being of the same household; and

- b) Company means a parent company/~~a holding company~~, its subsidiaries and affiliates, and ~~vice versa~~ **it shall also include significant owners of the company who shall not be permitted to hold additional shares as individual owners as provided in section 50 (a).**

Section 60 (a)

The board of directors of the financial institution shall, in consultation with the audit committee and the internal audit and risk management functions, establish corporate governance principles minimizing ~~harmful~~ conflicts of interest in the administration of the institution's business, ensuring adequate oversight of managers by the board of directors and establishing ethical standards for directors, managers and other personnel.

Section 60 (b)

The board of directors of the financial institutions shall be responsible for supervising the implementation of the Board's ~~policies~~ **directives by the management.**

Section 60 (d)

Every financial institution shall have Board of Directors comprising of ~~not more than 7~~ **at least 5** directors including the chairman.

Section 60 (e)

Every financial institution shall have at least ~~one~~ **two** Independent Directors.

Section 78

The Authority **as Securities and Exchange Commissioner** may adopt regulations governing related-party transactions of public companies in order to assure that managers and directors of public companies operate them in the interests of their shareholders.

Section 91

If A person **shall be guilty of** ~~knowingly~~:

- (a) **the offence of the felony of the fourth degree if he/she** destroys, conceals, mutilates or improperly alters any record or account required to be kept or maintained under any of the provisions of this Act or of regulations made under it; or
- (b) **the offence of misdemeanor, if he/she** sends or attempts to send or conspires with any other person to send out of Bhutan any such record or account, with intent to defraud any person, or to prevent, delay or obstruct the carrying out of an examination, investigation or audit, or the exercise of a power under this Act or under regulations made under it, ~~he commits an offence and is liable on conviction to a fine not exceeding Ngultrum one million or imprisonment or both.~~

Section 93

(Deleted)

Section 116

Any person who knowingly violates this section commits an offence **of misdemeanor** ~~and is liable on conviction to a fine not exceeding Ngultrum seven hundred thousand or imprisonment or both.~~

Section 119

Any person who, without reasonable excuse, and after having been ~~warned~~ **notified** by the Authority, fails to comply with the requirements of Sections 117 or 118 or to provide any other return, report, document, evidence or information required by this Act or the regulations under it commits an offence and is liable to an appropriate fine specified by the Authority in the regulations issued by the Authority.

Section 145

Any person who fails to comply **with the directives of FIU under Section 139 or the provisions of Sections 141 or 142** or regulations issued under Section 144 commits an offence **of misdemeanor**.

Section 151

Any person who, without reasonable excuse, fails to comply with a restriction, instruction, condition or other order issued under this section commits an offence **of misdemeanor** ~~and is liable on conviction a fine or imprisonment or both.~~

Section 161

A person harmed or to be harmed by adoption of an unlawful regulation, certificate of inspection or order of investigation may petition ~~the High Court~~ **a court of competent jurisdiction** to block its application, which the Court may do provisionally or permanently in cases of clear error.

Section 169

Where a financial institution informs the Authority

- (i) that its capital had depleted far below the minimum capital adequacy requirements;
- (ii) that it is likely to become unable to meet all or any of its obligations; or
- (iv) that it is about to suspend payment to any extent;

The Authority may, by order in writing, require the financial institution to take any step, or any action, or to do or not to do any act or thing, whatsoever, in relation to the institution, or its business, or its directors or officers, which the Authority may consider necessary and which it sets out in the order, within such time as may be set out therein.

Section 174

Any ~~acts~~ on behalf of or for the account of the licensee that occur without the prior approval of the Conservator after the date of such publication shall be null and void unless the Conservator otherwise decides.

Section 193

~~No~~ **A** financial institution shall **not**:

- (a) make sale of its assets exceeding 10 percent or such lower number as the Authority may by regulation prescribe without 45 days notice to the Authority;
- (b) make an application under Part VIII of the Companies Act **nor** it or its directors **pass** any resolution or application to wind up the company but upon similar notice **to the Authority;**
- (c) ~~but upon similar notice~~ make any amendment of its articles, enter into any merger or reorganization or issue securities **without 45 days notice to the Authority;** provided further that any issue of debt securities should be approved by the Authority as not jeopardizing the institution's ability to comply with this Act and the regulations there under and that any prospectus for such an issue be approved by the Authority as to the adequacy of the disclosure therein; and
- (d) fail to report forthwith to the Authority any application under Part VIII of that Act or winding up application of which it is the subject.

Section 199

The Authority is authorized to make regulations implementing the ~~standards~~ **requirements** of Section 19-21 and other provisions of this Act. ~~whether or not such authorization appears in a specific provision of the Act.~~

Section 200

~~Without limiting to Section 199,~~ the **The** Authority may also make regulations with respect to:

Section 200 (e)

... **the base** rate of interest, **determining** bank charge and other terms and conditions on the advances or other financial services given by a financial institution to its clients;

Section 200 (g)

Mandatory lending to ~~certain sector of the economy~~ **priority sectors as may be determined by the government provided that such requirement for mandatory lending is applied in a fair and transparent manner to all relevant financial institutions.**

Section 201

Without limiting Sections 199 or 200 or any power under them to supplement the requirements of the Companies Act, the Authority **as Security and Exchange Commissioner** may by regulation exercise with respect to licensees ~~and public companies~~ or the shares of public companies as defined under the Companies Act, the power under section 137 of that Act to alter schedules I, VI, VII, VIII, IX, XII, XIII & XIV of that Act.

Section 203

The Authority shall ~~not~~ adopt, rescind or amend any regulations under this Act ~~without~~ **after first exposing it for inviting** public comments, by announcing in the media that the draft regulation for adoption, rescission or amendment and a statement of its legal grounds and policy justifications are available for inspection in the office of the Authority, and on its website, unless:

Section 209

Except for the purpose of performance of his duties under this Act or as directed by the Authority, or when lawfully required to do so by any court of law, no person who is or has been a member of the Board or Executive Committee, an officer or employee of, or adviser to, the Authority, shall disclose to any person any confidential information relating to the affairs of the Authority or of any other person which he has acquired in the performance of his duties or the exercise of his functions without the prior permission of, ~~in the case of members of the Board, the Chairman of the Board and in any other case,~~ the Governor.

Section 212

A person who knowingly contravenes Section 209 commits an offence **of misdemeanor** ~~and is liable upon conviction to a fine not exceeding Ngultrum five hundred thousand or imprisonment or both.~~

Section 216

A person who knowingly contravenes Section 213 commits an offence **of misdemeanor** ~~and is liable upon conviction to a fine not exceeding Ngultrum five hundred thousand or imprisonment or both.~~

Section 228

Any person who knowingly contravenes Section 227 commits an offence **of misdemeanor** ~~and is liable on conviction to a fine not exceeding Ngultrum one million or imprisonment or both.~~

New Sub-section (m) under Section 229

(m) Electronic banking

New Sub-section (g) under section 230

(g) Electronic banking

Section 236 (a)

30 percent of the capital of the bank, and an additional 10 percent in case of infrastructure lending worked out as prescribed in the regulations, except that

~~(i) a lower limit may be set by regulation; and~~

~~(ii) if the transaction is a related-party transaction, it must be contained within the limits as prescribed in the regulations; and~~

New Section after Section 237

A violation of Sections 236 and 237 shall be an offence subject to an appropriate fine specified by the Authority in the regulations issued by the Authority.

Section 240

Any person who, without reasonable excuse, contravenes the prohibition in Section 238, commits an offence **of petty misdemeanor** ~~and is liable on conviction to a fine not exceeding Ngultrum five hundred thousand or imprisonment or both.~~

Section 247

~~Licensing restrictions for the Insurers~~ **shall abide by the following restrictions:**

New Section after Section 47

Insurance Business

247A. i) All insurance business emanating within the territory of Bhutan must be insured only with an insurer licensed by the Authority.

ii) Every insurer must reinsure with Bhutanese reinsurer such percentage of the sum assured on each policy as may be specified by the Authority.

Section 248

~~Licensing requirements for Reinsurers~~ **shall abide by the following requirements:**

A reinsurer shall be permitted to carry reinsurance business in any of the following business;

- a) Life reinsurance
- b) General reinsurance
- c) Composite reinsurance

The Authority may issue regulations specifying the licensing requirements for a reinsurance company **in addition to the requirements provided under section 248 to 252.**

Section 249

General Licensing requirements for insurers insurance business

Any company applying for a license as an insurer/**reinsurer** must demonstrate that they have a minimum paid up capital of such amount as may be prescribed by the Authority by regulation.

Section 251

An application for a license to operate as an insurer/**reinsurer** must include a business plan and the proposed arrangements for reinsurance, as well as the general requirements given in Section 17 to 21.

Section 253

An actuary is **both insurer and reinsurer** required to provide a view on the adequacy of actual and proposed resources (reserves in particular) in relation to actual and planned risk.

Section 255

An appointed actuary shall not be deemed to be fit and proper unless he/she is appointed from among the empanelled list of actuaries maintained by the Authority.

Section 256

The ~~appointed actuary~~ insurer/**reinsurer** shall prepare an actuarial report, and certify it, in such form as the Authority may specify.

Section 257

Insurer/**reinsurer** must, at all times, maintain the following, in a manner and amount as prescribed by this Part or in regulations:

Section 258

An insurer/**reinsurer** must ensure that at all times its:

Section 260

By regulation or pursuant to Chapter IX and without limiting other remedies available under that Part, the Authority may require an insurer/**reinsurer**:

Section 261

A life insurer/**reinsurer** shall within fourteen days of any change in its appointed actuary provide the Authority with a written notice including the name and qualifications of the person so appointed.

Section 262

An insurer/**reinsurer** licensed to write life insurance business shall have an actuarial report produced, no less than once a year, in the manner and form as prescribed in regulations adopted by the Authority and provide a copy to the Authority.

Section 266 (a) & (b)

a) the company is a shareholder of an insurer/**reinsurer** or

- b) a director or manager of the company or director or chief executive officer of an affiliate is a director, shareholder or employee of an insurer/**reinsurer**.

Section 277

The Authority may establish and maintain a separate insurance guarantee scheme fund through regulations for ~~both general and life~~ **insurance** business in line with the regulations issued by the Authority.

Section 284

~~An introductory broker is one who transmits customer orders for execution to another broker and who holds no customer assets, unless for prompt forwarding to an executing broker. (Moved under definition)~~ An introductory broker may be required, should the Authority so determine, to associate for regulatory purposes with a licensed securities exchange on terms set forth in regulations of the Authority.

Section 285

(Moved under definition)

Section 311

No single company shall act as both Management Company and depositary nor shall any **of its** affiliated companies **act similarly** to the extent prohibited in regulations adopted by the Authority.

Section 314

The rules of an investment fund or the contract with its management company shall describe the investment

policy **that** the investment fund ~~will~~ **shall** follow, indicating among other things:

Section 321

(Deleted)

Section 335 (b)

... explanations of their purpose and likely effect, including their effect on the investing public, in sufficient detail to enable the Authority to decide whether to approve ~~them~~ or refuse.

Section 337

The Authority shall, within 8 weeks after receiving the proposed rules or amendments for approval, issue an order to the exchange that **the Authority approves or refuses the proposal.**

~~(a) the Authority approves them; or~~

~~(b) it refuses to approve them.~~

Refusal to approve a rule is adverse action with respect to the exchange. A decision as to approval or refusal under this section or amendment under the following section shall be based upon the standards set forth in this Act and the regulations there under.

Section 340

In determining an application ~~made~~ **under** Section 339, the Authority shall not grant a licence to an applicant unless the Authority is satisfied that:

Section 351

The conduct described in Section 349 may be redressed by a **law** suit ~~at law~~ against persons substantially causing or substantially participating in the conduct by an injured party or parties seeking compensation of loss or an order that the conduct cease; a suit by the Authority (without limiting its other powers) seeking compensation on behalf of investors or customers or an order that the conduct cease; or by other means stated in this Act or in other law, provided that:

Section 353

Knowing violation of the order shall be an offence **of misdemeanor** ~~upon conviction and subject to a fine of not more than Ngultrum one million or imprisonment or both.~~

Section 354

A person who knowingly commits conduct in Section 349 (a), (b), (c), (d) or (e) that has caused or could potentially cause substantial damage to investors commits an offence **of misdemeanor, and the attempt to commit such acts shall be liable for half the penalty prescribed for the offence** ~~and is liable on conviction to a fine not exceeding Ngultrum one million or imprisonment or both.~~

Section 361

Where this Act or a regulation under it appears to conflict with the requirements of the Companies Act or another law, or a regulation under them, each of the provisions shall apply unless:

- (a) it is not possible to satisfy both provisions; or
- (b) the application of a provision of or regulation under another law would clearly disrupt the orderly functioning of the scheme of regulation established under this Act.

In such cases, the provisions of this Act ~~or a regulation under it~~ shall prevail.

Section 363

However, no act or arrangement approved by the Authority in a matter where it is specifically required to consider impacts on competition, and no regulation adopted by the Authority, shall be the subject of any legal action under laws on monopolization or related conduct without ~~the consent of~~ **notifying** the Authority.

Section 366

The amendment of this Act by way of addition, variation ~~or~~ repeal shall be effected by a simple majority of the respective Houses ~~or~~ **by a vote of** no less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House. ~~provided that the amendment does not undermine the functions and effectiveness of the financial services.~~

Section 368 (Definitions)

Financial services means banking business, insurance business, securities business and all other services designated in a regulation adopted by the Authority as a financial service, ~~provided that such services shall be predominantly financial in character and shall deal with~~

~~the public as customers or as sources of funding or shall be designated by the Authority as of special significance to the stability of the nation's financial system.~~

(Accepts National Assembly's amendment with slight modification in Dzongkha)

Public companies ~~Company~~ **are is** as defined in the Companies Act of the Kingdom of Bhutan. ~~and which are listed with the stock exchange in Bhutan.~~

Manager means a ~~chief executive or~~ **senior officer or** person who, under the immediate authority of a director, directors or chief executive **officer** of a company:

- (i) exercises managerial functions; or
- (ii) is responsible for maintaining accounts or other records of the licensee; and such other persons exercising managerial functions as may be defined in regulations adopted by the Authority.

Newspaper means ~~any kind of~~ **print** media or a widely circulated newspaper or similar medium selected by the Authority in order to assure adequate public notice of official actions or proposals.

New definitions;

“Introductory broker” means one who transmits customer orders for execution to another broker and who holds no customer assets, unless for prompt forwarding to an executing broker.

“Independent trader” means a person dealing for his own account as a member or participant of a licensed securities exchange who has no outside customers.

Schedule 1

2. **A Financial Institution** or a company or a person which, immediately prior to the commencement of this Act, is licensed under the Financial Institutions Act 1992 (the “1992 Act”) of Bhutan to provide any of the financial services specified in article 1.a. of the 1992 Act, shall thereupon be deemed to be licensed under this Act to conduct business as permitted by its license.
3. An insurance company previously licensed by the Authority to operate as both a life and general insurer, shall thereupon deemed to be licensed ~~shall thereupon be deemed to be licensed~~ under this Act to conduct business as permitted by its license.

General

(Amendments made by the National Assembly under Sections 9, 11, 12, 23, 24, 25, 30, 52, 54, 55, 57, 59, 64, 92, 101, 138, 139 (c)(iv), 140, 146, 160, 162, 163, 164, 186, 194, 195, 196 & 368 have been accepted by the National Council)

*(17th and 20th Days of the 10th Month of the Iron Male Tiger
Year corresponding to Tuesday the 23rd and Friday the 26th
November 2010)*

3 The Income Tax (Amendment) Bill 2010
**3.1 Introduction of the Bill by Hon'ble Minister for
Finance**

The Hon'ble Minister for Finance said that the Income Tax Act 2001 had been thoroughly deliberated and adopted by the National Assembly during its 79th session taking into consideration the present and future needs of the country. While the relevant sections on Personal Income Tax were amended in 2004 and 2006, other sections had been retained without amendment.

