

**PROCEEDINGS AND RESOLUTIONS (TRANSLATION)  
OF THE EIGHTH SESSION OF NATIONAL  
COUNCIL OF BHUTAN**

*(11<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Wednesday, 4<sup>th</sup> January 2012)*

**A Proceedings of the Opening Ceremony**

The 8<sup>th</sup> Session of National Council of Bhutan commenced on the 11<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year with *Marchang* ceremony presided over by the Hon'ble Chairperson.

**B Hon'ble Chairperson's Address**

Having welcomed the Hon'ble Members, media personnel and all the people watching television and listening to the radio to the 8<sup>th</sup> Session of National Council of the First Parliament of Bhutan, the Hon'ble Chairperson expressed appreciation for all the events of national importance that had taken place during the 6 months period since the conclusion of the 7<sup>th</sup> Session of the National Council.

To begin with, he offered his heartfelt felicitations to His Majesty the King for taking Jetsun Pema Wangchuck with precious qualities as the Royal Consort in October last year in keeping with the auspicious date, and thanked His Holiness the Je Khenpo, His Excellency the Prime Minister and every citizen of the country for the preparation and support during the celebrations.

He also expressed his deep gratitude to His Majesty for not only working towards the welfare of the nation and the people within the country, but for further fostering

international relations through official visits to foreign states. He then thanked His Majesty for conferring *Kabney* and *Tashi Khadar* to the elected community leaders recognizing the importance of local governments in a democratic system. He also thanked His Majesty for awarding medals to the Chief of the three Armed Forces and the media during the 104<sup>th</sup> National Day in recognition of their services in the protection of national security and dissemination of information, and for His invaluable advices which had immediate and long-term benefits to the country.

Similarly, he expressed his pride and satisfaction on the Members of Parliament being able to offer the Oath of Allegiance to His Majesty the King during the opening ceremony of the 8<sup>th</sup> Session of Parliament in accordance with Article 2.5 of the Constitution of Bhutan.

He also thanked the Hon'ble Prime Minister for bringing into the country the sacred relics such as the *Ringsels of Sangye Sakyat Thupa, Nyenthoe Dampa Shari Bu* and *Mogyel Ghi Bu*, a rare opportunity which had never happened before in the history of the country, and viewed by more than 75% of the Bhutanese citizens.

Finally, he thanked His Majesty the King and the Royal Government for the full support whenever the country was affected by natural calamities.

On the House business, he said that during the 8<sup>th</sup> session of the National Council, the Bhutan Institute of Medical Sciences Bill 2011, the National Flag Bill of Bhutan 2011, the Consumer Protection Bill of Bhutan 2011, the Tobacco Control (Amendment) Bill of Bhutan 2011 and the Ramsar Convention on Wetlands would be deliberated under legislative issues along with Question

Time, and legalizing of electric fencing under policy issue. He expressed his hopes that all the Hon'ble Members would fully participate in the discussions for a successful conclusion of the session.

With the blessings of *Kencho-Sum* and the protection of the country's *Ka-Sung-Damchen*, he prayed particularly for the long life and glorious reign of Their Majesties the King and the Queen, the Fourth Druk Gyalpo and the Royal Family, and in general, for the peace and prosperity in the country.

### **C Prayers for Their Majesties the King and the Queen**

After the Chairperson's opening address, the National Council offered its prayers on the Royal Wedding in October last year, and for the long life and glorious reign of Their Majesties the King and Queen as under:

Om Swati! As prophesized by Ugyen Pema, the second Buddha  
And by the gods and lamas,  
The pre-destined lord of Drukpa Kagyu – Ornament of Buddha's Teachings,  
Ngawang Namgyal, please bestow the blessings of good fortune!

The Supreme Dharma Lord of this realm,  
Takes a consort – Her Majesty Azhi Jetsun Pema  
Endowed with precious qualities of a Queen  
At this royal wedding, we offer our prayers and devotion!

In the sky-like minds of this land of Sandalwood,  
Shines the sun and moon – the King and his Queen,  
May the rays of compassion dispel all darkness,  
And the light of clear perception envelop this Kingdom!

The Wangchuck dynasty, fruition of people's merits,  
The royal lineage, like the river endowed with eight sacred  
qualities,  
So that the thirst of the people are quenched,  
May the river of this glorious lineage flow forever!

From the National Council of this Medicinal Land,  
On the occasion of the royal wedding,  
We offer this prayer - with pure hearts,  
May your happiness abound and may you live long!

*(15<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Monday, 9<sup>th</sup> January 2012)*

## **D Legislative Issues (Bills and Amendment of Acts)**

### **1 Introduction of the Bhutan Institute of Medical Sciences Bill 2011**

The Hon'ble Minister for Health said that thanks to the successive monarchs, the health care service in the country was widespread. The health care facilities in the country were acknowledged and recognized by the international community. However, the country was faced with a problem in terms of shortage of competent health workers. To solve this problem and for short and long-term sustainability of health care services, a medical institute was needed in the country to provide health workers with proper training.

The Royal Government had planned to establish a medical institute for some time, and held consultations regarding its feasibility with the World Health Council in 2008 and the Indian Institute of Medical Sciences in 2009, which have reported that the establishment of the Bhutan Institute of Medical Sciences was very much

feasible. Accordingly, the Bhutan Institute of Medical Sciences Bill was being introduced by the Government in order to establish the institute under an Act.

Establishment of the institute of medical sciences in the country would serve in solving the problem of shortage of qualified health workers, reduce the cost of treatment and medical training, impart training related experience in accordance with the country's practices, cater to the long term professional health care services, and provide ample of job opportunities to youth within the country. Therefore, the Bill was being introduced in the National Council for endorsement since the Bhutan Institute of Medical Sciences Bill provided for one of the biggest services to the citizens in the country.

To this, the Hon'ble Member from Haa Dzongkhag asked how far the Bhutan Institute of Medical Sciences was in line with the country's tertiary education policy. He said that while the institute should actually be established after all the facilities were put in place, how feasible it was to establish the institute first, and then to put the facilities in place. Similarly, the Deputy Chairperson asked what kind of consultations was held with medical experts while the Bill was being drafted.

The Hon'ble Health Minister clarified that while the medical institute should have been in line with the country's tertiary education policy, it was not possible since the agreement with the Indian Institute of Medical Sciences had already been signed. While the facilities for establishment of the institute were not all ready, renovation works and new procurements for its establishment were being carried out. Since the Bill had been drafted by specialist doctors, it had been done in consultation with medical experts.

*(16<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Tuesday, 10<sup>th</sup> January 2012)*

## **1.2 General Comments on the Bill**

The Chairperson of the Natural Resources & Environment Committee, Hon'ble Ugyen Tshering from Paro Dzongkhag said that the Bhutan Institute of Medical Sciences Bill had been deliberated in the National Assembly during its 7<sup>th</sup> session and received by the National Council along with the amendments made by the Assembly. The Natural Resources & Environment Committee had been entrusted the responsibility of reviewing the Bill as per the directive of the House during one of its plenary meetings. While working on the Bill, the Committee initially had grave reservations on the establishment of such a medical institute in the country. After seeking clarification during the consultation meetings with the relevant agencies, it was later found that such an institute was necessary. Therefore, the Committee had thoroughly reviewed the Institute of Medical Sciences Bill and made certain amendments and changes to it.

Hon'ble Kuenlay Tshering said that if there were too many laws in the country, implementation and monitoring would be a big problem. Therefore, it would be better to work on the basis of existing laws.

The Deputy Chairperson agreed that the Bill was aimed mainly to address the problem of shortage in human resource in providing health care services and expressed his gratitude to the Indian Government for its support towards the institute. In recognition of the support, 30% of the trainees, which was around 15 individuals, would

be Indian citizens as per the project report, which meant that the objective of training about 150 doctors within the next 10 years would not be fulfilled. Therefore, he submitted if it would be possible to reserve all the training opportunities for Bhutanese citizens in the initial 3 to 5 years once the institute was established. Moreover, there was no specific time frame on the 30% Indian citizens that would avail training opportunities with the Bhutan Institute of Medical Sciences.

Further, he pointed out that one of the main aims in establishing the institute was seen as economic development. However, it was not certain whether people from other countries could come and avail training in the institute.

To this, the Hon'ble Members from Paro, Haa and Lhuentse Dzongkhags said that while implementation was a problem when there were too many laws in the country, the tertiary education policy of the country required that a university or institute should be established under a law, which was why the Bhutan Institute of Medical Sciences Act was necessary. They felt that it was good that Indian citizens would be admitted in the institute. This was because India had many institutes of repute, and training Indian citizens in the country would enhance the reputation of our own institute, fulfilling the objective of making it an internationally renowned institute. Therefore, they expressed their support in admission of Indian citizens in the medical institute in the country.

