
PREAMBLE
Justice being the primary source of peace in the Kingdom of Bhutan and reaffirming the noble goal in pursuit of justice and recognising the importance of the assistance of a Jabmi to protect and establish rights in all stages of proceedings, we hereby, amend and consolidate the Law relating to Jabmis and law societies established in respect of the profession of legal practitioners of Bhutan and to provide for matters connected therewith:

CHAPTER 1
PRELIMINARY

Title, commencement and extent
1. This Act shall:

(a) be called the Jabmi Act of the Kingdom of Bhutan, Water Sheep Year, 2003.
(b) come into force on the Third Day of the Sixth Month, the Water Female Sheep Year, corresponding to the First Day of the Eighth Month, 2003; and
(c) extend to the whole of the Kingdom of Bhutan.

CHAPTER 2
JABMI TSHOGDEY AND JABMI THUENTSHOG

Jabmi Tshogdey
2. There shall be Jabmi Tshogdey of the Kingdom of Bhutan.

3. The Jabmi Tshogdey of the Kingdom of Bhutan shall consist of the following members, namely:

(a) The Attorney General as ex officio member;
(b) Two retired Drangpons of the Supreme Court/High Court nominated by the National Judicial Commission;
(c) President of the Jabmi Thuentshog;
(d) Chairperson of each Disciplinary Committee; and  
(e) Three members elected from amongst Jabmis.

4. The members of the Jabmi Tshogdey shall be entitled to a sitting fee and other allowance in accordance with the applicable rules and regulations.

5. The Attorney General shall be the chairperson ex-officio of the Jabmi Tshogdey of the Kingdom of Bhutan.

6. The Jabmi Tshogdey shall discharge its function without fear or favour in accordance with the provisions of this Act.

7. The Jabmi Tshogdey shall have a Secretariat to assist in discharge of its functions.

**Tenure**

8. The term of office of a member of the Jabmi Tshogdey other than the Attorney General shall be three years.

**Functions of Jabmi Tshogdey**

9. The functions of the Jabmi Tshogdey shall be to:

   (a) assist the Courts in expediting cases and to ensure just, fair and prompt dispensation of Justice;
   (b) promote and support law reforms;
   (c) conduct Jabmi selection examinations;
   (d) prepare and maintain a roll of Jabmis;
   (e) conduct and promote legal education;
   (f) encourage and promote the efficiency and responsibility of the Jabmis;
   (g) organize legal aid to an indigent person (Pro Bono) in the prescribed manner;
   (h) uphold the integrity of Jabmis;
   (i) safeguard the rights, privileges and interests of the Jabmis on its roll;
   (j) regulate and promote the uniform practice of law and of discipline among the Jabmis;
   (k) determine, maintain and enhance appropriate standards of professional practice, ethical conduct and etiquette on the part of Jabmis;
   (l) determine the maximum number of cases, which a Jabmi can deal at a time;
(m) to regulate and check the time taken by a Jabmi for each case;
(n) entertain and determine cases of misconduct against Jabmis on its roll;
(o) manage and invest the funds of the Jabmi Tshogdey; and
(p) perform all other functions conferred upon it by or under this Act.

10. The Jabmi Tshogdey shall fix and publish the date, time and place for the examination.

General power of the Jabmi Tshogdey to make rules
11. The Jabmi Tshogdey may make rules for discharging its functions under this Act, and in particular, such rules shall prescribe:

(a) qualifications for Jabmis to become a members to the Jabmi Tshogdey or the Jabmi Thuentshog and disqualification from such membership;
(b) the standards of professional conduct and etiquette to be observed by Jabmis;
(c) the Tshogdey fees which may be levied in respect of any matter under this Act; and
(d) Jabmi selection examinations rules and regulation.

Vacation of office
12. The member of the Jabmi Tshogdey shall be deemed to have vacated office upon:

(a) death;
(b) resignation;
(c) removal; or
(d) the expiration of the term of office.

Removal
13. The member of the Jabmi Tshogdey shall be removed upon:

(a) grave incapability of performing the duties of office by reason of physical or mental infirmity;
(b) grave personal conduct that brings disrepute to the legal profession and the Jabmi Tshogdey passing a resolution thereon;
(c) declaration by the J abmi Tshogdey of which the person is the member that he/she has been absent without sufficient reason from three consecutive meetings;
(d) removal from the roll of J abmi;
(e) ceasing to hold the post, which he/she holds at the time of appointment to the J abmi Tshogdey;
(f) been convicted of an offence involving moral turpitude;
(g) been convicted of criminal offence;
(h) the Supreme/High Court rendering a decision terminating ones membership; or
(i) otherwise not qualified under this Act.