The Hon'ble Minister said that the three sections proposed for amendment were mainly aimed at development of the private sector. The government had already adopted an economic development policy for rapid development of the economy through various policy initiatives and measures. The biggest opportunity for private sector development lay in the tourism industry. Therefore, firstly, exemption of tax on entertainment expenses was proposed to be increased from 2% to 5% for the tour operators. Secondly, it was proposed to do away with the tax deduction of 3% at source under limited tax liability. However, it had been retained as resolved by the National Assembly. Thirdly, since the penalty of 100% for non-filing of tax return was too high, it was proposed to be reduced. Accordingly, the National Assembly had amended the provision and submitted it to the National Council for adoption.

On this, the Hon'ble Deputy Chairperson asked whether the raise in the exemption of tax on entertainment expenses applied to the tour operators only or included the hotel businesses. In response, the Hon'ble Minister for Finance clarified that the exemption applied to just the tour operators and did not include the hotel businesses.

3.2 Amendments and Changes to the Bill

The Income Tax (Amendment) Bill 2010 was thoroughly deliberated upon by the National Council on 23/11/2010 and 26/11/2010. Having accepted the following amendments made by the National Assembly, the House resolved to submit the Bill to the Druk Gylapo for Royal Assent in accordance with the provisions of the Constitution of Bhutan.

1. Section 14, sub-section 2

Entertainment expenses directly related to sales promotion of the business shall be allowed as deductions on actual expenses incurred or 2 percent of assessed net profit, whichever is lower. **However, for tour operating businesses, it shall be 5 % of the assessed net profit or actual expenses incurred, whichever is lower.**

2. Section 18, sub-section 2

Tax shall be deducted from the contractors under limited tax liability for construction, logging work, transportation works, management works, including other ~~professional services and supplies~~. The tax shall

be deducted at the rate of 3% of the gross amount and treated as final.

3. Chapter 5, Section 31

~~A fine at the rate of 100 percent of the gross income shall be imposed on non-filing~~ **equal to three times the assessed tax amount shall be imposed for non-filing. However, to those people who are not liable to pay the actual tax before the due date and those bearing losses, a fine of Nu. 30,000 shall be imposed.**

Non-filing of tax return shall mean tax return not filed after 3 months from the due date.

(23rd, 24th and 27th Days of the 10th Month of the Iron Male Tiger Year corresponding to 29/11/2010, 30/11/2010 and 2/12/2010)

4 The Adoption Bill of Bhutan 2010

4.1 Report by the Chairperson of the Social & Cultural Affairs Committee

The Chairperson of the Social & Cultural Affairs Committee, the Hon'ble Member from Trongsa Dzongkhag submitted that the Adoption Bill of Bhutan 2010 had been introduced in the National Council during its 5th session. However, he said that the deliberations had to be deferred as some of the stakeholders expressed doubts since the National Commission for Women & Children had not done adequate consultations with the relevant institutions and agencies while drafting the Bill. Moreover, the Bill had been received late in the National Council.

Recognizing the importance of the Bill from the point of view of one of the sections which read as, *“on adoption order being made by the Court, the adopted child ceases to be the child of the biological parent and the biological parent cease to be the parent of the adopted child”*, the Hon’ble Member said that the Social & Cultural Affairs Committee, bearing in mind the immediate and future interests of the country, had thorough consultations with the relevant agencies on the necessity and relevance of the principles and intent of the Bill. Presentations had also been made to the National Council during its plenary meetings. He expressed preparedness of the Committee and, therefore, submitted that the Bill be deliberated in the current session, itself.

Hon’ble Kuenlay Tshering reminded that whatever laws were made should be aimed at the immediate and future needs of the country. For this reason, laws needed to be drafted properly and without haste. He submitted that the Bill be deferred till the next session in order to clarify doubts on certain issues with the relevant agencies.

In response, the Hon’ble Members from Lhuentse, Trashiyangtse and Thimphu Dzongkhags said that the Social & Cultural Affairs Committee, considering the importance of the Bill in the country, had met all the relevant agencies with whom consultations had not been done earlier. Following thorough discussions, Chapters 4 & 5 had been appropriately amended, thus making the Bill comprehensive. Doubts that lingered with certain agencies resulted due to the lack of their own participation in the consultation process.

The National Council had lot of other Bills waiting for deliberation in the next session. Such a situation in future, they said could cause serious complications in the legislative process. If certain agencies had major problems with the Bill, they could consult the National Assembly for clarification after the National Council had deliberated on it and submitted to the National Assembly. Therefore, they insisted that the Bill be deliberated in the current session, itself.

On this, the National Council observed that in keeping with the need to consult the relevant agencies in framing any law by taking extra time to ensure that the immediate and future needs of the country were safeguarded, the Social & Cultural Affairs Committee had fully complied with these requirements. Therefore, the House resolved to deliberate on the Bill in the current session.

4.2 Amendments and Changes to the Bill

The Adoption Bill of Bhutan 2010 was deliberated upon by the National Council on 29/11/2010, 30/11/2010 and 2/12/2010, and made the following amendments /changes. The House resolved to submit these to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

Title

Child Adoption Bill of Bhutan 20//

Preamble

(Amended in Dzongkha)

Section 1

Short Title and Commencement and Extent

This Act shall:

- a. Be called the ADOPTION ACT OF **THE KINGDOM OF BHUTAN**;
- b. Come into force in the year of.....; and
- c. ~~Extend to whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan.~~

New Section after Section 1

Extent

- 1B. Extend to whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan.**

Section 2

This Act hereby repeals the provisions of any laws, **by-laws** Acts, **resolutions** regulations, rules, directives, notifications, circulars and enactments that are inconsistent with this Act ~~shall hereby be repealed~~. However, the adoption effected before the commencement of this Act shall continue to have force under this Act.

Section 3

(Amended in Dzongkha)

Section 4

(Deleted)

Section 5, 6 & 7

(Amended in Dzongkha)

Section 8

~~Ensure~~ Measures necessary for the protection of child's interest including child's ethnic, religion, cultural and linguistic background of every adoption **shall be ensured**.

Section 9

The objectives of this Act are:

- (a) To ensure that adoption takes place in the best interest of the child with respect to ~~ones~~ **his/her** fundamental rights as recognized under the laws;
- (b) To establish uniform adoption process; and
- (c) To ensure that the domestic and inter-country adoption processes are in consonance to international norms, practices and standards.

Section 10

(Amended in Dzongkha)

Section 11

The competent authority ~~shall~~ **may** provide adoption services of all nature with respect to a child, and may accredit Civil Society Organization ~~and such other charitable and non-profit organizations~~ to provide adoption services.

Section 12

The Competent Authority shall ~~be responsible for the following:~~

- (a) Provide adoption service in relation to domestic and inter-country adoption of a Bhutanese child; *(e) of draft)*
- (b) Accredite and monitor recognized agencies and institutions of adoption both within and outside the country; *(d) of draft)*
- (c) Determine the form and contents of the application for ~~inter-country~~ adoption; *(g) of draft)*
- (d) Provide post adoption monitoring and evaluation through an established procedure; *(c) of draft)*
- (e) Assess and determine suitability of prospective adoptive parent; *(a) of draft)*
- (f) **Facilitate** transfer of the care **and** responsibility of a child to the adoptive parent or to a person who adopts the child; *(b) of draft)*
- (g) Frame necessary rules and procedure for adoption; *(f) of draft)*
- (h) Prescribe adoption and other fees for domestic and inter-country adoptions;
- (i) Assist other concerned agencies and the courts in the implementation of this Act; and
- (j) Provide for any other services to facilitate implementation of this Act.

(Amended and re-arranged as above)

Section 13

A ~~charitable or non-profit organization and other~~ civil society organization ~~may~~ **shall** apply to the competent authority for accreditation as an adoption service provider ~~that may provide~~ **for the purpose of providing** adoption services.

Section 14

An application for accreditation shall:

- (a) Be in writing;
- (b) Specify address of the principal office in Bhutan;
- (c) Specify the principal officer of the organization ~~if accredited~~; and
- (d) Provide the details of services the organization seeks to provide.

Section 15

An application for accreditation under Section 14 ~~13~~ shall be submitted along with the following documents:

- (a) A copy of the articles of association;
- (b) Evidence of the applicant's capacity to provide such services;
- (c) A working plan of such adoption services;
- (d) A financial statement of such ~~charitable or non-profit~~ **an** organization evidencing its financial capacity; and

- (e) Documents and evidences **demonstrating professional capacity of the principal persons responsible for the** ~~in relation to the person responsible for general administration in the event such organization is accredited by the competent authority.~~

Section 16

The competent authority **shall** ~~is required to~~ determine an application for accreditation ~~by accrediting adoption service providers that may provide~~ **for the purpose of providing** adoption services, or refuse accreditation.

Section 17

(Amended in Dzongkha)

Section 18

The accredited organization ~~is~~ **shall be** required to appoint a principal officer for the purpose of this Act. If the application is granted by the competent authority, such principle officer must **have** at least ~~have~~ one year experience in child welfare administration and ~~the~~ **with** required qualifications in social administration, psychology or sociology to perform the duty of assessing the adoption suitability of a child and the **adoptive parent** applicant.

Sections 19 to 24

(Amended in Dzongkha)

Section 25

(Deleted)

Moved Sections 32 & 33 after Section 25, Chapter 3

Adoption Plan

25A. A provision duly agreed to the adoption of a child shall be planned before the adoption is effected. Such plan may include the exchange of information with respect to child's medical background or condition, and any other matter relating to adoption of the child as prescribed by the rules made under this Act.

25B. Without limiting the matters for which an adoption plan may be made, such plan may set out the ways in which the child is to be assisted to develop to a healthy and positive life including financial assistance and other assistance required by a child.

Title of Chapter 4

Domestic Adoption ~~Process~~

Section 26

Subject to this Act, an application for adoption may be made by a ~~married couple~~ **Bhutanese Citizen who:**

(a) Is married;

(b) Is of good moral character;

(c) Is financially secure;

(d) Is not convicted of a felony crime;

(e) Is capable of support and care for child; and

(f) Is at least 30 years of age and the age difference between the adoptive parent and the child to be adopted shall be at least 20 years.

Section 27

Notwithstanding ~~anything contained in~~ Section 26 **(a)**, a single **Bhutanese** person may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.

Sections 28, 29 & 30

(Deleted)

Section 31

Subject to this Act, **a child born to a Bhutanese mother** ~~the following person~~ may be adopted:

- ~~(a) A child below eighteen years of age;~~
- ~~(b) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adoptive parent as ones own child since minority;~~
- ~~(c) A child whose parent, guardian or adoptive parent have died; or~~
- ~~(d) Any other child that the competent authority has taken cognizance of being in difficult circumstances.~~

(e) New Section after Section 31

31A. The citizenship of an adopted child shall be bound by the relevant law.

Sections 32 & 33

(Moved after Section 25)

Sections 34 & 35

(Deleted)

Section 36

A ~~Bhutanese child may be adopted by any~~ foreign national **belonging to** ~~of a country with whom Bhutan has diplomatic relationship~~ **bilateral agreements on adoption may adopt a Bhutanese child,** ~~or by a Bhutanese citizen permanently residing abroad if the~~ person:

- (a) Is at least ~~twenty five~~ **thirty** years of age at the time of filing an application for adoption **and the age difference between the adoptive parent and the child to be adopted shall be at least 20 years;**
- (b) Is married, ~~the couple shall jointly file for the adoption;~~
- (c) Has the capacity to act and assume all rights and responsibilities of parental authority under ones national laws;
- (d) Is not convicted of a **felony** crime ~~involving moral turpitude or other offences;~~
- (e) Is eligible to adopt under ones national law;
- (f) Pay adoption and other fees;
- (g) ~~Undertakes to provide inheritance to the adopted child; and~~

- (h) Is in a position to provide ~~the~~ proper care and support and to give necessary moral values to the child adopted.

Section 37

Notwithstanding ~~anything contained in~~ Section 36 **(b)**, a single **person** ~~foreign national~~ may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.

New Sections after Section 37

37A. A Bhutanese National may adopt a foreign child only if the person, in addition to section 36:

- a. Has resided in the country from which the child is to be adopted for more than three years and is able to produce evidence that the primary reason for residing in that country was not for adoption;**
- b. Has not more than 3 children biological or otherwise; and**
- c. The number of adoption shall not exceed the permissible limit under Section 37B.**

37B. The Ministry of Home and Cultural Affairs shall set limits on the number of inter-country adoption each year.

Section 38

~~Subject to this Act, the person mentioned under Section 31 may be adopted.~~ **A child below 9 years of age. However, in case of a Bhutanese citizen adopting a foreign child that child shall be a citizen of a**

country with whom Bhutan has bilateral agreements on adoption.

Section 39

~~The High Court may not entertain such application if the court is of the view that it is not in the best interest of the Bhutanese child.~~ **For the purpose of this Chapter, the Competent Authority shall frame relevant rules for the purposes of implementing the provisions of this Chapter to ensure that a child is protected from exploitation, abuse, trafficking, sale or any other practices in connection with adoption which is harmful, detrimental, or prejudicial to the child.**

Section 40

The court shall ~~not~~ make an adoption order in relation to a child **only upon submitting consent of the child's parent or guardian** who is less than 18 years of age unless consent has been given:

- ~~(a) In the case of a child who has not been previously adopted by parent of the child, and any person who has parental care and responsibility for the child; or~~
- ~~(b) In the case of a child who has previously been adopted by adoptive parent or person who has parental care and responsibility for the child.~~

Section 41

No person shall give consent for adoption until the child attains six months of age except **if** after birth of the child, the biological mother dies or where exceptional circumstances exist.

Section 42

The court shall ~~not~~ make an adoption order in relation to a child **upon fulfillment of the following conditions** ~~who is less than 18 years of age and who is capable of giving consent unless:~~

- (a) The child has been counseled;
- (b) The opinion has been given freely without false promise, coercion, or inducement by payment or compensation of any kind; and
- (c) The opinion and wishes of the child has been taken into consideration by way of securing **the** child's rights.

Section 43

(Amended in Dzongkha)

Section 44

Consent to adoption may also be given by the Competent Authority provided ~~that~~ **the** child has been kept under the care and protection of the Authority before the child is adopted.

Section 45

The signing of the instrument of consent must be witnessed by an independent ~~and competent~~ person.

Section 46

(Amended in Dzongkha)

New Section before Section 48

47A. The High Court shall have the original jurisdiction to hear the matters concerning inter-country adoption.

Section 48

(Amended in Dzongkha)

New Section after Section 48

48A. The High Court may not entertain such application if the court is of the view that it is not in the best interest of the child.

Section 49

(Amended in Dzongkha)

Section 50

~~Adoption~~ Application for inter-country **adoption** shall only be filed by the competent authority and such application shall be supported by the following documents:

- (a) Birth Certificate of applicant;
- (b) Passport copies and passport size photographs of adoptive parent and recent postcard-size pictures of the applicant and ones immediate family;
- (c) Marriage contract, if married, and divorce decree, if applicable;
- (d) **If married, the couple shall file the application jointly;**

- (e) Written consent of the parent or guardian **of the adoptee**;
- (f) Written agreement between a biological parent or guardian and adoptive parent;
- (g) **Document on** home study by a recognized organization in home country;
- (h) Medical fitness certificate of the adoptee parent;
- (i) Documents showing the financial capability of the applicant;
- (j) Annual financial statements on income earned;
- (k) Character reference from the local authority, the applicant's employer or from **a** the member of the immediate community who **has** ~~have~~ known applicant for at least five years;
- (l) Certification **from the concerned government agency that the adoption is within permissible limits** ~~that once the adoption process is completed, the child will become a full fledged citizen of the country one is being adopted into, accorded all rights and privileges as others citizens;~~
- (m) ~~Certification that once the adoption process is completed, the child as a member of the family will be accorded same rights and privileges as a biological child including rights to inheritance;~~
- (n) Certification that progress reports on the child carried out by a certified and recognized organization; ~~and~~

- (o) **Birth Certificate of the child; and**
- (p) Any other necessary document that competent authority and the court may require.

