འབྲུག་གི་བཅོག་འཐུའི་བཅའ་ཁྲིམས་ ༢༠༠༨ ཅན་མ།

Election Act of the Kingdom of Bhutan, 2008

མཆོད་བརྗོད།

༄ བདེ་གཤེགས་ཐུགས་རྗེ་ཆུ་གཏེར་ཡངས་པ་ལས།། ལུང་རྟོགས་དམ་ཆོས་རྒྱས་པའི་འདབ་སྟོང་དུ།།
སྡེ་སྣོད་འཛིན་པའི་བུང་བ་འབུམ་ཚོགས་ཀྱི།། བསླུ་མེད་རིན་ཆེན་གསུམ་པོའི་ཤིས་པ་སྩོལ།།

རྒྱལ་ཀུན་སྙིང་རྗེ་རང་གཟུགས་རླབས་ཆེན་དང་།། སྲིད་ཞིའི་སྐྱབས་མགོན་ཡོ་རྒྱན་པད་མ་རྗེ།།
ཟུང་འཇུག་རྣམ་སྤྲུལ་དཔལ་ལྡན་འབྲུག་པའི་ཞབས།། ཡང་ཡང་གུས་པའི་དད་ཕྱག་འབུམ་གྱིས་བརྩེགས།།

མཁྱེན་པའི་ཡེ་ཤེས་དགྲ་འདུལ་དཔའ་བོའི་གཟུགས།། བརྩེ་བའི་ཐུགས་བསྐྱེད་འབངས་འཁོར་བུ་བཞིན་སྐྱོང་།།
ནུས་པའི་གཟི་མདངས་འཛམ་གླིང་ཡོངས་འཕྲོ་བའི།། ཆོས་རྒྱལ་བཞི་པའི་བཀྲིན་བསམ་བཞིན་འདུད།།

ཐུགས་བསྐྱེད་ལྷ་ལམ་ཡངས་པའི་འོད་སྣང་གིས།། ལྗོངས་འདིར་ཟེའུ་འབྲུ་གསར་པ་རབ་བཞད་ནས།།
སྨན་ལྗོངས་བདེ་སྐྱིད་དཔལ་ཡོན་ཕྱུག་པའི་མགོན།། མི་དབང་ལྔ་པ་སྐྱེ་འགྲོ་ཡོངས་ཀྱི་རྒྱན།།

རྒྱལ་ཁབ་ཞི་བདེ་གོང་འཕེལ་སྲོལ་ཁྱུན་གྱི།། རང་བཙན་དགུང་དུ་འདྲེན་པའི་བརྟན་གྱི་གཞི།།
རང་མོས་རྣམ་དག་བཙག་འཐུའི་ཐབས་བཟང་ལམ།། ཚུལ་བཞིན་འདྲེན་བྱེད་ཡུལ་དུ་སྤེལ་བར་བྱ།།

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ELECTION ACT OF THE KINGDOM OF BHUTAN, 2008

PREAMBLE

WHEREAS, pursuant to Article 23 of the Constitution of the Kingdom of Bhutan 2008, that the general will of the people shall be expressed through periodic elections and National Referendums held in a free and fair manner;

Parliament of the Kingdom of Bhutan during its 1st Session do hereby enact the Election Act of the Kingdom of Bhutan on this 26th Day of the Second 5th Month of the Earth Male Rat Year corresponding to the 28th Day of the 7th Month of the Year 2008.

CHAPTER 1

PRELIMINARY

Short Title, Extent and Commencement

1. This Act shall:

   (a) Be called the ELECTION ACT OF THE KINGDOM OF BHUTAN, 2008;

   (b) Extend to the whole of Bhutan, and apply to elections to Parliament and Local Governments in all electoral constituencies and to National Referendums; and

   (c) Come into force on the 11th Day of 6th Month of the Earth Male Rat Year corresponding to 12th Day of 8th Month of 2008.

Repeal

2. This Act hereby repeals all other laws concerning elections to Parliament and Local Governments.

CHAPTER 2

CONSTITUENCIES

Single Member Constituency

3. Every Parliamentary and Local Government constituency shall be a single member constituency.

Allocation of Seats in the National Assembly

4. The National Assembly of Bhutan shall have a maximum of fifty-five members chosen by direct election from the territorial constituencies in each Dzongkhag as provided hereinafter.

5. A Delimitation Commission shall, for the purposes of section 4, allocate to each Dzongkhag a number of seats in the National Assembly, so far as practicable, in proportion to its registered voter population.

   Provided that no Dzongkhag shall have less than two and more than seven National Assembly constituencies.

6. The Delimitation Commission shall, for the purposes of section 5, divide each Dzongkhag into Parliamentary constituencies equal to the number of seats allocated to that Dzongkhag, so that the registered voter population in each such constituency is, so far as practicable, equally distributed.

7. The Delimitation Commission shall issue by notification, the number of seats allocated to each Dzongkhag in the National Assembly and the territorial extent of each Parliamentary constituency in a Dzongkhag, not less than one hundred eighty days before the duration of the National Assembly expires.

The National Council

8. The National Council shall consist of twenty-five members comprising:

   (a) One member elected by the voters in each of the twenty Dzongkhags; and

   (b) Five eminent persons nominated by the Druk Gyalpo.

9. Members of the National Council shall, for the purpose of section 8 (a), be chosen by direct election from each Dzongkhag as provided hereinafter.

10. Each Dzongkhag shall, for the purposes of section 9, form a constituency to elect one member each to the National Council.

11. Every Gewog and Dzongkhag Thromde, which is not part of a Gewog, shall, for the purposes of section 9, be entitled to nominate one candidate for the National Council election in the following manner.

   (a) The Gup of every Gewog and Thrompon of every Dzongkhag Thromde shall, for the purposes of section 11, call a *Zomdu* for which:

(1) The venue must be centrally located for the convenience of the maximum number of voters;

(2) The venue and details must be made widely known within the Gewog;

(3) Participation shall be open to all registered voters of the Gewog; and

(4) The process must be well documented.

(b) A candidate shall be selected at a *Zomdu* through a majority vote of the voters at that *Zomdu*.

(c) In the case of more than one nomination, each candidate shall be given the opportunity to address the *Zomdu* and those voters present at the *Zomdu* shall cast votes as per the prescribed procedures. The person with the highest number of votes shall be the Gewog or the Dzongkhag Thromde's candidate to contest the National Council Election in the Dzongkhag.

(d) The Dzongkhag Electoral Officer shall be responsible for setting up an operational polling station, along with the Voters' List for the Gewog or Dzongkhag Thromde, at the venue of every *Zomdu*.

(e) The candidate selected at a *Zomdu* shall complete and file before the last date of nomination, with the concerned Returning Officer, all the required nomination documents duly countersigned by the Gup, Mangmi and Tshogpas in the case of a Gewog Candidate and Thrompon in the case of the Thromde Candidate.

Dzongkhag Tshogdu

12. Each Dzongkhag shall have a Dzongkhag Tshogdu whose members comprise elected members from within that Dzongkhag:

(a) One elected Gup and a Mangmi from each Gewog Tshogde;

(b) One elected representative from that Dzongkhag Thromde; and

(c) One elected representative from Dzongkhag Yenlag Thromdes.

13. The constituency for the purposes of section 12 shall be determined by the Delimitation Commission.

Allocation of Seats in Gewog Tshogde

14. A Gewog shall have a Gewog Tshogde consisting of not less than seven and not more than ten elected Tshogpas, including the Gup and Mangmi, chosen by direct election.

Provided that in the event of premature dissolution of a:

(a) Dzongkhag Tshogdu, the Gups and Mangmis shall continue to be the members of their Gewog Tshogde till such time as new Gups, Mangmis and Thromde Representatives are elected; or

(b) Gewog Tshogde, the Gup and Mangmi shall continue to be the members of the Dzongkhag Tshogdu till such time as new Gup, Mangmi and Tshogpas are elected.

15. Each Gewog shall, for the purposes of section 14:

(a) Form a constituency to elect one Gup and a Mangmi respectively to be the members of the Gewog Tshogde; and

(b) Elections under sub-section (a) shall be held as provided hereinafter.

16. Each Gewog shall, for the purposes of section 14, be divided into Chiwogs equal to the number of seats allocated in the Gewog Tshogde and each such Chiwog shall elect one Tshogpa to the Gewog Tshogde as provided hereinafter.

Allocation of Seats in Thromde Tshogde

17. A Dzongkhag Thromde shall have a Tshogde consisting of not less than seven and not more than ten elected members, including the Thrompon.

18. A Dzongkhag Thromde shall, for the purposes of section 17, be divided into constituencies equal to the number of seats allocated in the Thromde Tshogde.

19. A Dzongkhag Thromde shall directly elect a Thrompon who shall be the chief executive of the Thromde and the Chairperson of the Thromde Tshogde.

CHAPTER 3

THE ELECTION COMMISSION

Election Commission

20. The Election Commission shall be independent and consist of a Chief Election Commissioner and two Election Commissioners.

Eligibility Criteria

21. A person shall be eligible for appointment or to serve as the Chief Election Commissioner or the Election Commissioner, if he/she is:

    (a) A natural born citizen of Bhutan;

    (b) Not married to a person who is not a citizen of Bhutan;

    (c) Not convicted of any criminal offence; and

    (d) Not in arrears of taxes or other dues to the Government.

Appointing Authority

22. The Druk Gyalpo shall, by warrant under His hand and seal, appoint the Chief Election Commissioner and two Election Commissioners 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.

Oath or Affirmation of Office

23. The Chief Election Commissioner and the Election Commissioners shall, upon assuming office, take an Oath or Affirmation of Office as provided in the Third Schedule of the Constitution.

Term of Office

24. The term of office of the Chief Election Commissioner and the Election Commissioners shall be five years or until they attain the age of sixty-five years, whichever is earlier.

Removal from Office

25. The Chief Election Commissioner shall not be removed from office except by way of impeachment.

26. The Druk Gyalpo shall remove an Election Commissioner from office on a recommendation submitted by the Chief Election Commissioner based on grounds of violation of this Act.

Terms and Condition of Service

27. The Chief Election Commissioner or the Election Commissioners may resign from office before the expiry of their term by submitting an application for resignation to the Druk Gyalpo.

28. The senior most Election Commissioner shall act as the Chief Election Commissioner in the event of death or resignation of the Chief Election Commissioner or during the period he/she is unable for any reason to perform the functions of the office.

    Provided such Election Commissioner shall not ordinarily continue to act for a period of more than three months.

29. The Chief Election Commissioner shall not be eligible for reappointment.

30. The salary, discipline and other conditions of service of the Chief Election Commissioner and the Election Commissioners shall be prescribed by law.

    Provided that their salary and benefits shall not be varied to their disadvantage after appointment.

31. The Chief Election Commissioner or the Election Commissioner shall not hold any office of profit.

Role of the Chief Election Commissioner

32. The Chief Election Commissioner shall act as Chairperson of the Commission.

Majority Decision

33. All acts and orders of the Election Commission shall be expressed in terms of views of the majority among the Chief Election Commissioner and Election Commissioners present and voting.

Functions and Duties of the Election Commission

34. The Election Commission shall be responsible for the superintendence, direction and control of the preparation of Electoral Rolls for, and conduct of, all elections to Parliament and Local Governments as well as of holding of National Referendums under the Constitution in a free and fair manner.

35. It shall be the responsibility of the Election Commission to:

    (a) Register political parties;

    (b) Promote public awareness on electoral matters by conducting education and information dissemination programmes or by any other means;

    (c) Provide information and advice on referendums and electoral matters to Parliament and the Government;

    (d) Facilitate coverage of elections by the media in accordance with the Rules framed for that purpose;

    (e) Make Rules for carrying out the purposes of this Act, without prejudice to the provisions of this Act, and such Rules be issued by notification;

(f) Provide in the cases approved by the Ministry of Foreign Affairs, assistance in matters relating to elections and referendums to authorities of foreign countries or foreign organizations; and

(g) Perform any other functions as authorized under this Act or any other law in force.

Powers of the Election Commission

36. The Election Commission shall have the power to:

(a) Introduce any device or system for the purpose of registration of voters, issue of voter photo identity cards to them, conduct of elections, for counting of votes and declaration of results thereof;

(b) Conduct research on electoral and other matters that relate to its functions;

(c) Refer any person who has committed an offence relating to an election to the appropriate state agency for prosecution;

(d) Cancel and re-schedule an election, if the election in a particular constituency becomes vitiated for any reason laid down in this Act or any law in force;

(e) Obtain information from the Ministry maintaining civil registry data for preparing and maintaining Electoral Roll;

(f) Enforce or require any other act to be done as authorized under this Act or any other law in force; and

(g) Delegate by an Order, subject to its overall superintendence, direction and control, any of its functions and powers under this Act or Rules and Orders made thereunder to any of the Election Officers.

Powers of a Court

37. The Election Commission shall, in the performance of its functions to adjudicate any matter, have the powers of a Court under the Civil and Criminal Procedure Code of Bhutan in respect of the matters, namely:

(a) Summoning and enforcing the attendance of a person;

(b) Requiring the production of any document; and

(c) Requisitioning any public record from any Court or Office.

Powers to Deploy Security Personnel

38. The Election Commission shall have the power to direct the Royal Bhutan Police and the security agencies to deploy personnel, as it considers necessary for conducting elections in a free and fair manner.

    Provided the Election Commission, during the election period shall have the authority, if it finds it necessary for the conduct of free and fair elections, to require the Royal Bhutan Police to detain a person for a specified period of time if there is sufficient ground that free and fair election is likely to be undermined.

39. The concerned agencies deploying security personnel shall be responsible for any act or omission of its security personnel on election duty under this Act and Rules made thereunder.

Power to Requisition

40. The Election Commission shall be entitled to requisition, during elections:

    (a) The services of any officer and staff of the Government or Local Government, so as to assist it in the discharge of its functions; and

(b) Any facility including premises, vehicle or horses needed in connection with any election arrangement on payment of reasonable compensation as the Commission may deem appropriate.

Authority of the Election Commission

41. The Election Commission shall have full authority over all aspect of its financial and personnel management.

42. Parliament shall approve the budget of the Election Commission which shall be charged on the Consolidated Fund of Bhutan. In the case, Parliament fails to allocate budget for the Commission on time, the Ministry of Finance shall provide the Commission with interim funds at least equal to the previous year's budget.

Submission of Rules to Druk Gyalpo and Parliament

43. Every Rule made by the Election Commission under this Act shall be submitted to the Druk Gyalpo and each House of Parliament after the issue of the notification.

Jurisdiction of Courts Barred

44. A Court shall not have jurisdiction to question the legality of any action taken or of any decision given by the Election Commission or its officers or by any other person appointed under this Act in connection with an election, except upon receiving an election petition or an election appeal.

Review Electoral System

45. The Election Commission may review the electoral system when it deems necessary and submit its findings and recommendations to Parliament.

Secretariat

46. The Election Commission shall be supported by a Secretariat.

47. The Election Commission may, subject to its overall superintendence, direction and control, delegate by a resolution or Order any of its functions and powers under this Act or Rules and Orders made thereunder to any of the officers in its Secretariat.

Immunities

48. The Election Officers shall not be arrested or detained by a warrant for inquiry during the period of elections, except in the cases of flagrant violation of the laws.

CHAPTER 4

ELECTION OFFICERS

Role of Chief Election Co-ordinator during Elections

49. The Election Commission shall, during elections, designate a senior government officer as the Chief Election Co-ordinator for each Dzongkhag.

50. The primary function of the Chief Election Co-ordinator shall be to facilitate the Election Commission in conducting free and fair elections in the concerned Dzongkhag.

51. The Election Commission shall, by an order, prescribe the roles, responsibilities and duties of the Chief Election Co-ordinator.

Dzongkhag Electoral Officer

52. The Election Commission shall designate or appoint an officer of the Government as a Dzongkhag Electoral Officer for every Dzongkhag.

53. The Dzongkhag Electoral Officer shall, subject to the superintendence, direction and control of the Election Commission, assist the Commission in the preparation, revision and updating of Electoral Rolls for all Parliamentary constituencies in the Dzongkhag and carry out such other functions as entrusted to him/her by the Election Commission.

54. The Dzongkhag Electoral Officer shall assist the Election Commission in the division of Electoral Roll of a Parliamentary constituency into Electoral Rolls for Gewogs, Chiwogs and constituencies for Dzongkhag Thromdes for the purpose of conducting elections to Dzongkhag Tshogdues, Gewog Tshogdes and Thromde Tshogdes within a Dzongkhag.

55. The Dzongkhag Electoral Officer may, with the approval of the Election Commission, employ persons as he/she deems fit for the preparation and revision of the Electoral Rolls under his/her jurisdiction.

Dzongkhag Electoral Registration Officers and Assistant Electoral Registration Officers

56. The Election Commission may designate or appoint one or more persons as Dzongkhag Electoral Registration Officers and Assistant Electoral Registration Officers to assist any Dzongkhag Electoral Officer in the efficient and effective performance of his/her functions.

57. Every Officer so appointed shall, subject to the control of the Dzongkhag Electoral Officer, be competent to perform all or any of the functions of the Dzongkhag Electoral Officer.

58. The Dzongkhag Electoral Officer shall, unless the context otherwise requires, be deemed to include a person performing any function which he/she is authorized to perform under section 57.

Returning Officers

59. The Election Commission shall designate or appoint a Returning Officer for one or more constituencies.

60. The Returning Officer shall perform all acts as may be necessary for effectually conducting elections as provided under this Act or Rules and Orders made thereunder.

Assistant Returning Officer

61. The Election Commission may designate or appoint one or more persons as Assistant Returning Officers to assist the Returning Officer in the performance of his/her functions.

62. Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer.

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the scrutiny of the nominations unless the Returning Officer is unavoidably prevented from performing such functions.

63. Any reference in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he/she is authorised to perform under section 62.

Presiding Officers

64. The Returning Officer shall appoint a Presiding Officer for each polling station.

65. The Presiding Officer at a polling station shall be responsible to see that the poll is conducted in a free and fair manner in accordance with the provisions of this Act or Rules and Orders made thereunder.

Polling Officers

66. The Returning Officer shall appoint Polling Officer or Officers, as it deems necessary to assist the Presiding Officer of a polling station in the performance of his/her functions.

67. A Polling Officer shall, if directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under this Act or Rules and Orders made thereunder.

68. The Presiding Officer shall, unless the context otherwise requires, be deemed to include a person performing any function of the Presiding Officer under section 67.

Counting Personnel

69. The Returning Officer of a constituency may appoint persons to be called Counting Supervisors and Counting Assistants to assist him/her in the performance of his/her duties relating to the counting of votes at the election.

Deputation

70. All officers and staff including security personnel deployed or employed in connection with elections shall be deemed to be on deputation to the Election Commission, be subject to the control, superintendence and discipline of the Commission and shall be dealt in accordance with this Act, during the period for which they are so employed.

71. No person covered by section 70 including personnel employed in connection with preparation or revision of the Electoral Roll shall after having being so deputed, be transferred by the Government during the period of elections or during preparation or revision of Electoral Roll, except with the prior approval of the Election Commission.

72. No person shall be appointed as an Election Officer, who has been employed by or has been working for a candidate participating in the election.

Observers

73. The Election Commission may appoint independent national observers who are not affiliated to any political party or candidate and such international observers approved by the Ministry of Foreign Affairs, to oversee the conduct of elections or carry out other functions entrusted to them by the Commission.

74. An observer shall, if in his/her opinion an irregularity or violation of this Act or Rules or Orders has been committed to an extent that the result of the poll at a polling station or stations cannot be ascertained, forthwith report the matter to the Election Commission.

75. The Election Commission shall after taking all relevant facts into consideration, issue appropriate directions under this Act for the purposes of section 74.

CHAPTER 5

DELIMITATION

Delimitation Commission

76. A Dzongkhag, Gewog, and Dzongkhag Thromde shall be divided into territorial constituencies after giving due regard to the relevant provisions of the Constitution and as provided hereinafter.

77. The Election Commission shall establish a Delimitation Commission responsible from time to time to:

(a) Determine the allocation of seats to Dzongkhags in the National Assembly;

(b) Determine number of Tshogpas in each Gewog Tshogde;

(c) Determine the number of members of each Thromde Tshogde; and

(d) Make readjustments in the allocation of seats to Dzongkhags in the National Assembly, the number of Tshogpas in each Gewog Tshogde and the number of members in each Thromde Tshogde.

Power and Authority

78. The Delimitation Commission shall have the power to determine and regulate its procedures.

79. The Delimitation Commission shall have power to require a person to furnish any information on such points or matters as in the opinion of the Commission are useful for, or relevant to, any matter under its consideration.

80. The Delimitation Commission may authorize any of its members to exercise any of the powers conferred on it under this Act, and any order made or act done in the exercise of any of those powers shall be deemed to be the order or act of the Commission.

Composition of the Delimitation Commission

81. The Delimitation Commission shall consist of the:

(a) Chief Election Commissioner;

(b) Two Election Commissioners;

(c) Secretary, Ministry responsible for Urban and Municipal Administration;

(d) Secretary, Ministry responsible for Civil Registration and Census; and

(e) Surveyor-General.

Meeting of the Delimitation Commission

82. The Chief Election Commissioner may at any time convene a meeting of the Delimitation Commission and shall preside over all such meetings.

83. Presence of all members shall constitute quorum at a meeting of the Delimitation Commission.

84. The Chief Election Commissioner presiding over a meeting of the Delimitation Commission shall have a deliberative vote and in the case of a tie, cast a deciding vote.

85. All decisions of the Delimitation Commission shall be taken by a majority vote among its members.

Delimitation of Constituencies

86. The Delimitation Commission shall divide each Dzongkhag, Gewog, and Dzongkhag Thromde into relevant constituencies and delimit them on the basis of the registered voters after giving due regard to the provisions of the Constitution, the provisions of this Act, in accordance with the established Rules and Regulations and the following:

    (a) The existing boundaries of the administrative units;

    (b) All constituencies of the same group, as far as practicable, have equal registered voter population and be geographically compact areas;

    (c) The means of communication and travel within a constituency;

(d) The geographical conditions of a constituency; and

(e) Maintenance of an unbroken and inter-connected constituency as far as possible.

87. The Delimitation Commission shall:

(a) Publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any member who desires publication thereof;

(b) Specify a date on or after which the proposals be further considered by it;

(c) Consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold public sittings at the place or places as it deems fit; and

(d) Thereafter by one or more orders determine the delimitation of the constituencies.

Publication of Orders and their Date of Operation

88. The Delimitation Commission shall for the purposes of section 87:

    (a) Issue orders by notification;

    (b) Publish the order in a national newspaper;

    (c) Broadcast it on radio, television and other media of mass communication; and

    (d) Affix the notified version of orders relating to the area under its jurisdiction at a prominent place.

89. The Delimitation Commission shall simultaneously forward duly authenticated copies of each of its orders made under section 87 before both Houses of Parliament, to the concerned Local Governments for similar action, and to the Election Commission for appropriate action.

Re-adjustment in Number of Members of National Assembly and Local Governments

90. The Delimitation Commission shall after giving due regard to the relevant provisions of the Constitution and this Act, allocate and readjust the seats to the National Assembly, the number of Tshogpas in each Gewog Tshogde, the number of members in each Thromde Tshogde and the division of Dzongkhags, Gewogs, and Dzongkhag Thromdes into territorial constituencies after every ten years.

91. The readjustment made under section 90 shall not affect representation in the National Assembly, Dzongkhag Tshogdu, Gewog Tshogde or Thromde Tshogde until the dissolution of the then existing National Assembly, Dzongkhag Tshogdu or Gewog or Thromde Tshogde.

92. The Delimitation Commission shall publish each of its orders made under section 90 in the manners specified in section 88.

93. The Delimitation Commission shall simultaneously forward duly authenticated copies of each of its orders made under section 90 before both Houses of Parliament, and to the concerned Local Government for similar action, and to the Election Commission for appropriate action.

94. The delimitation of the constituencies as determined under section 90 shall not affect elections of new members to fill vacancies arising in Parliament or Local Government then in existence.

95. Every order of the Delimitation Commission shall, on issue of notification, have the force of law and not be called in question in any Court or tribunal on any ground including the ground of refusal or failure to make an order.

96. A person who improperly influences a member of the Delimitation Commission or the member who is influenced by such act in the performance of his/her duties shall be guilty of the offence of felony of the fourth degree.

Power of the Election Commission to Amend the Delimitation Order

97. The Election Commission shall consolidate all orders of the Delimitation Commission under section 87 into one single Order to be called the Delimitation of Parliamentary and Local Government Constituencies Order.

98. The Election Commission may, from time to time for updating the Delimitation of Parliamentary and Local Government Constituencies Order, make amendments by notification, if necessary:

(a) For correcting any printing mistake or any inadvertent omission; or

(b) Where boundaries or names of any Dzongkhag, Gewog, Chiwog or any territorial division mentioned in the said Order are altered.

Provided that the boundaries or areas or extent of any constituency shall not be changed by such notification.

99. Every notification under section 98 shall be placed before both Houses of Parliament, for information, and the Delimitation Commission shall provide further publicity as specified under section 88.

CHAPTER 6

VOTERS

Qualifications of Voters

100. Every person who is a citizen of Bhutan as evidenced by a citizenship identity card shall be entitled to be registered as a voter for a constituency, if such a person is:

(a) Not younger than eighteen years of age on the qualifying date as specified by the Election Commission;

(b) Registered in the civil registry of the Government pertaining to that constituency and having his/her *Gung* or *Mitsi* in that place for not less than one year before the qualifying date; and

(c) Not otherwise disqualified from voting under this Act or any other law in force in Bhutan.

101. No person shall be entitled to be registered in the Electoral Roll for more than one constituency or in the Electoral Roll for the same constituency more than once, at any given point of time.

Disqualifications for Voters

102. A person shall be disqualified for registration in the Electoral Roll of a constituency, if such a person is:

(a) Not a citizen of Bhutan;

(b) Of unsound mind and stands so declared by a competent Court; or

(c) For the time being disqualified from voting under this Act or any other law in force in Bhutan.

103. A person who becomes disqualified after registration of his/her name in the Electoral Roll shall forthwith be struck off the Electoral Roll in which it is included.

Provided that the name of any person struck off from an Electoral Roll of a constituency by reason of any disqualification incurred under this Act shall forthwith be reinstated in that Electoral Roll, if the disqualification is removed under a law authorizing its removal.

CHAPTER 7

ELECTORAL ROLLS

Electoral Rolls for Parliamentary Constituencies

104. There shall be one general Electoral Roll for every Parliamentary constituency and no person can claim to be included in any special Electoral Roll for any constituency, or be ineligible for inclusion in the general Electoral Roll for a constituency, on grounds of religion, gender, language, politics or other status.

Preparation of Electoral Rolls for Parliamentary Constituencies

105. The Dzongkhag Electoral Registration Officer for the constituency shall, subject to the superintendence, direction and control of the Dzongkhag Electoral Officer and with such assistance as he/she may require from the Department of Civil Registration, prepare Electoral Roll for every Parliamentary/Local Government constituency as prescribed by the Rules made under this Act with reference to the qualifying date.

106. The Dzongkhag Electoral Registration Officer may on an application made to him/her or on his/her own motion for the purposes of section 105:

(a) Seek any information or ask for declaration of records for determining whether a person is entitled to be registered in the Electoral Roll; and

(b) Inspect records in whatever form and make copies of pertinent information contained in the records for the registration of a person in the Electoral Roll.

107. The Dzongkhag Electoral Registration Officer with the approval of the Dzongkhag Electoral Officer may refuse to include a person's name in the Electoral Roll if he/she is of the opinion that the name is:

(a) Fictitious;

(b) Not the name specified in the citizenship identity card; or

(c) Not eligible to be included in the Electoral Roll under the Constitution or this Act.

108. The Dzongkhag Electoral Registration Officer who refuses to include a person's name in the Electoral Roll must notify the person in writing of the refusal within ten days of the decision.

Voter Photo Identity Card (VPIC)

109. Dzongkhag Electoral Registration Officer shall issue a VPIC in a prescribed form upon registration of a voter under this Act.

110. The voter photo identity card issued by the Dzongkhag Electoral Registration Officer shall be sufficient evidence of the facts stated therein and a document purporting to be such card shall be presumed to be one, unless the contrary is proved.

111. The Electoral Roll prepared for any Parliamentary constituency shall come into force immediately upon its final publication in accordance with the Rules made under this Act.

Public Inspection of the Electoral Roll

112. An Electoral Roll for the constituency shall be published and made available for public inspection during office hours at the office of the concerned Dzongkhag Electoral Registration Officer and at any other place as the Election Commission may determine.

113. All claims and objections raised in connection with the Electoral Rolls shall be presented to the Dzongkhag Electoral Officer within 10 days of its publication under section 112.

114. The Dzongkhag Electoral Registration Officer shall call upon the objector to give proof of the grounds of the objection where an objection is made to the inclusion of name in the Electoral Roll.

115. The Dzongkhag Electoral Registration Officer shall, in the case the objection is to the inclusion of name in the Electoral Roll, without calling upon the person to prove his/her entitlement, retain his/her name in the roll, if the objector on date of inquiry fails to appear or give such proof in this regard.

116. The Dzongkhag Electoral Registration Officer shall, in case the claim is for insertion of a name in the Electoral Roll, require the proof of entitlement of the claimant.

117. The Dzongkhag Electoral Registration Officer shall, overrule the objection if in his/her opinion the objection is made without reasonable cause and he/she may forward the matter to the Dzongkhag Court concerned for appropriate action.

118. The final Electoral Roll for the constituency shall be published and made available for public inspection in the manner prescribed after the expiry of the period of claims and objections.

Revision of Electoral Rolls for Parliamentary Constituencies

119. The Electoral Roll for any Parliamentary constituency shall be revised when necessary in the prescribed manner by reference to the qualifying date:

(a) Before each election to the National Council or the National Assembly;

(b) Before each bye-election to fill a casual vacancy in the seat allotted to the constituency in the National Council or the National Assembly; and

(c) In any year, if directed by the Commission.

Provided that if the Electoral Roll is not revised as aforesaid, the validity or continued operation of the said Electoral Roll shall not thereby be affected.

120. The Election Commission may at any time, notwithstanding anything contained in section 119, for reasons to be recorded, direct a special revision of the Electoral Roll for any Parliamentary constituency or part of a Parliamentary constituency in the manner as it may deem fit.

Provided that subject to the other provisions of this Act, the Electoral Roll for the Parliamentary constituency, as in force at the time of the issue of any direction, shall continue to be in force until the completion of the special revision so directed.

Authority to Add or Delete Name in the Electoral Roll

121. The Dzongkhag Electoral Registration Officer with the approval of the Dzongkhag Electoral Officer shall, in the course of the process without prejudice to the generality of the process of revision, have the authority to:

(a) Add the names of those persons who attain the age of eighteen years;

(b) Remove or add the names of those who have changed their constituency;

(c) Remove the names of those who have died;

(d) Strike out superfluous entry where the name of the same voter appears more than once on the same Electoral Roll or in the Electoral Roll of more than one constituency;

(e) Reinstate any name removed by mistake; and

(f) Remove the names of those who have been declared disqualified for voting or who are found to be ineligible for inclusion in the Electoral Roll under the Constitution or this Act.

Qualifying Date

122. The qualifying date shall, in relation to the preparation or revision of Electoral Roll for any Parliamentary constituency under this Chapter, mean either the first of January, or first of April, or first of July, or first of October of the year as may be specified by the Election Commission for each preparation or revision.

Correction of Entries in Finally Published Electoral Rolls

123. The Dzongkhag Electoral Registration Officer with the approval of the Dzongkhag Electoral Officer shall amend, transpose or delete the entry in the Electoral Roll for a Parliamentary constituency, on an application made to him/her or on his/her own motion, if he/she is satisfied after an inquiry that any entry in the Electoral Roll of the constituency as finally published after preparation or revision:

(a) Is erroneous or defective in any particular;

(b) Should be transposed to another place in the Electoral Roll on the ground that the person concerned has moved within the constituency; or

(c) Should be deleted on the ground that the person concerned is dead or has moved out of the constituency or is otherwise not entitled to be registered in that Electoral Roll.

Provided that before taking any action on any ground under sub-section (a), (b) or (c), the Dzongkhag Electoral Registration Officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken against him/her.

Inclusion of Names in Finally Published Electoral Rolls

124. The Dzongkhag Electoral Registration Officer with the approval of the Dzongkhag Electoral Officer shall on an application made to him/her or on his/her own motion, if he/she is satisfied after an inquiry that the name of any eligible person is not included in the Electoral Roll of the constituency as finally published after preparation or revision, direct the name to be included in the Electoral Roll.

Provided that if the name of the person is registered in the Electoral Roll of any other constituency, the Dzongkhag Electoral Registration Officer shall inform the Dzongkhag Electoral Registration Officer of that other constituency and the latter on receipt of the information shall strike off that person's name from that Electoral Roll.

Temporary Embargo on Entries in Electoral Rolls

125. No amendment, inclusion of name, transposition or deletion of any entry in the Electoral Roll for a Parliamentary constituency shall be made during a period of thirty days before the date of poll for an election.

Appeals

126. An appeal shall lie within ten days to the Election Commission, from any order of the Dzongkhag Electoral Registration Officer under section 107, 121, 123 or 124.

127. Every appeal under section 126 shall be in the form of a memorandum signed by the appellant and accompanied by a copy of the order appealed from.

Electoral Rolls for National Council Constituencies

128. The Electoral Roll for a National Council constituency shall consist of the Electoral Rolls for all Parliamentary constituencies comprised within a Dzongkhag and a separate preparation or revision of Electoral Roll for the National Council constituency is not necessary.

Electoral Rolls for Gewogs, Chiwogs and Constituencies for Dzongkhag Thromdes

129. The Dzongkhag Electoral Officer shall, subject to any general or special directions given by the Election Commission, divide and sub-divide the Electoral Roll for a constituency into such parts as may relate to a Gewog, Chiwog or constituency for a Dzongkhag Thromde comprised within a Parliamentary constituency so as to form the Electoral Roll for a Gewog, Chiwog or constituency for a Thromde for any election there from.

Use of Information from the Electoral Roll

130. No person shall use the information provided in the Electoral Roll except in connection with elections or referendums, research regarding electoral matters by the Election Commission or as may be authorized by it.

CHAPTER 8

POLITICAL PARTIES

Registration with the Election Commission of a Party as Political Party

131. A party of individual citizens of Bhutan calling itself a political party and intending to contest elections under this Act shall submit its application to the Election Commission for its registration as a political party for the purposes of this Act.

Guiding Principles of Political Parties

132. A political party registered with the Election Commission shall ensure that national interest prevails over all other interests and, for this purpose, provide choice to the electorates based on national goals and aspirations of the people.

133. An application for registration of a political party shall be made to the Election Commission within one month of the formation of the party.

134. An application submitted under section 133 shall be duly signed by the chief executive officer of the party and presented to the Registrar of Political Parties of the Election Commission.

