

Proceedings and Resolutions (Translated) of the 14th Session of the National Council of Bhutan

(Wednesday, 12th November 2014 corresponding to the 21st Day of the 9th Month of Wood Male Horse Year of the Bhutanese Calendar)

A. Proceeding for the Opening Ceremony

The opening ceremony of the 14th session of the National Council of Bhutan was held on 12th November 2014 corresponding to the 21st Day of the 9th Month of Wood Male Horse Year of the Bhutanese calendar. The traditional *Marchhang Tendrel* ceremony was presided over by the Chairperson.

B. The Chairperson's Opening Address

The Chairperson expressed his gratitude to His Majesty the King for the wise guidance and reminder to the nation on the celebrations of the 60th Birth Anniversary of His Majesty Jigme Singye Wangchuck. More than the celebrations of the historic moment, he said that the occasion would provide a great opportunity for all Bhutanese to express their gratitude and pay homage to His Majesty the Fourth Druk Gyalpo for bringing unprecedented peace, security, happiness and socio-economic development aimed solely at fulfilling the interest of the nation and its people, and also to pray for His long life.

The Chairperson pointed out that while offering *Tenzhug* (prayer for long life) to His Majesty the Fourth Druk Gyalpo by the Zhung Dratshang a few days ago, one of the lines of the *Tenzhug* composed by His Holiness the Je Khenpo stated that although His Majesty the Fourth King was a jewel of the entire world, the privilege to reap the benefits of that jewel rested solely with the people of

Bhutan. Although His Majesty the Fourth Druk Gyalpo abdicated the Throne, the presence of His Majesty the Fifth Druk Gyalpo in true person made no difference to the country. He said that such a blessed state of affairs was possible because of not just the individual merits but the collective good fortune of all the Bhutanese people. He also said that we should consider ourselves very fortunate to celebrate such occasions and earn further merits.

Similarly, the performance of *Sanga Dorji Thegpai Ngajur Moenlam* at the Thimphu Memorial Chorten by the Great Nyingma Masters to pay tribute to His Majesty the Fourth Druk Gyalpo on His 60th Birth Anniversary was a great opportunity for the Bhutanese to accumulate merits and disband demerits.

The Chairperson dedicated the 14th Session of the National Council as part of the celebrations and reminded the members not to take the deliberations on the legislative & policy issues and reports in the agenda as part of their normal functions. Instead, he asked them to bear in mind the significance of the year, and aim at passing historic resolutions through meaningful deliberations in the interest of the nation and its people.

Finally, the Chairperson offered his prayers for the long life and glorious accomplishments of His Majesty the King, His Majesty the Fourth Druk Gyalpo and the Royal Family in view of the sacred occasion of the Descending Day of Lord Buddha which would be observed on the following day.

(14th November and 3rd December 2014 corresponding to the 23rd Day of the 9th Month and the 12th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

C. Implementation Report on the Resolutions of the 13th Session of the National Council

The National Council during its 13th Session had deliberated on three issues related to review of policies and submitted recommendations to the government and relevant agencies. The Chairperson of the House Committee submitted the implementation reports that were received as per Annexure I during which some members pointed out that answers to one of the issues related to LPG cylinders and another on the import of second hand electric vehicles were not given clearly. The issues were further deliberated upon and following resolutions passed:

1. Resolution no. F (1): Of the 5 resolutions submitted to the Government on the issue of shortage of LPG cylinders and kerosene oil, responses on 4 resolutions were received. Since answer to resolution no. 2 was not received, it was resolved that written answer shall be sought for detailed understanding of the issue.
2. Resolution no. H (1): On the issue related to review of the policy of import of second hand electric vehicles, 3 resolutions were submitted to the Government on which answers were received. However, since the answers did not provide detail information, it was resolved that written answer shall be sought for detailed understanding of the issue.

D. Report on Issues received from Dzongkhag Tshogdus

Among the issues received from the Dzongkhag Tshogdus, the Hon'ble Member of Chhukha Dzongkhag reported to the House on issues related to land compensation and land substitution as per Annexure II. On this, the House reached a consensus to seek clarification from the National Land Commission and the Department of National Properties at the earliest and submit a report. Accordingly, clarifications were received from the two agencies concerned and submitted to the House as per Annexure II on 3/12/2014.

(Monday, 17th November 2014 corresponding to the 25th Day of the 9th Month of Wood Male Horse Year of the Bhutanese Calendar)

E. Legislative Issues

1. Introduction of the Local Government Members' Entitlement Bill of Bhutan 2014

The Member-in-charge of the Local Government Entitlement Bill, Hon'ble Minister for Home & Cultural Affairs in his introduction said that it was not just the central government but the local governments, too, were equally important to establish and sustain a strong democracy in the country according to which a Local Government Act was adopted in 2009. In keeping with Chapter 11 of the Act which spells out the responsibilities, powers and entitlements of the local government members, a Local Government Members' Entitlement Bill was felt necessary. The Ministry of Home & Cultural Affairs and the department concerned started drafting a Bill since 2010. It was not only submitted to the Cabinet, but was also reviewed by the second Pay Commission.

The main objectives of the Bill were to attract competent and experienced candidates to participate in local governments since local governments were very important in a democracy, to prevent corruption through provision of benefits as per their entitlements, and to fill the vacancies that currently existed in the local governments. If a separate Bill was not there, all entitlements would have to be decided by the Government in future giving rise to doubts and reservations to those participating in local government elections. Therefore, the minister said that there was an absolute need for this Bill.

The newly drafted Bill not only covered salary, but also travel allowance, daily allowance, leave entitlements and other benefits similar to the entitlements of the Members of Parliament and civil servants to ease the difficulties faced by those working in local governments. The Bill was first deliberated in the National Assembly during its 3rd Session and submitted to the National Council. The minister asked the National Council for a thorough deliberation and adoption of the Bill in the interest of the nation and the people, in particular, the principles of democracy.

1.1. Deliberations on the Bill

The National Council deliberated on the Local Government Members' Entitlement Bill of Bhutan 2014 on 17/11/2014 and 19/11/2014. Following amendments and changes were made which shall be submitted to the National Assembly for re-deliberation.

Preamble

~~WHEREAS, pursuant to the Constitution of the Kingdom of Bhutan 2008, a member of the Local~~

Government is entitled to remuneration, allowance and benefits;

~~AND WHEREAS, the Royal Government deems necessary to ensure effective discharge of responsibilities by Local Governments and to enhance the efficiency, commitment to service and morale of the members of the Local Government.~~

~~Parliament of Bhutan does hereby enact the Local Government Entitlements Act of the Kingdom of Bhutan 2013 on the ...day of the ...month of Female Water Snake Year of the Bhutanese calendar corresponding to the...day of ..., 2013 at its ... session of the Second Parliament~~

WHEREAS ~~Whereas~~, the Constitution of the Kingdom of Bhutan 2008 stipulates that there shall be a system of Local Government in the Kingdom comprising Dzongkhag Tshogdus, Gewog Tshogdes and Thromde Tshogdes in order to facilitate the direct participation of people in the development and management of their social, economic and environmental well-being;

WHEREAS ~~Whereas~~, a high institutional capacity of the Local Governments is indispensable to fulfill the roles entrusted to them by the Constitution; and

WHEREAS ~~Whereas~~ it is desirable that members of Local Governments be provided with equitable, adequate and competitive remuneration, allowance and benefits ~~to serve as incentive~~ to discharge their duties with competence, integrity and fidelity.;

Parliament of the Kingdom of Bhutan on the ...day of the.....Month of Wood Male Horse Year of the Bhutanese calendar, corresponding to theday of

..... **2014 enacts the Local Government Members' Entitlement Act, 2014 as follows:**

Section 4.1

... attract **competent and high-quality qualified** candidates;

Section 5.4

~~Other allowances, benefits and emoluments as may be approved by the Government as per the regulations from time to time.~~

Section 6

The **entitlements** ~~salary, allowances and benefits~~ shall be such amounts as may be determined by the Government ~~on the recommendation of the Pay Commission,~~ in accordance with the provisions of the Constitution of the Kingdom of Bhutan, 2008.