Section 51

An application for domestic adoption shall be filed by the competent authority **or a person designated by the Government** and such application shall be supported by the following documents:

- (a) Birth Certificate **of the applicant;**
- (b) Citizenship Identity card ~~or any other proof of citizenship or residency~~ of the adoptive parent and child's parent **or and** guardian;
- (c) Recent pass port size photographs of both the child and the adoptive parent
- (d) Written consent of the parent or guardian;
- (e) Written agreement between a biological parent or guardian and adoptive parent **and their citizenship identity card and birth certificate;**
- (f) Letter of undertaking from the adoptive parents to give share of inheritance to the adoptive child;
- (g) A letter recommending adoption issued by the competent authority or by the child welfare officer;
~~and~~
- (h) **Birth Certificate of the child; and**
- (i) Any other necessary document that competent authority and the court may require.

Section 52

All parties to the adoption whether domestic or inter-country shall ~~personally~~ be present during the Court hearing.

Section 53

(Amended in Dzongkha)

Section 56

The Court **shall** ~~may not~~ make an adoption order in relation to a child ~~unless~~ **if** the court is satisfied that:

- (a) The best interests of the child will be promoted by the adoption; ~~and~~
- (b) The wishes and opinions of the child have been ascertained and respected; **and**
- (c) It does not violate any other law of the country where the child is adopted.**

Section 57

The adoption order **shall** ~~may~~ also contain the discharge order of the child, including orders relating to:

- (a) The name **and sex** of the child;
- (b) The ownership of the property **as per the national law**;
- (c) The parental care and responsibility for the child; and
- (d) Any other order as the Court deems fit.

Section 60 (d)

(Amended in Dzongkha)

Section 61

(Amended in Dzongkha)

New section after Section 61

61A. In case of inter country adoption, citizenship of the country to which the child is adopted shall depend upon the citizenship law of that country.

Section 62

~~Notwithstanding anything contained in the Inheritance Act, the adopted child shall have right of inheritance in all respect to any property of the adoptive parent. In case of inter country adoption, the adoption order shall also guarantee inheritance right to the adopted child in accordance with ones domestic inheritance laws.~~

Section 63

(Deleted)

Section 64

(Amended in Dzongkha)

Section 65

A person shall be guilty of the offence for receipt of payment, if the person receives any payment, reward, favor or consideration in relation to adoption or

proposed adoption of a child. The offence of receipt of payment shall be **an offence of bribery** ~~a felony of fourth degree.~~

Sections 66

A person shall be guilty of the offence of unauthorized advertising, if the person publishes any prohibited adoption advertisement or any photograph of a child. The offence of unauthorized advertising shall be a petty misdemeanor.

Sections 67, 69, 70 & 71

(Amended in Dzongkha)

New Section after Section 71

Any other offence not specified under this Act shall be construed under the Penal Code of Bhutan.

Sections 72

(Amended in Dzongkha)

Section 74 (a) to (f)

(Amended in Dzongkha)

(g) “Parental care and responsibility” means all the duties, powers, responsibilities and authority which **the,** ~~by law,~~ parents have in relation to children.

(h) *(Amended in Dzongkha)*

New Definitions under Section 74

- (i) “Domestic Adoption” means where a child born to a Bhutanese mother is adopted by a Bhutanese.**
- (j) “Inter country Adoption” means the adoption of a child between a Bhutanese national and a national of a country with which Bhutan has bilateral agreement on adoption.**

*(1st Day of the 11th Month of the Iron Male Tiger Year
corresponding to Monday, 6/12/2010)*

5 The Child Care & Protection Bill of Bhutan 2010

The Child Care & Protection Bill of Bhutan 2010 had been deliberated by the National Council during its 5th session, and submitted to the National Assembly along with amendments, changes and repeal on a total of 50 sections for adoption. The National Assembly during the 6th Session of Parliament had deliberated and returned 33 amendments/changes to the National Council for re-deliberation. The National Council accepted 19 and rejected 14 of the amendments/changes. The National Council resolved to discuss these in the Joint Sitting of Parliament.

5.1 Amendments made by the National Assembly and accepted by the National Council are as follows:

Preamble

WHEREAS, it is expedient to make 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;

WHEREAS, it is expedient to promote those conditions that are conducive to cooperation in community life and the integrity of the extended family structure;

~~AND WHEREAS, it is expedient to consolidate and provide care, guidance, counseling and protection for children who are in difficult circumstances in the most favorable manner and in the best interest of the child.~~

~~AND WHEREAS, In order to, consolidate and provide care, protection, guidance, counseling, treatment, development, rehabilitation, adjudication and disposition of matters relating to children in conflict with law in the most favorable manner and in the best interest of the child;~~

Parliament of Bhutan do hereby enact the Child Care & Protection Act of Bhutan, 2010 on the ... Day of the Month ofYear of the Bhutanese Calendar corresponding to the ... Day of....., 2009 at its of the First Parliament as follows:

Section 27

(Retained as in the draft; however, the new section under participation of family proposed by NC was accepted).

Section 33

The mass media shall assist in the promotion of child rights and **responsibilities** and prevention of offences committed by children through positive publication.

Section 36

To protect the best interest of the child, no report in any newspaper, magazine or newsletter of any inquiry regarding a child under this Act shall disclose the name, address, or school or any other particulars which may lead to the identification of the child nor shall any picture of any such child shall be published.

Section 38

~~His Majesty~~ **The Druk Gyalpo** on the recommendation of the National Judicial Commission may establish a Child Justice Court **or Bench** for exercising the powers and discharging the duties conferred by this Act

Section 47

The Government shall **endeavor to** establish and maintain as many child homes as may be necessary for:

Section 49

The Government shall **endeavor to** establish and maintain as many remand homes as may be necessary for:

Section 50

The Government shall **endeavor to** establish and maintain as many special homes as may be necessary for:

Section 51

The Government shall **endeavor to** establish and maintain as many closed facilities as may be necessary for:

Section 52

The Government shall **endeavor to** establish and maintain as many Aftercare Homes as may be necessary to facilitate social reintegration by providing for:

Section 54

The NCWC **or any other authority established by the government** shall be the competent authority under this Act.

Section 60

(Retained as in the draft)

Section 82

The Officer In-charge of the Police Station shall maintain detailed record of the child ~~in a register.~~

Section 85 (a)

Visit or receive the child in conflict with law at reasonable interval as may be specified in the probation order; *(amended in Dzongkha)*

Section 90(b)

Inform the child on the child's rights **and responsibilities** under the law

Section 201

After submitting the copy of the family group conferencing report, and if the judge feels that such agreement would benefit the child, he may make the order accordingly. *(Amended in dzongkha)*

Section 210

The female child in conflict with law shall be handled by female doctors, **health personnel** correction officers and social worker.

New section after 225

Any other crime committed against the child not covered under this Act shall be dealt in accordance with the Penal Code of Bhutan.

Section 231

The authorities of the closed facilities or any authorities under whom the child is detained or confined shall allow the parents, guardians and legal representatives to visit their their child atleast ~~twice~~ **thrice** a month

Section 238

(Retained as in the draft)

5.2 The following amendments made by the National Assembly were rejected by the National Council and resolved to be deliberated in the Joint Sitting of Parliament.

Preamble

WHEREAS, ~~in keeping with His Majesty the Druk Gyalpo's vision for nurturing the children of today as the future citizens of tomorrow~~ **in keeping with the State Policy of the full development of the human personality;**

Section 25

~~The government shall endeavor to provide assistance to the community~~ **shall, with assistance from the government,** ~~to~~ establish special facilities to provide adequate shelter for children who have no home to live in or not able to live at home.

Section 72

A child in conflict with the law is a child who is of ~~13~~ **12** years of age and above and found to have committed and offence

Section 111

If the Child arrested or taken into custody is ~~below 13~~ **12** years of age **and below**, the authority that has affected arrest or under custody, the child is kept, shall immediately release the child to the custody of one's parents or guardian, or in absence thereof, the child nearest relative.

Section 114

No handcuffs shall be used on a child ~~below the age of 13~~ **12 years and below**, and handcuffs may only be used on a child ~~13~~ **12** years and above if there is an exceptional circumstance warranting the use.

Section 118

The police official may allow a child to go home after advice or admonition upon undertaking by the child along with a parent, member of family, guardian, or legal representative if the child is:

- a) ~~Below 13~~ **12** years of age **and below**; or
- b) ~~13~~ **above 12** years of age ~~and above~~ but the offence is of violation and the child is not a recidivist.

Sections 121, 213, 214, 216, 218, 219 & 234

(National Assembly did not accept these amendments proposed by National Council and retained as in the draft)

Section 243 (j)

Parent means biological father and mother of a child, regardless of whether they are married or not **including a person who had adopted the child.**

(27th Day of the 10th Month and 1st Day of the 11th Month of the Iron Male Tiger Year corresponding to Thursday 2/12/2010 and Monday 6/12/2010)

6. The Penal Code of Bhutan (Amendment) Bill 2010

The Penal Code of Bhutan (Amendment) Bill 2010 had been deliberated upon and adopted by the National Council during its 5th session. It had then been submitted to the National Assembly along with amendments and additions on 58 sections for adoption. Of these, the National Assembly had accepted 28 sections but made amendments and additions on 40 sections during the 6th session of Parliament. These had been returned to the National Council on which the House re-deliberated at length on 6/12/2010.

The main differences between the two Houses were on the age of child and the degree of penalties. While the National Council accepted 19 of the 40 changes made by the National Assembly, it could not agree on the remaining 21 sections. The National Council resolved to discuss these in the Joint Sitting of Parliament.

6.1 Amendments made by the National Assembly and accepted by the National Council are as follows:

Section 3 (d)

A crime shall be a violation, if it is so designated in this Penal Code or other laws and provides that the convicted defendant shall not be imprisoned but shall

be fined the daily minimum ~~national~~ wage ~~rate~~ up to a maximum of ninety days.

Section 14

A defendant convicted of a violation shall be fined the daily minimum ~~national~~ wage ~~rate~~ for a maximum of ninety days.

Section 18

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

- (a) A felony of the third degree, if the value or the amounts involved in the crime exceed the total amount of the daily minimum ~~national~~ wage ~~rate~~ at the time of the crime for a period of thirty years or more;
- (b) 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 daily minimum ~~national~~ wage ~~rate~~ at the time of the crime for a period less than thirty years and for period of fifteen years or more;
- (c) A misdemeanor, 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 daily minimum ~~national~~ wage ~~rate~~ at the time of the crime for a period less than fifteen years and for a period of seven years or more;
or
- (d) A petty misdemeanor, 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 daily minimum ~~national~~ wage ~~rate~~ at

the time of the crime for a period less than seven years.

Section 39

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 daily minimum ~~national~~ wage rate at the time of the crime for:

- a) ~~Maximum of~~ 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~~ Ten years, if the crime causes permanent **total** disability to the victim;
- c) ~~Maximum of~~ Seven years, if the crime causes **permanent** partial disability to the victim;
- d) ~~Maximum of~~ Five years, if the crime **causes temporary total disability** ~~endangers the victim's life or causes serious bodily injury to the victim;~~
- (d1) Three years, if the crime causes temporary partial disability to the victim;**
- (e) The daily wage lost to the victim, when the crime has resulted in temporary loss of wage.

Section 116

If a ~~Juvenile~~ **child in conflict with law** is found guilty of an offence for which imprisonment is prescribed, the Court may in lieu of imprisonment consider the availability of other appropriate facilities and correctional institutions.

Section 117

If a Juvenile ~~child in conflict with law~~ is found guilty of an offence for which damages are appropriate, the Court may order the parents or legal guardian of the ~~child in conflict with law~~ Juvenile to pay the damages.

Section 177

A defendant shall be guilty of the offence of rape, if the defendant has **commits any act of** sexual intercourse ~~with another~~ **penetration whatever its nature against any other** person:

- (b) Compels the other person to submit to sexual intercourse by force, or by threat of imminent death, bodily injury or serious bodily injury or the commission of a felony to that person or a third person;
- (c) Substantially impairs the other persons ability to appraise or control the conduct by administering drugs, intoxicants, or other substances without consent for the purpose of preventing the person's resistance to the sexual intercourse **penetration**, or
- (d) Renders the other person unconscious for the purpose of committing sexual intercourse **penetration**.

Section 197

(Retained as in the Penal Code of Bhutan)

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.

Section 199

(Retained as in the Penal Code of Bhutan)

A defendant shall be guilty of marital rape, if the defendant engages in sexual intercourse with one's own spouse without consent or against the will of the other spouse.

Section 207

(Retained as in the Penal Code of Bhutan)

A defendant shall be guilty of the offence of incest, if the defendant engages in sexual intercourse or any other sexual conduct with a person to whom the defendant is related by consanguinity or affinity in such a way that they cannot legally marry except otherwise provided in other laws.

Section 211

(Retained as in the Penal Code of Bhutan)

A defendant shall be guilty of the offence of bestiality, if the defendant engages in sexual intercourse or other sexual contact with an animal.

Chapter 20

(Delete the entire chapter except Sections 294 & 295 "Official Misconduct" to be inserted after Section 316 as section 316 (A) & 316 (B)

Section 309(e)

Makes a false or misleading written statement for the purpose of promoting the sale of a security **financial**

services or omits information required by law to be disclosed in written document relating to a ~~security~~ **all financial services**;

Section 319

The offence of defamation shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of three years to the aggrieved party calculated in accordance with the daily minimum ~~national~~ wage ~~rate~~, if the defamation includes murder, armed robbery, terrorism or treason; or
- (b) A petty misdemeanor and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the daily minimum ~~national~~ wage ~~rate~~, if the defamation includes any matter other than murder, armed robbery, terrorism or treason.

Section 321

The offence of libel shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of three years to the aggrieved party calculated in accordance with the daily minimum ~~national~~ wage ~~rate~~, if the libel includes murder, armed robbery, terrorism or treason; or
- (b) A petty misdemeanor and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the daily minimum ~~national~~ wage ~~rate~~, if the

libel includes any matter other than murder, armed robbery, terrorism or treason.

Section 372

(Retained as in the Penal Code of Bhutan)

The offence of cantankerous litigation shall be a petty misdemeanor.

New Section 463(A)

~~Proselytization~~ Compelling others to belong to another faith

A defendant shall be guilty of the offence of ~~proselytization~~ compelling others to belong to another faith if the defendant uses coercion or other forms of inducement to cause the conversion of a person from one religion or faith to another.

New Section 463(B)

Grading of ~~Proselytization~~ Compelling others to belong to another faith

The offence of ~~proselytization~~ compelling others to belong to another faith shall be a felony of ~~misdemeanor~~ fourth degree.

Section 487

The offence of display of a weapon shall be a: ~~felony of the fourth degree~~

- (a) **misdemeanor** if the weapon is a firearm; or
- (b) **petty misdemeanor if the weapon is other than firearms.**

Section 501

(Retained as in the Penal Code of Bhutan)

The offence of possession of a controlled substance shall be:

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

6.2 The following amendments made by the National Assembly were rejected by the National Council and resolved to be deliberated in the Joint Sitting of Parliament.

Section 114

If the defendant is a child of ~~10-12~~ years and below, he/**she** shall not be held liable for any offence committed by him/**her**. ~~However, the Court may order the child to be sent to a remand home.~~

Section 115

If the defendant is a child of ~~10-12~~ years, the Court ~~may~~ **shall** sentence the juvenile **child in conflict with law** to minimum of half of the sentence prescribed for the offence.

Section 154

A defendant shall be guilty of the offence of trafficking a person if the defendant **recruits**, transports, *sells or buys* **harbors or receives a person through the use of**

threat or force or deception within, into or outside of Bhutan for any ~~the~~ **illegal** purpose ~~of exploitation.~~

Section 181

A defendant shall be guilty of the offence of statutory rape, if the defendant engages in **any act of** sexual intercourse ~~penetration whatever its nature~~ with a child below ~~thirteen~~ **twelve** years, or an incompetent person, either with or without knowledge of the other person being a child or incompetent person.