Most of the members supported the principle of the Bill since the main objective was to establish an institute of medical sciences in the country to provide adequate human resource in the delivery of health services to the

people, and agreed to deliberate on the Bhutan Institute of Medical Sciences Bill.

### **1.3 Debate on amendments and changes to the Bill**

The Bill stated that the Bhutan Institute of Medical Sciences shall be established as an autonomous body, while under the section on definitions, Jigme Dorji Wangchuck National Referral Hospital would be a teaching hospital. Hon'ble Karma Damcho Nidup asked if the present referral hospital would also be administered independently. If that was the case, she said that the workers there who are currently under the civil service would also be independent, which would give rise to problems. To this, the Hon'ble Member from Haa Dzongkhag said that once the Bhutan Institute of Medical Sciences Bill was passed and the institute established under an Act, all other institutes and teaching hospitals dealing with it would be autonomous.

The National Council debated at length on whether or not to establish the institute as an autonomous body, and finally resolved that the Bhutan Institute of Medical Sciences shall be established as an autonomous body just like the Royal University of Bhutan. The House then thoroughly deliberated on the Bhutan Institute of Medical Sciences Bill 2011 on 10/1/2012, 11/1/2012, 13/1/2012 and 16/1/2012, and resolved to make the following amendments/changes for submission to the National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

#### **Title**

~~Bhutan Institute~~ **University** of Medical Sciences **of Bhutan** Bill 2012

## Preamble

### New insertion before 1<sup>st</sup> paragraph

*Not accepted, therefore, deleted*

## Preamble

### 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Paragraphs

WHEREAS, the **quality of** health care service delivery **need to be strengthened in keeping with increased demand** and the ~~current shortages in~~ **of** health human resources need to be addressed **for self reliance and long term sustainability in health care** ~~in harmony with the development paradigm of Gross National Happiness;~~

WHEREAS, the people must have access to the high quality, **wholesome** health care services through holistic, patient-centered, ~~and~~ evidence-based **and culturally appropriate** approaches **in harmony with the development paradigm of Gross National Happiness;**

WHEREAS, it is expedient to establish an institution **of a** ~~with a vision to develop into a~~ world renowned centre of excellence in the field of medicines and allied health **services in keeping with the country's long term goal of providing high-end medical services and medical tourism,** sciences, wherein faculties **faculty members** and students **take pride** ~~feel proud~~ to be associated with; and

## Section 2

Any provision of **laws, rules and regulations** ~~any written law, by law, rule or regulation, all directives,~~

~~circulares and announcements that is are inconsistent with the provisions of this Act shall be repealed.~~

### **Title before Section 3**

*Amended in Dzongkha*

### **Section 3**

*In line with the general practice, moved “Definition” at the end of the Bill*

### **Section 3 (f)**

*Deleted*

### **Section 3 (h)**

*Amended in Dzongkha*

### **Section 3 (m)**

“Faculty” means ~~teaching faculty of BIMS~~ **aggregation of relevant department of UMSB.**

### **Section 3 (m)**

*Retained as in the Bill*

### **Section 3 (q)**

*Amended in Dzongkha*

### **Section 3 (v)**

*Amended in Dzongkha*

### **Section 4**

This Act shall establish Bhutan Institute of Medical Sciences as an autonomous body. ~~and shall function as a University.~~

## **Section 5**

Bhutan Institute of Medical Sciences established under section 4 of this Act ~~shall~~**may** function as **an** overarching Institute for existing Institutions engaged in medical and health education and training programs in the country and new institutions established hereinafter.

## **New Section after Section 5**

**All medical and health education and training programme in the country shall be accredited and certified as per Medical and Health Council Act of Bhutan.**

## **Section 6 (h)**

*Amended in Dzongkha*

## **Section 7 (h)**

**Consider admission of** ~~Admit~~ foreign students based on merit as part of internationalization of the campus;

## **Section 7 (j)**

*Amended in Dzongkha*

## **New sub section (n) under Section 7**

**Facilitate student and teaching faculty exchange programme with other universities within and outside the country.**

## **Section 8**

The Institute shall acquire, possess, utilize, and dispose movable and immovable properties **without prejudice**

**to the Land Act, the Moveable and Immovable Property Act of the Kingdom of Bhutan and other relevant Acts.**

## **Section 10**

*Amended in Dzongkha*

## **Section 16**

~~Notwithstanding anything contrary to section 7.e, 7.f, f.g and schedule 3,~~ the Institute shall have human resource as deemed relevant and adequate by the Governing Council from time to time.

## **New Section after Section 17**

**The maximum age limit for teaching faculty shall be 65 years of age with provision for extension by another term of five years if needed on the recommendation of the Academic Board.**

## **Section 18**

~~The Institute shall constitute the Governing Council as provided for by Section 6.b of this Act.~~ **A Governing Council shall be instituted as the supreme governing authority for the institute that shall be accountable to the Government.**

## **Section 19 (b) (ii)**

Head of **one of the** teaching hospitals, ex- officio

## **Section 19 (c)**

*Amended in Dzongkha*

## **Section 21 (a)**

A member shall forfeit membership to the council if such member is absent for three consecutive council meetings without prior ~~written~~ approval from the chairperson.

## **Section 21 (c)**

*Retained as in the draft*

## **Section 24 (c)**

Approve **proposals** ~~grants~~ for capital expenditure pertaining to new infrastructure including furniture, equipment, land, mid-life refurbishment of buildings;

## **Section 24 (h)**

**Propose** ~~Develop~~ the remuneration schemes and honorarium for employees of the Institute, external examiners and visiting professors from time to time;

## **Section 24 (o)**

*Deleted*

## **Section 25**

*Amended in Dzongkha*

## **Section 27 (a)**

Is a ~~natural born~~ citizen of Bhutan.

## **Section 27 (b)**

Holds minimum qualification of master's degree ~~in health and medical field or any relevant fields;~~

### **Section 29 (d)**

Appoint, assign, promote, appraise, suspend and dismiss staff **on the recommendation of Governing Council** within the framework set in the regulations.

### **Section 31**

The Registrar shall be **selected through open competition and** appointed by the Governing Council ~~from a list of nominations submitted by the faculties under the Institute subject to~~ **as per the** fulfillment of the eligibility criteria as specified in Section 32 of this Act and selection procedures laid down in the rules and regulations governing the Condition of Services.

### **Section 32 (a)**

Is a ~~natural born~~ citizen of Bhutan.

### **Section 35**

The Institute shall form Advisory Board to guide the Institute in developing benchmarks for medical education and training courses of international repute, faculty development and image enhancement of the institute **in consultation with the Governing Council.**

### **Section 36 (a)**

**Maximum** ~~Minimum~~ of three eminent academicians or heads of renowned medical institutes from outside Bhutan;

### **Section 41 (b)**

Head of **one of the** teaching hospitals.

### **Section 41 (c)**

~~Two Deans of~~ **each** Faculty. ~~to be elected from amongst the Deans;~~

### **Section 41 (d)**

~~Three Representatives from Heads of the relevant Departments to be elected from the Heads of the Department;~~

### **Section 41 (f)**

One representative from **technical administrative** support staff to be elected from amongst the support staffs;

### **Section 42 (b)**

~~The Deans and representatives of the head of department~~ shall serve a term of three years and are eligible for reelection for a maximum of two consecutive terms only.

### **Section 45 (c)**

Develop, review, validate, monitor, assess and evaluate the implementation of **academic** programs both intra and extramurally.

### **Section 45 (g)**

~~Propose to the Council scheme for the constitution and organization of Faculties, Chairs and teaching departments, committees and Board of Studies;~~

### **Section 45 (h)**

Develop mechanisms for recognition of examinations of other universities or examining bodies on reciprocal basis **for the purpose of student migration and exchange programme.**

### **Section 45 (i)**

Regulate the award **of** ~~or~~ studentships, scholarships, medals and prizes; and

### **Section 45 (j)**

Constitute Board of Studies in ~~different discipline under~~ each faculty to oversee matters related to Academic Affairs ~~of the respective disciplines;~~ and

### **Section 46**

~~Notwithstanding anything contrary to the provision under sections 6.g and schedules 1 and 2 of this Act,~~ The Institute shall provide multidisciplinary medical education programs to the students based on merit, appropriate to their abilities, interests, and performance, regardless of their economic circumstances.