Section 8

Commencement and Termination of Entitlements

A member shall be entitled to salary, allowances, benefits and other emoluments from the day on which the member **is declared elected.** ~~takes office to the Local Government after the election.~~

New Section 8A

A member shall be entitled to salary, allowances, benefits and other emoluments till the day on which the member's seat become vacant as per the Local Government Act.

Section 10

The revision in the entitlements salary, allowances, benefits and other emoluments shall ~~may~~ be made by the Government ~~on the recommendation of the Pay Commission~~ **from time to time in accordance with the regulations in accordance with the provisions of the Constitution of the Kingdom of Bhutan 2008.**

Section 12

A member and ~~Gaydrung~~ shall be entitled to a monthly salary as **determined** ~~approved by the Government on the recommendation of the Pay Commission~~ **in accordance with the provisions of the Constitution of the Kingdom of Bhutan, 2008.**

Section 15

A member ~~Gups and Thrompons~~ shall be entitled to mobile phone voucher allowance. ~~to an amount approved by the Government.~~

Section 16

A Chairperson and a Deputy Chairperson of Dzongkhag Tshogdu shall be entitled to **an additional** ~~special~~ responsibility allowance at a rate approved by the Government ~~on the recommendation of the Pay Commission.~~ **The rates shall be as approved by the Government.**

Section 17

A **member** ~~Gup, Mangmi and Gaydrung~~ **Thrompon** shall be entitled to the following categories of paid leave:

17.1 *casual leave*

17.2 *earned leave;*

17.3 *maternity leave;*

17.4 *paternity leave; and*

17.5 *medical leave.*

The leave entitlements as admissible under Section 17 above shall be stipulated in the Rules.

Section 19

~~Gup, Mangmi and Gaydrung **Thrompon** A Member on leave shall be considered may be called for duty by the appropriate authority according to the exigencies of service.~~

Section 20

~~A Gup, Mangmi and Gaydrung **Thrompon** A member shall be entitled to encash earned leave in a financial year at the rates determined by the Government.~~

Section 23

A Member shall be entitled to receive payments by way of travel allowance/mileage as the case may be and *daily subsistence allowance* at rates determined by the Government for approved official travel both inside and outside the Local Government jurisdiction **in accordance with the applicable rules of the Government.**

~~**The rates shall be as determined by the Government from time to time.**~~

However, a **Member** or Gaydrung shall not be entitled to **such** travel allowance/mileage if ~~such member or~~

Gaydrung he/she is provided with conveyance facilities by the Government.

Section 24

A member shall be entitled to draw such allowances **in accordance with the applicable rules of the Government** for undertaking official visits **abroad**.

Section 26

~~A member upon completion of his/her term of office shall be entitled to the following benefits:~~

~~26.1 gratuity;~~

~~26.2 provident Fund;~~

~~26.3 other retirement benefits approved by the Government on the recommendation of the Pay Commission from time to time.~~

A **Every Member shall be entitled to retirement benefits as per the provisions of this Act.**

New Section

A Member shall not be entitled to gratuity and other retirement benefits, if:

- a) the Member's service is terminated;**
- b) the Member willfully remains outside the country with knowledge of indictment or charges, as the case may be; or**
- c) the Member fails to appear, testify or produce any document relating to his/her service as Member before Member an appointed authority without any reasonable justification.**

New Section after Section 28

The amount of gratuity payable to a member shall be determined by the Government as per the prescribed procedures rules.

Voting Details on the Adoption of the Local Government Members Entitlement Bill of Bhutan 2014

Date: 19/11/2014; Time: 10:17; Total Votes: 23; “YES”: 23; “NO”: 0; “Abstain”: 0

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi
4. Hon Tashi Wangmo
5. Hon Tashi Wangyal
6. Hon Nima
7. Hon Sangay Khandu (Gasa)
8. Hon Sangay Khandu (Samtse)
9. Hon Kaka Tshering
10. Hon Nima Gyaltsen
11. Hon Pema Tenzin
12. Hon Sonam Wangchuk
13. Hon Jigmi Rinzin
14. Hon Rinzin Dorji
15. Hon Jigme Wangchuk
16. Hon Dhan Bdr. Monger
17. Hon Tashi Phuntsho
18. Hon Kamal Bdr. Gurung
19. Hon Tashi Dorji
20. Hon Pema Dakpa
21. Hon Sonam Dorji
22. Hon Tempa Dorji
23. Hon Tharchen

*(Tuesday, 18th November 2014 corresponding to the 26th
Day of the 9th Month of Wood Male Horse Year of the
Bhutanese Calendar)*

2. Introduction of the Biosafety Bill of Bhutan 2014

The Member-in-charge of the Biosafety Bill of Bhutan, Hon'ble Minister for Agriculture & Forests in his introduction said that the National Biosafety Framework was adopted by the Royal Government in August 2006 under the assistance and obligations conferred under the Cartagena Protocol which was adopted on 26th August 2002. The projects started under the framework were to strengthen existing institutions and professional infrastructures so that genetically modified organisms could be controlled through legal support system.

The minister said that the Bill became necessary in order to solve the problems related to most of the edible goods imported into the country from other countries which were made by using genetically modified organisms, for security of the people and environment in places with easily accessible borders between bigger countries through food security and self sufficiency, and in particular, the requirement of a law to control genetically modified organisms under the Cartagena Protocol.

With the objectives of achieving food security and proper implementation of lawful biosafety activities under the security of people and environmental measures, Bhutan Agriculture & Food Regulatory Authority (BAFRA) and other agencies concerned were consulted. The Bill was drafted by a consultant appointed with the project under the National Biosafety Board. The Bill was subjected to consultation numerous times with

concerned ministries, agencies, institutions and international members after which it was approved by the Cabinet. The Bill was then deliberated in the National Assembly and submitted to the National Council for thorough deliberation and adoption.

2.1 Deliberations on the Bill

The National Council deliberated on the Biosafety Bill of Bhutan 2014 on 18/11/2014 and 24/11/2014. Following amendments and changes were made which shall be submitted to the National Assembly for re-deliberation:

Preamble

WHEREAS, the Constitution of the Kingdom of Bhutan provides for the protection, conservation and safeguarding of biodiversity in the country; ~~The Royal Government and People of Bhutan:~~

WHEREAS, ~~Recognizing~~ that the Royal Government of Bhutan has a precautionary policy concerning genetically modified organisms;

WHEREAS, ~~Being mindful~~ that such policy was adopted to protect the rich domestic and wild biodiversity of Bhutan, promote the nation's food **and nutrition** security and safeguard the animals and human health, and

AND WHEREAS, ~~Recognizing~~ that Bhutan is a party to the Cartagena Protocol on **Biosafety Biodiversity to the Convention on Biological Diversity;**

The Parliament of the Kingdom of Bhutan hereby enacts the Biosafety Act of Bhutan, **2014** ~~2013~~ on the ___ day of the __ month of the__year of the Bhutanese

calendar, corresponding to the ____ day of ____, 2014, at itsSession of the Parliament, as follows:

Section 5

General Powers

~~The Minister responsible for of Agriculture and Forests shall be the primary authority for the administration of this Act.~~

Section 6

National Biosafety Commission Committee Board

This Act hereby establishes a ~~Commission Committee~~ **Board**, to be known as the National Biosafety ~~Commission Committee~~ **Board** which shall consist of the following members:

Section 6 (1)

... the Minister responsible for Ministry of Agriculture and Forests, who shall serve as the Chair**person**;

Section 6 (2)

... the head of:

- (a) **relevant departments and agencies under the Ministry of Agriculture and Forests**; ~~the Bhutan Agriculture and Food Regulatory Authority~~;
- (b) ~~the Department of Agriculture, Ministry of Agriculture and Forests~~;
- (c) ~~the Department of Livestock, Ministry of Agriculture and Forests~~;