Section 183

Rape of a Child above ~~thirteen~~ twelve years of age

A defendant shall be guilty of the offence of rape of a child above the age of ~~thirteen~~ twelve years if the defendant **commits any act of** sexual intercourse ~~penetration against~~ a child between the ages of ~~thirteen~~ twelve to eighteen years. **However, consensual sex between children above the age of sixteen years shall not be deemed to be rape.**

Section 191

Gang rape of a child below ~~thirteen~~ twelve years of age

A defendant shall be guilty of the gang rape of a child below the age of ~~thirteen~~ twelve years, when two or more persons engage in **any act of** sexual intercourse ~~penetration whatever its nature~~ with a child below the age of ~~thirteen~~ twelve years.

Section 193

A defendant shall be guilty of the offence of gang rape of a child above the age of ~~thirteen~~ twelve years, when two or more persons engages in **any act of** sexual intercourse ~~penetration whatever its nature~~ with a child between the age of ~~thirteen~~ twelve and eighteen years.

Section 194

The offence of gang rape of a child above ~~thirteen~~ ~~twelve~~ years of age shall be a felony of the ~~first~~ second degree ~~above the age of twelve years and below sixteen years shall be a felony of first degree.~~ **The offence of gang rape of a child above the age of sixteen and below eighteen years shall be a felony of second degree.**

New Section 214 (B)

Grading of Unauthorized Disclosure of Identity

The offence of unauthorized disclosure of identity shall be a ~~misdemeanor~~ violation.

Sections 7(a), 182, 184, 192, 206, 226(a), 376(b), 376(c), 378(b), 378(c), 380(b), 380(c), 491, 497 & 506

(National Assembly did not accept these amendments proposed by National Council and retained as in the Penal Code of Bhutan)

*(3rd Day of the 11th Month of the Iron Male Tiger Year
corresponding to Wednesday 8/12/2010)*

**7 The Anti-Corruption Act (Amendment) Bill
2010**

The Anti-Corruption Act (Amendment) Bill 2010 had been deliberated upon and adopted by the National Council during its 5th Session. It had then been submitted to the National Assembly along with amendments and changes on 89 sections for adoption. Of these, the National Assembly during its 6th Session had deliberated and accepted 49, rejected 40 and made additional amendments. A total of 169 sections had been returned to the National Council. While re-deliberating on 8/12/2010, the National Council accepted 109 of the amendments. The House resolved to discuss on the remaining 61 sections in the Joint Sitting of Parliament.

**7.1 Amendments made by the National Assembly
and accepted by the National Council are as
follows:**

New clause

Repeal

**The Anti-Corruption Act of Bhutan 2006 is hereby
repealed.**

Section 3 (1)

The following shall be held liable for the commission of
~~an corruption~~ offence under this Act.

Section 3 (1)(a)(iv)

Members of the **Royal Bhutan** Police Force.

Section 4 (1) (d)(iv)

... a company in which that person or his/her nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with his/her nominee, holds the a controlling interest; or shares **as per the prescribed limit of relevant laws;** amounting to more than thirty percent of the total share capital;

New clause 4(dde)

“Public resources” include:

- (i) moneys paid from the Consolidated Fund of Bhutan ;**
- (ii) public property, including human resources, authority, information, time, natural resources; or**
- (iii) any moneys, loan, grant, or donation for the benefit of the people of Bhutan or a section thereof, whether mobilized through domestic or external sources.**

New clause

“Business” means any business, trade, occupation, profession, calling, industry or undertaking of any kind, or any other activity carried on for gain or profit by any person within Bhutan or elsewhere, and includes all property derived from or used in or for the purpose of carrying on such other activity,

and all the rights and liabilities arising from such other activity;

New clause

“Competent court” means a court within Bhutan having jurisdiction and due legal authority to deal with the subject matter of this Act;

New clause

“Formal University Degree” means a degree not lower than a Bachelor’s Degree conferred on a person after having pursued a formal course of study at a University or an institution of higher learning recognized by the Royal Government of Bhutan and attested by a competent authority in the Kingdom;

Section 4 (aa)

“Property or asset ” means money or any other corporeal or incorporeal, movable or immovable, tangible or intangible thing, whether situated in Bhutan or elsewhere and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof.

New sub-clause in Section 4 (bb)

- **the Executive;**
- **the Legislative;**
- **the Judiciary.**

Section 4 (dd)

“Public servant” means a person who is a member, an officer, an employee of a public agency, whether

appointed or elected, whether permanent or temporary, whether paid or unpaid **and includes a person:**

(i) who is a civil servant within the meaning of the Civil Service Act , as amended; or

(ii) receiving salary, allowances, benefits, or emoluments from public funds;

New clause

“Travel documents” includes a passport;

Section 9(1)

In excising its powers or **discharging its** functions relating to the investigation of an offence under this Act, the Commission:

Section 9(2)

The Commission may consult with and disseminate intelligence and information to law enforcement agencies, the Royal Monetary Authority **or Financial Intelligence Unit** and the Department of Revenue and Customs and such other persons and public agencies as the Commission ~~thinks appropriate~~ **deems fit.**

Section 10 (1)

~~The Commission shall, as provided for in section (1) of article (27) of the Constitution, comprise of a Chairperson and two other Members.~~ **The Commission shall be an independent authority comprising of a Chairperson and two Members.**

Section 11(1)

~~Selection~~ **Appointment** of the Chairperson and

Members

The Druk Gyalpo shall, by warrant under His hand and seal, appoint the chairperson and the Members of the commission from a list of names recommended jointly by the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council and the Leader of the Opposition Party.

Section 12 (1)

Eligibility and qualification of the **Chairperson** and Members:

~~A person to shall be qualified for appointment as a chairperson if the person fulfils the qualification as provided for in sections (1) and (3) of article (31) of the constitution as the Chairperson or the member, if he/she is:~~ **to be** eligible to hold office as **a** Chairperson and a member of the Commission shall.

Section 12(2)

~~... a person shall, in addition to the qualification as provided for in subsection (1) of this section, ne qualified for appointment as a Chairperson if the person fulfills the qualification criteria spelt out in paragraphs (c), (d) and (f) through (i) of subsection (3) of this section.~~

Section 12(3)

~~A person shall be qualified for appointment as a Member, if the person:~~

- (a) is **be** a natural born citizen of Bhutan;
- (b) is not married to a person who is not a citizen of

Bhutan;

- (c) ~~has~~ **have** a minimum qualification of ~~Bachelor's~~ **formal university** Degree ;
- (e) ~~has~~ **have** no political affiliation;
- (f) ~~is~~ not **have been** terminated or compulsorily retired from the **Government or** public service on disciplinary grounds;
- (g) ~~is~~ not **have been** convicted of a criminal offence **and sentenced to imprisonment**;
- (h) ~~is~~ not **be** in arrears of taxes or other dues to ~~a~~**the Government and** public entity;
- (i) ~~is~~ not holding any office of profit whether public or private or in Civil Society Organizations;
- **not have been disqualified under any other laws**;

Section 13 (1)

~~The *Druk Gyalpo* shall, as provided for in section (2) of article (27) and paragraph (h) of section (19) of article (2) of the Constitution, appoint the Members by warrant under His hand and seal, from a list of names recommended under section (11) of this Act.~~

Section 14 (1)

Oath or affirmation of office

The Chairperson **and the Members** shall before assuming office, take an oath or affirmation of office **in the form and manner prescribed in the Third Schedule** of the Constitution.

Section 14(2)

~~The Members shall, before assuming office, take an oath or affirmation of office in a form prescribed in the third Schedule of the Constitution.~~

Section 15 (3)

~~The term of office of Members shall, as provided for in section (3) of article (27) of the Constitution, be five years or until they attain the age of sixty-five years, whichever occurs ~~is~~ earlier.~~

Section 16 (1)

Salary, allowances and benefits of **the Chairperson** and Members

The salary, allowances, benefits and other service conditions of **the Chairperson and** Members shall be as prescribed by the Entitlements and Service Conditions Act of the Holders, Members and Commissioners of the Constitutional Offices, provided that their salary and benefits shall not be varied to their disadvantage after their appointment.

Section 17

- (1) The Members and staffs shall always maintain strict discipline and shall, in particular:**
- (a) respect and abide by all applicable Bhutanese laws, including all lawful and reasonable directions given by lawful individual or an authority when exercising their official functions or powers;**
 - (b) at all times conduct themselves in a way that upholds this Code and preserves and enhances**

- the public's confidence and trust in the integrity, impartiality, effectiveness and good reputation of the Commission;**
- (c) **act objectively, honestly, equitably, diligently and in a fair, just, Courteous and transparent manner in the exercise of their official functions or powers;**
 - (d) **be accountable for their decisions and actions to the public and submit themselves to whatever scrutiny is appropriate to their functions or powers;**
 - (e) **not act arbitrarily to the detriment of a person, group or entity and have due regard for the rights, duties and proper interests of all other persons in the performance of their functions or powers;**
 - (f) **not allow their official functions or powers to conflict with their own or their relatives' personal or financial interest;**
 - (g) **not engage in an activity or transaction or acquire a position or function, whether paid or unpaid, that is incompatible with or detracts from the proper exercise of their official functions or powers;**
 - (h) **declare their personal assets, income and liabilities, as well as, those of their spouses and/or dependants;**
 - (i) **not, directly or indirectly, solicit or accept gifts, hospitality or other benefits of any kind which might be seen to compromise their personal judgment or integrity except as otherwise provided for by the laws and/or rules;**

- (j) **not permit themselves to be put, or appear to be put, in a position of obligation to return a favour to another person or entity;**
- (k) **not, directly or indirectly, take advantage of their official position for the improper advancement of their own or their relatives' personal or financial interest;**
- (l) **both while in service as well as thereafter, keep confidential a matter of a confidential nature in their possession and take appropriate steps to protect its security and confidentiality;**
- (m) **not withhold official information that should properly be released to another person or entity or to public nor knowingly provide false or misleading information in response to a request for information that is made for official purposes;**
- (n) **at all times ensure that the staff and public property, facilities, services and financial resources with which they are entrusted are managed and used effectively, efficiently and economically for which they are intended to be used and protect them against damage, loss, destruction and abuse;**
- (o) **establish merit as the fundamental principle in employment, promotion and other personnel actions and ensure that appropriate checks on the integrity of the candidate for employment are carry out as lawfully required;**
- (p) **ensure that they remain apolitical and political activities do not influence or conflict with their official functions or powers;**

- (q) **take all necessary steps to ensure that the public servant's privacy is appropriately respected and declarations provided for in this Code are kept confidential unless otherwise provided for by law;**
- (r) **not give preferential treatment or privileged access to their service to a former public official;**
- (s) **carry out risk assessment of posts or activities vulnerable to corruption within the Commission, and hold discussions with office holders on how to protect both them and the activities from corruption; and**
- (t) **comply with any other conduct requirement that may be prescribed by rules made by the Commission from time to time.**
- (2) **This Code shall be considered as a part of the employment terms and conditions of a Member and staff and its breach shall result in disciplinary actions.**
- (3) **The Commission shall promote and support this Code by leadership and example in accordance with the policies and purposes of the Commission.**
- (4) **The Commission shall be answerable for an act or omission of its staff which are inconsistent with this Code or the policies and purposes of the Commission if the Commission has not taken reasonable steps required from it to prevent such an act or omission.**
- (5) **The Commission shall take reasonable steps to prevent corruption by its staffs in relation to their office by emphasizing and enforcing rules, providing appropriate education or**

training, being alert to signs of financial or other difficulties of its staff, and providing by its personal conduct an example of propriety and integrity.

- (6) The Members or staffs of the Commission who believe they are being required to act in an unlawful, improper or unethical way, which involves maladministration, or which is otherwise inconsistent with this Code shall file a complaint with the designated authorities.
- (7) The Members or staffs shall file a complaint with the designated authorities if they become aware of breaches of this Code by another Member or a staff, including pressure or undue influence applied to them by a colleague or by others.
- (8) The Commission shall ensure that complaint or information contained therein is treated confidentially and the complainant's career is not adversely affected.
- (9) The Commission shall ensure that no prejudice is caused to staffs who file a complaint about the breaches of this Code on reasonable grounds and in good faith.
- (10) The Commission shall be responsible for implementing this Code by developing its own code with more detailed policies, rules, training, and procedures that specify in detail what is expected and what is prohibited based on this Code, tailored to the powers or functions it is expected to carry out and to suit its particular requirements and circumstances.
- (11) The Commission shall, in accordance with the

procedures prescribed in this Act and/or rules made by the Commission from time to time, impose the following sanctions on its staff who is found to have breached this Code:

- (a) termination from service;**
- (b) compulsory retirement;**
- (c) suspension;**
- (d) withholding of promotion;**
- (e) demotion;**
- (f) re-assignment of duties;**
- (g) reduction in salary;**
- (h) deductions in salary, by way of fine;**
- (i) withholding of training ; and**
- (j) a reprimand.**

Where the conduct involved also constitutes a criminal offence which is punishable under any other law, subsection (11) shall not be considered as a limitation.

Section 19(1)

~~Resignation of Members~~ Voluntary resignation

~~The Members may resign from their office by giving one month's prior notice to the *Druk Gyalpo*.~~ **The Chairperson or in the case of other Members through the Chairperson may resign from Office before the expiry of their term by making a written submission before the Druk Gyalpo within thirty days' notice.**

Section 19(2)

~~Members other than the Chairperson shall send a copy of their resignation letter to the Chairperson for~~

~~information.~~

Section 21

(Amended in Dzongkha)

New sub-clause in Section 21

(As in Dzongkha)

Section 26 (1) (d)

Commence an inquiry **or investigation** on its own motion even without a complaint by any person and without informing any person or authority.

Section 26 (1) (h)

... revoke work order, appointment, ~~license~~, lease or contractual transaction that is obtained by corrupt means;

Section 26 (1) (j)

Take any ~~other powers which in the opinion of the Commission may be necessary~~ **steps** for the ~~to~~ prevention of, and the fight against, **combat** corruption.

Section 27 (f)

... receive and consider a complaint of the commission of an ~~corruption~~ offence under ~~chapter IV~~ of this Act lodged with it by ~~any~~ a person or authority and investigate such of the complaint as the Commission consider practicable;

Section 29 – Title

~~Oath or affirmation of office~~ **Oath of affirmation and allegiance**

Section 32 (1)

A person who impersonates a Member or a staff of the Commission, ~~including the Secretary,~~ is guilty of an offence.

Section 32 (2)

~~A person guilty of an offence under this section, shall, on conviction, be liable to imprisonment for a term not less than one year to not more than three years.~~ **An offence under this section shall be a misdemeanor.**

Section 36(1)

Functional Immunity from prosecution

No legal proceeding or suit shall lie against any member of the Commission or its staffs or a person acting for the Commission in respect of their official duties done in good faith or intended to be done pursuant to the provisions of this Act. **Such immunity shall not cover corrupt acts committed by any member of the commission or staff or a person acting for the commission in connection with the discharge of their official duties.**

Section 36(2)

~~Such immunity shall not cover corrupt acts committed by any Member of the Commission or its~~

~~staffs or a person acting for the Commission in connection with the discharge of their official duties.~~

Section 40 (6)

~~For the purposes of subsection (5), non-filing of declarations means declarations not filed after one month from the due date.~~

New clause

A public servant who, without reasonable justifications, commits an offence under subsections (4) and (5) of this subsection for more than once shall be subject to appropriate disciplinary sanctions, as may be prescribed in the Asset Declaration Rules in addition to fines levied under subsection (4) and (5).

Section 40 (7)

Agency heads who are required to perform their functions in relation to the administration of declarations in their agencies fails to do so, **without reasonable justifications**, shall be levied a fine equivalent to **one month's gross salary** ~~one year's daily minimum wage~~.

Section 40(8) (f)

... such other guidance as **which** in the opinion of the Commission may be necessary for the effective implementation of ~~this section~~ **declaration system**.

Section 41 (1)

The Commission may ask any private individuals, whether or not such individuals are under investigation for an offence under this Act, to prepare, declare accurately and truly, and file their personal assets, income and liabilities, **as well as, those of their spouse and/or dependants**, to the Commission.

Section 42 (3) (d)

... the requirement for the Committee to follow or guarantee ~~the parties~~ **a party** involved a minimum due process **or procedural fairness**;

Section 42 (3) (e)

... the manner in which suspension and/or debarment proceedings shall **should** be conducted and decided ~~guaranteeing the parties involved a minimum due process or procedural fairness.~~

Section 45 (1)

A person who ~~with intention~~ promises, offers or gives any advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant.