## **Section 51**

~~Notwithstanding anything contrary to the prevailing laws,~~ An individual pursuing studies or training under the Institute **shall:**

## **Section 52**

The Institute shall acquire, store, retrieve, display, and conduct procedures on human and animal tissues, organs and cadavers for therapeutic, educational, research and other scientific purposes, **and dispose as per the standard operating procedures.**

## **Section 55**

The Institute shall recruit external examiners and evaluators both from within and outside the country to ensure academic excellence, international recognition, accreditation and institutional linkages **as recommended by the Academic Board.**

## **Section 58**

*Amended in Dzongkha*

## **Section 59**

The Institute shall develop standardized mechanism for assessment, monitoring and evaluation of the performance of faculties in terms of ~~academic affairs,~~ resource mobilization and utilization.

## **Section 60**

The Institute shall award degrees, diplomas and certificates in accordance to the Award of Degrees

Regulations as prescribed by the Institute ~~from time to time.~~

## **Section 62**

The award of degrees, diplomas and certificates as specified in ~~section 60~~ shall be within the provisions of the ~~Medical and Health Council Act 2002 of Bhutan~~ **in conformity with Medical and Health Council Act of Bhutan and in consultation with Bhutan Accreditation Council.**

## **Section 66**

**The Governing Council shall, from time to time, make rules and regulations for effective implementation of this Act.** ~~Regulations may be made for the following purposes, but not limited to:~~

- ~~a. Condition of Services (human resource development and management; resource management; positions and job descriptions; code of conduct);~~
- ~~b. Conduct of Examinations (examination procedures; academic dishonesty, plagiarisms; external examiners; convocation ceremony; academic dress; board of examiners);~~
- ~~c. Admissions and Registration;~~
- ~~d. Election of the members, Standing Orders and Procedures of Meeting of Council, Boards and Committees;~~
- ~~e. Handling of Cadavers and animal remains;~~
- ~~f. Awards of degrees, diplomas and certificates (academic structure; awards; definition of academic terms; academic year);~~

## **Section 62**

*Wordings shall be made consistent with other Acts.*

## **General Issues**

**“Governing, Head and President”** in Dzongkha to be amended throughout the Bill. Similarly, **“Institute”** shall be replaced with **“University”** throughout the Bill.

*(15<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Monday, 9<sup>th</sup> January 2012)*

## **2 Introduction of the National Flag (Private Members’) Bill of Bhutan 2012**

The Hon’ble Member from Wangduephodrang said that the motion to draft a new National Flag Bill of Bhutan had been moved by the Social & Cultural Affairs Committee and passed during the 7<sup>th</sup> Session of the National Council. Accordingly, keeping the National Flag Rules of 1972 passed during the 36<sup>th</sup> session of the National Assembly as the base, the National Flag Bill had been drafted jointly with the Hon’ble Member of Lhuentse Dzongkhag after consultations with the relevant agencies. The Bill was being introduced for the first time in the National Council as a Private Member’s Bill.

She reminded that during one of the plenary meetings of the National Council in 2010, the Hon’ble Member from Lhuentse Dzongkhag had made submissions related to problems regarding the national flag. Since the responsibility of reviewing this issue fell on the Social & Cultural Affairs Committee, the Bill had been drafted in line with the provisions of Articles 1.5 and 8.4 and the First Schedule of the Constitution of Bhutan, keeping the National Flag Rules passed by the erstwhile National Assembly during its 36<sup>th</sup> session as the base. The Bill aimed at making the system in the country uniform,

and had provisions covering the respect for and care of the flag, and penalties in keeping with the changing times.

The Hon'ble Member from Lhuentse Dzongkhag expressed his gratitude to the Hon'ble Chairperson for giving the opportunity to introduce a Private Member's Bill in the House for the first time. He said that the Bill had 7 chapters and 60 sections, which included preliminary, descriptions and specifications of the national flag, mandatory accessories required for hoisting the national flag, entitlements for hoisting the national flag, general respect for the national flag, offences and penalties, and miscellaneous provisions.

The newly drafted Bill had specific provisions on the reverence and respect for the national flag, description of the national flag, and areas where the national flag should be hoisted. Therefore, it was introduced for adoption in the National Council.

*(18<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Thursday, 12<sup>th</sup> January 2012)*

## **2.1 Debate on amendments and changes to the Bill**

The Hon'ble Members from Bumthang, Gasa, Tashiyangtse, Thimphu and Zhemgang Dzongkhags said that in Chapter 4 of the Bill on entitlement for hoisting of the national flag, the areas where the national flag shall be hoisted had been specified under sections 15 and 16. However, section 17 provided that the national flag *may* be hoisted at the local government offices and schools, which could be problematic. The section should be amended so that the national flag was compulsorily hoisted in these two areas as well because the office of

local government was permanent like any other government offices. Moreover, around 70% of the country's population who lived in rural areas could then show their respect to the national flag. The national flag should be hoisted in schools because these were where students got their initial education, and could also show their respect to the flag.

The Hon'ble Members from Trongsa and Dagana Dzongkhags said that while they fully supported the hoisting of the national flags at the local government offices and schools, the requirement of having to compulsorily wear kabney and rachu in areas where the national flag was hoisted was problematic. They felt that the requirement of wearing kabney and rachu in areas where the national flag was hoisted should be categorized.

However, the Hon'ble Members from Pemagatshel and Lhuentse Dzongkhags said that during the constituency visits, they had observed problems faced by the people having to be in formal dress when they had to go to the local government offices directly from their normal work where the national flag was hoisted. The Bill was drafted mainly to solve this problem, and to ensure respect to the national flag. One of the ways in which respect was shown was by wearing kabney and rachu, which was not possible in local government offices and schools, which was why it was not mandatory to hoist the national flag in these areas.

After prolonged debate on the issue, the National Council resolved that local government offices shall be put under section 16 where hoisting of the national flag was mandatory since they were the same as other government offices. Due to problems related to wearing

kabney and rachu, as well as other problems, schools shall be retained under section 17 where hoisting of the national flag was optional.

The Hon'ble Member from Paro Dzongkhag said that while the original draft of the Bill did not have anything on hoisting of the national flag on Hon'ble Speaker's car during Parliamentary sessions, it was later discussed and added by the Bill Drafting Committee. The general practice in the past had been that the hoisting of the national flag was not allowed on anyone's car while His Majesty the King was present in Tashichho Dzong, which was a sign of respect to His Majesty the King. Inclusion of this provision in the Bill would tantamount to disrespect towards tradition and His Majesty the King.

In response, the Hon'ble Member from Lhuentse Dzongkhag said that while he did not know whether the Speaker's car was traditionally entitled to hoist the national flag, the present practice was that the national flag was hoisted on the Speaker's car during Parliamentary sessions. In other countries, Parliament was considered as one of the highest institutions in the country and a big national flag was hoisted in front of Parliament. The national flag was also hoisted on the car of the presiding officer, though that was only while Parliament was in session.

The National Council thoroughly deliberated on the National Flag (Private Members') Bill of Bhutan 2012 on 12/1/2012 and 18/1/2012 and resolved to make the following amendments/changes for submission to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

## **Preamble**

**WHEREAS, the National Flag is the foremost symbol of the identity, unity and sovereignty of the country;**

*WHEREAS*, pursuant to Article 8, Section 4 of the Constitution of the Kingdom of Bhutan which states that a person shall respect the National Flag...; and,

*RECOGNISING* the need to preserve the sanctity of the National Flag;

Parliament of the Kingdom of Bhutan during its ..... Session **does** hereby enact the National Flag Act of Bhutan 2012 on the ..... Day of the ..... Month of the ..... Year corresponding to the ..... Day of the ..... Month of the Year 2012.

### **Section 1 (c)**

Come into force on the ..... Day of the ..... Month of the ..... Year corresponding to the ..... Day of the ..... Month of 2012. ~~However, this Act shall be implemented after six months of its enactment.~~

### **Section 2**

This Act hereby repeals the National Flag Rules of Bhutan 1972 and any provision of any law, ~~by law~~, rules and regulations which are inconsistent with this Act.

### **Title before Section 3**

**Descriptions and** Symbols ~~and colours~~ of the National Flag

### **Section 3**

The **National Flag** ~~is shall~~ be divided diagonally from the lower hoist-side corner, with the upper triangle ~~golden~~ yellow and the lower triangle ~~cadmium~~ orange.

### **Section 4**

The ~~golden~~ yellow colour ~~shall~~ symbolizes the secular tradition and **personifies** ~~personify~~ the Druk Gyalpo as the upholder of both spiritual and secular **tradition** ~~system~~ of the country.

### **Section 5**

The ~~lower cadmium~~ orange **colour** ~~shall~~ symbolizes the spiritual tradition. It ~~shall~~ also symbolizes the flourishing of the Buddhist teachings in general and that of the Kagyu and Nyingma traditions in particular.