- ~~(d) the Department of Forest and Park Services, Ministry of Agriculture and Forests;~~
- ~~(e) the National Biodiversity Centre, Ministry of Agriculture and Forests;~~
- ~~(f) the Council of RNR Research of Bhutan, Ministry of Agriculture and Forests;~~
- (g) the Department of Public Health, Ministry of Health;
- (h) the Department of Trade, Ministry of Economic Affairs;
- (i) the Department of Industry, Ministry of Economic Affairs **Revenue and Customs, Ministry of Finance;**
- (j) the Bureau of Law and Order, Ministry of Home and Cultural Affairs;

Section 7

The ~~Commission~~ **Board** is the highest decision making body for issues related to biosafety **pertaining to human and animal health. Where the biosafety issues have bearing on the conservation and protection of environment, the provisions of the National Environment Protection Act shall prevail.** ~~Commission shall exercise the jurisdiction and powers and discharge the mandates conferred or imposed by or under this Act.~~

Section 8

The Head of the Bhutan Agriculture and Food Regulatory Authority shall serve as the Member Secretary of the ~~Commission~~ **Board.**

Section 9

Mandate of the ~~Commission~~ **Committee Board**

The ~~Commission~~ **Committee Board** shall:

- ~~(1) Approve mechanisms to implement and monitor national biosafety policy;~~
- ~~(2) Approve the annual work plans and programmes relevant to biosafety related activities requiring coordination between Ministries and autonomous agencies, and departments, divisions or non-departmental agencies within Ministries and autonomous agencies;~~
- ~~(3) Make recommendations on the activities of other ministries, autonomous agencies, departments, and organizations involved in the administration of biosafety;~~
- ~~(4) Make recommendations on mechanisms and procedures to address any intentional or unintentional transboundary movement of genetically modified organisms into the Kingdom;~~
- ~~(5) Advise on appropriate responses to the media with regard to any intentional or unintentional transboundary movement of genetically modified organisms into the Kingdom;~~
- ~~(6) Make a record of each of its meetings and make its decisions available, as appropriate, to the Bhutan Biosafety Clearing House;~~
- ~~(7) The ~~Commission~~ **Committee** may consider the mandates of other ministries, autonomous agencies, and organizations involved in the administration of biosafety in the Kingdom.~~

- (8) ~~The Commission **Committee** may adopt position papers related to biosafety upon the proposal of the Authority.~~
- 1) **Periodically review and recommend to the Royal Government on the national biosafety policy;**
 - 2) **Endorse rules and regulations pertaining to the implementation of this Act;**
 - 3) **Approve overall plans and programmes of the agencies involved in the administration of the biosafety related activities;**
 - 4) **Ensure smooth coordination among the stakeholder agencies in the implementation of the provisions of this Act;**
 - 5) **Approve mechanisms and procedures to address any intentional or unintentional transboundary movement of genetically modified organism into the Kingdom;**
 - 6) **Serve as an appellate body to address grievances expressed by any person or corporation against the decision of the Authority;**
 - 7) **Make decisions on the approval of genetically modified organisms and/or products derived from genetically modified organisms; and**
 - 8) **Oversee the performance of the Authority on matters related to administration of biosafety activities.**

Section 10

Meetings of the ~~Commission Committee~~ Board

The ~~Commission Committee~~ Board may make provision **procedure** for the scheduling and conduct of its meeting and the procedures to be followed at its meetings; it shall meet at least ~~once~~ **twice** a year,

and as and when required.

Section 11

Where the ~~Commission Committee~~ **Board** so authorizes, the representatives of government organizations and agencies, as well as industry and consumer groups, may attend meetings of the ~~Commission Committee~~ **Board** but may not vote.

Section 12

The Quorum for holding meeting of the ~~Commission Committee~~ **Board** shall be two-third of its total members.

Section 13

Any decisions taken by the ~~Commission Committee~~ **Board** shall be based on simple majority.

Section 16

The Authority shall:

- (1) ~~Develop Rules and Regulations for the implementation of this Act and propose to the Ministry for approval;~~
- (2) ~~Establish Technical Working Groups from relevant agencies to advise on technical and scientific issues related to genetically modified organisms, as needed or as prescribed in the Rules and Regulations;~~
- (3) ~~Establish emergency response system for biosafety related emergency preparedness and response;~~
- (4) ~~Develop and review periodically national policy on biosafety;~~

- ~~(5) Develop and adopt standards, forms, codes of practice, and other tools as necessary, for the administrative processes required to implement this Act and the Rules and Regulations;~~
- ~~(6) Manage information in the Bhutan Biosafety Clearing House and ensure that mechanisms are in place to communicate information and receive comments on any matter related to biosafety in the Kingdom.~~
- ~~(7) Provide opinions, advise the Commission **Committee** and the Government, and inform the general public about initiatives, conditions and developments in the field of the use of modern biotechnology as well as the social, ethical, technical and technological, scientific and other aspects on genetically modified organisms and products derived from genetically modified organisms; and~~
- ~~(8) Recommend educational and public awareness activities on biosafety; **and**~~
- ~~(9) Enforce this Act through the implementation of the Rules and Regulations and monitor compliance.~~
- (1) Develop and review periodically the rules and regulations for effective implementation of this Act;**
- (2) Develop and adopt standards, forms, codes of practice, and other tools as necessary, for the administrative processes required to implement this Act and its Rules and Regulations;**
- (3) Establish technical working groups from relevant agencies to advice on technical and scientific aspects of issues related to biosafety as and when needed;**

- (4) Establish emergency response system for biosafety related emergency preparedness and response;**
- (5) Coordinate planning and implementation of overall plans and programmes on biosafety among various stakeholder agencies;**
- (6) Maintain records of the Board meetings and the decisions made;**
- (7) Implement decisions of the Board;**
- (8) Collect fines under this Act and keep detailed records regarding all warnings and penalties imposed, including whether the level of penalties is linked to the seriousness of the offence;**
- (9) Resolve administrative appeals lodged against official decisions and actions taken under this Act;**
- (10) Manage information in the Bhutan Biosafety Clearing House and ensure that mechanisms are in place to communicate information and receive comments on any matter related to biosafety in the Kingdom;**
- (11) Advise the Board and the Government, and inform the general public about initiatives, conditions and developments in the field of the use of modern biotechnology as well as the social, ethical, technical and technological, scientific and other aspects on genetically modified organisms and products derived from genetically modified organisms;**
- (12) Advocate and create public awareness activities on biosafety; and**
- (13) Assess the implementation of the Act on a regular basis and as and when necessary recommend amendments to the Board.**

Section 19

Amended in Dzongkha text.

Section 20 (1)

Import of any genetically modified organism ~~and any other genetically modified biological material~~ capable of reproducing;

New Subsection 20 (1A)

Import any genetically modified biological material capable of reproducing;

Section 20 (3)

Intentional introduction **into environment** of genetically modified organisms capable of reproducing ~~into the environment.~~

Section 26

The Authority ~~shall grant~~ **may issue** approval **as per the applicable procedures** ~~to any applicant~~ to:

Section 29

Any ~~applicant~~ **person** who exports or re-exports products derived from genetically modified organisms from the Kingdom must inform the Authority of any inspection, analysis or documentation required by the importing country or countries that may be required prior to export. Fees for such inspections shall be levied by the Authority and revised from time to time.

Section 32

Activities carried out at any place within the Kingdom which use **genetically modified organisms and/or**

products derived from genetically modified organisms are subject to inspection by the Authority.

Section 35

Public Awareness and Access to Information and Education

Public Awareness

The Authority and all relevant stakeholders may ensure public, **School, Institute and College to** participation in awareness programs on issues related to genetically modified organisms and products derived from genetically modified organisms.

Section 38

Any person who intentionally or negligently commits any act or is responsible for an omission involving genetically modified organisms or products derived from genetically modified organisms which causes damage or **has potential to cause** damage to human or animal health and the environment shall be liable for the costs of restoration and remediation.

Section 39

Any ~~introduction~~ of unapproved genetically modified organisms or products derived from genetically modified organisms **introduced** into the Kingdom shall be subjected to destruction and no liability may be attached to the Authority for the destruction.