135. An application for registration shall contain:

(a) The name of the party and the list of its members;

(b) The name and pictorial design of the election symbol which it proposes to register;

(c) The Dzongkhag in which its head office is situated;

(d) The address to which its letters and other communications are to be sent;

(e) The names and addresses of its President, Secretary, Treasurer and other office-bearers;

(f) Whether it has any local units, if so, at what levels; and

(g) A copy of the Charter of the Party.

136. The copy of the Charter of the party submitted with the application shall contain provisions that the party:

(a) Shall bear true faith and allegiance to the Constitution of the Kingdom of Bhutan;

(b) Shall uphold the sovereignty, national security, unity and integrity of the Kingdom;

(c) Shall demonstrate that the party is broad-based with cross-national membership and support, and is committed to national cohesion and stability;

(d) Is committed to the advancement of democracy and the social, cultural, political and economic growth of Bhutan;

(e) Does not restrict its membership based on region, gender, language, religion, or other status; and

(f) Does not receive money or any assistance from foreign sources, be it governmental, non-governmental, private organizations, or from private parties or individuals.

137. The Election Commission shall call for other particulars, as it may deem fit, such as, the political principles on which it is based, the policies, aims and objectives it pursues or seeks to pursue.

138. A party shall neither apply for registration under a name of a political party nor give the design of its symbol in the subsequent election following the date of the dissolution of such political party by the order of the Supreme Court or removal from the Register of Political Parties by the Election Commission under section 147.

139. The Election Commission shall refuse an application for the registration of a party as a political party if, in its opinion the:

(a) Charter of the party does not conform to the provisions of section 136;

(b) Name or symbol of the party it has submitted is obscene;

(c) Name or symbol of the party identifies with a community, region or religion;

(d) Party is a business concern;

(e) Party has a military or paramilitary structure;

(f) Name or symbol of the party is the name or symbol, or resembles the name or symbol, of another political party which is already registered with the Commission; or

(g) Name or symbol of the party contravenes any Rules or Orders made thereunder.

140. The Election Commission shall decide either to register a party as a political party for the purposes of this Act, or refuse to register it after considering all the particulars as aforesaid in its possession and giving the representatives of the party reasonable opportunity of being heard.

141. The Election Commission shall communicate its decision under section 140 to the concerned party and give appropriate publicity and all such decisions of the Commission shall be final and binding.

142. A party shall communicate any change in its head office, office-bearers, address, and election symbol or change in any other relevant information without delay to the Election Commission.

Register of Political Parties

143. The Election Commission shall establish and maintain a Register of Political Parties, which shall be open for public inspection at the Secretariat of the Commission during office hours and be available on the website of the Commission.

144. A political party may make an application to the Election Commission for changing the name of the party to a name specified in the application or for changing any provision in its Charter.

145. The Election Commission shall give the applicant party a written notice where it determines that an application under section 144 should be refused.

Provided that the Commission before refusing such an application shall grant a reasonable opportunity of being heard to the party concerned.

Dissolution of Political Party

146. A political party shall stand dissolved only by declaration of the Supreme Court:

(a) If the objectives or activities of the political party are in contravention of the provisions of the Constitution of the Kingdom of Bhutan;

(b) If it has received money or assistance from foreign sources;

(c) If it has solicited or resorted to collection of funds from private individuals or any agency other than from its registered members;

(d) On violation of this Act; or

(e) On any other ground as prescribed by Parliament or under any law in force in Bhutan.

147. The Election Commission may remove the name of a political party from the Register of Political Parties, if:

(a) It has obtained registration under section 133 by practising fraud or forgery;

(b) It has contravened the Election Code of Conduct in the manner prescribed in section 308;

(c) It has amended its name or charter in contravention of section 144;

(d) It has intimated its desire to the Commission to be struck off the Register of Political Parties;

(e) It has failed to secure at least ten percent of the total valid votes cast at two successive primary rounds of elections to the National Assembly other than bye-elections; or

(f) There exists a ground where an enquiry is not required to be made by the Commission.

148. An opposition party shall be elected, when the opposition party stands dissolved under the Constitution:

(a) Within sixty days from the date of the dissolution of the opposition party;

(b) From the parties registered with the Election Commission in accordance with Section 4 of Article 15 of the Constitution; and

(c) Through an election and the party obtaining the highest number of votes shall nominate its members to fill the seats of those constituencies which stood vacant on the dissolution of the original opposition party.

Provided where the ruling party in the National Assembly is dissolved under the provisions of the Election Act or any other law, the National Assembly shall stand dissolved and fresh elections held.

149. If only one letter of intent is submitted for contesting the opposition party election, an uncontested election shall be conducted.

150. The Ruling Party shall continue to function till completion of the remaining term in office if no registered political parties submit the Letter of Intent within the notified dates.

151. A political party dissolved under the Constitution shall be deregistered from the register of political parties and such parties shall not be allowed to contest in subsequent elections.

Annual Account of Political Parties

152. A political party shall maintain a correct and up-to-date account of all:

(a) Amounts received by, or on behalf of the party during the financial year;

(b) Amounts paid by, or on behalf of the party during the financial year; and

(c) Assets and liabilities accrued, by or on behalf of the party, as at the end of the financial year.

153. Every political party shall, within three months after the end of each financial year, furnish in the prescribed form a true copy of the account under section 152 to the Election Commission and a copy be made available for public scrutiny in a manner prescribed by the Commission.

Membership to Political Parties

154. Every eligible voter shall be entitled to be a member and be elected as an office-bearer of a political party.

Provided such person is not disqualified under any law made by Parliament or has not been disqualified under section 102.

155. A person shall not be member of more than one political party at any given point of time.

156. The suspension or expulsion of the member of a political party shall be determined in accordance with the party's charter.

Provided that before making an order of suspension or expulsion of a member a reasonable opportunity of being heard shall be granted.

Nomination of Candidates for Elections

157. The nomination of candidates for elections to National Assembly must be by secret ballot and in the manner prescribed by Rules made in this behalf.

Income of Political Parties

158. The income of political parties shall be made up of:

(a) Registration fee;

(b) Membership fees; and

(c) Voluntary contributions from registered members.

Registration Fee

159. A political party can impose registration fee which shall be a one time payment made by a person intending to register himself/herself as a member of that political party.

160. A political party shall provide for the fixation of the registration fee in its Charter.

Membership fee

161. A political party may provide for the fixation of the membership fee in its Charter.

Voluntary Contributions

162. A political party shall be entitled to accept voluntary financial or in kind contributions made by any of its registered members provided the value of such contributions does not exceed the ceiling prescribed by the Commission from time to time.

Chapter 9

Office of Profit

163. No person seeking election as Member of Parliament or a Local Government shall, at the time of filing his/her nomination as candidate for such election, be the holder of any office of profit, nor shall such person, if elected, hold any office of profit so long as he/she continues as a Member of Parliament or a Local Government, except as provided hereunder.

Criteria for Determining an Office of Profit

164. An office shall, for the purpose of section 163, be deemed to be an Office of Profit, if:

(a) Government exercises control over the appointment, removal, performance and functions of the holder of the office;

(b) Executive, judicial or legislative powers, except as Members of Parliament or a Local Government, are exercised by the holder;

(c) Powers of disbursement of State funds, issue of licences, awarding of contracts involving State funds are exercised by the holder;

(d) Powers of appointment to posts under the control of Government or a Local Government, grant of scholarships involving State funds or State patronage are exercised by the holder;

(e) Influence or power by way of state patronage is vested in the holder; or

(f) Remuneration other than compensatory allowance is given to the holder from the State funds.

Posts under the Companies Act of the Kingdom of Bhutan

165. A Member of Parliament or Local Government shall, so long as he/she continues to be such member, notwithstanding anything contained under section 166, not be eligible to hold the following posts in any company incorporated under the Companies Act of the Kingdom of Bhutan:

(a) Chairman of Board of Directors;

(b) Director on the Board of Directors; and

(c) Chief Executive Officer.

Permissible Offices

166. The following persons shall not be deemed to be holding an Office of Profit:

(a) Any Minister or a Member of Parliament or a Local Government, notwithstanding anything contained in section 164;

(b) Speaker or Deputy Speaker of the National Assembly notwithstanding anything contained in section 164;

(c) Chairperson or Deputy Chairperson of the National Council or Local Governments notwithstanding anything contained in section 164;

(d) Leader of the Opposition in the National Assembly;

(e) Chairperson or members of any House Committee established by Parliament or a Local Governments;

(f) Office bearer or member of a registered political party;

(g) Chairperson and member of National Judicial Commission under the Judicial Service Act 2007 notwithstanding anything contained in section 164;

(h) Member of any delegation or mission sent outside Bhutan by the Government for any special purpose;

(i) Chairperson or Member of a Committee temporarily set up for advising the Government on a matter of public importance;

(j) A member of a statutory or non-statutory body not entitled to any remuneration other than the compensatory allowance; or

(k) Any person holding any other office declared not to be an Office of Profit by or under an Act of Parliament.

Decision on Disqualification

167. Any person may petition the Election Commission of Bhutan to seek the disqualification of a:

(a) Candidate for election as a Member of Parliament or a Local Government, or

(b) Sitting Member of Parliament or a Local Government, on the ground of holding an Office of Profit.

168. The petitioner, under section 167, must furnish all relevant information to the Election Commission.

169. The Election Commission shall have the authority to take final decision on a petition relating to a candidate referred to in section 167 (a); and if the Commission decides that such candidate is disqualified on the ground of holding an Office of Profit, the name of such candidate shall forthwith be struck off the list of contesting candidates for the election and he/she shall not be eligible to contest the election.

170. In respect of a petition relating to a Member of Parliament or a Local Government referred to in section 167 (b), the Election Commission shall submit a recommendation containing its opinion on the question raised to the High Court.

171. The Election Commission shall, before submitting the question under section 167 (b) to the High Court, give the person concerned a reasonable opportunity of being heard.

172. The Election Commission shall, before taking any decision under section 169 or submitting the question under section 170, on a petition under section 167, give the persons concerned a reasonable opportunity of being heard.

173. The High Court shall, based on the question submitted by the Election Commission, hear the reference and provide its opinion to the Commission.

Provided that such question referred to the High Court should be based on a post-election disqualification.

174. The Election Commission shall have the authority to take decision on a petition relating to the Office of Profit when it is filed at the time of elections.

CHAPTER 10

QUALIFICATIONS AND DISQUALIFICATIONS FOR CANDIDATES

Qualifications

175. The seats to the National Assembly, National Council and Local Governments shall, in order to ensure formation of an efficient, effective and responsible Parliament and Local Governments and the establishment of a dynamic and vibrant democratic government, be filled through election of qualified registered voters possessing qualification requirements laid down under this Act.

Qualifications of Candidates

176. A person shall be qualified to be elected as a Member of the National Assembly, if he/she:

(a) Is a citizen of Bhutan as evidenced by the citizenship identity card;

(b) Is a registered voter of that constituency;

(c) Is of the minimum age of twenty five- years and not more than maximum age of sixty-five years at the time of filing the nomination; and

(d) Possesses a formal university degree.

177. A person shall be qualified to be elected as a Member of the National Council, if he/she:

(a) Is a citizen of Bhutan as evidenced by the citizenship identity card;

(b) Is a registered voter of that constituency;

(c) Is of the minimum age of twenty-five years and not more than maximum age of sixty-five years at the time of filing the nomination;

(d) Possesses a formal university degree; and

(e) Does not belong to a political party.

178. A person shall be qualified to be elected as a Member of a Local Government, if he/she is:

(a) A citizen of Bhutan as evidenced by the citizenship identity card;

(b) Is a registered voter of that constituency;

(c) Of the minimum age of twenty five years and not more than maximum age of sixty-five years at the time of filing the nomination;

(d) Functionally literate and possesses skills adequate to discharge his/her duties, except the candidate for the post of Thrompon must possess a formal university degree; and

(e) Does not belong to a political party.

Disqualifications of Candidates

179. A person shall be disqualified as a candidate or a member holding an elective office under the Constitution, if he/she:

(a) Has been convicted for any criminal offence and sentenced to imprisonment;

(b) Has been found guilty of corrupt practice at an election;

(c) Has been dismissed or removed from public service or the corporate sector;

(d) Has failed to lodge account of election expenses within the time and in the manner required by law and has no good reason or justification for the failure;

(e) Has solicited or resorted to any form of fund raising for campaigning in an election to Parliament or Local Governments from private individuals or any agency.

(f) Is married to a person who is not a citizen of Bhutan;

(g) Has been accused of felony in a pending case and the competent Court has taken cognisance and charges have been framed against him/her;

(h) Is in arrears of taxes or other dues to government;

(i) Has an existing contract with the government which has not been fully performed;

(j) Is working as a civil servant;

(k) Holds any office of profit as prescribed under Chapter 9 of this Act; or

(l) Is so disqualified under this Act.

180. The disqualifications referred to in section 179 (a), (b), (c), (d), (e) and (f) shall be permanent.

Provided that the disqualification under sub-section (f) shall cease to operate if the non-citizen spouse is granted citizenship of Bhutan.

181. The disqualifications referred to in section 179 (g) shall cease to operate from the date of acquittal by the Court.

182. The disqualification referred to in section 179 (h) shall cease to operate on the full payment of the arrears of taxes or other dues to government.

Provided that the pendency of any matter before a Court of law regarding the payment of taxes or government dues shall be of no excuse for any non-payment.

Ineligibility of a Member of the Royal Family to Participate in the Electoral Process

183. A member of the Royal Family shall neither join a political party nor participate in the electoral process unless he/she renounces his/her status as a member of the Royal Family.

Ineligibility of a Religious Personality to Participate in the Electoral Process

184. A truelku, lam, any influential religious personality or ordained members of any religion or religious institutions excluding the laity, as determined/registered as religious organizations or religious personalities under the provisions of the Religious Organizations Act 2007, shall neither join a political party nor participate in the electoral process as they must remain above politics and can not use their influence for the benefit of any party or candidate.

CHAPTER 11

DATES OF ELECTIONS

Election to the National Assembly

185. The National Assembly shall continue for five years from the date of the first sitting of the House.

186. An election shall be held for constituting a new National Assembly whenever the duration of the existing National Assembly expires or it is prematurely dissolved.

187. The Election Commission shall, not later than ninety days, before the date of expiration of duration of the National Assembly, announce the date on which the Druk Gyalpo shall issue by Royal Decree the notification calling the election and setting the process of election in motion so as to ensure that a new National Assembly is reconstituted within ninety days after the date of expiration of its duration.

Provided that in the case of premature dissolution of a National Assembly, such announcement shall be made after the dissolution so as to ensure that the new National Assembly is reconstituted within ninety days of its dissolution.

188. The Druk Gyalpo shall, for the purposes of section 187, by one or more Royal Decrees, call upon all Parliamentary constituencies to elect political parties and members in accordance with the provisions of this Act and of the Rules and Orders made thereunder on the date or dates recommended by the Election Commission after giving due regard to the provisions of section 186.

189. Elections to the National Assembly shall be held in two rounds, namely:

(a) Primary Round, in which all registered political parties shall be eligible to participate and contest; and

(b) General Election, in which the two registered political parties securing the highest number and the next highest number of total valid votes cast in the Primary Round throughout the Kingdom are declared to be eligible to participate through nomination of candidates to contest National Assembly seats.

Provided that the Primary Round shall be foregone and the General Election conducted directly if only two registered political parties submit the Letter of Intent.

Election to the National Council

190. The National Council shall complete its term which shall be for five years from the date of the first sitting of the House.

191. An election shall be held for constituting a new National Council whenever the duration of the existing National Council expires.

192. The Election Commission shall, not later than ninety days, before the date of expiration of duration of the National Council, announce the date on which the Druk Gyalpo shall issue by Royal Decree the notification calling the election and setting the process of election in motion so as to ensure that a new National Council is reconstituted on the date of expiration of duration of the existing National Council.

193. The Druk Gyalpo shall, for the purposes of section 191, by one or more Royal Decrees, call upon all National Council constituencies to elect members in accordance with the provisions of this Act and of the Rules and Orders made thereunder, on the date or dates recommended by the Election Commission after giving due regard to the provisions of section 192.

Election to a Local Government

194. The Dzongkhag Tshogdu, the Gewog Tshogde and the Thromde Tshogde, unless sooner dissolved, shall continue for five years from the date of the first sitting of the respective bodies.

195. An election shall be held for constituting a new Local Government whenever the duration of the existing Local Government expires or it is prematurely dissolved.

196. The Election Commission shall, not later than ninety days, before the date of expiration of duration of a Local Government, announce the date on which the Commission shall issue the notification calling the election and setting the process of election in motion so as to ensure that each Local Government is reconstituted on the date of expiration of duration of the existing Local Government.

Provided that in the case of premature dissolution, such announcement shall be made after the dissolution so as to ensure that a new Local Government is reconstituted within ninety days of its dissolution.

197. The Election Commission shall, for the purposes of section 195, issue one or more notifications on the date or dates decided by it and after giving due regard to the provisions of section 196, call upon all Local Government constituencies of the Local Government concerned to elect members in accordance with the provisions of this Act and of the Rules and Orders made thereunder.

Announcement of Dates for Nominations

198. The Election Commission shall, on issuing the notification calling upon a constituency to elect a member under section 188, 193, or 196, announce by notification the last date for making nominations for elections to:

(a) The National Assembly, which shall be a date not later than the thirtieth day after the declaration of results of the primary round of election;

(b) The National Council, which shall be a date not later than the thirtieth day after the date of issue of notification under section 193; and

(c) A Local Government, which shall be a date not later than the thirtieth day after the date of issue of notification under section 196.

Provided in the case of the Primary Round of election the party intending to contest an election shall submit a Letter of Intent in the prescribed form to the Election Commission which shall be a date not later than seventh day after the date of issue of notification under section 188.