### **Section 6**

**The National Flag has a snarling white dragon soaring** ~~Along the divided line the flag shall have a white dragon running diagonally upward facing away from the hoist side. The dragon shall symbolize the name of the Kingdom.~~

#### **New Section 6A**

**The dragon symbolizes the name of the Kingdom.**

#### **New Section 6B**

**The snarling mouth expresses the stern strength of the male and female deities of Bhutan.**

## Section 7

**The white colour** ~~Soaring of the dragon towards the sky~~ symbolizes the undefiled thoughts of the people that express their loyalty, patriotism and great sense of belonging to the Kingdom although they have different ethnic and linguistic origins.

## New Section 7A

**The soaring of the dragon towards the sky symbolizes glorious Drukpa victorious in all directions.**

## Section 8

The dragon shall hold **clasps** a white *Norbu*, or jewel in each of its **limbs** claws. ~~The *Norbu* symbolizes the spiritual and material wealth of the country.~~

## New Section 8A

**The *Norbu* symbolizes the wealth and perfection of the country.**

## Section 9

The dragon shall **has** have four limbs, and each limb shall **has** have five claws.

## Section 10

Irrespective of the size of the National Flag, ~~two third of it must be kept as the width~~ **of the National Flag must be two third of its length** so as to maintain a rectangular shape.

## **Section 11**

There shall be ~~six~~ **five** different sizes of the National Flag for hoisting at different public places and/or offices, public functions and by different institutions and high level state office holders. The different sizes of the National Flag shall be as specified in Table 1 of Annexure I.

## **New Section 11A**

**The size of the dragon shall be proportionate to the size of the National Flag.**

## **Title of Chapter 4**

## **~~ENTITLEMENTS FOR HOISTING THE NATIONAL FLAG~~**

## **Title before Section 15**

**~~Entitlements for Hoisting the National Flag outside office buildings~~**

## **Section 15**

The National Flag may be hoisted from sunrise till sunset in front of the offices of: ~~the Druk Gyalpo, the Gyaltson, royal parents of the Druk Gyalpo and the Je Khenpo(s).~~

- (a) Reigning and past Monarchs; and**
- (b) Je Khenpo(s).**

## **Section 16**

It shall be mandatory for the following institutions to hoist the National Flag every day from sunrise till

sunset:

- (a) Parliament;
- (b) Office of the Prime Minister;
- (c) All Courts;
- (d) Office of the Head of a Ministry if the office is located outside the premise of Tashichhodzong;
- (e) **Offices of Bhutanese Ambassadors/ Representatives abroad;**
- (f) ~~Offices of the Chief of the Royal Bhutan Army, Head of the Royal Body Guards and the Chief of the Royal Bhutan Police;~~
- (g) All Dzongs; ~~and,~~
- (h) Dzongkhag Administration office if the office is located outside the premise of a Dzong; **and**
- (i) **Main offices of the Local Government.**

## **Section 17**

All other Government Offices including ~~the Local Governments and~~ **the offices of the Head of the Royal Body Guards, the Chief of Royal Bhutan Police,** educational and training institutions may hoist the National Flag outside their main office building provided that the National Flag is accorded the due respect as specified under Chapter 5 of this Act.

## **Section 18**

All Government offices, ~~including the Local Governments and educational and training institutions,~~ non-Governmental offices and private establishments who do not hoist the National Flag on a daily basis may be required to hoist the National Flag on the following national events:

## **Section 19**

The National Flag ~~shall also~~ **may** be imprinted on **designated national flag carriers** ~~the State Aircraft.~~

## **Title before Section 20**

~~**Entitlements for Hoisting the National Flag outside the residence**~~

## **Section 20**

The National Flag may be hoisted at all times outside the palaces and residences of: ~~the Druk Gyalpo, the incumbent Je Khenpo(s) and the Gyalt sun.~~

- (a) Reigning and past Monarchs;**
- (b) Je Khenpo(s); and,**
- (c) Reigning and past Gyalt suns.**

## **Section 21**

The National Flag may be hoisted outside the **palace residence** of the Crown Prince and the **residence of the Prime Minister** if the residence is outside Thimphu.

## **Section 22**

~~**The National Flag may be hoisted outside**~~ Residences ~~shall also include~~ Government Guest Houses when ~~where~~ state dignitaries reside or halt during official tours.

## **Title before Section 23**

~~**Entitlements for Hoisting the National Flag on motor carriages**~~

## Section 23

~~Only the Druk Gyalpo(s), the Je Khenpo(s), the Queen and royal parents of the Druk Gyalpo may hoist the National Flag~~ **may be hoisted at all times** on their motor carriages ~~of at all times.~~

- (a) Reigning and past Monarchs;**
- (b) Je Khenpo(s); and,**
- (c) Reigning and past Gyaltsuns.**

## Section 24

The Crown Prince, the Prime Minister, the Chief Justice of the Supreme Court and the Speaker of ~~the~~ Parliament may hoist the National Flag on their official cars while on official travel outside Thimphu.

### New Section 24A

**Notwithstanding Section 24 of this Act, the Speaker of Parliament may hoist the National Flag on his/her official motor carriage when Parliament is in session.**

## Section 25

No state dignitary shall hoist the National Flag on his/her official car within a Dzongkhag's boundary as and when the Druk Gyalpo, the Je Khenpo(s) or the ~~Queen~~ **Gyaltsun** is resident in that Dzongkhag.

## Section 31

All Bhutanese Ambassadors/**Representatives** abroad may hoist the National Flag on their official cars while in the country of their official posting.

## **Title before Section 33**

**Use of** the National Flag in offices ~~rooms~~

### **Section 38**

The National Flag must be hoisted higher than other **institutional** flags at all times.

### **Section 39**

No object shall be placed over the ~~national flag~~ **National Flag** that is meant to be hoisted.

### **Section 43**

Whenever the National Flag is hoisted **outside a public office**, all Bhutanese shall ~~put on~~ **don** the national/**official** attire, including *Kabney/Rachu*, and all foreign nationals shall ~~put on~~ **don** formal attire, except during the celebrations of national events and sports meet outside the vicinity of—public offices whereby audiences may be exempted from wearing *Kabney/Rachu* and performers and/or athletes may be exempted from wearing the national attire.

### **New Section 43A**

**Notwithstanding Section 43 of this Act, all Bhutanese shall don the national/official attire and foreign nationals shall don formal attire in education and training institutes where the National Flag is hoisted.**

### **New Section 43B**

**It shall be the responsibility of the institutions where the National Flag is hoisted to ensure that all persons entering the premises are donned in appropriate attire.**

### **New Section 48A**

**The National Flag shall not be defaced or written for any purpose whatsoever.**

### **Section 53**

**A person committing** the following offences shall be liable for petty misdemeanor:

- (a) Hoisting other **institutional** flags higher than the National Flag;
- (b) Using the National Flag as wrappers, covers or substitute for other clothing;
- (c) Draping of remains of a deceased with the National Flag against the deceased's entitlement; ~~and,~~
- (d) Using the National Flag as business logo; **and,**
- (e) **Defacing or writing on the National Flag.**

### **Section 54**

**A person committing** the following offences shall be liable for violation.

### **Section 55**

*Deleted*

### **Section 56**

**A person committing** the following offences shall be

liable to pay a fine equivalent to a day's minimum wage:

- a) ~~Not being in national attire in the premises of a public office that has hoisted the National Flag outside its office although that office is not mandated to hoist the National Flag by law;~~
- b) Placing other objects over the National Flag **which is to be hoisted;**
- c) Not folding or unfolding, carrying, unfurling or storing the National Flag with due respect; and,
- d) Not storing neatly or disposing the National Flag unfit for hoisting with due respect.

## **Section 60**

In this Act the following terms shall have the meanings indicated unless the context clearly indicates otherwise.

- (a) **Dzongkhag Administration Office shall mean the Dzongda's office.**
- (b) **Formal attire** dress for foreign nationals shall include wearing of at least a collared shirt, trousers and formal shoes with stockings by men, and the equivalent by women.
- (c) **Half-mast:** The National Flag is hoisted at a length of one width (of the flag) lower than the normal hoisting on the flagpole.
- (d) **Local Governments** shall include the Dzongkhag Tshogdu, Gewog Tshogdey and Thromde Tshogdey.
- (e) **Official attire shall mean all attire/dresses/uniforms that are officially approved by the relevant institution(s) to be worn by a person in the performance of his/her official duty.**

## ANNEXURE I

Table 1: Specification on sizes, pole heights and places for hoisting the specified National Flag.