Section 46

Administrative review and judicial appeal

Any decision by the Authority to issue, impose conditions on, deny, or revoke an approval may be appealed to the National Biosafety ~~Commission~~ ~~Committee~~ **Board** within ten working days.

Section 47

Any decision of the National Biosafety ~~Commission~~ ~~Committee~~ **Board** may be appealed to the High Court within ten working days from the date of decision or order.

Section 48

Amended in Dzongkha text.

Section 52

~~Any act which attempts to , or which results in, the introduction of a~~ **illegally introduce** ~~genetically modified organism into the Kingdom shall be penalized with a~~ **punishable for** ~~misdemeanor.~~ **Under this Act:**

- (1) an offence under sections 20 (1), 20 (1A) and 20 (2) shall be punishable with a fine;**
- (2) repeat of an offence under sections 20 (1), 20 (1A) and 20 (2) shall be punishable for violation;**
- (3) an offence under section 20 (3) shall be punishable for violation;**
- (4) an offence under section 20 (4) shall be punishable for petty misdemeanor; and**

(5) an offence under section 20 (5) shall be punishable for misdemeanor.

New Section after Section 52

~~**Any person importing genetically modified organisms capable of reproducing into the kingdom shall be punishable for felony of fourth degree.**~~

Section 53

Retain as per the Bill.

Section 54

Retain as per the Bill.

Section 56

The penalty for repeated offence ~~/ subsequent conviction for the same offence~~ shall be enhanced as provided in the Penal Code of Bhutan.

Section 58

The ~~Board Ministry~~ shall adopt or amend Rules and Regulations to implement the provisions of this Act.

Section 60 (6)

“Biosafety” means the avoidance of potential risk to human **and animal** health and safety and to the conservation of the environment, as a result of the use of genetically modified organisms and products derived from genetically modified organisms.

Section 60 (9)

~~“Commission Committee”~~ **“Board”** means the National Biosafety ~~Commission Committee~~ **Board**.

Section 60 (14)

~~“Environment” means the~~ means the physical factors of the surroundings of human beings including the earth, soil, water, atmosphere, climate, sound, odors, tastes and the biological factors of animals and plants of every description including the complex web of interrelationships between the abiotic and biotic components which sustain life on earth.

Voting Details on the Adoption of the Biosafety Bill of Bhutan 2014

Date: 24/11/2014; Time: 10:06; Total Votes: 23; “YES”: 23; “NO”: 0; “Abstain”: 0

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi
4. Hon Tashi Wangmo
5. Hon Tashi Wangyal
6. Hon Nima
7. Hon Sangay Khandu (Gasa)
8. Hon Sangay Khandu (Samtse)
9. Hon Kaka Tshering
10. Hon Nima Gyaltshen
11. Hon Pema Tenzin
12. Hon Sonam Wangchuk
13. Hon Jigmi Rinzin
14. Hon Rinzin Dorji
15. Hon Jigme Wangchuk

16. Hon Dhan Bdr. Monger
17. Hon Tashi Phuntsho
18. Hon Kamal Bdr. Gurung
19. Hon Tashi Dorji
20. Hon Pema Dakpa
21. Hon Sonam Dorji
22. Hon Tempa Dorji
23. Hon Tharchen

(Thursday, 20th November 2014 corresponding to the 28th Day of the 9th Month of Wood Male Horse Year of the Bhutanese Calendar)

3. Introduction of the Tenancy Act (Amendment) Bill 2014

The Member-in-charge of the Tenancy Act (Amendment) Bill 2014, Hon'ble Minister for Works & Human Settlement in her introduction said that while the Act was adopted by the National Assembly during its 82nd Session in 2004, awareness creation and proper implementation was not done till now. To solve problems in the society, the new Government submitted a motion to the second Parliament right from the 1st session to amend the Act. Accordingly, the agencies concerned were consulted. The Private Sector Development Committee of the National Assembly also did a thorough review after which it was deliberated in the National Assembly and submitted to the National Council along with few amendments.

The main objectives for the amendment of the Act were to solve problems existing between the owners and tenants by making execution of tenancy agreement compulsory, and resolution of disputes arising from such agreements by the Dispute Settlement Committee. While such provisions already existed, the Bill further

spelt out detailed provisions on the responsibilities and powers of the different institutions such as lawful authority and implementing agencies. The minister said that these were introduced in detail for deliberation by the National Council.

On this, some members expressed doubts as to which particular department in the Ministry of Works & Human Settlement was the authority under the Act, how the procurement rules were to be applied while the government rented private land and houses vis-à-vis procurement of other goods, what provisions were there under the amendment for creation of awareness, what details were incorporated with regard to responsibilities of the Dispute Settlement Committee, what standards were set for rental of government buildings by the private individuals, which concerned agencies should be provided with list of agreements and how the disputes arising from increase in rent would be resolved.

The Hon'ble Minister for Works & Human Settlement clarified that while the authority under the Act was the Ministry of Works & Human Settlement, its review and monitoring would be done by the Department of Human Settlement. She said that rental of private land and houses by the government would not be governed by this Act but by the Land Act. Responsibilities and accountabilities of the Dispute Settlement Committee were also spelt out in greater detail as compared to the past. A separate budget would be kept for creation of awareness on the Act. With regard to the agreement executed between the owner and the tenant, a copy each shall be retained with the parties concerned while a copy shall be submitted to the Ministry of Works & Human Settlement. There was no need to send copies to other agencies.

The Chairperson of the Legislative Committee said that after the Tenancy Act (Amendment) Bill was received from the National Assembly, the committee was directed to review it. Apart from the stakeholder meetings with the relevant agencies, the members also consulted the people in their constituencies. The Chairperson reported that a thorough review was done on the responsibilities of the authority, solving problems related to implementation, delineation of responsibilities of Dzongkhag, Thromde and Gewog, mandatory execution of agreement between the two parties, details regarding rights and prerogatives of owners and tenants, rent determination and increase, security deposit and responsibilities of Dispute Settlement Committee.

3.1 Deliberations on the Bill

The National Council deliberated on the Tenancy Act (Amendment) Bill 2014 on 20/11/2014 and 26/11/2014. Following amendments and changes were made which shall be submitted to the National Assembly for re-deliberation:

Preamble

We, the People of Bhutan, in order to improve the quality of life, maintain domestic tranquility and peace, to ensure economic growth and prosperity for posterity, do ordain and establish this Tenancy Act for the Kingdom of Bhutan.

The Parliament of the Kingdom of Bhutan do hereby enact the Tenancy (~~Amendment~~) Act of the Kingdom of Bhutan 2014, on the..... Day of the Month of the Wood Male Horse Year of the Bhutanese Calendar corresponding to the Day of, 2014 ~~at itsSession of the Third Parliament~~ as follows;

Section 1.3

This act shall apply to both the government and private residential and commercial rental units and land leases **in so far as the application shall not contradict the provisions of the Land Act.**

Section 3.1 (a)

The Department of Human Settlement ~~A designated Department or Agency~~ **authority** under the Ministry responsible for **of** Works and Human Settlements shall be the ~~designated overall tenancy~~ **Tenancy** Authority.

Section 4.1 (c)

to assess the implementation of the Act **on a regular basis, and as and when necessary** ~~every five years and~~ recommend amendments to the Ministry. ~~for effective implementing the Act;~~

New Subsection under Section 4.1

Publish and make accessible online agreements pertaining to lease of government property and lease of private property by the government.

Section 5.1

This Chapter shall ~~apply to:~~

- a) Apply to both government and private residential and commercial rental units and land Leases ~~whether made before or after the commencement of this Act.~~
- b) ~~This Act does not apply in respect of rental unit, land or premises which are rented out commercially on a daily basis or for a short duration of not more than a month.~~

Section 5.2

~~The Act shall not apply to use and lease of sokshing, tsamdro land under the Land Act 2007 or as amended from time to time.~~

Section 7.2

Repeal whole 7.2

New Subsection (after 7.2.4)

The tenant/*lessee* shall pay the rent ~~on or before the fifth day of the following month after the expiry of the preceding month, or in case of leased land as per the terms of~~ **within a period as specified in the** tenancy agreement.