Section 45 (1) (b)

... expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, ~~whether by himself or by any other~~ **another** public servant in ~~his~~ **the latter's capacity as a public servant; or**

Section 45 (2) (a)

... is for the benefit of such public servant who ~~is to~~ performs, or **fails to** performed, the acts as defined in paragraphs (a), (b) and (c) of subsection (1) or for another person or entity; actually influenced the public servant's acts **or omissions** as defined in paragraphs (a) **through (bd)** and ~~(e)~~ of subsection (1) **of this section.**

Section 46 (1)

A public servant who ~~with intention~~ solicits or accepts any undue advantage as an inducement to or reward for or otherwise on account of such public servant:

Section 46 (1) (a)

... performing or abstaining from performing or having performed or abstained from performing **directly or indirectly** an act in one's capacity as a public servant;

Section 46 (1) (b)

... expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, ~~whether by himself or by any other~~ **another** public servant in ~~his~~ **the latter's capacity as a public servant; or**

Section 46 (2) (a)

... is for the benefit of such public servant who ~~is to~~ performs, or ~~has~~ **fails to** performed, the acts as defined in paragraphs (a) **through (d)**, ~~(b) and (e)~~ of subsection (1) or for another person or entity;

Section 46 (2) (c)

... actually influenced the public servant's acts **or omissions** as defined in paragraphs (a) **through (d)**, ~~(b)~~ and ~~(c)~~ of sub-section (1).

Section 47 (1)

A person who ~~with intention~~ promises, offers or gives to a foreign public servant any undue advantage, in order:

Section 48 (1)

A foreign public servant who ~~with intention~~ solicits or accepts any undue advantage in order that the foreign public servant acts or refrains from acting in the exercise of his or her official duties shall be guilty of an offence.

New clause

Protection of public property and revenue

- (1) A person is guilty of a corruption offence if the person fraudulently or otherwise unlawfully:**
- (a) acquires public property or a public service or benefit;**
 - (b) mortgages, charges or disposes of any public property;**
 - (c) damages public property, including causing a computer or any other electronic machinery to perform any function that directly or indirectly results in a loss or adversely affects any public revenue or service; or**
 - (d) fails to pay taxes, fees, levies or charges payable to a public agency or effects or obtains an exemption, remission, reduction or**

abatement from payment of such taxes, fees, levies or charges.

- (2) A person whose functions concern the administration, custody, management, receipt or use of any part of the public revenue or public property shall be guilty of a corruption offence if the person:
 - (a) fraudulently makes payment or excessive payment from public revenues for:
 - (i) sub-standard or defective goods;
 - (ii) goods not supplied or not supplied in full; or
 - (iii) services not rendered or not adequately rendered;
 - (b) willfully or negligently fails to comply with any law or applicable procedures and guidelines relating to the procurement, allocation, sale or disposal of property, tendering of contracts, management of funds or incurring of expenditures; or
 - (c) engages in a project without prior planning.
- (3) A person who is guilty of an offence under this section shall, on conviction, be liable to a fine not exceeding two times the amount which was so paid or valued-based sentence.

New clause:

False claims by public servants

- (1) A public servant who:
 - (a) is employed in such a capacity as to require one or enable one to furnish returns or statements touching a sum payable or claimed to be payable to oneself or to another person, or touching any other matter required to be certified for the purpose of a payment of

- money or delivery of goods to be made to another person; and
- (b) makes a return or statement touching such matter which is, to one's knowledge, false in any material particular, shall be guilty of a corruption offence.
 - (2) A public servant who is guilty of an offence under this section shall, on conviction, be liable to a fine not exceeding two times the amount which was so claimed or valued-based sentence.

Section 64 (1)

~~A public servant shall be guilty of an offence if he/she knowingly fails to declare conflict of interest as required by laws or rules.~~

- (1) Where a public servant or one's relative or associate has a private or personal interest in a decision to be taken by a public agency, that public servant shall not vote or take part in a proceeding or process of that public agency relating to such decision.
- (2) A public servant who fails to comply with subsections (1) or (2) of this section shall be guilty of a corruption offence.

New clause

Abuse of Privileged Information

- (1) A ~~public servant~~ person who uses the privileged information and knowledge that he/she possesses as a result of his/her office to provide an advantage to another person or

entity, or to accrue a benefit for himself/herself shall be guilty of an offence.

- (2) An offence under this section shall be a misdemeanor.**

Section 73 (4)

Upon receipt of a complaint under subsections (1) through (3), the Commission shall take ~~or caused to be taken down~~ the complaint in **such** the manner **as it considers appropriate** ~~directed by the Commission,~~ and forthwith provide the person who made the report with an acknowledgment of receipt of such complaint.

Section 77

Duty to provide assistance to Commission

- (1) The Commission may seek the assistance of any law enforcement agency, in excising its powers or functions under this Act.**
- (2) If the Commission seeks assistance, it shall be the duty of any law enforcement agency to provide such assistance to the Commission.**

New Clause

The Commission shall, before taking a written statement from a person under this Act:

- (a) warn the person that a statement given by such person can be admissible at that person's trial in evidence;**
- (b) notify the person of one's right to a *Jabmi*; and**
- (c) inform the person, that if one cannot afford a *Jabmi*, the Government will provide the person with a *Jabmi*.**

(3) A *Jabmi* shall always strictly adhere to the Code of Conduct and shall not engage, directly or indirectly, in an act that amounts to obstruction of justice under this Act.

Section 81 (1) (e)

... ~~use~~ listening or bugging devices;

Section 81 (1) (f)

... ~~engage in~~ controlled deliveries.

Section 82 (3)

Notwithstanding any law to the contrary, when any person is charged **for an** ~~with~~ an offence under this Act, any information obtained by the Commission under subsection (1) shall be admissible in ~~evidence at his trial~~ **accordance with Evidence Act of Bhutan.**

Section 83 (1)

Subject to subsection (2) of section (92), the Commission may, without warrant, arrest a person upon reasonable suspicion of the **person** ~~his~~ having committed or being about to commit an ~~corruption~~ offence under this Act.

Section 83 (2)

Subject to subsection (2) of section (92), the Commission may arrest a person who may assist it in an investigation, if the Commission is satisfied that that person: (b) intends to destroy evidence which is in that person's possession.

Section 84 (1)

A citizen may arrest or cause to be arrested any **other** person whom **the/she citizen** reasonably believes:

Section 84 (3)

If the person arrested under this section is handed over to a public servant other than the Commission, that public servant shall record a statement from the arresting ~~individual~~ **person** justifying the arrest and expediently transfer the ~~suspect~~ **arrested person** to the Commission.

Section 84 (4)

At the time of handing over the ~~suspect~~ **arrested person** to the Commission, the arresting ~~individual,~~ **person** or the public official **who is** given control over the person **arrested** by the arresting ~~individual,~~ **person** shall make or present a statement to the Commission justifying the arrest.

Section 86 - Title

Bail and Bond

Section 86 (1) (iii)

... ~~his~~ entering into recognizance with such sureties, if any, as the Commission may require and conditioned upon the ~~attendance~~ **appearance** of the person **before** ~~at the office of~~ the Commission at such time as the Commission may specify;

Section 86 (1) (iv)

... condition that **the person** resides at such address as the Commission may specify;

Section 86 (1) (v)

... condition that **the person appears before** ~~attends at the office of~~ the Commission such time ~~or times~~ as the Commission may specify; or

Section 86 (1) (vi)

... any one or combinations of the conditions set out in sub-paragraphs (a) ~~through to~~ **(e) of this section.** .

Section 86 (2)

Where a person released from custody under this section fails to **comply with sub paragraphs (d) and (e) of sub section (1) of this section** ~~attend at the office of the Commission~~ **shall forfeit** the deposit paid or recognizance entered into for release, as the case may be, ~~shall be forfeited by the Commission.~~

Section 88 (1) (b)

~~On being notified in writing by any~~ **that person's** surety believes that **wishes to be relieved of one's obligation as surety because** that person is likely to break the condition **to** appear at the time and place required ~~and for that reason the~~ **which shall be notified in writing by the** surety ~~wishes to be relieved of his obligation as surety.~~

Section 88 (3) (b)

... admit that person to bail on the same or on such other conditions as ~~he~~ **the Judge** ~~thinks~~ **deems fit**.

Section 89 (2)

~~A person under investigation summoned to appear before the Commission may consult and be represented by a Bhutanese *Jabmi* of his own choice.~~

Section 89 (5) (b)

... obstructs the Commission in the execution of **its powers or functions** ~~an authorization given~~ under this section. **Act.**

Section 90 (1)

~~Notwithstanding any law to the contrary,~~ the Commission may, **subject to sections (95) and (96) of this Act**, search any person, **if it has reasonable grounds for:**

Section 90 (1) (a)

~~If the commission has reasonable grounds for~~ suspecting that such person has committed **an** offence or is about to commit **an corruption** offence under this Act and seize ~~any~~ document, material or other thing found on **that person** ~~him~~; or

Section 90 (1) (b)

~~If the commission has reasonable grounds for believing~~ that such person **is** has **in possession of** ~~with him or on him~~ any document, material or other thing which is relevant or is likely to be relevant to **an** ~~the~~ investigation

and seize any such document, material or other thing found on such person.

Section 91(1)

~~Notwithstanding any law to the contrary,~~ where the Commission has reasonable cause to believe that there is in any place or premises, other than a private place or premises, anything which is or contains evidence of the commission of an offence under this Act, the Commission may enter such public place or premises and search it **therein under the circumstances contemplated in the Civil and Criminal Procedure Code of Bhutan.**

Section 93 (1)

~~Notwithstanding any law to the contrary,~~ the Commission may ~~on the scene conduct search~~ **a person** without warrant ~~in the course of an investigation,~~ **from a Court while conducting search under section (95),** where:

Section 98 (2)

The Commission shall prepare a list of all movable property seized under this section and of the places in which they are respectively found ~~shall be prepared by the Commission~~ and such seizure list shall be signed by the Commission, the owner of premises or person in occupation of such premises and by a witness present at the time of search.

Section 100 (2)

Such thing, including the contents thereof, shall be admissible in evidence in a prosecution of any

person, including the person who produced it or from whom it was obtained, for an offence **in accordance with the Evidence Act of Bhutan .**

Section 105 (3)

Subject to subsection (2) of this section, a Court may:

Section 105 (3) (a)

... grant the application either without conditions or subject to such conditions as to the further surrender of the ~~passport~~ **travel documents** and the appearance of the applicant at a place and time as the Court may specify; or.

Section 107 (1)

The Commission may at any time amend or revoke an order or notice which has been made or given by it in exercise of ~~any~~ its powers **or functions** ~~conferred on it~~. Such revocation shall not be a bar to any fresh order being made or notice being given in the exercise of such power or any other powers conferred on it, at any time thereafter, against any person to whom the earlier order or notice applied or in respect of any matter affected by the earlier order or notice.

Section 109 (1)

The Commission may consider plea bargain which shall be in conformity with ~~section 197~~ the Civil and Criminal Code of Bhutan.

Section 111 (1)

Subject to subsection (8) of this section, a person servant shall incur no civil or criminal liability, **including disciplinary action** as a result of his disclosure.

Section 113 (2) (a)

... on ~~his~~ the **Judge's** own motion;

Section 117 (1)

In a proceeding against a person for ~~an corruption~~ offence under Chapter IV of this Act (other than possession of unexplained wealth), the fact that the accused:

- (a) was, at or about the date of or at any time since the date of the alleged offence, or is in possession of pecuniary resources or property disproportionate to one's lawful sources of income for which the person cannot satisfactorily account ~~may be proved and may be taken by the court~~; or
- (b) that the person had, at or about the date of or at any time since the date of the alleged offence, obtained an accretion to one's pecuniary resources or property for which the person cannot satisfactorily account, may be proved and may be taken by the Court as:
 - ~~(a)~~ (i) as corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or solicited any undue advantage; and
 - ~~(b)~~ (ii) as showing that such undue advantage

accepted or solicited as an inducement or reward.

Section 121(1)

~~Notwithstanding any law to the contrary, In a proceeding against a person for an offence under this Act, a statement whether or not the statement amounts to a confession or is oral or in writing, made at any time, whether before or after the person is charged and whether or not in the course of an investigation and whether or not wholly or partly in answer to question, by an accused person to or in the hearing of the Commission, whether or not interpreted to him made at any **time** by an accused person to the Commission, whether or not interpreted to the accused by the Commission or any other person, whether concerned or not in the arrest of that person, shall :~~

Section 121(1) (a)

... be admissible at that person's trial in evidence **in accordance with evidence Act**; and.

Section 122 (1)

~~Notwithstanding any law to the contrary, In a proceeding against a person for an offence under this Act.~~

Section 122 (1) (b)

... any document, or copy of any document, seized from any person by the Commission in the exercise of his powers under this Act or by virtue of his powers under this Act or by virtue of this Act, shall be admissible as evidence in **accordance with Evidence Act** in any proceedings under this Act before any court,

where the person who made the statement or the document or the copy of the document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which appears to the Court unreasonable.

Section 123 (2)

The Office of the Attorney General shall undertake prosecution of persons on the basis of the findings of the Commission ~~shall~~ for adjudication by a Court, as ~~provided for in section (5) of article (27) of the Constitution.~~

New Clause:

Compensation for loss

- (1) A person who suffers a loss as a result of anything that constitutes a corruption offence under this Act may initiate legal proceedings against another person responsible for the loss in order to obtain full compensation for the loss suffered, including an interest, at the prescribed rate, on the compensation receivable.**
- (2) A person is not entitled to compensation under this section in relation to a particular corruption offence if that person:**
 - (a) is a party to such corruption offence; or**
 - (b) does a related act that also constitutes a corruption offence under this Act.**

New Clause:

Payment in lieu of confiscation

- (1) A Court may, instead of ordering a property or**

part thereof or interest therein to be confiscated, orders the person to pay an amount equal to the value of the property, part or interest; where it is satisfied that the order for confiscation under sections (130) through (132) of this Act, cannot be enforced and, in particular that the property:

- (a) cannot, with due diligence, be located;**
- (b) has been transferred to a third party under circumstances which give rise to a reasonable inference that such property has been transferred for the purpose of avoiding the confiscation;**
- (c) is located outside Bhutan; has been substantially diminished in value and rendered worthless; or**
- (d) has been intermingled with other property that cannot be divided without difficulty.**

New sub-section after section 137 (3)

(4) The High Court may, instead of ordering a property or part thereof or interest therein to be confiscated, orders the person to pay an amount equal to the value of the property, part or interest; where it is satisfied that the order for confiscation under this section, cannot be enforced and, in particular that the property:

- (a) cannot, with due diligence, be located;**
- (b) has been transferred to a third party under circumstances which give rise to a reasonable inference that such property has been transferred for the purpose of avoiding the confiscation;**
- (c) is located outside Bhutan;**

(d) has been substantially diminished in value and rendered worthless; or has been intermingled with other property that cannot be divided without difficulty.

Section 158 (1)

Any request for extradition of an offender shall be subject to Extradition Act of the **Bhutan Kingdom 1991** which shall be applied as if an offence under this Act is an offence for which extradition may be granted.

Section 159 (1)

~~Where an offence under this Act is committed by a legal person:~~ **Where a legal person commits an offence under this Act, every:**

Section 159 (2) (a)

~~... directly or indirectly, offers, promises or gives a bribe to an official;~~ **directly or indirectly, offers, promises or gives a bribe another person;**

Section 159 (2) (b)

... directs or authorizes a lower level person to offer, promise or give a bribe to an ~~official~~ **another person;**

Section 163

~~Conduct outside Bhutan constituting offences~~

~~Conduct by a citizen of Bhutan that takes place outside Bhutan constitutes an offence under this Act if the conduct would constitute an offence under this Act if it took place in Bhutan.~~

Section 169

Repeal, Savings and transitional provisions

~~(1) The Anti-Corruption Act 2006 is hereby repealed.~~

New clause

Amendments

The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of not less than two-third of the total members of Parliament present and voting on a motion submitted by one third of the members of either Houses, provided that the amendment does not undermine the functions and effectiveness of Anti-Corruption Commission.