The Letter of Intent shall include a tentative list of candidates that it may field in the General Election.

199. The scrutiny of nominations for any election to the National Assembly, National Council or a Local Government shall take place on the day immediately following the last date for making nominations announced by the Election Commission under section 198.

200. The last date for withdrawal of candidatures at any election to the National Assembly, National Council or a Local Government shall be the second day after the date for the scrutiny of nominations under section 199.

Polling Dates

201. The Election Commission shall, by notification, announce the last date or dates on which a poll shall be taken for any election to:

(a) The National Assembly, which shall be a date not later than thirtieth day after the issue of notification under section 188, in the case of Primary Round of election;

(b) The National Assembly, which shall be a date not later than thirtieth day after the last date for withdrawal of candidatures, in the case of General Election;

(c) The National Council, which shall be a date not later than thirtieth day after the last date for withdrawal of candidatures; and

(d) The Local Government, which shall be a date not later than thirtieth day after the last date for withdrawal of candidatures.

202. The Election Commission shall, by notification under section 201, announce the date before which any election to the National Assembly, or a Local Government shall be completed to ensure that the National Assembly or Local Government is reconstituted within ninety days after its dissolution.

Provided that in the case of the National Council, elections shall be held so that it is re-constituted on the date of expiry of the term.

203. The Election Commission may, notwithstanding anything contained in section 198, 199, 200 or 201 for reasons to be recorded in writing, extend the last date for making nominations or postpone the date of scrutiny of nominations to a later date, or extend the last date for withdrawal of candidatures or postpone the date of poll at any election to the National Assembly, National Council, or a Local Government.

Public Notice of Election

204. The Returning Officer of the constituency concerned shall, on notification being issued under section 198, give public notice of the intended election in the prescribed form, inviting nominations of candidates for the election and specifying the place or places at which the nomination papers are to be delivered and scrutinized, the notices of withdrawal of candidatures are to be received and reserve elections symbols for candidates.

CHAPTER 12

NOMINATIONS AND WITHDRAWAL OF CANDIDATURES

Nomination of Candidates for Election

205. Any person may, if he/she is qualified under the provisions of the Constitution and this Act, be nominated as a candidate for election to fill a seat in the National Assembly, National Council, or a Local Government.

206. No person shall, notwithstanding anything contained in section 205, be nominated as a candidate for election to fill:

(a) A seat in the National Assembly, unless he/she is nominated by a registered political party;

(b) More than one seat in the same election;

(c) A seat in the National Council as well as the National Assembly or Local Government at the same time; or

(d) A seat in the National Council or Local Government if he/she belongs to any political party.

Provided that the disqualification under sub-section (d) shall cease to operate after the lapse of one year from the date of acceptance of the application of resignation or removal from the membership of a political party and such resignation or removal shall be immediately notified by the concerned party office in the print media with a copy submitted to the Election Commission.

Nomination of Candidates by Political Parties

207. A political party shall be entitled to nominate candidates only equal to the number of seats in the National Assembly.

Requirements for a Valid Nomination

208. Each candidate shall, on or before the last date announced under section 198, deliver to the Returning Officer of the constituency concerned in person between 9.30 a.m. to 4.00 p.m., a nomination paper duly completed in all respects in the prescribed form and signed by the candidate, at the place specified in this behalf.

209. A person shall be deemed to be duly nominated to contest an election to the National Assembly, by a registered political party, if:

(a) He/She has made declaration to this effect in his/her nomination paper;

(b) He/She is a member of that political party and his/her name is borne on the list of members of the party;

(c) He/She is a member of a registered political party which could not qualify for the General Elections but is admitted as a member and nominated as a candidate by a political party to contest in the General Election. However, his/her membership in the original political party shall be forfeited;

(d) A notice in writing, in a prescribed form, to that effect has, not later than by 5.00 p.m. on the last date for making nominations, been delivered by the party to the Returning Officer of the constituency and to the Election Commission;

(e) The said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or any other office bearer is authorized by the party to send the notice;

(f) The name and signature of the office bearer or authorized person are communicated, in a prescribed form, to the Returning Officer of the constituency not later than by 5.00 p.m. on the last date for making nominations; and

(g) The forms, referred to in sub-section (c) and (d), are signed by the said office bearer or person authorized by the party.

210. The Returning Officer shall, on the presentation of a nomination paper, satisfy himself/herself that the name and Voter Photo Identity Card number of the candidate as entered in the nomination paper are the same as those entered in the Electoral Roll.

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or in regard to any place, mentioned in the Electoral Roll or the nomination paper, shall affect the full operation of the Electoral Roll or the nomination paper.

211. The Returning Officer shall, on receiving the nomination paper:

(a) Inform the Candidate of the date, time and place fixed for its scrutiny;

(b) Enter on the nomination paper its serial number; and

(c) Sign thereon a certificate stating the date and hour the nomination paper has been delivered to him/her.

212. The Returning Officer shall prepare, in a prescribed form, the list of candidates, who have filed their nominations on that day and affix it to his/her notice board after 4.00 p.m. on each of the days fixed for making of nominations.

Right to Information of Voters

213. Every candidate for an election to the National Assembly, National Council, or a Local Government shall, in order to provide for an informed choice by the voter, file along with his/her nomination paper, an affidavit in the prescribed form declaring:

(a) His/Her profession, annual income, movable and immovable assets and liabilities including government dues of himself/herself, his/her spouse and dependent children;

(b) His/Her bio-data and educational qualifications;

(c) His/Her non-criminal conviction record; and

(d) Details of all criminal cases pending against him/her, if any, for an offence punishable with imprisonment and in which the charges are framed against him/her or a Court of competent jurisdiction has taken cognisance of offence he/she is accused of, prior to the date of filing of a nomination.

214. The Returning Officer shall, on the receipt of the affidavit of the candidate, display the same by affixing a copy thereof at a prominent place in his/her office for public inspection and publish the relevant content of the affidavit at least in one national newspaper for the information of the voters of that constituency.

215. The Returning Officer shall, if a person who has bonafide reason to believe points out any discrepancy by filing an affidavit that the information furnished by a candidate in his/her affidavit is inaccurate or incomplete or has been suppressed substantially, give publicity in accordance with section 214.

Scrutiny of Nominations

216. The candidates and election representatives duly authorized in writing by each candidate, but no other person, may attend the scrutiny proceedings at the time and place fixed and notified.

217. The Returning Officer shall provide all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in this Act.

218. The Returning Officer shall examine the nomination papers of each candidate and decide all objections which may be made to any nomination and may, either on such objection or on his/her own motion, after a summary inquiry, reject any nomination on the ground that:

    (a) On the date fixed for the scrutiny of nominations, the candidate is either not qualified or is disqualified for being chosen to fill the seat under the Constitution or this Act or under any other law;

    (b) There has been a failure to comply with the provisions of sections 206, 208, 209, 210, or 213; or

    (c) The signature of the candidate on the nomination paper is not genuine.

219. The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

220. The Returning Officer shall hold the scrutiny on the date fixed without allowing any adjournment of the proceedings except when the proceedings are interrupted or obstructed by riot or open violence or by causes beyond his/her control.

221. The candidate concerned shall, in the case wherein an objection is raised by the Returning Officer or by any other person in relation to the nomination of a candidate, be allowed time to rebut it not later than 12 p.m. on that fixed date for the withdrawal of candidature.

222. The Returning Officer shall endorse on each nomination paper his/her decision accepting or rejecting the same in writing stating his/her reasons for such acceptance or rejection.

223. The Returning Officer shall, after all nomination papers have been scrutinized and the decision either to accept or reject have been recorded, prepare in a prescribed form, a list of validly nominated candidates and affix it to his/her notice board.

    Provided that the preparation of such list shall not be deferred on the ground that the scrutiny proceeding in relation to the nomination of any candidate has been adjourned under the section 220.

224. The list prepared under section 223 shall contain the names of all those candidates whose nominations have been found valid on scrutiny before adjournment and a supplementary list be prepared, where necessary, if the nomination of the candidate objected to is found valid on subsequent scrutiny.

Withdrawal of Candidatures

225. Any candidate whose nomination has been found valid on scrutiny may withdraw his/her candidature by a notice in writing and such notice shall be delivered to the Returning Officer either by the candidate in person or by a party, who has been authorized in this behalf, before the last date for the withdrawal of candidature.

Provided a political party which has submitted its Letter of Intent may withdraw from the election by a notice in writing delivered to the Returning Officer before expiry of the second day after the last date of submission of the Letter of Intent.

226. No person who has given a notice of withdrawal of his/her candidature shall be allowed to cancel the notice.

227. The Returning Officer shall affix the notice of withdrawal at prominent place in his/her office, on being satisfied as to the genuineness of the notice and the identity of the person delivering it.

228. All subsequent nomination of a candidate by any other political party after withdrawal of his/her first valid nomination shall be considered void.

229. No political party shall be empowered to withdraw the nomination of its candidate once duly nominated, except with the written consent of the concerned candidate.

Reservation of Symbols for Contesting Candidates

230. The Returning Officer shall, subject to any general or special directions of the Election Commission in this behalf, reserve a separate election symbol for each contesting candidate, immediately after the expiry of the period within which candidatures may be withdrawn under section 200.

Provided that the candidates nominated by registered political parties shall be allowed to use the respective symbols reserved for their parties by the Election Commission.

Publication of List of Contesting Candidates

231. The Returning Officer shall, on reserving symbols for contesting candidates, prepare and publish in the prescribed form a list of validly nominated candidates, who have not withdrawn their candidature within the time and in the manner prescribed under section 200.

232. The list of validly nominated candidates shall be arranged in alphabetical order showing their addresses, election symbols and name of party in case of General Elections, together with other particulars as prescribed.

Death or Cancellation of Candidate of Registered Political Party before Poll

233. The Returning Officer shall, if a candidate nominated by a registered political party, whose nomination is found valid on scrutiny and who has not withdrawn his/her candidature dies at any time before the commencement of poll, forthwith report the matter to the Election Commission.

234. The Election Commission shall, on receipt of the report under section 233, call upon such political party to nominate another candidate for the said election within seven days of the issue of the notice by the Commission to that party, and the provisions of sections 205 to 224 shall apply in relation to such fresh nomination as they would apply to other nominations.

Provided that the Commission may postpone the date of poll in the constituency if considered necessary.

235. A person, who had earlier withdrawn his/her candidature under section 200, may be nominated by that political party for the purpose of section 234.

236. The Returning Officer shall again prepare and publish a fresh list of contesting candidates so as to include the name of the candidate who has been validly nominated under section 234, where a list of contesting candidates has already been published before the death of the candidate.

In the case of cancellation of a candidature, the Election Commission shall, while applying the provisions of sections 205 to 224:

(a) Call upon the concerned political party to nominate a replacement candidate for the said election within seven days of the issue of the notice by the Commission to that party, in the case of cancellation of candidature in a General Election;

(b) Call upon the concerned Gewog or Dzongkhag Thromde to nominate a replacement candidate for the said election within seven days of the issue of the notice by the Commission, in the case of cancellation of candidature in a National Council Election; and

(c) Call upon the concerned Gewog Tshogde or Thromde Tshogde constituency to nominate a replacement candidate for the said election within seven days of the issue of the notice, in the case of cancellation of candidature in a Local Government Election.

Provided that the Commission may postpone the date of poll in the constituency if considered necessary.

Appeals from Orders of Returning Officers

237. An appeal can be made from every order of the Returning Officer accepting or rejecting a nomination under section 222 to the Election Commission.

238. An appeal may be filed either by the candidate whose nomination has been rejected or by the candidate whose objection in relation to the nomination of a rival candidate was not accepted by the Returning Officer.

239. An appeal shall be presented to the appellate authority within ten days from the date of the order appealed from.

Provided that the appellate authority may condone the delay in the presentation of appeal if it is satisfied that the appellant had sufficient cause for not presenting it within the time prescribed.

240. An appeal shall be:

(a) Made in the form of a memorandum signed by the appellant stating the grounds on which the appeal is based;

(b) Accompanied by a true copy of the order; and

(c) Accompanied by true copies of all documents in support of his/her appeal.

241. The appellate authority shall, upon holding an inquiry or hearing as deemed appropriate, make every endeavour to decide the appeal within five days of its receipt.

242. The decision of the appellate authority shall be final and binding during the period of elections.

243. The decision of the appellate authority shall be communicated to the parties to the appeal and to the Returning Officer.

Provided that such order may be called in question after the completion of the election by means of an election petition in accordance with the provisions of this Act.

244. The Returning Officer shall, where the appellate authority accepts an appeal, forthwith suitably revise the list of contesting candidates to give effect to the decision of the appellate authority, give notice of the revised list to all contesting candidates and publish a copy thereof in the same manner as prescribed for the publication of the original list of contesting candidates.

CHAPTER 13

REPRESENTATIVES OF CANDIDATES

Election Representatives

245. A registered political party may appoint any one person in each constituency to be its election representative and shall give notice of the appointment in the prescribed manner to the Returning Officer.

Provided that where a political party makes the appointment of its election representative in any constituency, the candidate nominated by the party in that constituency shall not be permitted to appoint any other person to be his/her election representative.

246. A candidate at an election may appoint any one person to be his/her election representative and shall give notice of the appointment in the prescribed manner to the Returning Officer.

247. No person shall be appointed as an election representative unless the name of the person is borne on the Electoral Roll of the constituency concerned.

248. An election representative may perform functions in connection with the election as are authorized under this Act to be performed by an election representative.

249. The candidate or the registered political party shall be liable for all acts of commission and omission of their election representative and shall incur civil or criminal liability in respect of any act done by the election representative in connection with the election.

Disqualification for Election Representative

250. Any person who is for the time being not qualified or is disqualified under the Constitution or under this Act for being elected as a Member of a Local Government or for voting at elections, shall be disqualified for being an election representative at any election during the period the disqualification subsist.

Resignation, Death or Revocation of Appointment of an Election Representative

251. The candidate or the registered political party may revoke the appointment of their election representative.

252. Revocation of an appointment of an election representative shall be signed by the candidate or the political party and operate from the date on which it is lodged with the Returning Officer.

253. The candidate or the political party concerned may, in the event of revocation, or resignation or death of an election representative before or during or after the election, appoint in the prescribed manner another person to be their election representative.

Provided that the event occurs before the account of the election expenses of the candidate or the political party concerned has been lodged.

Appointment of Polling Representatives

254. A contesting candidate, a registered political party or their election representative may appoint one or two polling representatives at each polling station in the prescribed manner.

Provided that where a political party makes the appointment of its polling representative in any constituency, the candidate nominated by such party or his/her election representative in that constituency shall not be permitted to appoint any other person to be his/her polling representative.

255. Only one of the polling representatives of each candidate or each political party shall remain present in the polling station at any point of time.

256. Revocation of an appointment of a polling representative shall be signed by the candidate or the political party and operate from the date on which it is lodged with the Returning Officer.

257. The candidate, political party or their election representative may, in the event of revocation, resignation or death of a polling representative before the close of the poll, appoint in the prescribed manner, another polling representative.

Appointment of Counting Representatives

258. A contesting candidate, a registered political party or their election representative may appoint one or more counting representative not exceeding the number as specified by the Election Commission, to be present at the counting of votes. When any appointment is made, notice of the appointment shall be given in the prescribed form to the Returning Officer.

Provided that where a political party makes the appointment of its counting representative in any constituency, the candidate nominated by the party or his/her election representative in that constituency shall not be permitted to appoint any other person to be his/her counting representative.

259. Revocation of an appointment of a counting representative shall be signed by the candidate or the political party and operate from the date on which it is lodged with the Returning Officer.

260. The candidate, political party or their election representative may, in the event of revocation, resignation or death of a counting representative before the commencement of the counting of votes, appoint in the prescribed manner, another counting representative before the commencement of the counting of votes.

Functions of Polling Representatives

261. A polling representative may perform functions in connection with the poll as are authorized under this Act to be performed by a polling representative.

Functions of Counting Representatives

262. A counting representative may perform functions in connection with the counting of votes as are authorized under this Act to be performed by a counting representative.

Functions of a Contesting Candidate or his/her Election Representative

263. A contesting candidate or his/her election representative or the election representative of the registered political party shall have the right to be present at any polling station for the taking of poll or at the place fixed for the counting of votes at every election where a poll is conducted.

264. A contesting candidate, registered political party or their election representative may perform any act which their polling or counting representative would have been authorized under this Act or may assist the counting or polling representative in the performance of their functions.

Non-attendance of Polling or Counting Representative

265. The non-attendance by any polling or counting representative shall, where an act is required or authorized under this Act to be done in the presence of such representative, not invalidate the act, if it is otherwise duly done.

Register of Representatives

266. Every Returning Officer shall maintain a Register of Representatives updated regularly and containing the name and address of every election, polling and counting representative appointed by a candidate or a registered political party.

CHAPTER 14

ELECTION CAMPAIGN

Election Campaign and Campaign Period

267. Every candidate and registered political party shall, subject to any restrictions imposed by this Act or under any law, be free to conduct an election campaign in the manner deemed appropriate by them.

268. The election campaign shall be permitted to commence from the date of issue of notification by a Royal Decree calling an election as announced**,** or notified in the case of Local Government elections by the Election Commission and end forty-eight hours prior to the hour fixed for the commencement of poll for the election.

269. A registered political party may, on the announcement of an election by the Election Commission, announce the strength of its party based on leadership and membership, its past performance and issue a manifesto detailing the programmes and policies it would implement if elected.

Allocation of Equitable Time on Electronic Media

270. The Election Commission shall allocate equitable time to all registered political parties on the cable television network and other electronic media to display or propagate any election matter or to address public in connection with election during the period of campaign.