Section 9.1.3

In the event the tenant fails to pay the ~~monthly~~ rent on time, he/she shall pay the amount with interest at the rate of ~~15%~~ **24%** per annum on the **amount due**. ~~monthly rent payable to the Owner.~~

New Subsection (after 9.1.3)

The owner shall issue **proper** receipts upon receipt of payment of rent, security deposit or any other relevant payments.

New Subsection

The owner shall not demand the rent or other charges related to rental unit/leased land before the **rent is due** ~~end of month, as specified in the agreement.~~

New Section (after 12.4 (a))

After informing the local authority, the owner shall have right to enter into the rental unit, if the tenant has locked the rental unit and not paid the rent for two preceding months and could not be found. ~~after due diligence.~~

New Subsection (after 13.1.4)

~~(f) — Insure the rental unit~~

~~(h) — Ensure the peaceful living of the tenant;~~

(k) Prevent the tenant **from** causing nuisance and annoyance to neighbours and other tenants or ~~use~~ **using** the premises for immoral or illegal activities;

New Section (after 14.1.5)

(d) Dispose garbage ~~to~~ **in** the proper place and also live hygienically;

Section 15.1.1

If the Lessee fails to pay the monthly rent, the due amount shall be paid with interest at the rate of ~~15%~~ **24%** per annum on the monthly lease rent.

New Section (after 15.1.1)

~~(b) If the lessor owes some money to other people and if the lessee is instructed by the lessor in writing to make such payments for him, it shall be deducted from the rent or the lessee is entitled to claim the amount with lawful interests.~~

(e) When the lease is terminated by the parties, the lessee or his successor is entitled to all the structures built by the lessee and prevailing upon

the property, and to free ~~ingress~~ **entry** and **exit** ~~egress~~ to gather and carry them.

Section 16.2.2

If the lease is terminated due to any material part of the leased land being wholly destroyed or rendered substantially or permanently unfit for the purpose for which it was leased, due to natural forces the lessee or his successor is entitled to all the structures built by the lessee upon the leased land, and to free **entry** ~~ingress~~ and **exit** ~~egress~~ to gather and carry them.

New Section 16A

1. The ~~rental or lease~~ **tenancy** agreement is deemed to be terminated if a tenant or a lessee has abandoned the land or the premises **for a period of two months**.

New Section 16B

Disposal of goods on vacation and abandonment of premises

- (1) **After informing the concerned Local Authority**, where goods are left behind on vacation or abandonment of the premises, the Owner may remove the goods from the premises and store them in a safe place **for a period of two months** pending disposal or collection of the goods in accordance with the rules and regulations of the Act.
- (2) The Owner may, dispose the goods, if the former tenant entitled to possession of the goods fails to collect or make arrangements to collect the goods **within two months** in accordance with the rules and regulations **of the Act**.

New Section (under Chapter 7)

- c) If the owner has to evict the tenant in accordance with the section 13.1.3 of this Act, but in ~~contradictory~~ **contradiction** to other grounds of the Act, the owner shall serve the written notice two months in advance.
- k) Where a tenant is deceased at the end of tenancy, the owner shall give **a minimum of** two months period to the successor to vacate the rental unit.

New Section (under Chapter 8)

- (b) In the event of failure to resolve a dispute amicably the party ~~shall~~ **may** submit a petition to the Dispute Settlement Committee as per the rules and regulations.

Section 22.3

The party who is not satisfied with the decision of the Dispute Settlement Committee ~~shall~~ **may directly** appeal to the Royal Court of Justice within 10 working days.

New Section 22.3A

- (b) The Dzongdag shall serve as the ~~Dispute Adjudicator~~ **Chairperson** of the Disputes Settlement Committee who shall be responsible for administering ~~and—adjudicating~~ **the proceedings of the** tenancy disputes.
- (d) The Committee shall appoint a Registrar of **Tenancy** ~~Tenancies~~ from amongst the civil servants serving in the local government.

New Section 22.3B

- (a) ~~In a Dzongkhag Thromde,~~ a **A** Disputes Settlement Committee shall consist of at least Five members out of which at least two members shall be appointed from the elected constituencies and two members shall be appointed from amongst the civil servants in the local government.
- c) The Committee shall appoint a Registrar of **Tenancy** ~~Tenancies~~ from amongst the civil servants serving in the local government.
- c) The **Thrompon** ~~Executive Secretary~~ shall serve as the **Chairperson** ~~Disputes Adjudicator~~ of the Dispute Settlement Committee, who shall be responsible for administering ~~and the proceedings of adjudicating~~ the tenancy disputes.

New Section 22.3C

- (a) ~~In a gewog,~~ a **A** Disputes Settlement Committee shall consist of three members out of which one member shall be the Mangmi of that Gewog and one shall appointed from amongst the civil servants serving in that gewog.
- (b) The Gup shall serve as the **Chairperson** ~~Disputes Adjudicator~~ of the Disputes Settlement Committee, who shall be responsible for administering ~~and the proceedings of adjudicating~~ the tenancy disputes.
- (c) ~~**Designate** The Gaydrung shall serve as the a Registrar of Tenancy in the Gewog.~~ **The Committee shall appoint a Registrar of Tenancy from amongst the civil servants serving in the local government.**

New Section 22.3E

Does not accept the new subsections inserted by National Assembly and shall be deleted.

New Section 23A

~~An owner~~ **A party** who fails to draw up an agreement in writing as required under sub-section 6.1.1 (a) of this Act, shall be liable to pay a fine of **2 month's rent** as prescribed in the rules and regulations.

New Section 23B

~~A tenant~~ **A party** who fails to apply to the Disputes Settlement Committee for an order to make the **other party** ~~Owner~~ enter into a rental agreement as required under sub-section 6.1.8 of this Act, shall be liable for a **fine** ~~of 2 month's rent~~ as prescribed in the rules and regulations.

Section 25

The owner or lessor who fails to refund the security deposit as required ~~under~~ by section 12 of the Act shall pay **the security amount and** ~~to the tenant or lessee~~ compensation at the rate of ~~15%~~ **24%** per annum on the security deposit payable to the tenant or lessee.

New Section (after 25)

Unlawful Eviction

The owner or lessor who evicts the tenant or lessee otherwise than as allowed by subsection 13.1.3 or 15.1.4 shall be liable for a fine equivalent to ~~three~~ **one** month's rent. The person evicted shall be reinstated with possession of the rental unit or the leased land with compensation equivalent to two month's rent.

New Section 31A

A party who fails to answer or abide by the Dispute Settlement Committee's service of process or summons under this Act shall be liable for a fine equivalent to **one month to three months wage rate of the National Minimum Wage** ~~one month's rent.~~

New Section 31B

Where an owner or a tenant fails to pay any fines or rents or any rental dues as required by the Dispute Settlement Committee after acceptance of the decision, **he/she** shall be liable to pay **fine/penalty** ~~interests~~ at the rate of 24% per annum.