Flag size No.	Dimension (cm)		Height* of flagpole (m)	Places for hoisting the specified flag size
	Length	Width		
1	500	750	30-35	Tashichho-dzong and Punakha Dzong
2	200	300	15-20	<b>Parliament</b> , <del>Other Dzongs</del> , Prime Minister's Office, Supreme Court, <b>Offices of Head of Ministries</b> , <del>Parliament Houses and Royal Bhutan Army Head Office</del> , <b>and other Dzongs Offices of heads of ministries</b>
3	120	180	10-15	Other Government offices in-country and abroad, including <b>main offices of the Local Government</b> , <del>offices and</del> schools or learning institutions, the Royal Body Guards Head Office and the Royal Bhutan Police Head Office, <b>and Non-Governmental Offices.</b>
4	30-60	45-90	1-3	National Flag fastened to a structure (on cross bars, walls, balconies and windows) and hoisted in rooms.
5	10	15	-	Table
6 5	14	21	-	<b>Table/Car</b>

*\*From above the tip of the flag-stand to the crown of the flagpole.*

*(15<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Monday, 9<sup>th</sup> January 2012)*

### **3 Other Legislative Issues: Introduction of the Parliamentary Entitlement Act of Bhutan (Amendment) Bill 2012**

The Hon'ble Member from Pemagatshel Dzongkhag, the Chairperson of the Special Committee established in accordance with the resolution of the 7<sup>th</sup> Session of the National Council of Bhutan said that in order for Members of Parliament to contribute towards pension from their monthly salary in the same way they contributed towards provident fund, a Special Committee had been established so that the relevant Acts, and Rules and Regulations provided below were harmonized. Accordingly, the Committee after thorough study proposed amendment to six sections and an addition of a new section in the Parliamentary Entitlements Act of Bhutan 2008.

In order to establish a sustainable, strong and flawless foundation for democracy in the country, reduce corruption and solve the short and long-term inconveniences faced by Members of Parliament, he said that the Entitlements and Service Conditions Act for the Holders, Members and Commissioners of the Constitutional Offices of Bhutan 2010, the Labour Act of Bhutan 2006 and the National Pension & Provident Fund Rules and Regulations had been reviewed and a report submitted in the plenary meeting of the National Council. Further, consultative meetings had been held with concerned agencies. Amendments related to gratuity, transport and support services during the term of office had been made in the Parliamentary

Entitlements Act of Bhutan which was being introduced to the National Council for its endorsement.

*(23<sup>rd</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year corresponding to Monday, 16<sup>th</sup> January 2012)*

### **3.1 Debate on amendments and changes to the Bill**

The National Council thoroughly deliberated on the Parliamentary Entitlement Act of Bhutan (Amendment) Bill 2012 on 16/1/2012 and resolved to make the following amendments for submission to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

#### **Section 16**

When a member of parliament performs a journey outside the country in discharge of the duties, ~~they~~ **he/she** shall be entitled to traveling and other allowances in accordance with ~~applicable rules of the government~~ **the Parliamentary Entitlement Rules and Regulations.**

#### **Section 17**

The **A** members of parliament shall be entitled to executive lounges **class** while traveling by air **or train** ~~in and out of the country.~~

#### **Section 20**

##### **Transport**

Every Member of Parliament shall be provided with: ~~a lump sum amount to purchase a vehicle, free of customs duty, in the beginning of his or her term and a~~

~~monthly driver and vehicle maintenance allowance. Such proportionate amount as remaining upon his or her retirement/resignation before the completion of the five year term or termination from service shall be reimbursed to the Government. The lump sum amount and the monthly allowance shall be given in the Annexure I.~~

- a) **duty vehicle with a driver during the term of his or her office, and**
- b) **a vehicle quota to purchase a vehicle of one's choice, free of customs duty, sales tax and other government levy, if any. The vehicle must be imported during his or her term in office failing which the vehicle quota shall be rendered invalid, thereafter.**

## **Section 29**

### **Provident Fund and Pension**

Every Member of Parliament shall be entitled to provident fund **and pension** benefits in accordance with the Pension & Provident Fund laws and rules **for Members of Parliament.**

## **Section 30**

### **Eligibility Criteria for Gratuity**

A Member of Parliament upon retirement on completion of his **or her** term ~~of five years~~ **or resignation before the term,** shall be entitled to such amount of gratuity as ~~may be provided for under this Act~~ **as provided for in the Parliamentary Rules & Regulations.**

## **Section 31**

*Deleted*

## **New Section**

**The State shall provide an office with adequate support staff to every Member of Parliament to facilitate effective discharge of his or her parliamentary duties.**

*(19<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year corresponding to Friday, 13<sup>th</sup> January 2012)*

### **4 Introduction of the Tobacco Control Act of Bhutan (Amendment) Bill 2012**

The Hon'ble Minister for Health submitted that tobacco consumption had led to numerous incurable and dreadful diseases leading to millions of death each day worldwide. Consumption of tobacco not only harmed one's family and society, but was also against religion in a Buddhist country like Bhutan. While there had been prior resolutions of the National Assembly as well as rules on tobacco control, implementation of these controls had been difficult. Therefore, the Tobacco Control Act was adopted in the 5<sup>th</sup> session of Parliament.

Although the Bhutanese people in rural areas and members of the *Dzongkhag Tshogdus* of the twenty Dzongkhags had expressed gratitude, appreciation, satisfaction, faith and respect for the Act, some people had complained of problems and inconveniences faced by the communities when the concerned departments and agencies implemented the Act. To solve these problems, the Government had requested for amendment of the Act. The Hon'ble Minister expressed his gratitude to the Parliament for accepting to deliberate on it as an Urgent Bill.

One of the biggest problems in society was with regard to the offences and penalties related to sale and purchase of tobacco. To make these clear, the Government had amended section 25 of the Act, which dealt mainly with cultivation, manufacture, sale, supply and distribution of tobacco products. Likewise, amendments and additional sub-sections had been made under the existing section 11. In order to categorize and provide clarity related to penalties, new sub-sections had been added to section 52 including the felonies under it so that the penalties were reduced and differentiated.

Further, for the benefit of the people and convenience of the concerned agencies during implementation, not only had amendments been made to the above sections on offences and penalties, but also had identified designated places/areas with very clear definitions and submitted to Parliament. The National Assembly had already deliberated upon it and was being submitted to the National Council along with additional amendments for its deliberation and endorsement.

Expressing concern, the Hon'ble Members from Bumthang, Dagana, Gasa, Haa, Paro, Pemagatshel and Thimphu Dzongkhags asked how the number of people engaged in black marketing and smuggling could be reduced, and how the people who were already behind bars or those who were under trial would benefit once the Bill was adopted. The wide distance between the identified areas and entry point to the country meant that there was risk of the culprits running away. They also expressed doubts on the practicability of seizure of goods if a person was seen in possession of tobacco products beyond the entry point.

Similarly, the Hon'ble Member from Haa Dzongkhag felt that the problems faced in the past year had been caused not by the Act but due to its improper implementation by the concerned agencies. Most of the Government's amendments had been on setting limits, which would give rise to further problems. Thus, he said that he was hesitant to support the amendments.

However, the Hon'ble Member from Chhukha Dzongkhag said that irrespective of a person's liability, amendments should be made so that fines were imposed instead of prison terms due to the country's budgetary constraints and prison capacity.

Clarifying the above, the Hon'ble Health Minister admitted that with regard to black marketing and smuggling, a thorough research could not be carried out and that there was no direct data on it. In general, however, he felt that such incidences were falling compared to the past. While he was not certain about what would happen to those who were in prison or under trial under the previous Act, he expressed his hopes that the relevant agencies would adopt considerate measures. Despite conducting awareness programmes by the concerned agencies under the provisions of the Act and Rules, there would still be few individuals who would disregard and violate laws for whom there was no other option than to remain behind bars. None-the-less, he said that the amended Act would be helpful in solving such difficulties.

#### **4.1 Report of the Special Committee**

The Chairperson of the Legislative Committee, Hon'ble Kuenlay Tshering said that on having introduced a Bill by the Government to control tobacco in the country, Parliament had endorsed and enacted it as an Act.

During its implementation by the concerned agencies, lot of problems had arisen in the society. Therefore, the National Council had established a Special Committee to review the Tobacco Control Act and related rules & regulations to solve these problems. While consultative meetings were being held with the concerned agencies, the Government had submitted its motion for amendment of the Act. Hence, he said that the Special Committee had suspended its work.

The Legislative Committee after receiving the Tobacco Control (Amendment) Bill in the National Council had reviewed and amended it mainly by comparing what had been received from the Government and the National Assembly. He submitted that the House deliberate on the proposed amendments as these were a compilation of the concerns of both the general public and the National Council.