Provided in the case of Primary Round of elections to the National Assembly allocation of equitable time shall be made after the issue of Royal Decree calling upon all Parliamentary constituencies to elect political parties.

271. The allocation of equitable time in respect of an election shall be made after the publication of list of contesting candidates for the election and be valid till forty-eight hours prior to the hour fixed for the commencement of poll for an election.

272. The allocation of equitable time shall be binding on all political parties and candidates concerned.

273. The Election Commission may, for the purpose of this section, formulate a code of conduct for cable operators, electronic media and every person managing or responsible for the management of the cable operations and electronic media.

274. Any cable operator or person managing or responsible for the management of the electronic media contravening the code of conduct, as referred to in section 273, shall be guilty of the offence of misdemeanour and be liable for cancellation of the licence.

275. The decision of the Election Commission on the question of allocation of equitable time on electronic media among broadcasters, political parties and candidates shall be final and binding.

Broadcasting from Outside Bhutan

276. Any political party, candidate or their supporter sponsoring the broadcast of election advertising from outside Bhutan shall be guilty of the offence of misdemeanour.

CHAPTER 15

PUBLIC CAMPAIGN FINANCING

State Funding of Elections

277. Parliament shall establish by law, a Public Election Fund into which shall be paid every year such amount as the Election Commission may consider appropriate for funding registered political parties and candidates at elections to Parliament.

278. The Election Commission shall make the payment out of the Public Election Fund in a non-discriminatory manner to the registered political parties and candidates in accordance with law made by Parliament.

Political Parties entitled to accept Contributions

279. A political party shall, subject to the provisions of any other law, only accept contribution voluntarily offered to it by any of its registered members of such amount not exceeding the total ceiling fixed by the Election Commission.

Contributions

280. The Election Commission shall fix the ceiling on contribution that party members may make to registered political parties participating in elections to the National Assembly.

Provided that all such contributions shall be made voluntarily and must not be given to receive any favours, political or otherwise and provided further that all such contributions shall be made by cheques and must be declared before the Commission.

281. No person shall receive any contribution from any member of the party or on behalf of any registered political party, unless the person has been authorized in writing in this behalf by the concerned party and such contributions are accounted for and in keeping with other provisions of this Act.

282. Any person contravening the provisions of section 280 or 281 shall be guilty of the offence of felony of the fourth degree and the political party liable for action under section 146.

Maximum Limits of Election Expenses

283. The Election Commission shall, from time to time, fix the maximum limits of election expenses that may be incurred or authorized by registered political parties and candidates taking part in elections to Parliament and Local Governments, including the funds received from the Election Commission.

284. Every candidate and registered political party shall maintain the day-to-day accounts in a prescribed form of all contributions received and all expenses incurred or authorized in relation to the election from the date the election is announced by the Election Commission and till the date of declaration of result of the election.

285. No person shall incur or authorize any election expenses for or on behalf of any candidate or registered political party, unless the person has been authorized in writing in this behalf by the candidate or his/her election representative or by the party concerned or its election representative.

286. Any person contravening the provisions of section 284 or 285 shall be guilty of the offence of the felony of the fourth degree and in the case of the political party be liable for action under section 146.

Time limit for Filing of Return of Election Expenses

287. Every candidate and registered political party shall, within thirty days of the declaration of result of an election, furnish to the Election Commission a return, in the prescribed form, setting out the relevant details of all contributions received by the candidate or party and all expenditure incurred or authorized by him/her or it in relation to elections.

288. If any candidate or a political party contravenes section 287, the candidate shall be liable for action under section 180 and the political party liable under section 146.

CHAPTER 16

ELECTION CODE OF CONDUCT

Election Code of Conduct

289. The political parties and candidates shall, in order to maintain a healthy electoral system and to ensure that the election campaigns are carried out in a lawful, peaceful and orderly manner for a free and fair election, abide by the Election Code of Conduct herein prescribed.

Election Code of Conduct for Political Parties and Candidates

290. Political parties at all times shall uphold the rights and freedoms of the people as guaranteed by the Constitution and provide equal opportunity to qualified persons to participate in electoral activities.

291. No candidate or political party shall permit any other person to carry out election campaign on his/her or its behalf, except by persons authorized under this Act.

292. No person including candidates or the members of the political parties shall wear their Kabney during the electoral campaign in public.

293. Every political party and candidate shall:

(a) Strive to maintain the highest standards of integrity, truthfulness, selflessness, loyalty and patriotism;

(b) Avoid discrimination and not dispense special favours to any community or person or group of persons on grounds of gender, religion or any other reason;

(c) Not indulge in any activity, which may create ill-will, differences or cause tension between different communities, religious or linguistic groups; and

(d) Ensure that their supporters do not indulge in any unlawful act or corrupt practice.

294. Every political party, candidate and their representatives at all forums and at all times shall avoid defamatory and derogatory attacks on rival parties or individual personalities through any form of communication and avoid the use of inflammatory language, provocative actions, images or manifestation that incite violence, hatred or intimidation against another party or candidate or any person or group of persons.

295. No political party or candidate shall permit their supporters to make use of any public property or private property, without the owner's written permission for purposes of erecting flag-staffs, cut-outs, suspending banners, pasting election posters and notices.

296. A political party or candidate organizing an election meeting shall ascertain, in advance, if there are any restrictive or prohibitory orders in force in the place proposed for the meeting or in the localities through which the party members pass and if any restrictive orders are in force be strictly complied with.

297. A political party or candidate organizing a meeting shall give advance intimation and receive approval from the appropriate authorities of the venue and time of the proposed meeting and their campaign schedule and instruct their members and supporters that no dangerous article that can be used to cause injury be brought to a political meeting or any other political function and take steps to ensure that there is no blockage or hindrance to traffic and no cause is given for any other public inconvenience.

298. No political party or candidate or any person acting with their consent shall obstruct or disrupt, break up or in any way interfere with a meeting or any campaign activity of another political party or candidate or prevent any person from participating in the activities of another party or candidate.

299. No political party or its elected representatives in the National Assembly or any official holding a public office shall use their official position for influencing voters in favour of or against any party or candidate.

300. No elected representative in Parliament, including Ministers, or Members of Local Government shall combine his/her official visit with electioneering work or make use of official machinery or personnel during the electioneering work or use any government transport, for the furtherance of the interest of any party or candidate at an election.

301. Members of Parliament, Members of Local Governments or members of political parties and candidates shall not enter any polling station or place of counting except in their capacity as a voter or candidate or on obtaining valid entry permit from the Election Commission.

302. All political parties, candidates and their representatives on the day of poll shall:

(a) Co-operate with the officers on election duty to ensure a peaceful and orderly polling;

(b) Co-operate with the officers on election duty to ensure complete freedom to voters to exercise their right to vote and without being subjected to any annoyance or obstruction;

(c) Co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them, which should be displayed prominently on those vehicles;

(d) Supply to their authorized party workers suitable badges or identity cards;

(e) Not canvass or display any poster, flag, symbol or any other propaganda material;

(f) Not serve or distribute any food or drink to anyone, except their duly appointed polling representatives, at the polling station;

(g) Not solicit vote of any voter;

(h) Not induce any voter to refrain from voting for any particular candidate;

(i) Not induce any voter not to vote at the election; and

(j) Not prevent or obstruct any voter from coming to the polling station to vote.

303. All political parties and their candidates shall instruct their representatives in attendance at polling stations and counting places to perform their duties in accordance with this Act and Rules and Regulations made thereunder.

304. No candidate, representative or member of a political party shall engage in confrontation with officers on election duty at the polling station or counting place.

305. No candidate or political party shall convene public meetings and campaign on the day of the poll and during forty-eight hours preceding the hour fixed for commencement of poll.

306. Any complaint relating to processes and procedures at a polling station or counting place shall either be routed through the party's election representative to the Presiding Officer or Returning Officer or be made directly to an officer of the Election Commission for appropriate resolution of the matter.

Date of Enforcement of the Election Code of Conduct

307. The Election Code of Conduct prescribed under sections 290 to 306 shall come into force in relation to any election to the National Assembly, National Council or a Local Government from the date of announcement of election by the Election Commission under section 188, 193, or 196 and continue to be in force until the completion of the election in all respects.

Penalty for Contravention of the Code of Conduct

308. The Election Commission shall, if a registered political party, or candidate, or their representatives contravene or persist to contravene the Election Code of Conduct to an extent that the contravention undermines the institution of democracy, take action under section 147 and cancel the nomination of the candidate, notwithstanding any other penalty that may be imposed under this Act or any other law.

Code of Conduct for Election Officers

309. Election Officer shall comply with the laws of the country and ensure that the provisions of this Act or any Rules or Order made thereunder are fully implemented in an impartial and equitable manner.

310. Election Officer shall disclose any relationship that could lead to a conflict of interest with his/her duties as an Election Officer.

311. Election Officer shall not participate in any unauthorized activity, including any private activity that could lead to an actual or perceived conflict of interest with his/her duties as an Election Officer.

312. Election Officer shall arrange for effective and reasonable access to relevant documents and information within the framework of this Act.

313. Election Officer shall ensure that every party, candidate, voter and other participant in the election process be treated in a neutral and unbiased manner.

314. Election Officer shall at all times conduct himself/herself in an irreproachable manner, exercise sound judgment, and observe the highest level of personal discretion.

315. Election Officer shall not accept any gift from a political party, organization, or person involved in the election process.

316. Election Officer shall reject any improper influences and refrain from accepting directions relating to the performance of his/her task, except as provided by law.

317. Election Officer shall not express a view on any subject which is likely to be a political issue in the election.

318. Election Officer shall not communicate with any voter on a matter of partisan significance or wear, carry, or display any partisan party symbols or colours.

319. Election Officer shall respond to reasonable requests by providing an explanation for a decision he/she takes in connection with election process or a decision made in connection with general operation.

320. Election Officer shall ensure that information is collected, compiled, and published in a manner that is systematic, clear, and unambiguous.

321. Election Officer shall do everything necessary, within the framework of this Act, to ensure that all the information that he/she compiles, uses, or publishes has a sound factual basis.

322. Election Officer shall work to provide for every voter the highest quality of service required to enable a voter to exercise his/her right to vote with the least possible inconvenience.

323. Election Officer shall provide all necessary assistance to the physically challenged, such as the blind, physically handicapped, illiterate, or those living in remote areas to enable them to exercise their right to vote effectively.

Penalty for Contravention of Code of Conduct

324. The Election Commission shall take appropriate action against an Election Officer who contravenes or persists to contravene the Code of Conduct for Election Officers to an extent that the contravention undermines the institution of democracy.

325. Any action taken under section 324 may, notwithstanding any other penalty that may be imposed under this Act or any other law, include:

(a) Transfer;

(b) Withholding of increment;

(c) Suspension;

(d) Termination of service; or

(e) Prosecution in a court of law.

CHAPTER 17

CONDUCT OF POLL

Right to Vote

326. Every citizen of Bhutan whose name is registered in the Electoral Roll of the constituency for the time being in force shall, subject to the provisions of sections 327 and 328, have the right to vote for any political party or candidate according to his/her own free will and choice in any election from that constituency.

Provided that no person shall vote at an election if he/she is subject to any disqualification for voting under this Act or any other law in force even if his/her name is registered in the Electoral Roll for the time being in force.

327. A person shall not vote more than once in an election and the vote of a person who votes more than once shall be void, notwithstanding that his/her name may have been registered in the Electoral Roll for that constituency more than once or registered in the Electoral Roll of more than one constituency.

328. Failure of a voter to vote for any reason at any election shall be deemed to be a waiver of his/her right to vote.

Polling Day a Public Holiday

329. The polling day at elections to Parliament and Local Government shall be declared a public holiday.

Voting at Elections

330. A voter shall cast his/her vote in person at the polling station through a secret ballot.

Provided that the Election Commission may, with regard to the circumstances of each case, direct that the votes at any election in a constituency be cast and recorded by electronic voting machine (EVM).

Voting by Post by Specified Group of Voters

331. Votes may, notwithstanding anything contained in section 330, be cast by post or online by any of the following:

(a) Diplomats and persons working in the Embassies of Bhutan abroad;

(b) Any person on special government duty who is for the time being residing outside Bhutan for the performance of the duty;

(c) Members of the Armed Forces of Bhutan;

(d) Any person on election duty;

(e) Civil servants;

(f) Students and trainees;

(g) The spouse or dependent of a person referred to in sub-sections (a) to (e), if the spouse or dependent is ordinarily residing with him/her; and

(h) Any other group of voters as specified by the Election Commission in consultation with the Government.

332. The votes shall be cast by persons referred to in section 331 by post in the manner and at such time as prescribed by the Election Commission.

Preventing Impersonation of Voters

333. Provisions shall be made by Rules under this Act to prevent impersonation of voters at the time of poll, which may include the following requirements:

(a) For production by every voter before the Presiding Officer of the polling station any identification card or document, as prescribed by the Election Commission, before he/she is allowed to vote; and

(b) To mark with indelible ink the thumb or any other finger of every voter who comes to the polling station to vote and before he/she is allowed to vote.

334. The Presiding Officer of the polling station shall prohibit any voter from casting his/her vote if he/she refuses to have his/her thumb or any other finger marked with indelible ink or if he/she has already such a mark on his/her thumb or any other finger or if he/she does not produce on demand his/her identification card.

Provision of Polling Stations

335. Every Dzongkhag Electoral Officer shall, with the approval of the Election Commission provide sufficient number of polling stations for his/her constituency not less than 30 days before the date of poll, and publish a list showing the polling stations and the polling areas.

336. The polling stations must be easily accessible to voters for polling and its perimeters demarcated by signs posted in accordance with local geographical conditions.

337. No polling station shall be abolished before the completion of poll after it has been provided and published under section 335, except with the prior approval of the Election Commission.

Employers to allow Employees Leave of Absence to Vote

338. An employer shall, if an employee in any business, trade, industrial undertaking or any Government establishment notifies his/her employer before the poll that he/she desires leave of absence for voting at any election, grant leave of absence, for reasonable period as is necessary to enable him/her to vote at the election.

339. The provisions of section 338 shall not apply to any voter whose absence may cause danger in respect of the employment in which he/she is engaged.

340. A head of educational or training institute shall, if a student or trainee who is eligible to vote notifies the concerned head before the day of poll that he/she desires leave of absence for voting at any election, grant leave for reasonable period as is necessary to enable him/her to vote at the election.

341. No employee, student or trainee shall, without the bonafide intention to vote, obtain leave of absence under sections 338 and 340.

342. Any employer or head of educational and training institutes contravening the provisions of section 338 or 340 and any person contravening the provisions of section 341 shall be guilty of the offence of violation.

Prohibition on Exit Polls

343. No person shall broadcast, telecast or publish before the close of poll, any:

(a) Statement or news relating to the manner in which voters have voted at an election;

(b) Public opinion survey reports on an election shall not be released to the general public prior to closure of the poll; or

(c) Forecasts or predictions relating to the probable result of an election based on the information provided by or obtained from, voters or observers at an election.

344. Any person contravening the provisions of section 343 shall be guilty of the offence of misdemeanour.

Ballot Papers

345. The Returning Officer shall, subject to any general or special direction of the Election Commission, be responsible to print postal ballot papers and ballot papers required for use at any election in any constituency falling within his/her jurisdiction.

346. The ballot papers shall be printed on security paper in Dzongkha and English languages, and in the form as the Election Commission may direct.

347. The names of contesting candidates on the ballot paper shall be printed along with their photographs and in the case of General Elections, with the respective names of political party and symbols.

348. The names of contesting candidates on the ballot paper shall be arranged in the same order in which they appear in the list of contesting candidates prepared by the Returning Officer under section 232.

Ballot Boxes and Voting Machines

349. Every ballot box or an electronic voting machine to be used at any election shall be of the design approved by the Election Commission.

Hours of Poll

350. The poll at any election shall generally be held in a single day and the hours during which the poll is to be taken be determined by the Election Commission in accordance with the local conditions of the constituency in which the poll is to be taken.

351. The hours of poll determined by the Election Commission shall be notified and given further publicity as the Commission may direct.

Commencement of Poll

352. The poll shall commence at each polling station in the constituency at the hour fixed by the Election Commission in that behalf.

353. The Presiding Officer of the polling station shall, before the commencement of poll, demonstrate to the candidates and their polling representatives that:

(a) The ballot box is empty or no vote is cast in the voting machine;

(b) All the bundles of ballot papers supplied to him/her for use at the polling station are intact and no ballot paper is missing; and

(c) The copy of the Electoral Roll to be used for identifying voters and allowing them to cast their votes at the polling station is duly authenticated by the Returning Officer.

354. The Presiding Officer shall permit the candidates and their representatives to note down the serial numbers of ballot papers or the identification number of the voting machine, provided to him/her for use at the polling station.

355. The Presiding Officer shall seal and secure the ballot box or the electronic voting machine in the manner directed by the Election Commission or as laid down in the Rules.

Provided that he/she shall permit the candidates and their representatives to affix their seals thereon, if they so desire.

Admission to Polling Stations

356. The Presiding Officer shall direct the number of voters to be admitted at any one time inside the polling station, and exclude there-from all persons other than:

(a) Candidates, their election representatives and one polling representative;

(b) A child in arm accompanying a voter;

(c) A person accompanying a blind or infirm voter who cannot move without help;

(d) Polling Officers;

(e) Public servants on duty in connection with the election; and

(f) Persons authorized in writing by the Election Commission.

Voting Procedure and Maintenance of Secrecy

357. Every voter shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure prescribed by Rules made under this Act.

Assistance to Physically Challenged Voters

358. The Presiding Officer shall permit a physically challenged voter to take with him/her a companion to the voting compartment for recording the vote on the ballot paper or on the voting machine, if he/she is satisfied that owing to his/her physical infirmity, a voter is unable to recognise the symbols on the ballot paper or to make a mark thereon or to record his/her vote in the voting machine, without assistance.