Schedule II (5)

That the rent as payable every month shall be tendered by the tenant to the owner **within a period as specified in the tenancy agreement** ~~on or before the 5th of every succeeding month~~, failing which the owner shall charge and the tenant shall pay an interest @ ~~15%~~ **24%** per annum on the amount of rent payable for every day of default ~~or by the 5th day of the following month after every six months of lease period.~~

Schedule II (10)

~~That the owner shall at all times ensure the peaceful living of the tenant.~~

Voting Details on the Adoption of the Tenancy Act (Amendment) Bill 2014

Date: 26/11/2014; Time: 13:20; Total Votes: 22; "YES": 20; "NO": 0; "Abstain": 2

The following voted, "YES":

1. Hon Kuenlay Tshering
2. Hon Karma Yezer Raydi
3. Hon Tashi Wangmo
4. Hon Tashi Wangyal
5. Hon Nima
6. Hon Sangay Khandu (Gasa)
7. Hon Sangay Khandu (Samtse)
8. Hon Kaka Tshering
9. Hon Nima Gyaltshen
10. Hon Pema Tenzin
11. Hon Sonam Wangchuk
12. Hon Rinzin Dorji
13. Hon Jigme Wangchuk
14. Hon Dhan Bdr. Monger
15. Hon Tashi Phuntsho
16. Hon Kamal Bdr. Gurung
17. Hon Tashi Dorji
18. Hon Pema Dakpa
19. Hon Sonam Dorji
20. Hon Tempa Dorji

The following abstained from voting:

1. Hon Jigmi Rinzin
2. Hon Tharchen

(Monday, 24th November 2014 corresponding to the 2nd Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

4. Introduction of the Parliamentary Entitlement Act (Amendment) Bill of Bhutan 2014

The Member-in-charge of the Parliamentary Entitlement Act (Amendment) Bill of Bhutan, Chairperson of the House Committee, National Council of Bhutan in his introduction said that the Bill was first deliberated in the National Assembly during the 3rd session of the 2nd

Parliament and received by the National Council. While the House Committee reviewed the Bill, it was found that any matter related to entitlements must be reviewed by a Pay Commission and submitted to the Government, and the power to decide resided only with the Government. He questioned whether such an Act was really necessary and felt that there was no justification to amend the Act. At the same time, he agreed that the initial drafting of the Bill and review done by the National Assembly had to be respected. However, he submitted that it was important to recognize and deliberate on the Bill in keeping with the legislative rules of procedure.

Of the few amendments made by the National Assembly, the main ones were on maintaining the salary of the Chairperson of the National Council and the Leader of the Opposition below the salary of the Speaker of the National Assembly, fixing the salary of the Members of Parliament equal to the salary of the Constitutional Post Holders, vehicle allowance and import quota of Members of Parliament, and issues related to pension. The House Committee with strong justification submitted why it directly rejected the amendments. These were, however, introduced to the House for further consideration and deliberations.

4.1 Deliberations on the Bill

The National Council deliberated on the Parliamentary Entitlement Act (Amendment) Bill of Bhutan 2014 on 24/11/2014. Following amendments and changes were made which shall be submitted to the National Assembly for re-deliberation:

Preamble

An Act to amend the Parliamentary Entitlement Act of Bhutan 2008;

Parliament of the Kingdom of Bhutan do hereby enact the Parliamentary Entitlement (Amendment) Act of the Kingdom of Bhutan 2014 on theDay of the.....Month of theYear of the Bhutanese Calendar corresponding to the...Day of ...Month...2014 at its....~~Session of the Second Parliament~~ as follows:

New Section 8A

The salary, allowances and other benefits of the Members of Parliament shall be paid with effect from the day of the declaration of the election result or in case of eminent members, from the day the Druk Gyalpo grants the nomination *Kasho* till the seat becomes vacant.

Section 10

Retain as per the Act.

New Section 10 (A) after Section 10

~~**The Speaker of the National Assembly shall receive salary slightly higher than Chairperson of the National Council and Leader of Opposition for his/her additional responsibility.**~~

Section 12

Retain as per the Act.

Section 20

~~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.~~

- a) **A lump sum amount to purchase a vehicle; free of customs duty, and sales tax and other government levies in the beginning of his/her term;**
- b) *Exemption of customs duty and sales tax for purchase of a vehicle not exceeding 3000 cc;*
- c) **A monthly driver allowance; and**
- d) **A monthly fuel and 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.

Section 29

Retain as per the Act.

Section 31

The amount of gratuity ~~and lump sum Pension or social security annuity~~ shall be as given in ~~the respective~~ Annexure *(change accordingly)*. **However**, no gratuity, ~~lump sum pension or social security annuity and government provident fund contribution~~ shall be payable if a member's **service is** retires before the completion of his term or if his ~~services are~~ terminated.

Voting details on the Adoption of the Parliamentary Entitlement Act (Amendment) Bill of Bhutan 2014

Date: 24/11/2014; Time: 14:45; Total Votes: 21; “YES”: 18; “NO”: 0; “Abstain”: 3

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi
4. Hon Tashi Wangmo
5. Hon Tashi Wangyal
6. Hon Nima
7. Hon Kaka Tshering
8. Hon Nima Gyaltshen
9. Hon Pema Tenzin
10. Hon Sonam Wangchuk
11. Hon Jigmi Rinzin
12. Hon Dhan Bdr. Monger
13. Hon Tashi Phuntsho
14. Hon Kamal Bdr. Gurung
15. Hon Tashi Dorji
16. Hon Pema Dakpa
17. Hon Tempa Dorji
18. Hon Tharchen

The following abstained from voting:

1. Hon Sonam Dorji
2. Hon Sangay Khandu (Gasa)
3. Hon Sangay Khandu (Samtse)

(Tuesday, 25th November 2014 corresponding to the 3rd Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

5. Introduction of the Narcotic Drugs, Psychotropic Substances and Substance Abuse Bill 2014

The Member-in-charge of the Narcotic Drugs, Psychotropic Substances and Substances Abuse Bill 2014, Hon'ble Minister for Health in his introduction said that with the socio-economic development in the country, increased black marketing of drugs and psychotropic substances was creating bad habits in the youth, which was a possible cause of massive problems in future in the society. With these in mind, the Act that was adopted in 2005 was being amended to establish strong and competent administrative procedures, cover offences related to drugs that were not covered directly under the Penal Code, and registration of new drugs.

Recently, about 13,400 Bhutanese citizens appealed the Government on grievances related to drugs since numerous problems had come up in the society. The present Government took cognizance of the situation and immediately directed the Bhutan Narcotic Control Agency to carry out a review. The agency consulted the relevant agencies and submitted a Bill to the Cabinet which was deliberated in the National Assembly during its 3rd Session. This was now being introduced to the National Council for deliberation and adoption.

The amendment Bill included provisions on those offences not covered under the Penal Code, black market control, treatment and rehabilitation, investigation, result declaration, secret monitoring,

enhanced rehabilitation, and abuse which were either new additions or amendments.

On this, some members asked whether alcohol would be considered a psychotropic substance, whether the amendments due to inadequate rehabilitation and health services center were based on the appeal of the 13,400 citizens, whether syringes will be made readily available since diseases were spread through injections and what programs were in place to reduce drug dependency. The Hon'ble Minister clarified that as per international standards, alcohol was not considered a psychotropic substance. Moreover, there was a separate policy governing alcohol. Therefore, alcohol was not covered. Funding for increasing the number of rehabilitation centers were being looked into. The review was not based solely on the petition of the citizens but in recognition of the problems in the society. If syringes were made available, it would further encourage drug usage. Therefore, such measures should not be adopted. Numerous programs were being initiated to reduce drug dependency.

5.1 Deliberations on the Bill

The National Council deliberated the Narcotic Drugs, Psychotropic Substances and Substance Abuse Bill 2014 on 25/11/2014, 26/11/2014 and 28/11/2014. Following amendments and changes were made which shall be submitted to the National Assembly for re-deliberation:

Preamble

~~The Royal Government and People of Bhutan,~~

WHEREAS, the Constitution of the Kingdom of Bhutan provides for the promotion of those

conditions that will enable the pursuit of Gross National Happiness;

WHEREAS, ~~Concerned with the health and well-being of the people of Bhutan, which are important elements of the development principle of Gross National Happiness;~~

WHEREAS, ~~Recognizing that the licit use of narcotic drugs and psychotropic substances continues to be indispensable for medical, veterinary and scientific purposes;~~

WHEREAS, ~~Considering that illicit use of narcotic drugs and psychotropic substances can ultimately lead to addiction which constitutes a serious threat to individuals and to the community as a whole;~~

WHEREAS, the ~~Affirming that~~ primary responsibility for drug abuse prevention rests within families and local communities;

WHEREAS, ~~Recognizing that~~ advocacy, awareness raising, education, counseling and other proactive measures are necessary to help parents and communities to carry out their responsibility;

WHEREAS, ~~Also recognizing that~~ such measures are necessary to support treatment, rehabilitation and social reintegration when prevention fails;

WHEREAS, ~~Acknowledging that~~ appropriate preventive, regulatory and control mechanisms must be put in place in line with the international drug control conventions to which Bhutan may be party to reduce the illicit demand and supply for drugs;

WHEREAS, ~~Believing that~~ effective measures against abuse and illicit trafficking of narcotic drugs and

psychotropic substances require co-ordination and cooperation of various enforcement agencies in the country, including social and community support;

Parliament of the Kingdom of Bhutan hereby enact the Narcotic Drugs, Psychotropic Substances and Substance Abuse Act of Bhutan, 2014 on the Day of the ... Month of Wood Male Horse Year of the Bhutanese Calendar corresponding to the Day of, 2014 at ~~its..... Session of the Second Parliament~~ as follows:

Section 2.2

Sections 496,497, 498,499,500 and 501 of the Penal Code of Bhutan ~~as amended in 2011.~~

Section 13

~~Any advertising~~ **Advertising** of substances and preparations listed in Schedules III, IV and V of this Act shall be prohibited except, with the written approval of the competent authority in scientific or professional publications aimed at researchers or health professionals.