7.2 The following amendments made by the National Assembly were rejected by the National Council and resolved to be deliberated in the Joint Sitting of Parliament.

Preamble

~~Recalling His Majesty's vision of a democracy to~~
~~pursue~~ **Bearing in mind the pursuit of** Gross National Happiness, **to** fulfill the people's aspirations and needs, and enhance transparent and accountable governance;

~~Acknowledging the establishment of an independent and accountable Anti-Corruption Commission by the Constitution of the Kingdom of Bhutan to take necessary steps to prevent and combat corruption in the Kingdom and;~~ **the** fundamental duty of every person to

uphold justice ; and to act against corruption **under the Constitution; and also to educate the public about corruption;**

Concerned about the seriousness of problems and threats posed by corruption to the stability and security of the **Bhutanese** society, undermining the institutions and values of democracy, ~~ethical values and justice and jeopardizing sustainable development~~ the rule of law **and jeopardizing sustainable development;**

Acknowledging the fundamental principles of due process of law in a criminal **proceeding** and in a civil or administrative proceeding;

~~The Parliament of Bhutan has enacted as follows~~
Parliament of the Kingdom of Bhutan do hereby enact the Anti-Corruption Act of Bhutan 2010 on ... Day of the ... Month of the Iron Male Tiger Year of the Bhutanese Calendar corresponding to the ...Day of, 2010 at its ... Session of the First Parliament as follows:

New clause

“Private entity” means any person or organization not being a public agency and it also means a voluntary organization, charitable institution, club, company, firm or partnership;

Section 4 (bb) (iv)

... **a cabinet**, ministry, department, **commission**, service or undertaking of the government of Bhutan or local governments;

New sub section in Section 4 (bb)

- **the Armed Forces;**
- **the Royal Bhutan Police;**
- **a government company or government controlled company;**
- **a company or other body or organization established by an Act of Parliament or out of moneys provided by Parliament or otherwise set up partly or wholly out of public funds;**
- **any commission, committee or other body of persons, whether paid or unpaid, appointed by or on behalf of the Government or local government or by a public corporation or company in which the Government owns or has controlling power or interest;**
- **any commission or committee established by or under the Constitution or by or under any law or by the Government;**
- **any educational or similar institution financed wholly or partly from public funds; and**
- **any organization, whether local or foreign, established to render any voluntary social service to the public or any section thereof or for other charitable purposes, which receives funds or other donation for the benefit of the people of Bhutan or a section thereof;**
- **federation or board that concern with sports;**
- **a co-operative society whether or not registered;**
or
- **any person as the Commission may prescribe from time to time by an order; (these are in addition to what is already mentioned in (bb));**

New clause

“Public office” includes judicial office or any office or position (whether fulltime or not) held by any person engaged in a public agency or private entity or any office or position (whether fulltime or not) in respect of which emoluments or allowances are payable from public funds or from the Consolidated Fund of Bhutan;

New clause

“Value” means face, par, or market value or, or cost price, either wholesale or retail, whichever is greater.

Section 7 (1)

~~The State shall, as provided for in section (13) of article (14) of the Constitution, make adequate financial provisions for the independent administration of the Commission which shall be approved by Parliament as a part of annual national budget.~~

Section 7 (2)

~~If the decision of Parliament on the national budget is delayed, the Ministry of Finance shall provide the Commission with an interim fund, which shall be, at least, equivalent to previous year’s budget.~~

Section 7 (3)

~~Notwithstanding subsections(1) and (2) of this section, the ministry of finance shall ensure availability of funding for ad hoc cases and for complex investigation over and~~

~~above the budget provided under subsection (1) of this section.~~

Section 9

Cooperation with other national agencies bodies

Section 9(1)(b)

... may, **as it deems fit**, work in co-operation with:

- (i) the Royal Audit Authority, the Royal Monetary Authority **or Financial Intelligence Unit**, the Department of Revenue and Customs, the Financial Institutions and such other persons and public agencies ~~as the Commission thinks appropriate.;~~
- (ii) **any person or body in the private sector; or**
- (iii) any foreign government, or international or regional organization.

Section 19(3)

~~Notwithstanding subsection (1), the *Druk Gyalpo* may, if necessary, order the resigning Member to continue his/her duties until a replacement Member assumes office.~~

Section 20(1)

~~The Chairperson shall be removed from his or her office only by way of impeachment in accordance with article (32) of the Constitution. **Except through the process of impeachment as prescribed by law, the Chairperson shall not be removed from Office.**~~

Section 26 (1) (f)

... exchange information with an appropriate ~~bodies~~ **entity**, domestically and internationally **with or without a request**, involved in anti-corruption work, including the relevant law enforcement agencies as may be required;

Section 26 (1) (g)

~~Blacklist or debar~~ **upon finding of a *prima facie* case of corruption, suspend a license, or prohibit an corrupt individual or entity whether national or foreign from participating in contractual relations with Government public agencies till pending the outcome of the case.**

Section 39 (1)

The Commission shall take measures to prevent corruption in the private sector by directing them to develop standards and procedures, including a code of conduct for correct, honorable and proper conduct of business and for promotion of good commercial practice.

Section 40 (4)

Without prejudice to subsection (5), where public servants or other individuals using public resources who is required by this Act to file their declaration ~~knowingly~~, **without reasonable justifications**, fails to do so within **thirty days from the expiry of the due date** ~~a prescribed period of time~~, shall be levied a fine equivalent to one day's ~~daily minimum wage~~ **salary for each day of** such failure subsists.

Section 40 (5)

Where public servants or other individuals using public resources who is required by this Act to file their declaration ~~knowingly,~~ **without reasonable justifications,** fails to do so **after one month of expiry of due date** shall be **considered as non filing and will be** levied a fine equivalent to **three month's gross salary** ~~.year's daily minimum wage.~~

Section 42 (2)

Suspension and/or debarment shall be for a period commensurate with the seriousness of an act constituting a cause for suspension and/or debarment. ~~which may range from a minimum of three (3) to a maximum of five (5) years, except that an individual or entity who commits an act constituting a cause for debarment for more than once shall be compulsorily debarred for a period up to five (5) years.~~

Section 45 (3)

A ~~person guilty~~ of an offence under this section shall **be misdemeanor or value based sentencing, whichever is higher** ~~on conviction, be liable to imprisonment for a term not less than five years to not more than nine years.~~

Section 46 (3)

A ~~public servant guilty~~ of an offence under this section shall **be a misdemeanor or value based sentencing, whichever is higher,** ~~on conviction, to imprisonment for a term not less than five years to not more than nine years.~~

Section 47 (4)

~~A person guilty of an offence under this section shall be a misdemeanor or value based sentencing, whichever is higher, on conviction be liable to imprisonment for a term not less than five years to not more than nine years.~~

Section 48 (3)

~~A foreign public servant guilty of an offence under this section shall be a misdemeanor or value based sentencing, whichever is higher on conviction, be liable to imprisonment for a term not less than five years to not more than nine years.~~

New clause

Active bribery in relation to auctions

- (1) A person, who, directly or indirectly, promises, offers or gives an advantage to another person as an inducement to or reward for or otherwise on account of that another person refraining or having refrained from bidding at an auction conducted by or on behalf of a public agency shall be guilty of a corruption offence.**
- (2) An offence under this section shall be a misdemeanor or value based sentencing, whichever is higher.**

New clause

Passive bribery in relation to auctions

- (1) A person who, directly or indirectly, solicits or accepts an advantage from another person as an inducement to or reward for or otherwise on account of that other person refraining or**

having refrained from bidding at an auction conducted by or on behalf of a public agency shall be guilty of an corruption offence.

- (2) An offence under this section shall be **misdemeanor or value based sentencing, whichever is higher.**

Section 49 (2)

A ~~public servant guilty of an offence under this section shall~~ **be a felony of the fourth degree misdemeanor or value based sentencing, whichever is higher,** ~~on conviction be imprisoned for a term not less than three years to not more than five years.~~

Section 50 (2)

A ~~public servant guilty of an offence under this section shall~~ **misdemeanor or value based sentencing, whichever is higher,** ~~on conviction be liable to imprisonment for a term not less than three years to not more than five years.~~

Section 51 (2)

A ~~person guilty of an offence under this section shall~~ **be misdemeanor or value based sentencing, whichever is higher,** ~~on conviction be liable, to imprisonment for a term not less than three years to not more than five years.~~

Section 52 (2)

A ~~person guilty of an offence under this section shall~~ **be misdemeanor or value based sentencing, whichever is higher,** ~~on conviction be liable to imprisonment for a term not less than three years to not~~

~~more than five years.~~

Section 53 (2)

~~A person guilty of an offence under this section shall be **misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than three years to not more than five years.~~

Section 54 (2)

~~A person guilty of an offence under this section shall be **misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than three years to not more than five years.~~

Section 55 (2)

~~A person guilty of an offence under this section shall be **misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than three years to not more than five years.~~

Section 56 (2)

~~A person guilty of an offence under this section shall **misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than five years to not more than nine years.~~

Section 57 (2)

~~A person guilty of an offence under this section shall be liable to imprisonment for a term not less than five years to not more than nine years.~~
shall **misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than five years to not more than nine years.

Section 58 (2)

~~A person guilty of an offence under this section shall be liable to imprisonment for a term not less than three years to not more than five years.~~
shall **be misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than three years to not more than five years.

Section 59 (2)

~~A person guilty of an offence under this section shall be liable to imprisonment for a term not less than five years to not more than nine years.~~
shall **be a felony of fourth degree or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than five years to not more than nine years.

Section 60 (2)

~~A person guilty of an offence under this section shall be liable to imprisonment for a term not less than five years to not more than nine years.~~
shall **be a felony of fourth degree or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than five years to not more than nine years.

Section 61 (2)

~~A person guilty of an offence under this section shall be liable to imprisonment for a term not less than five years to not more than nine years.~~
shall **be misdemeanor or value based sentencing, whichever is higher,** on conviction be liable to imprisonment for a term not less than five years to not more than nine years.

~~imprisonment for a term not less than five years to not more than nine years~~

Section 62 (2)

~~A person guilty of an offence under this section shall be **misdemeanor or value based sentencing, whichever is higher**, on conviction be liable to imprisonment for a term not less than five years to not more than nine years~~

Section 63 (3)

~~A person guilty of an offence under this section shall be **misdemeanor or value based sentencing, whichever is higher**, on conviction be liable to imprisonment for a term not less than five years to not more than nine years~~

Section 64 (2)

~~A person guilty of an offence under this section shall be **a petty misdemeanor**, on conviction, be liable to imprisonment for a term not less than one year to not more than three years~~

Section 67

~~Interference with, hindering or obstruction of investigation~~

~~(1) A person who, at any stage, with intent to defraud or conceal an offence established in accordance with this Act or to interfere with, or hinder or obstruct a law enforcement agency in its investigation of any such offence:~~

~~(2) A person guilty of an offence under this section shall, on conviction, be liable to imprisonment for a term not less than one year to not more than three years~~

Section 68 (2)

~~A person guilty of an offence under this section shall **misdemeanor or value based sentencing, whichever is higher**, on conviction be liable to imprisonment for a term not less than five years to not more than nine years~~

Section 69 (2)

~~A person guilty of an offence under this section shall **misdemeanor or value based sentencing, whichever is higher**, on conviction be liable to imprisonment for a term not less than five years to not more than nine years~~

Section 70 (2)

~~A person guilty of an offence under this section shall **misdemeanor or value based sentencing, whichever is higher**, on conviction be liable to imprisonment for a term not less than five years to not more than nine years.~~

Section 72 (3)

~~A person guilty of an offence under this section shall **be**, on conviction, be liable to imprisonment for a term not less than one year to not more than three years. **felony of third degree felony , if the offence is of 1st and 2nd degree felony or half the penalty awarded to the person, who had committed the**~~

crime, if the offence is of fourth degree felony, misdemeanor or petty misdemeanor.

New Clause:

The Commission to use the Civil and Criminal Procedure Code

- (1) The Commission shall have such powers, rights and privileges as specified in this Act while exercising its powers or functions under this Act.**
- (2) Notwithstanding this section, the Commission may use the Civil and Criminal Procedure Code while exercising its powers or functions under this Act.**

Section 81 (1) (a)

~~... authorize a person who has reported to the Commission a solicitation of, or promise or offer, of an undue advantage, directly or indirectly, give or receive it as solicited, or promised or offered;~~

Section 83 (2) (b)

~~... intends to destroy evidence~~ **which is in that person's possession.**

Section 89 (1) (a)

~~... enforcing the attendance of a witnesses and examining the witness them on oath, affirmation or otherwise; and~~

Section 89 (6)

~~A person guilty of an offence under this section shall be a petty misdemeanor, on conviction, be liable to imprisonment for a term not less than one year to not more than three years~~

New sub-section

... a person being arrested under warrant

Section 104 (8)

Subject to subsection 3 of this section, a person to whom a notice under this section is addressed shall not leave Bhutan before the expiry of the period of one hundred and eight days from the date of the notice unless **an application made under:**

Section 105 (2)

~~Notice of~~ **A Court shall not grant** an application under this section ~~shall be given by the~~ **unless the** application gives **a notice** to the Commission.

Section 105 (4)

~~Without prejudice to section (106),~~ A Court may, before granting an application under this section, register that:

Section 121(3)

~~Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing in such form as the Commission may prescribe, which shall be explained to him.~~

Section 121(4)

~~Notwithstanding subsection (3), a statement by any person accused of an offence under this Act made before there is time to serve a notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such notice having been served on him if such notice has been served on him as soon as is reasonably possible thereafter.~~

New Clause

Use of previous conviction in another country

- (1) A previous conviction under this section may be proved, in addition to a mode provided by other laws, by the production of a certificate purporting to be given under the hand of a police officer in that country where the conviction was had, containing a copy of:**
 - (a) the sentence or order; and**
 - (b) a finger print, or its photograph, of the accused, together with evidence that the finger print is that of the accused.**
- (2) A certificate under this section shall be *prima facie* evidence of all facts stated therein without proof that the officer purporting to sign it did in fact sign it and was empowered so to do.**

Section 159 (1) (a)

~~if the legal person is a body corporate, every chairperson, chief executive, director or officer of such body corporate shall be deemed to have committed that offence; or~~ **chairperson, chief executive, director or**

officer of such legal person shall be deemed to have committed that offence; and

Section 159 (1) (b)

~~... if the legal person is a firm, every partner of such of that firm shall be deemed to have committed that offence.~~ **Every partner of such legal person shall be deemed to have committed that offence.**

Section 159 (2) (c)

... knowingly fails to prevent a lower level person from bribing ~~an official,~~ **another person**, including through a failure to supervise ~~him/her~~ **the lower level person** through a failure to implement adequate internal controls, ethics and compliance programs or measures.

(3rd Day of the 11th Month of the Iron Male Tiger Year corresponding to Wednesday, 8/12/2010)

8 The Civil & Criminal Procedure Code of Bhutan (Amendment) Bill 2010

The Civil & Criminal Procedure Code of Bhutan (Amendment) Bill 2010 had been deliberated upon and adopted by the National Council during its 5th session. It had then been submitted to the National Assembly along with amendments/changes on 46 sections for adoption. The National Assembly during its 6th Session had deliberated and returned 26 amendments. While re-deliberating on 8/12/2010, the National Council accepted 14 of the amendments and resolved to deliberate on the remaining 12 sections in the Joint Sitting of Parliament.

8.1 Amendments made by the National Assembly and accepted by the National Council are as follows:

Section 13.3

After receiving the warrant of appointment from His Majesty **the Druk Gyalpo**, the Chief Justice shall administer an “oath of Allegiance and Secrecy” before a court and obtain a written pledge as follows:

“I in the name of the *Tripple Gem* and the guardian deities of the Kingdom of Bhutan do solemnly swear and affirm that I will faithfully perform the duties of my office without fear and favor, affection or ill-will and will to the best of ability, preserve, protect and defend *Tsa-Wa-Sum* with *Tha Damtsi* and *Ley Jumdrej*,”

Section 18

Where a question of law or fact is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, ~~His Majesty the King~~ **the Druk Gyalpo** may refer the question to that Court for its consideration. The Court shall hear the reference and submit to ~~His Majesty the King~~ **the Druk Gyalpo** its opinion thereon.