*(23<sup>rd</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Monday, 16<sup>th</sup> January 2012)*

#### **4.2 Debate on amendments and changes to the Bill**

The Hon'ble Members from Chhukha, Gasa and Wangduephodrang Dzongkhags, and Hon'ble Karma Yezer Raydi said that Parliament had thoroughly deliberated, adopted and passed the Tobacco Control Bill as an Act in its past sessions mainly because the then existing Rules had not been adequate. The Act prescribed high penalties in order to reduce consumption, black marketing and smuggling of tobacco. Once the Act was enacted, a lot of inconveniences had been created in the society during its implementation. Many people were penalized and sent to prison. Instead of benefitting the people, the Act placed them under great difficulties. Therefore, they

submitted that it would be greatly beneficial if sale and distribution of tobacco were legalized in the country.

Refuting the above, the Hon'ble Members from Mongar, Paro, Tashiyangtse, Trongsa and Thimphu Dzongkhags said that the objective of the past sessions had been to reduce and eradicate consumption of tobacco in the country. For this reason, Parliament had prescribed harsh penalties when the permissible limits had been violated. Most Bhutanese people appreciated this and were satisfied with the Act as it was. However, there had been serious problems in the society while implementing the Act because of which the Government had amended few sections. With a view to controlling tobacco, the various sections had been made clearer by categorizing and reducing the penalties. Thus, they argued that there was no specific need to legalize the sale and distribution of tobacco.

On this, the Deputy Chairperson said that while most of the people in the country appreciated the Tobacco Control Act which had been deliberated and adopted in the past session of Parliament, there had been inconveniences during implementation of the Act because of which amendments were necessary to benefit the society and fulfill the objectives of the Tobacco Control Act. In particular, he submitted that the penalty of fourth degree felony should be reduced to misdemeanor and misdemeanor to petty misdemeanor. If these proved beneficial, the prohibition of sale and distribution of tobacco could still be retained. He also suggested other measures such as removal of sections 11A and B of the Amendment Bill, imposition of high taxes, putting in place educational and awareness programmes, and retaining the amendments made by the Government.

While supporting the sale and distribution of tobacco in the country by imposing high tax, the Hon'ble Member from Sarpang Dzongkhag said that the prescribed limit should be increased if the amendments made by the Government were to be retained.

After prolonged deliberation on the matter, the National Council resolved to remove section 11C, D and E from the Amendment Bill, and allow the sale and distribution of tobacco products in the country.

The National Council deliberated thoroughly on the Tobacco Control Act (Amendment) Bill 2012 on 13/1/2012 and 16/1/2012, and resolved to make the following amendments/changes for submission to the National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

### **Section 11 (b)**

~~Sell or distribute~~ **manufacture** tobacco or tobacco products.

### **Section 11 (c)**

*Repealed the section in the Act, and did not accept the amended section in the Amendment Bill*

### **New Sections 11 (d) and 11 (e)**

*Not accepted, therefore, deleted*

### **Section 12**

A person ~~may~~ **importing** ~~import~~ tobacco or tobacco products ~~for personal consumption~~ **shall pay duties**

**and taxes as per the existing law** ~~as per the quantity and type determined by Parliament in Annexure I.~~

## **Section 51**

*Repealed the section in the Act, and did not accept the amended section in the Amendment Bill*

## **New Sections 51 A and 51 B**

*Not accepted, therefore, deleted*

## **New Sections 54 A and 54 B**

*Not accepted, therefore, deleted*

*(24<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Tuesday, 17<sup>th</sup> January 2012)*

## **5 Re-deliberation on the Consumer Protection Bill of Bhutan 2011**

The National Council had deliberated on the Consumer Protection Bill 2011 during its 7<sup>th</sup> session and submitted to the National Assembly along with 54 amendments and changes including addition of new sections in accordance with Article 13.5 of the Constitution of Bhutan. The National Assembly had deliberated on the Bill during its 8<sup>th</sup> session. Though not substantive, 9 sections had been amended to make the sentences and meanings clearer, and returned to the National Council for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

The National Council accepted all the amendments received from the National Assembly and resolved to submit the Consumer Protection Bill of Bhutan to His

Majesty the *Druk Gyalpo* for Assent in accordance with the procedures for Passing of Bills.

**5.1 The following sections amended by the National Assembly had been accepted by the National Council**

**Title**

*Retained as in the draft.*

**Section 5 (b)**

*Amended in Dzongkha text*

**Section 71 (c)**

*Amended in Dzongkha text*

**Section 84 (e)**

Head of the Office of Consumer Protection **who shall be the** ex-Officio Secretary to the Board.

**Section 86**

Decision **of the board**

All the decisions at any meeting of the Consumer Board shall be through consensus, and where no consensus is reached by a majority of the Members present and voting, the Chairperson shall have a deciding vote.

**New Sub-section under Section 89**

**k)** Make **public** all information **available to public** pertaining to complaints filed and actions taken.

## **Section 115**

A person who supplies or offers to supply any goods or services shall provide the consumer with a receipt for any purchase of goods or services exceeding the prescribed value **by the Consumer Protection Office. Notwithstanding this provision, a receipt shall be issued on the demand of the consumer**

## **Section 121**

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

## **Section 123 (p)**

*Retained as in the draft*

*(16<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Tuesday, 10<sup>th</sup> January 2012)*

## **E Legislative Issues (International Conventions)**

### **1 Introduction of the Ramsar Convention on Wetlands**

The Hon'ble Minister for Agriculture & Forests said that Bhutan was a rich country in terms of natural environment, and had numerous laws and policies to employ various measures towards its conservation and sustainability. However, there were some areas which

could not be covered by these laws and policies such as the protection of flora and fauna found on wetlands, especially, waterfowls. Therefore, he submitted that Parliament should ratify Bhutan's accession to the Ramsar Convention on Wetlands and participate as a member.

The Convention had been adopted by the member countries in 1971 at Ramsar, Iran and amended twice in 1982 and 1987. The Convention mainly recognized the interdependence between man and his environment, and aimed at providing water facilities to the flora, fauna and waterfowls found on wetlands, and at upholding the principles of short and long term sustainability of wetlands through preservation of its economic, cultural, scientific, and recreational resources.

Further, seasonal migration of those creatures dependent on water entailed trans-boundary movement. Recognizing these as global resources, the Convention had been founded so that national policies and international practices could be implemented jointly towards the conservation of wetlands and protection of water dependent flora and fauna.

The Convention would greatly facilitate the conservation policies of natural environment, which was one of the pillars of the country's development principle of Gross National Happiness. Moreover, sustainable maintenance of the natural environment in the country through conservation of swamps, marshes, peat bogs, natural and man-made water sources, reservoirs, streams, rivers, unclean water, hot-springs, and flora and fauna dependent on these would be enhanced. Therefore,

there was no cause for hesitation in joining the Convention as a member.

Further, there would be huge scientific and financial support for environmental protection if we became a member of the Convention, and the Government could carry out a lot of research and review activities. The Hon'ble Minister also asked the National Council to endorse the three Ramsar sites identified in the country at Phobjikha, Bumdeling and Khotokha as deemed appropriate.

On this, Hon'ble Kuenlay Tshering said that the Convention was a useful document for the country and supported the ratification. However, he pointed out some translation errors between the English and Dzongkha texts of the Convention, which needed to be corrected in consultation with the concerned agency. The National Council Secretariat was directed to submit the Convention to the relevant ministry and department once the corrections had been incorporated.

Expressing concern, the Hon'ble Members from Lhuentse, Haa and Thimphu Dzongkhags said that while on one hand the Convention was beneficial, it would adversely affect the day-to-day works of those people living in the Ramsar sites on the other hand. People would be victimized since the laws would be strict as would be necessary under the practices in such places. They wanted to know what the additional benefits would be for such victims if Bhutan were to become a signatory to the Convention.

In response, the Hon'ble Minister submitted that there were always advantages and disadvantages in any given situation. He said that we should not look at the

disadvantage of individual citizens but to consider the national and international interests, and the benefits in terms of conservation and sustainable management of the country's environment. He assured that the victims would be adequately compensated.

While supporting the main objectives of the Convention which were economic development and environmental conservation, the Deputy Chairperson asked if the laws and policies of the country were not adequate towards conservation of the environment if Bhutan did not become a member of the Convention. The places identified as Ramsar sites had already been included in the park areas and adequately protected. He asked what the separate benefits and supports were that we would get by becoming a member of the Convention, and if these benefits could be availed only upon becoming a member.