Section 14

The Manufacture, wholesale trading or distribution, and import or export of substances listed in Schedule V of this Act shall be subject to the provisions of this ~~Chapter~~ **Act** and the rules and regulations.

Section 16

Manufacturers, importers, exporters, wholesalers and retailers shall notify the competent authority of any suspicious order or operation, specifically as regards ~~of~~ **to the** quantity of the substance purchased or ordered,

the repetition of such orders and purchases, or the modes of payment or transports used.

Section 18

For the purposes of medical or scientific research, teaching or forensic work, the competent authority may, without requesting the license referred under section 6 of this Act, authorize **such designated** ~~an~~ individual, **institution or an agency** to produce, manufacture, acquire, import, use or hold plants, substances and preparations listed in Schedules I, II, III, IV and V of this Act in quantities not exceeding those strictly required for the **intended** purpose. ~~in question.~~

Section 24

The control, monitoring and inspections by the inspectors or authorized officers shall extend to containers of first aid kits in domestic and international ~~travel~~ **conveyance**.

Section 25

When it becomes apparent before, during or after an inspection that a criminal offence against this Act or the Penal Code of Bhutan may have been committed, inspectors shall report the matter to the ~~Royal Bhutan Police~~ **relevant law enforcement agency**.

Section 27

Persons, enterprises or establishments involved in **such** operations shall provide ~~the inspectors, authorized officers and the Royal Bhutan Police~~ **relevant law enforcement agencies** with all necessary assistance in carrying out their duties, in particular by facilitating the inspection of their professional premises and of all documents relating to their professional activities.

Section 28

Carriage of limited quantities of controlled drugs or substances, as specified in the rules and regulations, by any international or domestic conveyance in the first aid kits and for emergencies shall be permitted. Carriage of any quantity exceeding the quantity mentioned in the rules and regulations and without authorization from competent authority shall be dealt as per **the provisions** ~~sections 138, 139, 140 and 142~~ of this Act.

Section 30

The possession by international travelers or patients of small quantities of preparations containing controlled drugs and substances for personal use shall be permitted, provided ~~that it is established that the~~ **such** preparations have been obtained under prescription from a registered and qualified medical practitioner, and do not exceed the quantity mentioned in the prescription.

Section 32.3

Provided with life skills education ~~so they can~~ **to** better understand themselves and choose against drug abuse, including through religious and moral education programmes.

Section 36

Any institution, government or private or non-governmental organization may establish ~~any~~ treatment, rehabilitation and after-care-services or social reintegration programmes for drug dependent persons, with prior approval from the Authority.

Section 37

The ~~Board~~ **Authority** shall ensure ~~staffing of that~~ such institutions **recruit** with adequate and appropriate personnel to deliver quality services and care.

Section 38

The Board shall establish a treatment assessment panel for the purposes of this Act **as prescribed in the rules and regulations**. ~~The panel shall consist of at least three persons appointed by the Board, of which one shall have legal qualifications and experience, and the others knowledge of the medical, psychosocial and other problems connected with drug abuse and addiction.~~

Section 45

Any person who, without reasonable ~~excuse,~~ **justification**, refuses or fails to comply with a treatment order, to inform the person-in-charge of a treatment centre **of any change in the address of the person undergoing treatment;** ~~attended by the person pursuant to such an order of any change in the person's address;~~ to appear before a panel as ordered, or to attend a treatment centre for assessment or treatment as ordered, commits an offence.

Section 46

A drug dependent person who submits voluntarily and released ~~temporarily~~ from **a treatment** centre, shall be provided with after-care, follow-up treatment and supervision **as provided in the rules and regulations**.

Section 50

~~The person~~ **Individuals and institutions** dealing with drug dependent persons **who has submitted under**

voluntary submission shall maintain confidentiality of records ~~under the voluntary submission program~~, breaching of which shall constitute an offence chargeable under appropriate law of the land. This shall not prevent the communication of protected information to and between members of the Treatment Assessment Panel, or to and between persons directly involved in the treatment and rehabilitation of protected information in the course of treatment.

Section 51.2

For any other **valid** reason **required to go out of** ~~outside~~ an approved institution **under unavoidable circumstances but** in the custody or under the control of an officer of the approved institution; or

Section 52

The Royal Government shall constitute a Narcotics Control Board **and provide all necessary support** to take all such measures for the purpose of preventing and combating the abuse and illicit trafficking, and to regulate the use of narcotic drugs, psychotropic substances and other controlled substances.

Section 57.3

Enable, enlist and foster the widest measure of community awareness, responsibility-taking and sharing, support and action by parents, local communities, religious communities, institutions, employers, societies, organizations and self-help groups, in proactively initiating and carrying out drug abuse prevention and reduction initiatives;

(Insert as subsection under section 76)

Section 61

~~If any member of the Board is unable by reason of illness or other sufficient cause to perform the duties of his or her office, the Royal Government may appoint another person in his or her place.~~

(This section is similar to section 60, therefore deleted)

Section 62

The Board shall meet at least ~~thrice~~ **twice** a year and additional meetings may be convened as and when required.

Section 63

The Chairperson shall convene **and preside** the meeting and in the absence of the Chairperson, the Vice Chairperson shall convene **and preside** the Board meeting. ~~At every meeting of the Board at which he or she is present, the Chairperson shall preside, and in his or her~~ **In the absence of either the Chairperson or the Vice Chairperson during a Board meeting**, a member of the Board appointed by those present shall preside.

Section 66

Amended in Dzongkha text

Section 72

The Royal Government shall appoint the head of the Authority **as per the Civil Service Act of Bhutan** who shall be responsible to the Board and be the member secretary to the Board.

Section 73

~~The Authority may employ such staff as the Board may consider~~ **The Royal Government shall ensure that the Authority is provided with adequate human resource** necessary for the efficient performance of the Authority's functions **in accordance with the provisions of the Civil Service Act of Bhutan.**

Section 74

~~The staff of the Authority shall be appointed upon such terms and conditions of service as the Board may determine. Staff of the Authority may also be seconded from other agencies.~~

New Section after Section 75.2

Frame and interpret ~~Interpret~~ rules, regulations and guidelines based on the intent behind provision.

Section 76 (4) & (5)

- (4) ~~Improve~~ **Promote** international cooperation **in** against drug and precursor trafficking; **control.**
- (5) Strengthen cooperation between **agencies responsible for the country's** Bhutan's health, welfare, education, social reintegration, law enforcement, criminal justice and penal agencies, in drug prevention and control, ~~and in reducing~~ **to reduce** drug abuse and its root causes, illicit drug supply and drug-related crimes;

New Subsection under Section 76

Periodically conduct an impact assessment of the plans and programmes implemented to prevent and control abuse of controlled drugs and substances.

Section 79

Retain as per the Bill.

Section 81

If any of the law enforcement **agency agencies** has the reason to suspect or notice the commission of an offence under this Act following a complaint made ~~under this Act~~ or information otherwise received by it **under this Act**, that agency shall investigate the case and facilitate prosecution until the final disposal of the case.