Section 42 (b)

Daily allowance at the prevailing rate prescribed by the **Daily** Minimum Wage Rate

Section 42.1

If the Court summoned the witness *sua sponte*, after considering it necessary, expedient or otherwise in the

interest of justice to do so, the Government shall pay reasonable travelling fare and daily allowance at the prevailing rate prescribed by the **Daily** Minimum Wage Rate.

Section 98

The Court may order a defaulting party to pay costs to the attending party calculated at the rate prescribed under the **Daily** Minimum Wage Rate.

Section 99.6 (c)

... agricultural land to the extent of minimum acre ceiling prescribed by the **prevailing** Land Act of **Bhutan**, 1980;

Section 107.1

Finding of civil contempt shall result in fine/imprisonment ~~or civil confinement in lieu of 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.

Section 148.1

Such person shall be, in the case of ~~juvenile-child in conflict with law~~, be represented by the parents/family member/guardian/jabmi.

Section 153.1

The party may be liable for such costs as the Court may award calculated in accordance with the **Daily** Minimum Wage Rate.

New section 186.1

The Court may, depending on the nature of the crime, order the accused to be released on bail or placed under house arrest, in lieu of detention.

Section 191.1

The Court, prior to the preliminary hearing, may **from time to time** authorize the detention of the accused for ~~an additional period not exceeding a reasonable duration calculated from the date of issuance of the first detention remand order which in the whole shall not exceed~~

- (a) Forty nine days, if satisfied that adequate grounds exist for doing so; and
- (b) One hundred and eight days, where the investigation relates to a heinous crime.

New section 212 (A)

~~An~~ **A person detained and acquitted thereof or a person subjected to illegal unlawful detention is entitled to be compensated by the relevant agencies for the loss of income caused by the criminal proceedings or illegal unlawful detention and to be reinstated at the former place of work.**

Section 213 (A)

The amendment to this Act by way of addition, variation or repeal shall be effected by simple majority of the respective Houses or vote of no less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House.

8.2 The following amendments made by the National Assembly were rejected by the National Council and resolved to be deliberated in the Joint Sitting of Parliament.

Section 171

A search shall be made in the presence of ~~Chimi/Gup/Chipon/~~ member of ~~Dzongkhag and Geog Yargye Tshokehung~~ **one or more members of the concerned Local Government or any other competent person.**

Chapter 44

Juvenile ~~Child in Conflict with Law~~ **Miscellaneous**

Sub-title before section 213

Juvenile

Section 213

~~A Juvenile arrested on a criminal charge shall:~~

Section 213.1

~~In making the determination to allow a Juvenile to go home after advice/admonition or release the Juvenile on probation, the Court shall consider the:~~

Section 213.1(b)

~~... juvenile's past criminal record;~~

Section 213.1(d)

~~... juvenile's age and physical/mental health condition;
and~~

Section 213.2

~~A Court shall take into consideration the following factors in making orders concerning juvenile:-~~

Section 213.2(a)

~~... age of the juvenile;~~

Section 213.2(c)

~~... circumstances in which the juvenile was living;~~

Section 213.2(e)

~~... other circumstances as are, in the opinion of the Court, required to be taken into consideration in the best interest and welfare of the Juvenile~~

New Section 215.8 (A)

~~**“Police” shall mean an authorized person of the Royal Bhutan Police. However, the procedures laid down in this Code relating to arrest, search and**~~

~~investigation by the Police shall also be extendable to other law enforcement and investigative agencies.~~

*(28th Day of the 10th Month of the Iron Male Tiger Year
corresponding to Friday 3/12/2010)*

E Legislative Issues (International Conventions)

1 SAARC Convention on Cooperation on Environment

1.1 Introduction of the Convention by Hon'ble Minister for Works & Human Settlement

The Hon'ble Minister said that the world was faced with environmental problems due to change in the pace of development, more so in the South Asian region where the degradation was serious. Therefore, during the SAARC Regional Meeting in 1997, it was recommended that a Regional Agreement on the protection and conservation of environment based on equity, reciprocity and mutual benefit be formulated. Accordingly, a convention was signed on April 29, 2009 at Thimphu during the 16th SAARC Summit.

The SAARC Convention on Cooperation on Environment contained 12 Articles. The Hon'ble Minister said that the Convention would not only benefit the people of our region, but greatly promote Bhutan's policy of environment conservation. Since the National Assembly had ratified the convention during the 5th Session of Parliament, it had now been submitted to the National Council for similar ratification.

On this, the Chairperson of the Legislative Committee, Hon'ble Kuenlay Tshering pointed out that the Dzongkha word ཚོད་ཡིག། for Convention needed to be changed to མཐུན་གྲོས། in keeping with the Constitution of Bhutan. Further, the Hon'ble Member from Trashigang Dzongkhag asked on the enforcement and scope of the convention if one of the 8 member States did not ratify it.

In response, the Hon'ble Minister for Economic Affairs agreed to change the words ཚོད་ཡིག། into མཐུན་གྲོས། as appropriate and clarified that the Convention would not come into force until all the 8 member States ratified it.

1.2 Amendments and Changes on the Convention

The National Council after thorough deliberation on the SAARC Convention on Cooperation on Environment ratified it on 3/12/2010. The House resolved to submit it to the Ministry of Foreign Affairs with minor changes in the Dzongkha text to make it consistent with the English version.

2 International Convention Against Doping in Sports

2.1 Introduction of the Convention by Hon'ble Minister for Education

Introducing the Convention, the Hon'ble Minister for Education said that the people of all walks world-over took interest in sports in order to maintain continued physical and mental health, as well as social harmony

towards building a peaceful world. However, with globalization and development in sports, major problems had also surfaced due to personal interests. Therefore, for proper administration and management as well as to ensure equity and fairness in sports, a Committee of the International Anti-Doping Agency on anti-doping in sports had met in 1999 in which Bhutan Olympic Committee (BOC) had taken part. In 2003, the President of the Bhutan Olympic Committee had signed as a member participant.

Since Bhutan was a member to the Committee, the International Anti-Doping Agency and the Bhutan Olympic Committee had insisted on ratification of the Convention by Parliament. Once ratified, Bhutanese youth would not only get opportunities to take part in international sporting events but also help develop sporting facilities within the country. Since the National Assembly had ratified the convention during the 5th Session of Parliament, the Hon'ble Minister said that it had now been submitted to the National Council for similar ratification.

2.2 Review Report on the Convention by Chairperson of the Legislative Committee

The Chairperson of the Legislative Committee, Hon'ble Kuenlay Tshering informed that the International Convention Against Doping in Sports was the first UNESCO Convention. It had been adopted by 191 state parties during the 33rd UNESCO Conference in 2005 and had come into force in February 2007.

He said that the main aims of the International Convention Against Doping in Sports were to make sports competitive, maintain physical health, promote principles of fair play, eliminate cheating and address future sporting concerns. The Convention had 43 Articles.

2.3 Amendments and Changes on the Convention

The National Council after thorough deliberation on the International Convention Against Doping in Sports ratified it on 3/12/2010. The House resolved to submit it to the Ministry of Foreign Affairs with minor changes in Dzongkha on the sub-title as གསང་བའི་སྤྱོད་བརྗོད་ ཚ་གནས་མེད་པ་འཕྲོལ་ in Article 39 to make it consistent with the English version.

*(3rd Day of the 11th Month of the Iron Male Tiger Year
corresponding to Wednesday 8/12/2010)*

F Review Reports

1 Report on Salary Revision

1.1 Presentation of the Report by Hon'ble Minister for Finance

The Hon'ble Minister for Finance said that the Government in accordance with the resolution of the 5th Session of the National Assembly had conducted a review of the salary revision of civil servants after two years. While the fiscal position of the government had not improved, the salary had been revised because civil

servants were crucial in providing public services and achieving the goals envisaged in the development plans. It was also necessary to keep the civil servants motivated and continually raised their efficiency and professionalism. Moreover, the salary raise had been considered in view of professionals leaving the civil service to join corporations and private sector looking for higher income from salary.

The Hon'ble Minister said that with the country's economic growth, improved social environment, increase in price of goods and the need to curb corruption, proposals had been submitted to the Government for an increase in salary of civil servants in general, as well as Constitutional post-holders/members, judiciary, members of Parliament and local government functionaries. However, he said that the implementation of this pay revision had two risks. Firstly, the current expenditure and revenue projections were based on the past trends and certain assumptions. The actual outcomes could vary negatively. Secondly, if the increase in the civil service pay led to similar increase in the corporate sector, the domestic revenue would reduce.

Therefore, after exploring many options, the salary increase of another 20% over the pre-2009 pay was proposed with effect from January 2011, bringing the total increase of pay to 55% over the period. However, the Hon'ble Minister said that in order to curtail financial implications in future, the increase had been proposed in the form of a lump-sum allowance.

Similarly, the pay scale of Government Secretaries, Constitutional post-holders/members, members of Parliament, judiciary and local government functionaries had been fixed as per the tables in **Annexure - II**. The pay scale for the Thrompons had been proposed at par with EX2 position in the civil service. While the current pay revision did not include any increase for the Prime Minister, Cabinet Ministers, Speaker of the National Assembly, Chairperson of the National Council, Leader of the Opposition and Chief Justice of the Supreme Court, a pay scale for them had been proposed as per the table in **Annexure - II**, as a basis for the future governments.

The Cabinet Secretary, Secretaries who were in EX1 Category, Executive Secretaries and Thrompons of Class (A) Throms, Dzongdags, Drangpons, Drungpas, Dzongrabs had been provided free housing or a house-rent allowance of 20% of their basic pay where no government house was available in keeping with their positions. The Hon'ble Minister submitted that the deliberations in Parliament be limited to the review of pay and allowances which were paid on regular basis such as house rent allowance, professional allowances, foreign service entitlements, telephone allowance, difficulty area allowance and high altitude allowance. Since other allowances and benefits such as TA/DA, mileage, discretionary grant, overtime payment, sitting fees, etc. were not part of the regular remunerations, these could be decided by the *Lhengye Zhungtshog*, from time to time.

1.2 Deliberation on the Report on Salary Revision

After thorough deliberation on the Report on Salary Revision on 8/12/2010, the National Council endorsed the salary revision of the Pay Commission. However, the House resolved to submit the following recommendations to the Cabinet in accordance with Article 30.3 of the Constitution of Bhutan:

1. The Local Government Act 2009 did not provide for the position of Gup's clerk in the Gewog Office. Therefore, it is to submit that the Gup's clerk be done away with so that the Government could save and increase the salary of Gewog Tshogpas over the present proposal.
2. The recommendation of the Pay Commission to pay Parliamentary Committee Chairpersons an allowance of Nu, 5,000 per month had more demerits than merits. As such, the House does not support the proposal.
3. It is to submit that the salary of the Deputy Chairperson and Deputy Speaker of the two Houses of Parliament be fixed at 10% less than that of the Speaker and Chairperson, while the salary of the members of Parliament be fixed at 10% less than that of the Deputy Chairperson and Deputy Speaker.
4. According to the Parliamentary Entitlement Rules & Regulations, the salary of the Deputy Speaker and Deputy Chairperson has to be fixed at 10% more than the salary of a member of Parliament.

However, the present proposal came to 13% more. Therefore, either the Rules have to be amended or the difference be fixed at 10%.

5. The appointment of the holders of Constitutional posts like Commissioners and Members by His Majesty was the same as that of the Chairpersons of the Anti-Corruption Commission and the Royal Civil Service Commission, the Chief Election Commissioner and the Auditor General. Their term of office was five years and also had to retire from their previous office upon appointment. As the present proposal for revision of their salary was too low, it is to submit that the salary be further increased.
6. The National Council endorses the rest of the proposals related to salary revision.

*(3rd & 4th Day of the 11th Month of the Iron Male Tiger Year
corresponding to 8/12/2010 and 9/12/2010)*

G Any other Business

1 Establishment of His Majesty's Relief Fund

1.1 Introduction by the Hon'ble Minister for Finance

The Hon'ble Minister said that although, the Hon'ble Prime Minister had submitted and received His Majesty's Royal assent based on which an annual allocation of Nu. 20 million had been kept for His Majesty's Relief Fund, the National Council had insisted on establishment of the Fund by Parliament. The

Cabinet had, therefore, drafted the following in accordance with Article 14.12 of the Constitution of Bhutan on which the National Assembly had discussed and endorsed. It had now been submitted to the National Council for similar endorsement.

“The Parliament of Bhutan does hereby resolve:

That there be established a fund styled, “His Majesty’s Relief Fund” in accordance with Article 14, Section 12 of the Constitution of Bhutan.

Article 14, Section 12 of the Constitution reads as follows:

“Parliament shall establish a relief fund and the Druk Gyalpo shall have the prerogative to use this fund for urgent and unforeseen humanitarian relief.”

The fund shall be operated as follows:

1. The Office of the Gyalpoi Zimpon shall open an account with a bank in the country titled “His Majesty’s Relief Fund.”
2. The Ministry of Finance shall deposit an initial amount of Nu. 20 million into this Fund account.
3. The Fund shall be increased annually by Nu. 20 million until the balance reaches Nu. 100 million.
4. Further increase of the amount to be maintained in the Fund shall be on approval of the Parliament.
5. Any expenditure from the Fund shall be replenished by an equal amount in the following financial year immediately upon approval of the budget.

6. The Fund shall be used on command of His Majesty the Druk Gyalpo for urgent and unforeseen humanitarian relief.
7. The Fund account shall be maintained and operated by the Office of the Gyalpoi Zimpon.

Passed on the day of the of the year corresponding to the day of of the year 2010.”

1.2 Proposal by the Legislative Committee on the Establishment of His Majesty’s Relief Fund

The Chairperson of the Legislative Committee, Hon’ble Kuenlay Tshering agreed that the National Council had discussed on the need for establishment of His Majesty’s Relief Fund by Parliament during its previous sessions and submitted recommendations to the Government and the National Assembly. The Government had accordingly prepared a draft resolution which the National Assembly had endorsed. The National Council duly acknowledged the proposal and expressed its appreciation. However, considering its importance and for sustainability of the Fund, the Chairperson submitted that the Fund be established by an Act of Parliament for which the Government was asked to table it as an Urgent Bill incorporating the detail procedures for its establishment.

The Deputy Chairperson, Hon’ble Karma Yezer Raydi and the Hon’ble Members from Zhemgang and Pemagatshel Dzongkhags fully supported the resolution of the National Assembly. They also clarified that the Bill on the procedure for establishment of the Relief Fund was not to undermine the Royal Prerogative in any

way. It was basically intended for His Majesty to issue directives and advice when the Bill was adopted by Parliament and submitted to His Majesty. It was also meant to allow foreign and international aid to flow in to contribute towards the fund. However, the Hon'ble Members from Lhuentse, Gasa and Haa Dzongkhags and Hon'ble Karma Damcho Nidup felt that there was no need for a separate Bill if the resolution of the National Assembly for establishment of the Relief Fund was accepted.

Hon'ble Kuenlay Tshering once again submitted that because of the occurrence of repeated disasters caused by the four elements of nature, the National Council during its 2nd, 3rd & 5th Sessions had thoroughly deliberated and reminded the Government to establish His Majesty's Relief Fund in accordance with Article 14, Section 12 of the Constitution of Bhutan considering its importance. He insisted that the fund be established by an Act of Parliament, instead of a resolution for which the Government was asked to table it as an Urgent Bill.