    Provided that no person shall be permitted to act as the companion of more than one voter at any polling station for a particular election.

359. Any person before he/she is permitted to act as the companion shall be required to declare that he/she is not less than eighteen years of age, he/she will keep the vote recorded by him/her on behalf of the voter a secret and he/she has not already acted as the companion of any other voter at any polling station for a particular election.

360. The Presiding Officer shall keep the record of the voters and their companion in a form prescribed for this purpose.

Challenging of Identity of Voters

361. Any polling representative may challenge the identity of a person claiming to be a particular voter when he/she comes to vote at the polling station.

362. The Presiding Officer shall on such challenge being made:

(a) Warn the person challenged of the penalty for impersonation;

(b) Read the relevant entry in the Electoral Roll in full and ask him/her whether he/she is the person referred to in that entry;

(c) Enter his/her name and address in the list of challenged votes in a prescribed form; and

(d) Require him/her and the challenger, to affix their signatures in the said list.

363. The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose:

(a) Require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his/her identity;

(b) Put to the person challenged any question necessary for establishing his/her identity and require him/her to answer them and furnish an affidavit; and

(c) Obtain statements from any other person offering to give evidence.

364. The Presiding Officer shall, if after an inquiry considers that the challenge has not been established, allow the person challenged to vote, and if he/she considers that the challenge has been established, debar the person so challenged from voting.

365. The Presiding Officer shall warn the polling representative concerned if in his/her opinion such representative is making baseless challenges with a view to harass the voters or cause obstruction in the conduct of smooth poll.

366. The Presiding Officer shall, if the polling representative continues to challenge despite warning, direct such a representative to be removed from the polling station, without prejudice to the penalty under section 547.

Provisional Votes

367. The Presiding Officer may, if a person claiming to be a particular voter comes to the polling station after another person has already voted as such voter, allow him/her to cast a provisional vote.

Provided he/she produces a valid citizenship identity card and voter photo identity card.

368. The Presiding Officer shall, before allowing a person to cast a provisional vote, explain to him/her the provisions relating to the offence of impersonation at elections and obtain from him/her a declaration in writing in a prescribed form.

369. A person who casts a provisional vote shall fold the ballot paper on which he/she has recorded his/her vote and hand it to the Presiding Officer who shall, in the presence of the said person, place it in an envelope along with his/her declaration, fasten the envelope and place the envelope in the ballot box, or where the votes are recorded by means of voting machine, in a bigger envelope provided for the purpose.

Provided that no such envelope shall be opened by the Returning Officer at the time of counting of votes without the prior approval of the Election Commission.

Close of Poll

370. Every Presiding Officer shall close the poll at his/her polling station at the hour fixed in that behalf by the Election Commission and shall not thereafter admit any voter into the polling station.

Provided that all voters present at the polling station at the time of close of poll shall be allowed to cast their votes.

Sealing of Ballot Boxes or Electronic Voting Machines and Election Papers after Poll

371. The Presiding Officer shall, after the close of poll, close the slit of the ballot box or close the electronic voting machine so as to ensure that no further votes can be cast at the polling station, and seal and secure the ballot box or electronic voting machine as prescribed by the Election Commission.

372. The Presiding Officer shall seal and secure all other election papers, including unused ballot papers and the copy of Electoral Roll, used for taking the poll at the polling station in separate packets as directed by the Election Commission.

373. The candidates and their representatives present at the polling station at the close of poll shall be permitted to affix their seals on the election material referred to in section 371 and 372, if they so desire.

374. All ballot boxes or electronic voting machine and other election papers sealed and secured under sections 371, and 372 shall be transmitted by the Presiding Officer to the custody of such Election Officers as authorized by the Returning Officer in this behalf for further action relating to counting of votes and safe preservation and custody of the said records.

Adjournment or Temporary Suspension of Poll in Emergencies

375. The Presiding Officer for the polling station shall, if at an election, the proceedings at any polling station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, announce an adjournment of the poll to a later date.

Provided that it shall not be necessary to adjourn the poll to a later date where the poll can be recommenced within two hours after temporary suspension in the aforesaid emergencies.

376. The Presiding Officer shall inform the Returning Officer concerned on adjournment of poll under section 375.

377. The Returning Officer shall, whenever a poll is adjourned under section 375:

(a) Immediately report the circumstances to the Election Commission;

(b) With the prior approval of the Election Commission, appoint the day on which the poll shall recommence;

(c) Fix the polling station and the hours during which the poll will be taken; and

(d) Not count the votes cast at the constituency until such adjourned poll has been completed.

378. The voters who have already voted at the poll so adjourned shall not be allowed to vote again when an adjourned poll is recommenced under section 377.

379. The Returning Officer shall, in every case as aforesaid, notify in the manner directed by the Election Commission, the date, place and hours fixed for polling.

380. The Returning Officer shall provide the Presiding Officer of the polling station at which the adjourned poll is held, with the sealed packet containing the same copy of the Electoral Roll which was earlier used at that polling station, and a new ballot box or a new voting machine.

381. The provisions of this Act and of any Rules and orders made thereunder shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was adjourned.

Fresh Poll in case of Destruction of Ballot Boxes or Voting Machines

382. The Returning Officer shall report the matter to the Election Commission, if at any election:

(a) Any ballot box or electronic voting machine used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to an extent, that the result of the poll at that polling station cannot be ascertained;

(b) Any electronic voting machine develops a mechanical failure during the course of the recording of votes and it could not be replaced within two hours of developing the failure; or

(c) Any error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station.

383. The Election Commission shall thereupon, after taking all relevant circumstances into account, either:

(a) If satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the mechanical failure of the electronic voting machine or the error or irregularity in procedure is not substantial, issue directions to the Returning Officer as it may deem proper for the further conduct and completion of the election; or

(b) Declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed as it may deem fit.

384. The provisions of this Act and of any Rules or orders made thereunder shall apply to every fresh poll as they apply to the original poll.

CHAPTER 18

COUNTING OF VOTES

Counting of Votes

385. Votes at every election shall be counted under the overall supervision and direction of the Returning Officer.

386. Each contesting candidate, his/her election representative and his/her counting representatives, and the observers appointed by the Election Commission, shall have a right to be present at the time of counting.

387. The Returning Officer shall authorize an Election Officer to act as Counting Supervisor assisted by a counting staff as the Returning Officer may appoint in this behalf, where the counting of votes is done at more than one place.

Provided that where the counting of votes is done at the polling station itself, the Presiding Officer of the polling station may be authorized by the Returning Officer to act as the Counting Supervisor for that place of counting.

Date, Time and Place of Counting

388. The counting of votes shall, subject to any general or special direction of the Election Commission, commence at the polling station or any other publicly designated place at any time after the close of poll.

389. The Returning Officer shall, at least one week before the day fixed for the poll, designate the place or places where the counting of votes will be done, fix the date and time at which the counting commences and give notice of the same in writing to each political party, contesting candidate or his/her election representative.

390. The Returning Officer may shift the place of counting to a safer place or alter the date and time of counting, if it becomes necessary on account of imminent danger of violence, terrorism, disorder or similar causes or for any other sufficient reason, and give notice of the same in writing well in advance to each contesting candidate or his/her election representative.

391. All the votes cast by means of postal ballots in a constituency shall be counted centrally either at the headquarters of the Returning Officer or at any other place as designated by him/her.

392. Counting of postal ballot shall commence after the last date and hour as fixed for the receipt of the postal ballots and the notice of the place, date and time be given under section 332 to the candidates or their election representatives.

Damage or Loss of Ballot Papers before Completion of Counting

393. The Returning Officer shall, at any time before the counting of votes is completed if any ballot paper or electronic voting machine used at a polling station are unlawfully taken out of the custody of the Counting Supervisor or Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to an extent that the result of the poll at that polling station cannot be ascertained, forthwith report the matter to the Election Commission.

394. The Election Commission shall thereupon, after taking all relevant circumstances into account either:

(a) Direct the counting of votes to be stopped, declare the poll at that polling station to be void, fix the day and hours, for taking a fresh poll at that polling station and notify the date so appointed and hours so fixed as it may deem fit; or

(b) If satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the mechanical failure of the electronic voting machine or the error or irregularity in procedure is not substantial, issue directions to the Returning Officer as it may deem proper for the further conduct and completion of the election.

395. The provisions of this Act and of the Rules and Orders made thereunder shall apply to every fresh poll as they apply to the original poll.

Admission to Places of Counting

396. The Counting Supervisor shall exclude from the place designated for counting of votes, all persons except:

(a) Candidates, their election representatives and one counting representative;

(b) Observers appointed by the Election Commission;

(c) The counting staff appointed to assist him/her in the counting;

(d) Public servants on duty in connection with the election; and

(e) Persons authorized in writing by the Election Commission.

397. The Counting Supervisor shall, if the counting is done at more than one counting table, decide which counting representatives or representative shall watch the counting at any particular counting table or group of counting tables.

398. Any person who during counting of votes misconducts himself/herself or fails to obey the lawful directions of the Counting Supervisor shall be removed from the place of counting and not be permitted to re-enter the counting place without the approval of the Counting Supervisor.

Commencement of Counting of Votes

399. The Counting Supervisor shall commence the counting of votes at the place, date and hour fixed by the Returning Officer.

400. The Counting Supervisor may, if at any place, counting is done of votes cast at more than one polling station, have the ballot boxes or electronic voting machines used at all these polling stations opened and the votes cast in the ballot boxes or electronic voting machines counted simultaneously.

401. The counting representatives present at that table shall, before any ballot box or electronic voting machine is opened at a counting table, be allowed to inspect the seals as might have been affixed thereon and satisfy themselves that the ballot box or electronic voting machine is intact.

402. The Counting Supervisor shall satisfy himself/herself that none of the ballot boxes or electronic voting machines has in fact been tampered with.

403. The Counting Supervisor shall, on being satisfied that any ballot box or electronic voting machine used at a polling station has in fact been tampered with, decline to take up all the ballot boxes or electronic voting machines used at that polling station for counting.

404. The Counting Supervisor shall forthwith report the matter under section 403 to the Returning Officer for appropriate directions of the Election Commission.

Scrutiny of Ballot Papers

405. The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized, where the votes have been cast at a polling station by means of ballot papers and ballot boxes.

406. No envelope containing a provisional vote cast shall be opened and no ballot paper therein taken up for counting, except with the prior approval of the Election Commission.

407. The Counting Supervisor shall reject as invalid a ballot paper, if it:

(a) Is blank;

(b) Is not duly authenticated by the Presiding Officer;

(c) Cannot be definitely determined for which candidate the vote is cast;

(d) Is not handed out at the polling station;

(e) Is not deposited inside the valid ballot box;

(f) Has been cast for more than one candidate in the constituency;

(g) Bears a mark of identification different from the one officially provided;

(h) Has been marked with an instrument not officially provided at the polling station; or

(i) Has been tampered with or is so damaged or mutilated that its identity as a genuine ballot paper cannot be established.

408. The Counting Supervisor shall, before rejecting any ballot paper as invalid, allow the counting representatives present a reasonable opportunity to inspect the ballot paper but without allowing them to handle it or any other ballot paper.

409. The Counting Supervisor shall, if a counting representative objects to a ballot paper being invalid, decide by judicious application of mind whether the ballot paper is invalid or not.

Provided that nothing in this section shall prevent the Counting Supervisor from rejecting any ballot paper as being invalid although it is not objected to by any counting representative.

410. Every ballot paper which is not rejected as invalid under this section shall be counted as one valid vote for the candidate concerned.

411. The Counting Supervisor shall record in a prescribed result sheet, the total number of ballot papers cast at the polling station, the number of ballot papers rejected as invalid, the number of valid votes secured by each of the candidates and the number of provisional votes cast at the polling station after the counting of ballot papers contained in all the ballot boxes used at a polling station has been completed.

412. The Counting Supervisor shall, announce the result of counting so recorded by him/her in the said result sheet, and furnish to every candidate or his/her election representative or his/her counting representative present a true copy of the said result sheet duly authenticated by him/her after recording the result under section 411.

Counting of Votes where Electronic Voting Machines have been used

413. The Counting Supervisor shall, on being satisfied that the electronic voting machine has in fact not been tampered with, have the votes recorded therein counted by using mechanism as provided in that electronic voting machine to display the result of counting of votes in that polling station.

414. The Counting Supervisor shall record in a prescribed result sheet, the total number of votes cast at the polling station, the number of votes rejected as invalid, if any, the number of valid votes secured by each of the candidates and the number of provisional votes cast at the polling station after the counting of votes recorded in the electronic voting machine used at a polling station has been completed.

415. The Counting Supervisor shall announce the result of counting so recorded by him/her in the said result sheet, and furnish to every candidate or his/her election representative or his/her counting representative present a true copy of the said result sheet duly authenticated by him/her after recording the result under section 414.

Sealing of Election Related Materials

416. The ballot papers taken out of the ballot boxes and counted or the electronic voting machine used at the polling station shall be sealed and secured in the manner directed by the Election Commission after the counting of votes has been completed in respect of a polling station.

417. Candidates and their representatives present at the place of counting shall be permitted to affix their seals thereon, if they so desire.

418. All the ballot papers and electronic voting machines sealed and secured under section 416 and 417, along with the result sheet prepared in respect of the counting of each polling station, shall then be transmitted by the Counting Supervisor to the Returning Officer for further action.

Counting of Votes Received by Post

419. No envelope that purports to contain a postal ballot shall be opened at any time before the last date and hour fixed for this purpose.

420. The Counting Supervisor shall open each envelope containing a postal ballot and take out the postal ballot contained therein for scrutiny on or after the last date and hour fixed for the receipt of postal ballots.

421. No envelope containing or purporting to contain a postal ballot which has been received after the aforesaid date and time for receipt of postal ballots shall be opened or its contents taken for scrutiny.

422. A postal ballot shall be rejected as invalid if it:

(a) Is not returned by the voter in the official envelope that may be sent to him/her for this purpose along with the postal ballot;

(b) Is not accompanied by the declaration as to the identity of the voter in the prescribed form that may be sent to the voter for the purpose along with the postal ballot;

(c) Is blank;

(d) Is not duly authenticated by the Returning Officer as provided by Rules made under section 332;

(e) Cannot be definitely determined for which candidate the vote is cast;

(f) Has been cast for more than one candidate in the constituency;

(g) Bears a mark of identification different from the one officially provided by Rules made under section 332; or

(h) Has been tampered with or is so damaged or mutilated that its identity as a genuine ballot paper cannot be established.

423. The Counting Supervisor shall, before rejecting any postal ballot as invalid, allow the counting representatives present a reasonable opportunity to inspect the postal ballot but without allowing them to handle it or any other postal ballot.

424. The Counting Supervisor shall, if a counting representative objects to a postal ballot being invalid, decide by judicious application of mind whether the postal ballot is invalid or not.

Provided that nothing in this section shall prevent the Counting Supervisor from rejecting any postal ballot as being invalid although it is not objected to by any counting representative.

425. Every postal ballot which is not rejected as invalid shall be counted as one valid vote for the candidate concerned.

426. The Counting Supervisor shall, after the counting of all postal ballots cast in a constituency has been completed, record in a prescribed result sheet, the total number of postal ballots cast in the constituency, the number of postal ballots rejected as invalid and the number of valid votes secured by each of the candidates.

427. The Counting Supervisor shall, after recording the result under section 426, announce the result recorded by him/her and furnish to every candidate or his/her election or counting representative present, a true copy of the said result sheet duly authenticated by him/her.

428. The postal ballots shall, after the completion of counting, be sealed and secured in the manner directed by the Election Commission.

Provided that candidates and their representatives present at the place of counting shall be permitted to affix their seals thereon, if they so desire.

429. All the postal ballots sealed and secured under section 428, along with the result sheet prepared in respect of the counting of the postal ballots, shall then be transmitted by the Counting Supervisor to the Returning Officer for further action as to the consolidation of the result of counting in the constituency and declaration of result.

Consolidation of Result of Counting by Returning Officer

430. The Returning Officer shall record the result of the counting in a Final Result Sheet in the prescribed form after the result sheet in respect of counting of votes of a polling station or postal ballots is received by him/her.

431. The Returning Officer shall consolidate and record in the Final Result Sheet, the total number of ballot papers including postal ballots cast in the constituency, the total number of ballot papers rejected as invalid, the total number of votes secured by each of the contesting candidates and the total number of provisional votes cast in the constituency.

432. The Returning Officer shall, after recording the result under section 431, announce the result of the counting so recorded by him/her in the Final Result Sheet to the candidates and their representatives present.

Recounting of Votes

433. A political party, a candidate or, in his/her absence, his/her election or counting representatives may, within 24 hours of the announcement of the result by the Returning Officer under the provisions of section 432, apply in writing to the Returning Officer to recount the votes either wholly or in part stating the grounds on which he/she demands the recount.

434. A reasonable opportunity to exercise the right to demand recount shall, for the purpose of section 433, be given to a candidate and his/her representative present at the counting.

435. The Returning Officer shall, on any such application being made, decide the matter and may allow the application in whole or in part or may reject it in whole or in part if it appears to him/her to be baseless or unreasonable.

436. Every decision of the Returning Officer under section 435 shall be in writing and contain the reasons thereof.

437. The Returning Officer on deciding to allow a recount of the votes either wholly or in part, shall:

    (a) Direct the recount in accordance with sections 399 to 432;

    (b) Amend the Final Result Sheet to the extent necessary after the recount; and

    (c) Announce the amendments made by him/her after the recount.