The Hon'ble Minister for Agriculture & Forests clarified that places under park areas were only provided with general environmental protection, and had no direct policies or laws related to them, especially those related to conservation of wetland. Wetlands and their flora, especially, endangered animals and birds were not covered. For example, the world renowned black-necked cranes stayed in Bhutan during winter where they were well protected. When these cranes flew to China during the summer, there should be similar protection for them. The Convention, he said aimed at establishing uniform international standards.

On the question of the Hon'ble Member from Chhukha Dzongkhag whether there was a membership fee for being a member of the Convention that could have greater harm to the country than the benefits, the

Hon'ble Minister said that while the annual membership fee was only US \$ 1000, there was a system for provision of scientific and financial support in accordance with our requirements. Therefore, the support received greatly outweighed the cost of membership fee.

### **1.1 Ratification of the Ramsar Convention on Wetlands**

The National Council thoroughly deliberated on the Ramsar Convention on Wetlands. Considering the enormous benefit of the Convention to the country in terms of environmental conservation, promotion of tourism and tradition, economic development, international relations and so on, the National Council ratified Bhutan's accession to the Ramsar Convention on Wetlands in accordance with Article 10.25 of the Constitution of Bhutan. Further, the House resolved that the differences in translation between the English and Dzongkha texts shall be corrected as shown in the Dzongkha version of the Convention, and submitted to the National Assembly for its ratification in accordance with Article 13.5 of the Constitution of Bhutan.

The National Council also endorsed all the three Ramsar sites identified by the Government, namely, Phobjikha, Bumdeling and Khotokha.

*(24<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Tuesday, 17<sup>th</sup> January 2012)*

## **F Issues Related to Policy Review**

### **1 Legalizing use of Electric Fencing**

The Hon'ble Member from Lhuentse Dzongkhag said that due to damages caused by wildlife to the community in the past decade and a half, agriculture development had been greatly hampered, compromising the national goal of achieving food self-sufficiency. Further, rural-urban migration had increased leaving rural land uncultivated and giving rise to shortage of farm labour, which was a big problem in the communities.

Bearing these problems in mind, he said that the National Council had discussed this issue during its second session, and submitted about 13 recommendations to the Government, one of which was the electric fencing to ward off wild animals from entering the fields. As a follow up, the Hon'ble Agriculture Minister was asked to look into the matter during the Question Time in the 5<sup>th</sup> session and further submitted written questions during the 7<sup>th</sup> Session.

Acting on this, Ministry of Agriculture & Forests had conducted numerous research activities on electric fencing in the villages and come up with a device that could ward off wild animals without harming human beings and other animals. This device developed by Mr. Tshering Penjor, a Research Officer with the Renewable Natural Resources Research & Development Center (RNR-RC) at Wengkhhar, Mongar was cheaper by 60 to 70 percent compared to the imported ones and had

greatly benefitted the farmers. To-date, he said that the electric fencing device had been tested in 8 different places.

However, the Bhutan Energy Authority (BEA) had banned the use of electric fencing under the provisions of sections 69, 3.1, 29.1, 29.2, 42.1, 60.3 and their sub-sections, and section 61.1 and its two sub-sections under the Bhutan Electricity Act 2001. This had been mainly due to the low standard of electric fencing in Bhutan, as well as the dangers posed by electric fencing to human lives. The draft regulations on electric fencing also prohibited endangerment of human life. In order to solve the problems faced by the communities, a consultation meeting had been conducted among the agencies concerned, wherein it had been indicated on the need to amend the Bhutan Electricity Act 2001 in order to legalize electric fencing.

While doing a review and research on whether or not the Act required amendment, the Hon'ble Member said that it was found that the Bhutan Electricity Act did not have any provision that directly prohibited electric fencing. The sections under the Act were very broad. If the responsibilities were clearly delineated and implemented properly, there was no need for the Bhutan Electricity Act to be amended.

Damages caused by wildlife to crops had not only affected the economy in the communities, but had also hampered the efforts related to environmental conservation. Considering these two critical issues, he urged the Government to implement electric fencing as it was legal.

Most of the Hon'ble Members said that since electric fencing was not in violation of the Bhutan Electricity Act, electric fencing needed to be legalized as soon as possible for the benefit of the Bhutanese farmers. Likewise, the Hon'ble Member from Dagana Dzongkhag submitted that if the Act had no clear provisions on electric fencing, it should be amended with an addition of a section that legalized electric fencing. He also proposed initiating new insurance schemes to ensure crop security for the benefit of farmers.

The Hon'ble Members from Gasa and Chhukha Dzongkhags said that the biggest inconvenience caused by wildlife in the communities was damage of crops. They felt the need to develop strategies to prevent crop damage in order to enhance agriculture production. Along with enhanced agriculture production, they said that there was also the need to create market for the agriculture produce.

Similarly, the Hon'ble Member from Zhemgang Dzongkhag said that while electric fencing had the potential to prevent most of the wild animals, measures had to be also taken to preclude other animals. Despite repeated deliberations in the past sessions of the National Council on the problems caused by wild animals in the communities, the Government had not considered this a priority and acted promptly on the issue. Henceforth, she said that the Government needed to put the measures for prevention of wild animals from entering agricultural fields at the top of its list of planned activities.

The Hon'ble Member from Pemagatshel Dzongkhag said that for the first time in the country, a person had employed his skills and developed a device to ward off

wild animals with an electric fencing. He said that such a person should be given due recognition by the government and ministry concerned.

Recognizing that the damages done by wildlife in the communities had caused the people in the rural areas serious difficulties; acknowledging that the Government had employed various measures to solve these problems, one of which was electric fencing provided to the farmers at low rates greatly benefitting them; and convinced that electric fencing around the farmers' field was legal, the National Council resolved to submit the following recommendations to the Government so that the agencies concerned could implement the electric fencing:

1. To implement the electric fencing as early as possible since it helped improve the living standard of the people and protect the natural environment, besides being legal.
2. To formulate safety standard for electric fencing and implementation plans to ensure safe use of electric fencing.
3. To provide engineering, scientific and financial support to Ministry of Agriculture & Forest by the relevant agencies to ensure that the benefits of electric fencing were fully utilized by farmers.
4. To remind the Government to maximize its efforts and come up with immediate measures to solve the problems faced by the farmers due to threats from wildlife on domestic animals and crops.

## **2 Shortage of Foreign Currency Reserve**

The Hon'ble Member from Lhuentse Dzongkhag as a member of the Economic Affairs Committee submitted that capital borrowing from foreign countries for infrastructure development in the country had resulted in massive debts. The people were greatly disturbed by this because of which the National Council in its plenary meetings had discussed on the issue several times. The current shortage of foreign currencies and Indian Rupee had greatly hampered the economy of the country. In order to gauge the measures the Royal Government had taken to sustain the country's economy, if any, and to come up with concerted measures if such measures were not already in place, he said that the National Council had included the issue in the agenda for deliberation.

While discussing on the issue in the National Assembly during the present session, the Hon'ble Finance Minister had reported that there was no cause for undue concern, based on which the National Assembly had resolved that a report on this shall be submitted in the 9<sup>th</sup> Session. As research and review on the same subject matter by both the Houses meant consulting the same institutions and agencies over and again, the proposal was found inconvenient. Therefore, the Hon'ble Member submitted that the issue be taken out from the agenda of the 8<sup>th</sup> session of the National Council.

Since the issue of shortage of foreign currencies had been deliberated in the 8<sup>th</sup> session of the National Assembly and resolved that a detailed report shall be submitted in the 9<sup>th</sup> session, the National Council decided to take out the issue from the agenda of its 8<sup>th</sup> session.

(25<sup>th</sup> Day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year  
corresponding to Wednesday, 18<sup>th</sup> January 2012)

## **G Any Other Business**

### **1 Review of *Tshogpa* Salary**

The Hon'ble Minister for Finance said that local governments were crucial in a democratic system. However, despite holding the local government elections twice with the view to establishing strong institutions, the election of local leaders was not over. The Government was particularly disturbed due to less turn out as *Tshogpa* candidates. Concerned, the Government had discussed this at length in a Special Cabinet meeting, where it had been identified that the reason for less turn out as *Tshogpa* candidates was due to low salary. The Government, therefore, had decided to raise the existing *Tshogpa* salary of Nu. 2000/- to Nu. 5000/- starting 1<sup>st</sup> January 2012 and an Executive Order to this effect been issued.

The Hon'ble Minister said that after the Government issued the order on the salary increase, 297 candidates had been elected from the 359 vacant *Gewog Tshogpa* seats and only 62 seats remained vacant. The increase in salary had helped encourage candidates to come forward for the election. He said that the *Tshogpas* had great responsibilities in their dealings with the people of their localities and the local government leaders. The Government had increased the *Tshogpa* salary based on the Pay Commission's recommendation of Nu.1,500/-.