1.3 Resolution of the National Council to establish the Relief Fund in accordance with Article 14(12) of the Constitution of Bhutan

The National Council,

Reaffirming its past resolution on the need to establish the Relief Fund,

Recognizing the importance of the Relief Fund as enshrined in the Constitution of the Kingdom of Bhutan,

Welcoming the initiatives taken by the National Assembly to develop a legal framework for the Relief Fund,

Appreciating the intent of the Resolution of the National Assembly to establish the Relief Fund,

Reiterating the commitment of the National Council to support the Government in its efforts to institute the Relief Fund, and

Acknowledging the priority accorded by the National Assembly to establish the Relief Fund,

Hereby,

1. *Submits* to the Government that the Relief Fund must be established and sustained through a sound Parliamentary legislation that will contain the governing principles and procedures for the Fund;
2. *Calls upon* the Government to initiate and table the Relief Fund Bill before the Parliament in the 7th Session of Parliament;
3. *Urges* the Government to treat the Relief Fund Bill as an Urgent Bill, in keeping with Article 13 (5) of the Constitution of the Kingdom of Bhutan;
4. *Requests* the Government to continue allocation of funds to the Relief Fund.

Adopted and passed on the 4th Day of the 11th Month of the Iron Male Tiger Year corresponding to 9th December 2010.

*(28th Day of the 10th Month of the Iron Male Tiger Year
corresponding to Friday 3/12/2010)*

2 Procedure for ratification of International Conventions, Covenants, Treaties, Protocols and Agreements

The Chairperson of the Legislative Committee, Hon'ble Kuenlay Tshering submitted that international conventions, covenants, treaties, protocols and agreements were international laws which became part of the domestic laws of the member states. Article 10.25 of the Constitution of Bhutan provided that any international law, once ratified by Parliament, shall be enforced as national law. Therefore, a procedure for ratification or an Act, whichever was applicable, needed to be established. Accordingly, he said that the Legislative Committee of the National Council had prepared a draft. With the leave of the House, he proposed that the draft procedure be deliberated in the 7th Session. He reminded that the National Council had deliberated on the need for a procedure for ratification of international conventions, covenants, treaties, protocols and agreements during its 4th session and submitted its resolution to the National Assembly.

On this, the National Council considering its importance directed the Legislative Committee to consult the Office of the Attorney General on the draft prepared by it. The House further resolved to deliberate on the procedure or Bill, as applicable, in the 7th Session of the National Council.

3 Road Safety

The Chairperson of the Social & Cultural Affairs Committee, Hon'ble Member from Trongsa Dzongkhag submitted that it had become a major challenge to respond to the social problems arising due to the rapid socio-economic development in the country. In accordance with Section 10(c) of the National Council Act of Bhutan, the Social & Cultural Affairs Committee had taken the task of reviewing some of the important issues in order to support the government. Of the 3 issues that had been recognized, road safety was considered a priority.

Further substantiating, the Hon'ble Member from Chhukha Dzongkhag informed that the major causes of accidents and problems in the country had been the increased number of vehicles, narrow roads, negligence, drunk driving, and weak driving rules and regulations. In order to solve the problem, roads had to be broadened, new footpaths constructed and existing ones renovated, and the general public given orientation on the rules and regulations.

Supported the submissions of the Social & Cultural Affairs Committee, the Hon'ble Members from Sarpang, Paro, Gasa and Pemagatshel Dzongkhags and Hon'ble Kuenlay Tshering said that the Road Safety & Transport Authority (RSTA) during its annual vehicle inspections should restrict vehicles from plying if important parts like mirrors were missing. While hanging flowers and *dhar* during puja for vehicles, the glass should not be

covered and the view blocked. Drunk driving, use of mobile phones while driving and over-speeding should be strictly controlled.

Since Bhutan was a mountainous country, vehicles could not ply on roads in winter at high altitudes due to snow and ice. To solve the problem, they suggested that roofing be provided along ice covered roads and metal railings extended along sheer cliff roadsides. Others included building overhead bridges at cross junctions, installing speed control machines in each vehicle, developing cycle tracks and identifying taxi stops. Similarly, parking fee collectors could provide additional services while taking out vehicles, which would greatly contribute towards solving the above problems.

On this, the National Council recognizing the importance of road safety in the face of rapid socio-economic development in the country, resolved to submit the following recommendations to the Royal Government:

- To develop adequate parking space;
- To formulate strong driving rules and regulations and monitor them properly;
- To widen and straighten the winding roads;
- To build overhead bridges at busy road junctions in the interest of pedestrians;
- To increase frequency of public transport services; and
- To identify taxi stops.

4 Prevention of Drug related diseases in the Society

The Deputy Chairperson of the Social & Cultural Affairs Committee, the Hon'ble Member from Wangduephodrang Dzongkhag informed that due to increase in the number of drug users in the country, the Government had established the Bhutan Narcotic Control Board and Rehabilitation Centre to tackle the problem. Today, most of the drug users were youths. Around 50% of them were jobless while 26% were school going children, which was a big concern to all of us.

Therefore, she said that proper awareness on the drug related benefit and damages should be carried out. Treatment facilities for drug addicts needed to be improved and the recovering addicts integrated into society. Further, early drug use detection by parents and teachers, and treatment of drug addicts as patients rather than as criminals were important.

On this, the Hon'ble Members from Gasa, Haa and Chhukha Dzongkhags reminded that Their Majesties the 4th and 5th Kings had always said that the citizens of Bhutan, in particular, the youth were true jewels of our country. However, the present scenario had turned very depressing. Since youth were our future leaders, they said that it was important to solve the problem as best as possible.

They believed that drugs were readily available due to increased black marketeering in the country. Therefore, laws needed to be made stringent. Since most drug users were jobless, the Government should strive to

create job opportunities with a view to making the youth self-sufficient. Moreover, it was important for any law enforcement agency to treat drug users gently as patients and not treat them harshly.

On this, the National Council recognizing drug abuse among youth as a major concern in the country, resolved to submit the following recommendations to the Government:

- To provide adequate financial resources to drug control and related agencies for effective implementation of drug control plans and programs;
- To establish treatment facilities and provide specialized drug counselors for rehabilitation of drug addicts;
- The most widely used drug was marijuana. Therefore, the government and the community including every individual, in tandem with the already existing government efforts, be encouraged to give priority on destruction of marijuana; and
- In accordance with the Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005, drug addicts be given not only treatment, but be provided alternative recreational as well as sporting facilities.

5 Concern over safety during archery matches

The Hon'ble Member from Bumthang Dzongkhag said that archery was a sport that had been played with immense interest since time immemorial. When Bhutan became a member of the United Nations in 1971, archery was recognized as the national sport. Since then, archery as a sport had gained momentum. With

the import of foreign bows and arrows in the past few years, the number of people interested in archery had increased. At the same time, concern over safety had also gone up. For this reason, the Social & Cultural Affairs Committee, with deep respect for the country's tradition, had submitted on the need to formulate a set of comprehensive rules and regulations to create a safe environment in the community.

He pointed out that archery related problems arose mainly due to negligence, drinking while playing, improper location of playgrounds, and the increased poundage of imported bows. To minimize risks, he said that rules and regulations spelling out the safety measures needed to be put in place.

In support, the Hon'ble Member from Samdrupjongkhar Dzongkhag said that instead of playing archery depending on ones own skills, opponents were treated like enemies during which *motab*, *tsita* and *rimdos* were being conducted. He, therefore, questioned the appropriateness and expressed the need for framing strict rules and regulations to curb such practices.

On this, the National Council, considering the need to develop archery as the national sport, resolved to submit the following recommendations to the Government to ensure safety in the community:

- To select and register *bachos* away from main roads, footpaths, public properties, and other risky areas;
- To prohibit archers from consuming alcohol and taking drugs during archery matches;

- To remove risky flags from the target area once the inaugural ceremony was completed;
- To provide safety measures within the archery range;
- To review the rules and regulations of Bhutan Archery Federation and strictly implement them; and
- To ban *motab*, *tsita* and *rindos* during archery matches.

H Concluding Ceremony

1 Closing Address by the Hon'ble Chairperson

The Hon'ble Chairperson attributed the successful completion of the 6th Session of the National Council mainly to the blessings of the guardian deities, the wise guidance of Their Majesties the Druk Gyalpos, the prayers of the Central Monastic Body led by His Holiness the Je Khenpo, the various local *Goendeys* and *Anims*, the unwavering support of the Hon'ble Members, the Committees and the National Council Secretariat, and participation of the private sector as well as the general public in the consultation meetings during the legislative and review process.

He expressed his gratitude to all the relevant ministries, institutions and agencies for providing the necessary clarifications. He also thanked the staff of the Department of National Properties, Royal Bhutan Police, Bhutan Broadcasting Service Corporation, the media and all others involved for their unwavering support during the session.

He said that the National Council had deliberated on a total of 15 issues, including those in the agenda or

otherwise during the 6th Session. The Adoption Bill of Bhutan 2010 was introduced in the National Council, and submitted to the National Assembly along with amendments and changes for adoption. The Water Bill of Bhutan 2010, the Financial Services Bill of Bhutan 2010 and the Income Tax (Amendment) Bill 2010 that were deliberated in the National Assembly during the 5th Session and received in the National Council along with amendments and changes were thoroughly deliberated upon. The Income Tax (Amendment) Bill 2010 which was adopted shall be submitted to the Druk Gyalpo for Royal Assent. However, the other two Bills were sent back to the National Assembly for re-deliberation since there were disagreements between the two Houses on certain sections.

The House also deliberated and ratified the International Convention Against Doping in Sports and the SAARC Convention on Cooperation on Environment. The Child Care & Protection Bill of Bhutan 2010, the Penal Code of Bhutan (Amendment) Bill 2010, the Civil & Criminal Procedure Code of Bhutan (Amendment) Bill 2010 and the Anti-Corruption (Amendment) Bill 2010 had been deliberated during the 5th Session and submitted to the National Assembly along with amendments and changes. However, these had been returned by the National Assembly for re-deliberation as it could not agree on certain sections. Since consensus could not be reached even after the re-deliberations, the Hon^{ble} Chairperson said that these would be deliberated in a Joint Sitting of Parliament in accordance with the provisions of the Constitution and the respective Acts governing the two Houses.

Further, the Report of the Government on Salary Review was deliberated and the same adopted with certain recommendations to the *Lhengye Zhungtshog* in accordance with Article 30.3 of the Constitution. Similarly, the resolution of the National Assembly on the establishment of His Majesty's Relief Fund received in the National Council was endorsed. However, the House resolved that the Government should table it as a Bill to Parliament for convenience in future.

Under "Any Other Business", the House deliberated on archery and road related safety measures, and narcotic drugs & psychotropic substances. The Hon'ble Chairperson said that the recommendations adopted on these issues shall be submitted to the relevant ministries and agencies. As in the past, three Cabinet Ministers had taken part in the Question Time, while four Ministers had come to introduce Bills in the National Council, for which he thanked the Hon'ble Speaker, the Hon'ble Prime Minister and other Ministers for their kind cooperation.

The Hon'ble Chairperson reaffirmed that the Bhutan Institute of Medical Science Bill 2010, the Consumer Protection Bill of Bhutan 2010 and the SAARC Agreement on Trade in Services would be deliberated during the 7th Session of the National Council. In assigning responsibilities, he said that the Bhutan Institute of Medical Science Bill 2010 shall be reviewed by the Social & Cultural Affairs Committee, the Consumer Protection Bill of Bhutan 2010 by the Economic Affairs Committee, and the SAARC Agreement on Trade in Services by the Legislative Committee. For the other Committees, they would be assigned as and

when new Bills and amendment of Acts were received from the National Assembly. As usual, he expected each Committee to review a minimum of two Acts.

After the 5th Session, the Hon'ble Members under the initiative of the House Committee had visited colleges and schools to brief them on the mandate and functions of the National Council as well as the principles of parliamentary democracy. The Hon'ble Chairperson urged the members to continue with the program. At the same time, he reminded them that while serving as members of the National Council of the first Parliament under the democratic system, they should remain apolitical, and work towards promotion of the welfare of the people and safeguarding the sovereignty, security, integrity and credibility of the country.

With the blessing of the Triple Gem and the grace of Their Majesties the Kings, the 6th session of the National Council concluded on the 4th Day of the 11th Month of the Iron Male Tiger Year with prayers for the wellbeing of the people, everlasting peace and prosperity in the country, the continued good health and long life of His Majesty the King, the Fourth Druk Gyalpo and the Royal Family.



(Namgye Penjore)
Chairperson
National Council of Bhutan

**List of Hon’ble Members who participated in the 6th
Session of the National Council**

1. Hon Namgye Penjore, Thrizin, Punakha Dzongkhag
2. Hon Sonam Kinga, Deputy Chairperson, Tashigang Dzongkhag
3. Hon Kuenlay Tshering, Eminent Member
4. Hon Karma Yezer Raydi, Eminent Member
5. Hon Tashi Wangmo, Eminent Member
6. Hon Karma Damcho Nidup, Eminent Member
7. Hon Tashi Wangyal, Eminent Member
8. Hon Tshewang Jurmi, Bumthang Dzongkhag
9. Hon Tshewang Lhamo, Chhukha Dzongkhag
10. Hon Sonam Dorji, Dagana Dzongkhag
11. Hon Sangay Khandu, Gasar Dzongkhag
12. Hon Tshering Dorji, Haa Dzongkhag
13. Hon Rinzin Rinzin, Lhuentse Dzongkhag
14. Hon Naichu, Mongar Dzongkhag
15. Hon Ugyen Tshering, Paro Dzongkhag
16. Hon Jigmi Rinzin, Pemagatshel Dzongkhag
17. Hon Jigme Wangchuk, Samdrupjongkhar Dzongkhag
18. Hon (Dr.) Mani Kumar Rai, Samtse Dzongkhag
19. Hon Karma Donnen Wangdi, Sarpang Dzongkhag
20. Hon Sangay Zam, Thimphu Dzongkhag
21. Hon Kesang Namgyal, Trashigang Dzongkhag
22. Hon (Dr.) Jagar Dorji, Trongsa Dzongkhag
23. Hon Justin Gurung, Tsirang Dzongkhag
24. Hon Sonam Yangchen, Wangduephodrang Dzongkhag
25. Hon Pema Lhamo, Zhemgang Dzongkhag

ANNEXURE – II

Pay scale for the Secretaries to the Government

Position Level	Pay Scale (prior to 2009 revision)	PC Recommendation	Present Pay	Proposed			
				Pay	Allow-ance	Total Pay	% of PC recmdd implementd
Cabinet Secretary	-	-	45,860	63,000	-	63,000	-
Secretaries to Govt.	33,970	60,030	45,860	50,445	5,045	55,490	92%

Pay scale for the Constitutional offices

Position Level	Pay Scale (prior to 2009 revision)	PC Recommendation	Present Pay	Proposed			
				Pay	Allow-ance	Total Pay	% of PC recmdd implementd
Chiefs of Constitutional Offices		70,000	63,000	63,000	-	63,000	90%
Commissioners of ECB, RCSC & ACC	28,500	55,000	50,445	50,445	-	50,445	92%

Pay scale for the Members of Parliament

Position Level	Pay Scale (prior to 2009 revision)	PC Recommendation	Present Pay	Proposed			
				Pay	Allow-ance	Total Pay	% of PC recmdd implementd
Dy. Speaker/ Dy. Chairperson	33,000	65,000	42,900	63,000	-	63,000	97%
MPs	30,000	60,000	36,000	50,445	5,045	55,490	92%

Note: Committee Chairs (Parliament)	An honorarium of Nu. 5,000/- per month	
---	--	--

Pay scale for the Judiciary

Position Level	Pay Scale (prior to 2009 revision)	PC Recommendation	Present Pay	Proposed			
				Pay	Allowance	Total Pay	% of PC recmdd implementd
SC Drangpon /Chief Justice, HC		70,000	63,000	63,000	-	63,000	90%
HC Drangpon		65,000	50,445	50,445	5,045	55,490	85%

Pay scale for Local Government officials

Position Level	Pay Scale (prior to 2009 revision)	PC Recommended	Present Pay	Pay	% of PC recmdd implemented
Gup	8,700	13,050	12,615	14,355	110%
Mangmi	6,525	9,800	9,460	10,765	110%
Gedrung	5,800	8,700	8,410	9,570	110%
Tshogpa	1,000	1,500	1,450	2,000	133%

Pay scale for the Cabinet Ministers in future

- a) Prime Minister : 180,000-3,600-198,000
b) Cabinet Ministers & other similar positions : 130,000-2,600-143,000