438. The Returning Officer shall, after the total number of votes cast for each contesting candidate has been announced under section 427, 432 or 437, complete and sign the Final Result Sheet.

439. The Election Commission may at any time before the declaration of result of election direct the recount of votes in whole or in part for the reasons to be recorded, and fix the date, time and place of such recount under the supervision of the Returning Officer or such other officer as designated by the Commission after giving due notice to the contesting candidates or their election representatives.

440. All the provisions of this Act and of the Rules and Orders made thereunder shall apply to recount directed under section 435 as they apply in relation to the original counting.

CHAPTER 19

DECLARATION OF RESULTS OF ELECTIONS

Transmission of Results of Elections

441. The Returning Officer shall, after consolidating and recording the result of election in the constituency in the Final Result Sheet and its announcement under the provisions of section 427, 432 or 437, transmit a duly authenticated copy of the said Final Result Sheet to the Election Commission.

Declaration and Publication of Results of Elections in Parliamentary Constituencies

442. The Election Commission shall, on receipt of the Final Result Sheets from the Returning Officers of all National Assembly constituencies under section 441, in the case of the Primary Round:

(a) Calculate, record and consolidate in the prescribed form, the total number of votes cast in all National Assembly constituencies throughout Bhutan, the total number of ballot papers rejected as invalid, and the total number of valid votes secured by each registered political party; and

(b) Declare and announce, in a prescribed form, the names of the two registered political parties which have secured the highest and the next highest number of valid votes cast in the Primary Round of election throughout Bhutan, for the purposes of General Election.

443. The Election Commission shall, on receipt of the Final Result Sheets from the Returning Officers of all National Assembly constituencies, in the case of General Election to the National Assembly, declare in a prescribed form, the candidates who have secured the highest number of valid votes in their respective Parliamentary constituencies as having been duly elected from those constituencies to the National Assembly.

444. The Election Commission shall, on receipt of the Final Result Sheets from the Returning Officers of all National Council constituencies, declare in a prescribed form, the candidates who have secured the highest number of valid votes in their respective constituencies as having been duly elected from those constituencies to the National Council.

445. The Election Commission shall, after the declaration of results of elections under sections 442, 443 and 444, publish these results by notification and give further publicity, as it may deem appropriate.

446. The Royal Bhutan Police shall, in consultation with Election Commission, designate specific places where the supporters of each political party will be authorised to assemble at the time of declaration of results.

Constitution of the National Assembly

447. The Election Commission shall, after the results for the General Elections in all Parliamentary constituencies have been declared and published, notify the names of the candidates declared elected from each Parliamentary constituency together with the names of registered political parties which had respectively nominated them.

448. The National Assembly shall, on the issue of notification under section 447, be deemed to have been duly constituted.

449. The Election Commission shall present a duly authenticated copy of the notification under section 447 before the Druk Gyalpo, Who shall then summon the first sitting of Parliament and command the party winning the majority of seats in the National Assembly to form the Government.

450. Nothing contained in section 445 or 447 shall preclude the Election Commission from issuing the notification, if the election in any Parliamentary constituency has not been completed for any reason before the date fixed for the completion of that election and where the date for the completion of that election has been extended.

Constitution of the National Council

451. The Election Commission shall, after the declaration of results of elections from all constituencies to the National Council, declare by notification the names of the winning candidates from each of the constituencies concerned.

452. The National Council concerned shall, on the issue of notification under section 451, be deemed to have been duly constituted.

Provided that the issue of such notification shall not affect the duration of the National Council concerned functioning, if any, immediately before the issue of the said notification.

453. The Election Commission shall present a duly authenticated copy of the notification under section 451 before the Druk Gyalpo.

454. Nothing contained in section 451 shall preclude the Election Commission from issuing the notification, if the election in any constituency has not been completed for any reason before the date fixed for the completion of that election and where the date for the completion of that election has been extended.

455. The Returning Officer shall, on completion of the counting and preparation of the Final Result Sheet under the provisions of section 427, 432 or 437, and in the absence of any direction of the Election Commission to the contrary, declare in a prescribed form, the candidate who has secured the highest number of valid votes in the constituency as having been duly elected from the constituency to the National Council concerned.

456. The Returning Officer shall, on declaring the result of election in the constituency in the prescribed form, transmit a duly authenticated copy of the said declaration form to the Election Commission.

Constitution of Local Governments

457. The Election Commission shall, after the declaration of results of elections from all constituencies of a Local Government, declare by notification the names of the winning candidates from each of the constituencies concerned.

458. The Local Government concerned shall, on the issue of notification under section 457, be deemed to have been duly constituted.

Provided that the issue of such notification shall not affect the duration of the Local Government concerned functioning, if any, immediately before the issue of the said notification.

459. The Election Commission shall present a duly authenticated copy of the notification under section 457 before the Druk Gyalpo.

460. Nothing contained in section 457 shall preclude the Election Commission from issuing the notification, if the election in any constituency has not been completed for any reason before the date fixed for the completion of that election and where the date for the completion of that election has been extended.

461. The Returning Officer shall, on completion of the counting and preparation of the Final Result Sheet under the provisions of section 427, 432 or 437, and in the absence of any direction of the Election Commission to the contrary, declare in a prescribed form, the candidate who has secured the highest number of valid votes in the constituency as having been duly elected from the constituency to the Local Government concerned.

462. The Returning Officer shall, on declaring the result of election in the constituency in the prescribed form, transmit a duly authenticated copy of the said declaration form to the Election Commission.

Equality of Votes

463. The Election Commission shall, if the highest or second highest numbers of votes are secured by two or more candidates or parties in equal numbers on the completion of counting of votes, order for re-election between candidates or parties securing equal number of votes.

464. The Returning Officer shall, if at the re-election conducted under section 463 the highest numbers of votes are secured by two or more candidates or parties in equal numbers on the completion of counting of votes, forthwith decide between those parties or candidates by draw of lots in the presence of parties, candidates or their representatives.

Grant of Certificate of Election to Elected Candidate

465. The candidate shall, after he/she has been declared elected by the Election Commission under section 443, 444 or 445 or the Returning Officer under section 455, be granted a certificate of election in a prescribed form by the authority which has declared him/her elected.

CHAPTER 20

ELECTION DISPUTES AND ELECTION PETITIONS

Election Petitions

466. No election to the National Assembly or National Council or a Local Government shall be called in question, notwithstanding anything contained in any other law, except by an election petition presented in accordance with the provisions of this Act.

The Election Commission shall during the election period, for the purposes of having an efficient, effective, fair and transparent system for the adjudication of election related offences and settlement of disputes, have in place an Election Dispute Settlement System established in accordance with the Rules and Regulations made under this Act.

Authorities to try Election Petitions

467. The authority to try an election petition relating to an election to the National Assembly or National Council shall be the High Court of Bhutan.

468. The authority to try an election petition relating to an election to a Local Government shall be the Dzongkhag Court of the Dzongkhag concerned.

Presentation of Election Petitions

469. An election petition calling in question any election shall be presented to the Court prescribed under section 467 or 468 within ten days from the date of declaration of result in the constituency.

Provided that no election petition shall be filed before the result of election in the constituency has been declared.

470. An election petition may be presented by any candidate at the impugned election or any voter in the constituency concerned whether the voter has voted at that election or not.

471. An election petition may call in question the election on any one or more of the grounds prescribed in sections 476 and 477.

472. Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition with one more copy for the Election Commission.

473. Every copy of the election petition shall be attested by the petitioner under his/her own signature to be a true copy of the petition.

Parties to the Election Petition

474. A petitioner shall join as respondents to his/her petition:

(a) The elected candidate;

(b) All other contesting candidates, if the petitioner claims that not only the election of the elected candidate is void but that he/she himself/herself or any other candidate has been duly elected; and

(c) Any other candidate against whom allegations of any corrupt practice are made in the petition.

475. No petitioner shall join the Election Commission or the Returning Officer as respondents to the petition provided that the Court trying the election petition may direct the Commission or the Returning Officer to be joined as respondent or respondents in an election petition where the Court is of the view that the joining of the respondent or respondents is necessary for proper adjudication of any issue raised in the petition.

Grounds on which an Election Petition may be presented

476. An election petition may be presented on the grounds that:

(a) The elected candidate was not qualified, or was disqualified to be elected at the impugned election on the date of scrutiny of nominations or on the date of election;

(b) Any electoral offence has been committed by the elected candidate or his/her election representative or by any other person with the consent of the elected candidate or his/her election representative;

(c) The nomination of the elected candidate has been improperly accepted;

(d) The nomination of any other candidate has been improperly rejected; or

(e) The result of election of the elected candidate cannot be ascertained.

477. An election petition may be presented under 476 (e), if it has been affected by:

(a) The improper acceptance of the nomination of any candidate;

(b) The improper reception, refusal or rejection of any valid vote or the receipt of any vote which is void;

(c) Any corrupt practice committed in the interest of the elected candidate by any person or representative; or

(d) Any non-compliance with the provisions of the Constitution or of this Act or of any Rules or Orders made thereunder.

Relief that may be claimed in the Election Petition

478. A petitioner shall claim in the election petition that the election of the elected candidate is void and may, in addition to claiming that declaration, claim a further declaration that he/she himself/herself or any other candidate has been duly elected at the impugned election.

Contents of Election Petition

479. An election petition shall:

(a) Contain a concise statement of the facts on which the petitioner relies;

(b) Set forth full particulars of any corrupt practice that the petitioner alleges and state the names of the parties alleged to have committed corrupt practice and the date and place of the commission of such practice; and

(c) Be signed by the petitioner and verified in the manner laid down in the Civil and Criminal Procedure Code of Bhutan.

480. Any schedule or annexure to the petition shall be signed by the petitioner and verified in the same manner as the petition.

Trial of Election Petitions

481. The Court trying an election petition shall dismiss an election petition which does not comply with the provisions of section 469, 470, 476, 477 or 479.

482. A judge shall, where more than one election petition is presented to the concerned Court in respect of the same election, try all such election petitions together in the manner he/she deems appropriate.

483. The trial of an election petition shall, as far as practicable and consistent with the interests of justice be conducted as expeditiously as possible and endeavour shall be made to conclude the trial within one month from the date on which the election petition is presented to the Court concerned.

484. Every election petition shall, subject to the provisions of this Act and of any Rules and Orders made thereunder, be tried as nearly as may be, in accordance with the procedure applicable under the Civil and Criminal Procedure Code of Bhutan for the trial of civil suits.

485. No document shall, notwithstanding anything contained in any law to the contrary, be inadmissible in evidence at the trial of an election petition merely on the ground that it is not duly stamped or registered.

Examination of Witness

486. No witness or any other person shall be required to state at the trial of an election petition for whom he/she has voted at the election.

Provided the witness may volunteer to state for whom he/she has voted.

487. The reasonable expenses incurred by any person in attending to give evidence at the trial of an election petition may be allowed to be paid to such person by the party on whose behalf he/she has tendered evidence.

Recrimination when Seat Claimed

488. The elected candidate or any other party may, when an election petition declaring that any candidate other than the elected candidate has been duly elected is claimed, give evidence to prove that the election of any other candidate would have been void if he/she had been the elected candidate and a petition had been presented calling in question his/her election.

Provided that the elected candidate or any other party, as aforesaid, shall not be entitled to give evidence unless he/she has, within ten days from the date of commencement of the trial, given notice to the Trial Court of his/her intention.

489. Every notice referred to in section 488 shall be accompanied by a statement and particulars required under section 479 in the case of an election petition and be signed and verified in the prescribed manner.

Decision of the Trial Court

490. The Trial Court shall, at the conclusion of the trial of an election petition, make an order:

(a) Dismissing the election petition;

(b) Declaring the election of the elected candidate to be void;

(c) Declaring the election of the elected candidate to be void and the petitioner or any other candidate to have been duly elected; or

(d) Holding the person liable for election offences.

491. Costs of litigation and costs for causing delay shall be determined in accordance with the provisions of the Civil and Criminal Procedure Code of Bhutan.

Communication of Orders of the Trial Court

492. The Trial Court shall send an authenticated copy of the decision to the Election Commission and the Speaker or Chairperson of the concerned House of Parliament or a Local Government after the conclusion of the trial of an election petition.

Issue of Notification

493. The Election Commission, on the receipt of any order made by the Trial Court under section 492 shall issue a notification.

Effect of Orders of the Trial Court

494. Every order shall, subject to the provisions relating to the suspension of operation of an order of the Trial Court, take effect on its pronouncement.

495. All acts and proceedings in which an elected candidate has participated as a Member of Parliament or a Local Government before his/her election is declared void, shall not be invalidated by reason of that order, nor he/she be subjected to any liability or penalty on the ground of such participation.

Withdrawal of Election Petition

496. An election petition may be withdrawn only by leave of the Trial Court.

497. No application to withdraw an election petition shall be made, if there are more petitioners than one, except with the consent of all the petitioners.

498. A notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition, where an application for withdrawal is made.

499. No application for withdrawal shall be granted if, in the opinion of the trial authority, the application has been induced by any bargain or consideration which ought not to be allowed.

500. The Trial Court shall, if the application for withdrawal is granted, order the petitioner to pay the costs of the respondents theretofore incurred or such portion thereof as it may think fit and direct that notice of withdrawal to be issued.

501. A person who might himself/herself have been a petitioner may, within ten days of notification, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, shall be entitled to be substituted and to continue the proceedings upon terms as the Trial Court may determine.

Report of Withdrawal by the Trial Court

502. The Trial Court shall, when an application for withdrawal is granted and no person has been substituted as petitioner, report the fact to the Election Commission which shall issue a notification.

503. The notice referred to in section 502 shall be accompanied by a statement and particulars required under section 479 in the case of an election petition and be signed and verified in the prescribed manner.

Abatement of Election Petitions

504. An election petition shall abate only on the death of a sole petitioner or of the survivors of several petitioners.

505. The Trial Court shall issue notification, as it may deem fit, where an election petition abates under section 504.

506. A person who might himself/herself have been a petitioner may, within ten days of notification issued under section 505, apply to be substituted as petitioner, and upon compliance with the conditions, if any, shall be entitled to be substituted and to continue the proceedings upon terms as the Trial Court may determine.

507. The Trial Court shall report the fact to the Election Commission for further action under section 502, where no person has been substituted as petitioner.

Substitution on Abatement

508. The Trial Court shall, where the sole respondent or any of the respondents on appeal gives notice that there is no other respondent who is opposing the petition before the conclusion of the trial of an election petition, issue a notice and thereupon any person who might himself/herself have been a respondent may within ten days of the notification, apply to be substituted in place of the respondent upon terms as that Court may determine.

509. The Trial Court shall, where the sole respondent or any of the respondents on appeal dies and there is no other respondent who is opposing the petition before the conclusion of the trial of an election petition, issue a notice and thereupon any person who might himself/herself have been a respondent may within ten days of the notification, apply to be substituted in place of the deceased upon terms as that Court may determine.

510. The Trial Court shall report the fact to the Election Commission for further action under section 502, where no person has been substituted as respondent.

Election Appeals

511. An appeal may, notwithstanding anything contained in any other law for the time being in force, lie from every order made by a Trial Court to:

    (a) The Supreme Court of Bhutan, in case the election petition is related to an election to the National Assembly or National Council; or

    (b) The High Court of Bhutan, in case the election petition is related to an election to a Local Government.

512. Every appeal under section 511 shall be preferred within a period of ten days from the date of the order of the Trial Court.

Provided that the appellate Court may entertain an appeal after the expiry of the said period of ten days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period.

Suspend the Operation of Order of Trial Court

513. The Trial Court or the appellate Court may, on sufficient reasons being shown, suspend the operation of the order.

Provided no application for stay shall be made to the Trial Authority after an appeal has been preferred to the Appellate Authority.

514. The order suspended by the Trial Court or the appellate Court shall be deemed never to have taken effect and a copy of the suspension order be immediately sent by the Trial Court or the appellate Court, to the Election Commission and the Speaker or the Chairperson of the concerned House of Parliament or Local Governments.

Procedure in Appeal

515. Every appeal shall be heard and determined by the appellate Court as in accordance with the provisions of the Civil and Criminal Procedure Code of Bhutan.

516. The appellate Court shall, on the pronouncement of a decision, send an authenticated copy of the decision to the Election Commission and the Speaker or the Chairperson of the concerned House of Parliament or Local Government.

517. The Election Commission shall, on the receipt of an order made by the appellate Court, submit a copy thereof to the Druk Gyalpo, and simultaneously issue a notification.

CHAPTER 21

ELECTORAL OFFENCES

Corrupt Practices

518. A person shall be guilty of offences of corrupt practices, if he/she:

(a) Offers any gift or promises any gratification, with the object of inducing a person to stand or not to stand, or to withdraw or not to withdraw from being a candidate, or to vote or refrain from voting at an election; or

(b) Receives or agrees to receive, any gratification for himself/herself, or on behalf of any other person, for having voted or refrained from voting, or for standing or not standing, or for withdrawing or not withdrawing from being a candidate.

Provided a declaration of public policy or a promise of public action shall not be deemed to be bribery within the meaning of this section.

519. A person shall be guilty of offences of undue influence, if he/she interferes directly or indirectly or attempt to interfere on the part of any person, with the free exercise of any electoral right.

Provided a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

520. A person shall be guilty of offence of threatening, if he/she threatens any candidate or any voter, or any person in whom a candidate or a voter is interested, with injury of any kind including social ostracism or expulsion from any community.

521. A person shall be guilty of offence of abetting disharmony, if he/she appeals to any other or group of persons to vote or refrain from voting for any person on the ground of his/her religion, community or language or other status.