J abmi Thuentshog
14. There shall be the J abmi Thuentshog of Bhutan established in accordance with the relevant Act.

15. The J abmi Thuentshog shall be headed by an elected President, who shall also be the Vice-Chairperson of the J abmi Tshogdey and serve for a term of three years.

16. The J abmi Thuentshog shall be composed of the J abmis, who have been enrolled on the roll maintained by the J abmi Tshogdey.

17. The executive body of the J abmi Thuentshog shall be elected by its members and exercise its functions without interference.

Functions of the J abmi Thuentshog
18. The functions of the J abmi Thuentshog shall be to:

(a) assist the Courts in expediting the cases and to ensure just, fair and prompt dispensation of Justice;
(b) uphold the integrity of the J abmis;
(c) cooperate with the others to ensure effective and equal access to legal services;
(d) encourage and promote the efficiency and responsibility of the J abmis;
(e) maintain the records of J abmis, who have been put on the roll;
(f) follow the directives of the J abmi Tshogdey; and
(g) convene annually a general meeting of the members of the Association.
CHAPTER 3
ENROLMENT, ELIGIBILITY, REMOVAL AND RE-ADMISSION OF JABMIS

Enrolment
19. Every Jabmi shall, in order to practice before any Court of law in the Kingdom of Bhutan be enrolled in the roll of Jabmis prepared and maintained by the Jabmi Tshogdey.

20. No person shall be qualified to practice as a Jabmi except in accordance with the provisions of this Act.

Certificate of enrolment
21. The Jabmi Tshogdey of Bhutan shall issue a certificate of enrolment in the prescribed form to every person whose name is entered in the roll of Jabmis.

22. Any person admitted and enrolled in the roll of Jabmis shall pay a prescribed fee to the Jabmi Tshogdey.

Eligibility for registration of Jabmis
23. A person to be admitted as a Jabmi shall:

(a) be a Bhutanese citizen;
(b) be a person of integrity, good character and reputation;
(c) be a person not addicted to drugs;
(d) not be a person of unsound mind or of mental infirmity;
(e) not be a person, who is adjudged bankrupt;
(f) not have been sentenced for criminal offences;
(g) have legal qualification recognized by the Jabmi Tshogdey of Bhutan;
(h) have undergone the National Legal Course; and
(i) have passed the Bar selection examinations.

Ex-Drangpon
24. No retired drangpon shall practice before any Court of law as a Jabmi.
Oath
25. Any person having been selected to the roll of a Jabmi shall take the following Oath or affirmation before a Drangpon.

“I........ in the name of the triple Gem and the guardian deities of the Kingdom of Bhutan do solemnly swear and affirm that I will preserve, protect and defend the Law of Bhutan, and that I will conduct myself, as a Jabmi uprightly and according to the laws of the Kingdom of Bhutan”.

Removal of a Jabmi
26. The Jabmi Tshogdey may remove the name of any Jabmi from the roll, if a Jabmi has:

(a) intentionally given false statements in the application for enrolment in the roll of Jabmis;
(b) grave personal conduct that brings disrepute to the legal profession and the Jabmi Tshogdey passing a resolution thereto;
(c) been declared by the Jabmi Tshogdey to be incompetent and incapable;
(d) been struck off the Jabmis roll;
(e) been adjudged a person of unsound mind by a competent medical authority;
(f) been convicted of an offence involving moral turpitude;
(g) been convicted of criminal offence;
(h) declared by a Court to be incompetent and incapable of practicing before the Court; or
(i) barred from practicing under this Act or other laws.

27. A Jabmi, who is suspended, shall be under same disability during the period of such suspension as a Jabmi whose name has been removed from Jabmis roll.