While in the past *Tshogpas* were not paid for their services to the communities in their locality, the Government, having studied the need, had started

paying them a salary of Nu.1,000 in 2007, which was increased to Nu.1,450 in 2009 and then to Nu.2,000 in 2011. Though the salary had been revised twice, the issue of the salary being low had been submitted to the Government repeatedly by the National Council and the general public. However, the salary could not be increased due to very high current expenditure.

Now, with the increase in the *Tshogpas*' salary to Nu. 5,000/-, the annual current expenditure was going to be Nu. 65.100 million. For the fiscal year 2011-12, the estimate of six months from July to December 2011 based on the earlier pay scale and the remaining six months based on the revised scale worked out to Nu.39.565 million. As the approved budget of Nu.41.475 million for the 2011-2012 fiscal year would cover the cost, there was no need for supplementary budget.

To attract competent people to hold the post of *Tshogpas* in the future, the increase in salary was important. Based on the Pay Commission's recommendation of Nu.1500, *Tshogpa*'s salary had been increased to Nu.2000, which however, was not found to be adequate. Therefore, the Hon'ble Minister for Finance submitted the proposal to further increase the salary to Nu.5000/- with the hope that the National Council would endorse it in the interest of the country's democracy.

On this, Hon'ble Karma Yezer Raydi said that during the deliberations on the revision of salary for the civil servants and public servants in general, it had been discussed that the increase shall not go beyond the recommendations of the Pay Commission. However, the present increase in the salary of *Tshogpas* was way beyond the recommendations due to the fact that the

*Tshogpa's* salary had been very low. While this had been inevitable in the new system, he said that in future the established procedures had to be followed.

In support, the Hon'ble Member from Thimphu Dzongkhag said that the Government's proposal had come after the National Council had discussed on the need to increase the *Tshogpas'* salary in many of its sessions. While the increase in salary was for the *Tshogpas*, in general, she said that the *Thromde Tshogpas* had greater responsibilities compared to *Gewog Tshogpas* and that they should be paid more. Likewise, the Chairperson of the *Dzongkhag Tshogdus* had greater responsibilities compared to other *Gups* and deserved to be paid more.

The Hon'ble Minister for Finance said that there were generally financial and other related problems in establishing a Pay Commission. He felt that a Pay Commission should be established every time a new Government was formed. He also said that there was no set procedure anywhere as to how high or low the salary revisions should be fixed from that of the Pay Commission's recommendations. The Government had acted, accordingly. Since every individual interpreted the way one understood, there was no violation of any procedure. On the enhanced salary to *Thromde Tshogpas*, he said that the Government had not considered it, separately.

### **1.1 Debate on the Review of *Tshogpa* Salary**

Local governments consisted of the *Thromde Tshogpas* and the *Gewog Tshogpas*. Some of the members said that the *Thromde Tshogpas* faced great difficulty having to deal with people in big towns, and had greater

responsibilities compared to the *Gewog Tshogpas*. Therefore, they needed to be paid more than the *Gewog Tshogpas*. The Hon'ble Members from Lhuentse and Zhemgang Dzongkhags submitted that while the present salary may be kept as that of the *Tshogpas* in general, different categories could be made when the Local Government Entitlement Bill was discussed, later. The Hon'ble Member from Mongar Dzongkhag also pointed out that the salary of *Thromde Tshogpas* in the past had been equal to that of the salary of *Gewog Mangmis*, which should be continued.

Hon'ble Tashi Wangmo and the Hon'ble Members from Chhukha and Haa Dzongkhags said that since the Government had a lot to consider before directly increasing the salary of *Thromde Tshogpas*, appropriate measures could be adopted once the responsibilities of *Tshogpas* was thoroughly researched and reviewed. In this regard, the Hon'ble Member from Chhukha Dzongkhag said that among the members of the *Dzongkhag Tshogdu*, the Chairperson had greater responsibilities and work compared to other *Gups*. Similarly, the Deputy Chairperson of the *Dzongkhag Tshogdu* had additional responsibilities. Therefore, the Chairperson and Deputy Chairperson should be given more salary and other remunerations. The National Council resolved to note these to help during the deliberations on the Local Government Entitlement Bill.

The Hon'ble Member from Gasa Dzongkhag said that generally, members of *Yenlag Thromdes* in the Dzongkhags participated as members of the *Dzongkhag Tshogdu* and could voice their concerns. However, there were places like Gasa which did not qualify as *Yenlag Thromde*. The few business people residing in the Dzongkhag had problem in getting their concerns

registered in the absence of a member representing the business community.

On payment of additional salary to *Thromde Tshogpas*, the Deputy Chairperson said that there was no other alternative but to discuss it later when the Local Government Entitlement Bill was deliberated. With regard to the Dzongkhags without identified *Thromdes*, he said that the proposals from these Dzongkhags should be submitted in accordance with the criteria set by the Government. Once the *Thromdes* were identified, *Thromde* members should be elected so that the concerns of the business people in these places were addressed.

After thorough deliberation on the revision of *Tshogpas'* salary, the National Council resolved as follows:

1. Since local governments were important institutions in a democratic system, participation in the election of local leaders should be encouraged so that all vacant seats were filled, thereby strengthening these institutions. Therefore, the National Council resolved to extend its full support to the Government in increasing the *Tshogpas'* salary to Nu. 5,000/- per month with effect from 1<sup>st</sup> January 2012.
2. Of the *Thromde Tshogpas* and *Gewog Tshogpas* in the local government, it was felt that the responsibilities of the *Thromde Tshogpas* were more important and greater compared to that of the *Gewog Tshogpas*. Therefore, the National Council resolved to recommend the Government to conduct a feasibility study on the need to pay enhanced salary to the *Thromde Tshogpas* and accordingly, decide on it.

## **H Concluding Ceremony**

### **1 Closing Address by the Hon'ble Deputy Chairperson**

Although the 8<sup>th</sup> Session of the National Council had been short, the Hon'ble Deputy Chairperson said that important historical events had taken place, amongst which Her Majesty the Queen had graced the Joint Sitting of Parliament for the first time since the Royal Wedding. On behalf of all Members of Parliament and on his own, he expressed his heartfelt gratitude to Her Majesty the Queen.

While many Government Bills had been discussed in the interest of the nation till now, this was the first time that a Private Member's Bill had been deliberated upon. Similarly, the Consumer Protection Bill of Bhutan became the first ever Bill to be passed without deliberation in a Joint Sitting of Parliament. Further, the first Parliament of Bhutan which had passed the three Acts, namely, the Election Act of Bhutan, the Tobacco Control Act of Bhutan and the Parliamentary Entitlement Act of Bhutan had also amended the same Acts within its term making the 8<sup>th</sup> session unique.

Being a short session, Question Time could be held only once in which three Government Ministers had participated. Along with discussion on policy issues, an exhibition was also held, which was yet another remarkable feature of the session.

The success of the session was attributed to the full commitment of every member and committee of the National Council under the wise guidance of Their Majesties the Fourth and Fifth *Druk Gyalpos*, and the

full support of the Secretariat staff who had tirelessly worked day and night. The Hon'ble Deputy Chairperson expressed his gratitude to everyone involved in the session.

While the Government could submit new Bills during the 9<sup>th</sup> Session in order to fulfill the plans and policy objectives of the Government, the Hon'ble Deputy Chairperson urged that only the priority Bills be submitted to Parliament three months before the session in keeping with the procedures for passing of Bills. The Secretariat was advised to accordingly discuss with the Government and relevant ministries to ensure that the procedures were followed if the Bills were to be first introduced in the National Council. Likewise, if there were Private Member's Bills, he said that these had to be drafted early and the Committee Chairpersons reshuffled in keeping with the procedures.

Past experience had shown that review of National Council resolutions by the House Committee was beneficial. Therefore, the Secretariat was asked to complete drafting the resolutions within a week to enable the House Committee to do the editing in a retreat.

Finally, the Hon'ble Deputy Chairperson said that the successful completion of the 8<sup>th</sup> Session was mainly due to the blessings of the Triple Gem, the prayers of His Holiness the *Je Khenpo* and the monastic bodies, in particular, the guidance of Their Majesties the Fourth and Fifth *Druk Gyalpos* to the National Council while carrying out its legislative and review functions for which he expressed his deep gratitude.

The 8<sup>th</sup> session of the National Council ended with *Trashi-Moen-Lam* on the 25<sup>th</sup> day of the 11<sup>th</sup> Month of the Iron Female Rabbit Year.



(Namgye Penjore)  
**Chairperson**  
**National Council of Bhutan**

**List of Hon'ble Members who participated in the  
8<sup>th</sup> Session of the National Council of Bhutan**

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