522. A person shall be guilty of offence of using unauthorized symbols, if he/she uses religious symbols or national symbols, such as the national flag or the national emblem, or the Royal seal of the Druk Gyalpo or the Royal Government or any symbol proscribed by any order of the Commission for the furtherance of the prospects of the election of a candidate or for prejudicially affecting the election of any candidate.

Provided that no election symbol reserved under this Act for a registered political party or candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this section.

523. A person shall be guilty of offence of giving a false statement, if he/she publishes any statement which is false, and which he/she either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

524. A person shall be guilty of unauthorized expenditure, if he/she incurs or authorizes expenditure in excess of the prescribed limit.

525. A person shall be guilty of unfair means, if he/she obtains or uses any patronage of the Druk Gyalpo or any assistance from any person in the service of government for the furtherance of the prospects of any candidate's election.

526. A person shall be guilty of "Booth capturing", if he/she:

(a) Seizes a polling station, making election officers surrender the ballot papers or voting machines;

(b) Takes possession of a polling station and allows only his/her own supporters to exercise their right to vote and prevent others from exercising their right to vote;

(c) Coerces or intimidates or threatens directly or indirectly any voter and prevents him/her from going to the polling station to cast his/her vote; or

(d) Seizes a place for counting of votes by any person or persons, making the counting supervisors surrender the ballot papers or voting machines.

527. Any person committing an electoral offence under section 518 to 526 shall be guilty of the offence of felony of the fourth degree.

Offences relating to Election Advertising

528. A person shall be guilty of misdemeanour, if he/she:

(a) Tampers, removes, destroys, obliterates or defaces, any poster or banner displayed in accordance with the established Rules and Regulations;

(b) Displays or causes to be displayed any poster or banner not in accordance with the established Rules and Regulations;

(c) Obstructs the Returning Officer, or any member of his/her staff or any police officer on duty, in carrying out their duties; or

(d) Obstructs any candidate or his/her election representatives or any person lawfully conducting any election activity from doing any act which he/she is legally authorised to do.

Offences relating to Postal Ballot

529. A person who attempts to induce any other person to obtain a Postal Ballot Paper with the intention of influencing him/her by bribery or intimidation to record his/her vote in favour of particular party or candidate shall be guilty of the offence of misdemeanour.

530. Any person who makes or induces any other person to make a false statement in an application for a Postal Ballot Paper shall be guilty of the offence of misdemeanour.

531. Any person who fails to deliver or post forthwith an envelope containing or purporting to contain a Postal Ballot Paper entrusted to him/her by a voter for the purpose of delivering or posting it to the Returning Officer shall be guilty of the offence of misdemeanour.

Misuse of Election Fund

532. A political party or candidate shall not use funds received under the Public Election Fund or contributions received from its members for any other purpose, except for promoting its own electoral prospects as may be prescribed by law.

533. A candidate or a political party contravening section 532 shall be liable for action under section 179 and the political party under section 146.

Prohibition of Third Party Campaign

534. A Third Party shall be prohibited from funding any election campaign or conducting a campaign in favour of or against a candidate or a political party.

535. A person or organisation contravening section 534 shall be guilty of misdemeanour.

Prohibition of Public Meetings

536. No person shall convene, hold or attend, join or address any public meeting in connection with an election, in any polling area during the period of forty-eight hours ending with the hour fixed for the commencement of the poll for any election in the polling area.

537. Any person who contravenes the provisions of section 536 shall be guilty of the offence of felony of the fourth degree.

Disturbances at Election Meetings

538. Any person who acts, or incites others to act in a disorderly manner for disturbing or preventing the transaction of the business of an election meeting shall be liable to be arrested forthwith and be guilty of the offence of felony of the fourth degree.

Maintenance of Secrecy of Voting

539. Every Election Officer, representative or other person, who performs any duty in connection with the recording or counting of votes at an election, and every voter at the time of voting within the polling station, shall maintain secrecy of voting except for purposes authorized under any law.

540. Any person who contravenes the provisions of section 539 shall be guilty of the offence of petty misdemeanour.

Offences relating to Voter Photo Identity Card

541. A person shall be guilty of the offence of petty misdemeanour, if found:

(a) In possession of more than one Voter Photo Identity Card;

(b) Obtaining Voter Photo Identity Card based on false statement;

(c) Tampering or attempting to tamper with a Voter Photo Identity Card;

(d) Selling or attempting to sell any Voter Photo Identity Card;

(e) Buying or attempting to buy any Voter Photo Identity Card; or

(f) Refusing to submit Voter Photo Identity Card after its cancellation.

Government Servants not to Act for Candidates or to Influence Voting

542. No person in the service of the Government shall in the conduct or management of an election do any act other than the giving of vote for the furtherance of the prospects of the election of a candidate.

543. Any person who contravenes the provisions of section 542 shall be guilty of the offence of felony of the fourth degree.

Prohibition of Canvassing in or near Polling Station

544. A person shall not, within the polling station or in any public or private place within a distance of one hundred metres of the polling station, on the date of poll:

(a) Canvass for votes;

(b) Solicit the vote of any voter;

(c) Persuade any voter not to vote for any particular candidate;

(d) Persuade any voter not to vote at the election; or

(e) Exhibit any notice or sign other than an official notice relating to the election.

545. Any person who contravenes the provisions of section 544 shall be guilty of the offence of felony of the fourth degree.

Fraudulent Removal or Tampering

546. No person shall:

(a) Tamper with or steal, or, without due authority or fraudulently, replace, deface or destroy any official electoral documents;

(b) Without due authority or fraudulently, open or break the seal of a ballot box or a electronic voting machine in use for taking the poll, or the lock or seal of a storage centre;

(c) Disobey a lawful direction given by the Presiding Officer or the Counting Supervisor in relation to the maintenance of law and order and security inside and around the polling station or counting place or any other matter effecting the conduct of polling or counting at the election;

(d) Without due authority or fraudulently, take or attempt to take a ballot paper or any other official electoral document out of a polling station or a counting place;

(e) Without due authority or fraudulently, issue or supply a ballot paper to any person or receive any ballot paper from any person or be in possession of any ballot paper;

(f) Without due authority or fraudulently, put into any ballot box or electronic voting machine anything other than the ballot paper which he/she is authorized by law to put in for the purposes of the election; or

(g) Attempt any of the foregoing acts or wilfully aid or abet any of such acts.

547. Any person who contravenes the provisions of section 546 shall be guilty of the offence of felony of the fourth degree.

548. The Presiding Officer or the Counting Supervisor may, if he/she has reason to believe that a person is committing an offence under section 546 (d) or (e), direct security personnel to arrest the person and have him/her searched before allowing the person to leave the polling station or the counting place.

Provided that when it is necessary to search a woman, another woman shall make the search.

549. Any ballot paper or other election related document found upon the person arrested on search shall be made over for safe custody to security personnel.

Prohibition of Going Armed to or near a Polling Station or Counting Place

550. No person, other than a security personnel entrusted with the duty of maintaining peace and order during the period of elections shall go armed.

551. Any person who contravenes the provisions of section 550 shall be guilty of the offence of felony of the fourth degree and the arms found in his/her possession is liable to confiscation and the licence granted in relation to the arms is deemed to have been revoked.

Breaches of Official Duty in connection with Election

552. A person entrusted with any duty in connection with the preparation or revision of Electoral Rolls or conduct of any election under this Act shall, if he/she is without reasonable cause guilty of any act or omission in breach of his/her official duty, be guilty of the offence of felony of the fourth degree.

553. No suit or other legal proceedings shall lie against any person for damages in respect of any act or omission as aforesaid.

Prohibition on Sale or Distribution

554. No intoxicating liquors or other substances of like nature shall be sold, given or distributed within a polling area during the entire polling period.

555. Any person who contravenes the provisions of section 554 shall be guilty of the offence of misdemeanour and the intoxicating liquors found in his/her possession are liable to confiscation.

Impersonation at Elections

556. A person who applies for a ballot paper or seeks permission to cast vote in a fictitious name, or in the name of any other person whether living or dead or who having voted once at such election again applies for a ballot paper or seeks permission to cast a vote in his/her own name and whoever abets, procures or attempts to procure the voting by any such person shall be guilty of the offence of impersonation.

557. Any person who contravenes the provisions of section 556 shall be guilty of the offence of felony of the fourth degree.

Illegal Payments in connection with an Election

558. A person who incurs or authorizes expenses for promoting the electoral prospects of a political party or a candidate without the general or special authority in writing of that political party or candidate shall be guilty of the offence of misdemeanour.

Failure to keep Election Accounts

559. A person who is required under this Act or any other law for the time being in force to keep accounts of monies received and expenses incurred or authorized at or in connection with an election fails to keep the accounts shall be guilty of the offence of felony of the fourth degree.

Making False Statement

560. A person shall be guilty of making a false statement if he/she makes a statement or declaration in writing which is false and which he/she either knows or believes to be false or does not believe to be true, in connection with:

(a) The preparation, revision or correction of an Electoral Roll;

(b) The inclusion or exclusion of any entry in or from an Electoral Roll; or

(c) Any matter relating to the conduct of election.

561. Any person who contravenes the provisions of section 560 shall be guilty of the offence of felony of the fourth degree.

562. A person who attests an application or affidavit which he/she knows that he/she is not authorized to do so or knows that it contains a statement or declaration which is false shall be guilty of the offence of felony of the fourth degree.

Failure to Furnish the Information required by Law

563. A person who is required under this Act or any other law for the time being in force to furnish any information or make any declaration or disclosure fails to do so shall be guilty of the offence of felony of the fourth degree.

Offences under the Penal Code of Bhutan

564. Any act or omission which is an offence under the Penal Code of Bhutan shall be deemed to be an offence under this Act if committed in relation to any activity connected with the preparation or revision of an Electoral Roll or conduct of an election and be punishable with the same penalty as prescribed under the Penal Code of Bhutan.

Provided the Election Commission may, notwithstanding the provisions related to any specific penalties in this Act and based on the gravity of the offence, resort to appropriate administrative measures including:

(a) Warning;

(b) Forfeiture;

(c) Fine;

(d) Public Reprimand;

(e) Restraining Order;

(f) Cancellation of Candidature;

(g) Nullification of Election Results; and

(h) Deregistration of a Political Party

CHAPTER 22

THE NATIONAL REFERENDUM

565. A National Referendum shall be held, if:

(a) His Majesty the Druk Gyalpo so commands in accordance with the provisions of the Constitution; or

(b) Requested in accordance with the provisions of the Constitution.

566. A Referendum shall not be held on the question of imposition, variation, repeal of taxes or any other grounds as may be prescribed by law made by Parliament.

Initiation for a National Referendum

567. A National Referendum can be initiated by:

(a) His Majesty the Druk Gyalpo;

(b) If an appeal on an issue of national significance is made by not less than 50% of the total number of members of all Dzongkhag Tshogdues; or

(c) Parliament in accordance with the provisions of the Constitution.

Submission for a Referendum

568. The request for a National Referendum shall be submitted to the Election Commission.

Form of Referendum

569. The request for a National Referendum to the Election Commission shall indicate:

(a) The title of the matter on which the Referendum is being sought; and

(b) The provisions of the law that confers the right to request a Referendum.

Prohibition of Withdrawal

570. A request for a National Referendum once made shall not be withdrawn.

Eligibility to Vote

571. Provisions with regard to the qualifications of voters shall apply to National Referendum as they apply to elections under this Act.

Duty of the Election Commission

572. The Election Commission shall, on the receipt of a request for a National Referendum, conduct the Referendum in accordance with law.

Period for holding a National Referendum

573. The Election Commission shall hold a National Referendum within a period of ninety days from the date of the receipt of the request for the Referendum.

Successful Referendum

574. The matter referred for National Referendum shall be implemented immediately on being approved in the National Referendum by a simple majority of the total number of valid votes cast in all the Dzongkhags in the Kingdom.

CHAPTER 23

MISCELLANEOUS

Uncontested Election

575. A poll at any election to Parliament or a Local Government shall be taken in the constituency concerned even if there is only one contesting candidate or political party.

576. The candidate shall, for the purposes of section 575, be declared elected only if he/she secures in his/her favour a majority of the total valid votes cast at the election.

Bye-Election

577. The Election Commission shall, when the seat of a member elected to any House of Parliament or Local Government becomes vacant on death or resignation or his/her election to the House is declared void, issue a notification calling upon the constituency concerned to elect a person for filling the vacancy.

578. The provisions of this Act and of the Rules and Orders made thereunder shall apply, as far as may be, in relation to bye-election as they apply to original elections.

579. A bye-election for filling any vacancy to Parliament shall be held within a period of ninety days and to Local Governments shall be held within a period of thirty days, from the date of the occurrence of the vacancy.

Provided that nothing contained in this section shall apply if:

(a) The remainder of the term of the member from the date of occurrence of the vacancy is less than one hundred and eighty days; or

(b) The Election Commission, in consultation with the Government, certifies that it is difficult to hold the bye-election within the said period.

580. A member elected to fill a casual vacancy shall only serve for the remainder of his/her predecessor's term of office.

Inherent Powers

581. The Supreme Court shall have the power to award reasonable penalty where a particular offence is not covered or is only partially covered by this or any bylaw made under this Act, and is not otherwise excluded from adjudication.

Amendment

582. The amendment of this Act by way of addition, variation or repeal shall be effected only by a simple majority of the respective Houses or a vote of no 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 House, provided that the amendment does not undermine the functions and effectiveness of the Election Commission.

583. Parliament shall have the moral responsibility to ensure that an amendment does not undermine the authority and effectiveness of the Election Commission in the conduct of free and fair elections.

Authoritative Text

584. The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.

ANNEXURE

INTERPRETATION

Interpretation

In this Act, unless the context otherwise requires:

(a) "Age" means number of years of a person from the day of his/her birth to the time of filing his/her nomination, calculated based on his/her Date of Birth as recorded in the Civil Registry;

(b) "Arms" include firearm, ammunition, explosive or any other lethal weapons;

(c) "Candidate" means a person who has been or claims to have been duly nominated as a candidate at an election;

(d) "Casual Vacancy" means the vacancy created in Parliament or Local Governments when its member dies or resigns;

(e) "Chiwog" means the territorial constituency provided under section 16 for election to the Gewog Tshogde;

(f) "Compensatory Allowance" means any sum of money payable to the holder of an office by way of daily allowance, or travelling allowance or for recouping any expenditure incurred by him/her in performing the functions of that office not exceeding amount to which a Member of Parliament is entitled by law;

(g) "Constituency" includes a Parliamentary constituency, National Council constituency, Gewog, Chiwog and territorial constituency for Thromde Tshogde;

(h) "Contribution" includes contribution made in cash, kind, hospitality, accommodation, transport and other such facilities;

(i) "Constitution" means the Constitution of the Kingdom of Bhutan;

(j) "Delimitation Commission" means the Delimitation Commission of Bhutan established under section 77;

(k) "Deliberative vote" means a vote cast by each member on an issue;

(l) "Dependents" means spouse, parents, or minor children inclusive of adopted children whose livelihood is dependent on his/her earnings;

(m) "Dzongkhag" means a district;

(n) "Dzongkhag Tshogdu" means the District Council;

(o) “Election” means election to fill seat or seats in either House of Parliament or in any Local Government;

(p) “Election Commission” means the Election Commission of Bhutan established under the Constitution;

(q) “Election Officer” means the Chief Election Commissioner, Election Commissioners and any officer or staff of its Secretariat, and any other officer or staff employed or deployed in connection with the preparation and revision of Electoral Rolls or the conduct of any election, and includes any security personnel performing any duty in connection with the conduct of an election under this Act;

(r) “Electronic Media” includes television, radio and any other broadcasting media notified by the Government;

(s) “Election Symbol” means a pictorial design or sign, reserved for a political party, or a candidate by the Election Commission, which represents or identifies a political party or a candidate in the form of a party logo, flag or posters;

(t) "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;

(u) "Functionally literate" means capable of reading and writing in Dzongkha;

(v) "Gewog" means the territorial constituency provided under section 15 for election of Gup and Mangmi;

(w) "Gewog Tshogde" means a County Committee;

(x) "Government" means the Royal Government of Bhutan;

(y) "Gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and includes all forms of entertainment;

(z) "Gung" means a household registered in accordance with the Bhutan Civil Registration System;

(aa) "Independent" means the same as defined in the Constitution and with reference to section 41 of this Act.

(bb) "Independent candidates" means candidates other than those nominated by political parties;

(cc) “Local Government” includes Dzongkhag Tshogdu, Gewog Tshogde and Thromde Tshogde;

(dd) “National Council Constituency” means a Dzongkhag referred to in section 10;

(ee) “Non-statutory Body” means any body of persons other than a statutory body;

(ff) “Parliamentary constituency” means constituency provided under section 6 for election to the National Assembly and section 10 for election to the National Council;

(gg) “Parliamentary election” includes Primary election;

(hh) “Political Party” means a party of individual citizens of Bhutan registered as political party with the Election Commission under section 140;

(ii) “Prescribed” means prescribed by Rules made under this Act;

(jj) “Notification” means official notice issued by the Election Commission of Bhutan;

(kk) “Section” means a section of this Act;

(ll) "Statutory Body" means any corporation, committee, commission, council, board or other body of persons incorporated or established under any law for the time being in force;

(mm) "Third Party" means any person or organization, which are not themselves candidates or political parties in an election conducted under this Act;

(nn) "Dzongkhag Thromde" means a Municipality;

(oo) "Thromde Tshogde" means a Municipal Committee;

(pp) "Electronic Voting machine" means a machine or apparatus operated electronically for giving and recording of votes in place of a ballot box and a ballot paper in any election under this Act or Rules made thereunder; and

(qq) Words importing the singular number shall include the plural number and vice-versa, unless the context otherwise requires.

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