Readmission and enrolment
28. The Jabmi Tshogdey may, on application, readmit and/or order the enrolment of any person, who was previously admitted and enrolled as a Jabmi and has been struck off the roll, if:

(a) in the opinion of both the Jabmi Tshogdey and the Court, such person is deemed fit and proper to be readmitted and re-enrolled; and
(b) the Jabmi Tshogdey is satisfied that the applicant fulfills the qualifications required for the enrollment.
CHAPTER 4
RIGHTS AND PRIVILEGES OF JABMIS

Rights

29. Any person, who fulfills the prescribed qualification and is put on the roll of Jabmis by the Jabmi Tshogdey shall become a member of the Jabmi Thuentshog.

30. Every Jabmi whose name is enlisted on the roll shall be entitled as of right to practice before any:

(a) Court in the Kingdom of Bhutan;
(b) board, tribunal or similar institution in or before which a client is entitled to appear;
(c) person legally authorized to take evidence; and
(d) other authority or person before whom such Jabmi is by or under any law for the time being in force entitled to appear.

Guarantees for the functioning of Jabmis

31. Jabmis shall not be identified with their clients or their client's causes, as a result of discharging their functions.

32. Jabmis shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

33. All organisations shall recognize and respect any communications and consultations between Jabmis and their clients within their professional relationship, which are deemed confidential.

34. In exercising such rights, Jabmis shall always conduct themselves in accordance with the law and recognized standards of the profession.

CHAPTER 5
DUTIES AND RESPONSIBILITIES OF JABMIS

General duties and responsibilities

35. A Jabmi shall:

(a) conduct in a manner befitting the noble fraternity of Jabmis;
(b) conduct in such a way as to enhance the regard and respect as between the members of the profession and strive to maintain the honour and dignity of the profession;
(c) act as an officer of the Court to ensure the proper administration of justice;
(d) seek to uphold the rights and fundamental duties recognized by law of the Kingdom of Bhutan;
(e) at all times act freely and diligently in accordance with the law;
(f) set standards consistent with due and proper attendance to the matters of clients;
(g) adhere to the principles of honesty, good morals, ethics and conduct, befitting a professional person;
(h) maintain an attitude of courtesy and politeness, irrespective of his personal views as to the cause of the client;
(i) conduct correspondence in a courteous, dignified and restrained language and be confined to a concise statement of the relevant facts of the case and the points of argument bearing on the subject relevant to the question under discussion;
(j) seek to uphold legal rights at all times freely and diligently in accordance with the law and recognize standards of legal profession;
(k) not create disputes but settle them instead. The Jāṃmi must try to be a peacemaker and promote compromise;
(l) not express any unfavourable opinion as to the ability, reputation or standing in the profession of another Jāṃmi;
(m) not hold direct communication with the client of another Jāṃmi in regard to any matter in which oneself may be engaged, or interview the client of another Jāṃmi without the permission of that Jāṃmi;
(n) not hold meetings with the client of another Jāṃmi to persuade or attempt to persuade a client of that Jāṃmi or any person whom he/she knows to be represented by that Jāṃmi to agree to a compromise or to accept any suggestion in regard to a matter in controversy which may possibly ensure to the prejudice of that person’s interest or to persuade or attempt to persuade a client of another Jāṃmi or any person whom one knows to be represented by another Jāṃmi to do or omit to do anything contrary to his/her own Jāṃmi's advice; and
(o) not in any manner advertise or solicit work by advertisement or otherwise.
Duties and responsibilities to clients

36. Jabmis have a duty to their clients to give due attention to the matters of the clients at all stages. A Jabmi shall:

(a) advise clients as to their legal rights and obligations and the working of the legal system in so far as it is relevant to the rights and obligations of their clients;
(b) assist clients in every appropriate way and take legal action to protect their interests;
(c) assist clients before the Courts wherever appropriate;
(d) always respect the interests of their clients and not represent them where interests of the clients conflict;
(e) always represent the client with sincerity and commitment in expediting the case without any undue delay;
(f) report to the client regarding the money or other trust property of the client coming into his possession in the client’s matter, and except with the client’s consent in writing such property should not be mixed or mingled with his/her private property or be used by him/her;
(g) give disinterested advice to the client and, if the Jabmi is or becomes interested in the transaction of the client he/she should disclose such interest to the client;
(h) conduct all business entrusted with the utmost care, diligence and to the best of skill and ability with honesty and regard to the client’s interest taking utmost care of all moneys and property belonging to the client entrusted to Jabmi’s care and neither concealing from the client anything of which the client should be informed, nor disclosing to others information imparted to the Jabmi by the client in confidence;
(i) account for moneys strictly and return the unexpended balance, reply the client’s letters honestly, not hesitate to communicate an unfavourable result and give the papers back to client when the case is over and represent the client with undivided fidelity;
(j) while giving opinions, in the interest of justice advise them soberly, discreetly and honestly to the best of their ability, though certain consequence be the loss of large prospective gains;
(k) not retire from the case once started, without the consent of the client or the leave of the court; and
(l) not mislead the client or put the client on the wrong stand in regard to the case.
Duty to the opponent
37. While dealing with the opponent in any case, a Jabmi shall not:

(a) mislead the opponent by concealing or withholding positions in the opening argument upon which the opposing Jabmi must reply;
(b) attempt to overreach the opponent;
(c) lose temper even if the opponent attempts to mislead him/her and the Court;
(d) speak ill of the performance of the opposing Counsel;
(e) mislead an opponent or put the opponent on the wrong stand regarding any point in the cases; and
(f) assault the opponent physically or morally or in any manner mark the opponent out as client’s adversary.

Duty to the Court
38. The Jabmi shall:

(a) assist the Courts in expediting the cases and to ensure just, fair and prompt dispensation of Justice;
(b) be respectful to the Court;
(c) attend all the hearings and not absent without the leave of the court;
(d) not exhibit in court familiarity with the Drangpon;
(e) not communicate or argue privately with a Drangpon about the merits of a pending case;
(f) not do anything that may even remotely tend to suggest that he/she is impairing the dignity or impartiality of the Drangpon;
(g) not display temper in the Court (or outside) because of an adverse ruling or decision;
(h) avoid maligning a Drangpon, or party to any accusation against the Drangpons during the Judicial Proceeding;
(i) not offer engagements to relations of the Drangpons, who will hear their cases;
(j) not without just cause, interrupt Counsel on the opposite side;
(k) not repeat comments to the annoyance of the Drangpon;
(l) not mislead a Drangpon;
(m) not prepare and present to the Court, documents containing statements which the practitioner knew or must have suspected, to be false;
remember to speak up and be in attendance and readiness;
avoid any abusive or offensive expression relating to any Member of the Judiciary; and
where a serious allegation is made against a member of the Judiciary or against any person in authority act responsibly and exercise due care.

**Duty of Jabmi during negotiation**

39. The Jabmi negotiating a case out of Court shall not resort to fraudulent means, intimidation and distortion of facts in the course of negotiating the case. Jabmis shall not misuse any property that is in dispute between the two parties whose case the Jabmi is negotiating.

40. The Jabmi negotiating a case shall not make or have any agreement that will contravene any law of the land.

41. No Jabmi shall acquire in any manner, whatever any interest in the subject matter of litigation, which he/she is conducting.

**Norms of courtesy between Jabmis**

42. Except as agreed between the parties, a meeting between two or more Jabmis on opposite sides to discuss or attend to any official business may generally be held at the office of the senior-most Jabmi.

**CHAPTER 6 REMUNERATION**

**Fees**

43. The fees shall be fixed prior to taking of the case. A Jabmi shall not determine the fees upon the result of the case.

44. A Jabmi and a client shall voluntarily execute legal agreement as to a reasonable fee despite of the duration taken for the case.

45. The payment of the reasonable fee for a Jabmi shall be in accordance with the legal agreement executed between a Jabmi and his/her client.

46. The fees shall not be deducted or paid from the property, which is the subject matter of that case.
47. A Jabmi has a right to fees and, if not paid of the stipulated fees as per the agreement, the Jabmi may retain the documents or papers until the fees have been paid fully.

48. A Jabmi shall be entitled to a proportionate amount of fees, if:
   (a) in good-faith and with the consent of the client and prior leave of the Court withdraws from representing the client case;
   (b) is unable to represent the case due to some infirmity or disability; or
   (c) withdraws in the best interest of the client.

49. In case where a concerned Jabmi indulges into an unprofessional, dishonourable and unworthy conduct, the Jabmi shall reimburse any prior amount of fees.

CHAPTER 7
DISCIPLINARY COMMITTEE

Disciplinary committee
50. For the purpose of maintaining professional and other conducts of Jabmis under this Act, the Jabmi Tshogdey may appoint one or more Disciplinary Committees each comprising five members.

51. The members of the disciplinary committee shall be appointed from the members of the Jabmi Thuentshog, one of who shall be appointed as a Chairman.

Tenure
52. The Disciplinary Committee shall hold office till the next Annual General Meeting of the Jabmi Thuentshog provided however, that in the event of a matter before it not being disposed of, such Disciplinary Committee shall continue till such time as the matter is disposed. No new matters shall be placed before it after the expiry of the term for which it was appointed.

53. In case of death, disability or for any other reason any member of such Disciplinary Committee is unable to act, the remaining Members of the committee shall continue and complete the enquiry. In no case shall the remaining members number be less than three.

Complaint
54. Any complaint against a Jabmi shall be in writing.
Inquiry
55. The Ḫabmi Tshogdey may inquire into cases of alleged unprofessional, dishonorable or other misconduct on the part of any Ḫabmi whose name has been placed on the roll of Ḫabmis.

Power to reject
56. The Ḫabmi Tshogdey may reject the complaint if it is of the opinion that there is no prima facie case.

Complaint to proceed
57. The Ḫabmi Tshogdey shall not be obliged to drop a complaint solely by reason of its having been withdrawn, settled or otherwise compromised or that the complainant does not want to proceed with the inquiry.

Show cause
58. After the complaint has been referred to the Disciplinary Committee, the Chairman thereof shall send a notice to the member concerned along with a copy of the complaint and relevant papers requiring him/her to show cause by a specified date on the complaint made against him/her and to submit a statement of defense along with documents and affidavits in support of such defense.

Time, date and place
59. The Disciplinary Committee shall fix the date, hour and place of the inquiry. The Chairman shall give notice thereof to the complainant or other person aggrieved and the Ḫabmi concerned.

Notice
60. The notice of any proceeding or Order may be sent ordinarily through a messenger or by Registered Post with due acknowledgement to the Ḫabmi concerned.

Ex-parte
61. The Committee may proceed ex-parte, if in an inquiry on a complaint received, either the complainant or the respondent does not appear before the Disciplinary Committee despite the service of notice.

Setting aside
62. Any ex-parte Order may be reviewed by the Disciplinary Committee on sufficient cause being shown and an application made to that effect is supported by an affidavit within 30 days of the service of such ex-parte Order.
Hearing

63. The Disciplinary Committee shall hear the complainant or complainant’s Jabmi, the member concerned or the Jabmi, if they desire to be heard, frame charges and determine the matter on documents and affidavits, unless it is of the opinion that it would be in the interest of Justice to permit cross-examination of the deponents or take oral evidence, in which case the procedure for the hearing of civil suits shall as far as possible be followed.

Findings

64. The findings of the majority members of the Disciplinary Committee shall be the findings of the Disciplinary Committee. Reasons shall be given in support of the findings and in case of a difference of opinion, any member dissenting shall be entitled to record his dissent giving his own reasons.

Report

65. The Disciplinary Committee shall after full investigation of the case submit a written report to the Jabmi Tshogdey.

CHAPTER 8

PUNISHMENT FOR PROFESSIONAL OR OTHER MISCONDUCT

Punishment for professional or other misconduct

66. Where a Jabmi engages in professional, unethical act or other misconduct, the Jabmi Tshogdey may:

(a) admonish/reprimand the Jabmi;
(b) suspend the Jabmi from practicing for such period as it may deem fit; or
(c) bar the Jabmi from practice, if convicted of a criminal offence or otherwise.

67. In case where a concerned Jabmi indulges into an unprofessional, dishonourable and unworthy conduct, Jabmi may face disciplinary action or be prosecuted in the Court of Law and shall be liable for punishment or fine in accordance with Acts or other laws of Bhutan.

68. The Jabmi Tshogdey shall submit to the Court a list of the Jabmis, who have been suspended/barred from practicing under this Chapter.
Unauthorized practice
69. Except a member of a family, any person not qualified to practice as a Jabmi under the provision of this Act, who represents as a Jabmi, shall be liable to pay a fine for three months calculated in accordance with Chathrim for national wage rate for three months. If a person repeats the same offense, the offender shall be punished in accordance with the Bhutan Penal Code.

CHAPTER 9
AMENDMENT & AUTHORITATIVE TEXT

Amendment
70. The addition, variation or repeal of this Act shall be made by the National Assembly.

Authoritative Text
71. The Dzongkha text shall be the authoritative text, if there exits any difference in meaning between the Dzongkha and the English text.