Section 83

~~No~~ **Body search of a woman shall be searched under this Act **shall be carried out** ~~except~~ by a woman and if that is **not** ~~impossible~~, in the presence of a woman.**

Section 84

Samples shall be taken by the authorized official of any seized substance as prescribed under the rules and regulations. The authorised official shall ensure that all **material evidences** ~~materials—evidence~~ relating to the seizure is collected and processed, and that all items of evidentiary value are stored in secure and appropriate conditions for the prevention of loss, theft, or any other form of misappropriation.

Section 85

An agency designated by the Authority may conduct drug screening and testing of any person or substance or sample in accordance with the laws based on credible information if:

- (1) A person ~~is being reported of~~ **causes** public nuisance or **poses** probable risk to the public and is **under reasonable ground** suspected to have consumed or consuming any substances controlled under this Act in any public place; or
- (2) A container or **suspected goods** ~~conveyance~~ contains controlled substance listed under Schedules I to V of this Act with or without authorization.

Section 86

If the defendant or suspect declines to provide specimen of his or her blood/urine or other samples for the test, the agency shall **detain the suspect and** ~~request the Court to issue court order to~~ obtain the required samples **as per the procedures laid down under the Civil and Criminal Procedure Code of Bhutan.**

Section 89

The Board may designate a competent laboratory in the country as the appellate laboratory for testing of any substance listed under **the schedules** ~~Schedules I, II, III, IV and V~~ of this Act.

Section 93

The Court ~~may~~ **shall** order confiscation of any property derived directly or indirectly through the commission **of** a criminal offence against this Act or a relevant offence in the Penal Code of Bhutan and of any instrumentality used in the commission of such **an** offence.

Section 94

The Court **shall** ~~may~~ order the forfeiture of any property which has been seized if it is satisfied that the property

directly or indirectly represents ~~any person's~~ **the** proceeds **of a crime under this Act** or is intended by ~~any person~~ for use in illicit trafficking **of controlled substances.**

Section 96

Any person having an interest in any of the property ordered to be forfeited under section 94 of this Act may apply to the Court within forty nine days ~~of the giving of~~ **the** notice under section 95 of this Act for an order discharging or varying the forfeiture order to protect his interest in the property. The court may make such an order if it is satisfied that the applicant did not know and had no reason to suspect that the property directly or indirectly represented any person's proceeds or was intended by any person for use in illicit trafficking.

Section 97

The drugs and precursors seized or confiscated or forfeited under the provisions of this Act shall be disposed off in the presence of the ~~members of the Narcotics Control Board and/or the~~ officials of the authorized agencies.

Section 100

Unless conservation of the entire seizure of drugs and precursors is essential for the purposes of trial and any appeal, ~~the court shall order~~ **the** disposal of the bulk **shall be made** as soon as possible after seizure.

New Section after Section 105

The State shall provide an effective physical protection of complainants, informer and witnesses and their family.

Section 111

Manufacture, production, sale, export, import, storage, distribution, transportation, trans-shipment of controlled drugs and substances for medical and scientific purposes in contravention of the terms or conditions of a license shall be liable to cancellation of the license and ~~seizure of goods or a fine equivalent to a national minimum daily wage for a maximum of five years, or both~~ **pay fine as per the rules and regulations.**

Section 112

~~Record Keeping Failure~~ **Failure to maintain Records**

~~Not keeping~~ **Failure of licensee to maintain** records of **the** quantity, date, suppliers and recipients and manufactured ~~and~~ quantities **of controlled drugs and substances** held in stock shall be liable to **seizure of goods and imposed fine as prescribed under the rules and regulations in the first instance and** cancellation of the license and seizure of goods **in the second instance.** ~~or a fine equivalent to a national minimum daily wage for a maximum of one year.~~

Section 113

A licensee who does not maintain ~~Not maintaining~~ records of statistical returns of production or manufacture of drugs, utilization of drugs for the manufacture of other drugs, consumption of drugs, imports and exports of drugs, seizures of drugs, shall be liable to **seizure of goods and imposed fine as prescribed under the rules and regulations in the first instance and** cancellation of the license and seizure of goods **in the second instance.** ~~, or a fine~~

~~equivalent to a national minimum daily wage for a maximum of two years.~~

Section 114

Not indicating warnings and indications on the packages, labels and the accompanying leaflets of any packages of the controlled drugs shall be liable to seizure of the goods **and imposed fine as prescribed under the rules and regulations.** ~~or a fine equivalent to a national minimum daily wage for a maximum of one year.~~

Section 128.4 & 2 New Subsections

- (4) A **misdemeanor if the defendant who harvests cannabis and its derivatives if it is equal to or less than the quantity determined in Schedule VII** ~~shall be dealt as per sections 130, 131, 132 and 133 of this Act;~~
- (5) A **felony of fourth degree if the defendant harvests cannabis and its derivatives if it is more than the quantity determined in Schedule VII of this Act but equal to or less than two times the quantity determined; or**
- (6) A **felony of third degree if the defendant harvests cannabis and its derivatives if it is more than two times the quantity determined in the Schedule VII of this Act.**

Section 130

Amended in Dzongkha text

Section 132

A defendant shall be guilty of an offence of illicit trafficking of cannabis and its derivatives, regardless of the degree of purity, if he or she imports, exports, stores, sells, purchases, transports, distributes, or supplies cannabis or its derivatives **if it is more than as per** the quantity determined in Schedule VII of this Act.

New Subsection 152

The offence of illegal transportation for:

- (1) The first time shall be a fine equivalent **as prescribed in the rules and regulations** ~~to a national minimum daily wage for one year and~~ punching of driving license and seizure of goods;
- (2) The second time shall be a fine **as prescribed in the rules and regulations** ~~equivalent to a national minimum daily wage for two years and~~ punching of driving license and seizure of goods;
- (3) The third time shall be a felony of fourth degree and final punching and **cancellation** ~~suspension~~ of driving license and seizure of goods.

Section 153

A defendant shall be liable for an offence of substance abuse if he or she:

- (2) Is found consuming or to have consumed any substance under schedule III or IV ~~or VI~~ of this Act unless prescribed by a registered medical officer; and/or
- (4) **Is tested positive for any substance under Schedule VI of this Act.**

Section 162

The Board may propose to the Royal Government to incorporate or **review** ~~simplify~~ procedures for extradition and mutual legal assistance.

Section 166

- (1) *Amended in Dzongkha text*
- (2) **“After-care services”** means an outpatient support recommended by the approved treatment centre after the intensive phase of treatment and rehabilitation is concluded. Services may include **among others** narcotics anonymous and alcoholics anonymous, individual, group or family counseling, monitoring and drug testing.
- (13) **“Conveyance”** means a conveyance of any description whatsoever and includes any aircraft, vehicle or vessel, or any means of transport including **animals** ~~yaks, horses, mules~~ or such similar mode of transport;
- (14) **“Cultivation”** means the act of raising or growing **controlled plants such as** opium poppy, coca bush or cannabis plant;
- (16) **“Domestic Use”** means ~~using use of precursor chemicals~~ **permissible amount of controlled substances** for domestic or household purposes.
- (17) **“Drop-in-centre”** means any **approved** centre which provides early detection diagnosis or after-care services for drug dependent persons which functions in accordance with the guidelines approved by the Board;

- (27) **“Minor”** means any person under the age of eighteen years **or as would be defined by the relevant national law from time to time;**
- (28) **“Narcotic drug”** means a substance **with narcotic property in its contents** listed under Schedule I and III of this Act ~~as may be amended;~~
- (38) **“Production”** means the separation **or extraction** of **controlled derivatives from plants such as** opium, coca leaves, cannabis, etcetera **or any other such source of opium, coca leaves, cannabis** and cannabis resin from the plants from which they are obtained;
- (39) **“Psychotropic substance”** means a substance **with mild altering properties as** listed under Schedule II and IV of this Act ~~as may be amended;~~
- (40) **“Registered Physician”** means practitioner of the ~~art and~~ science of medicine who is duly authorized and registered under the Bhutan Medical and Health Council of Bhutan as a medical professional;
- (44) **“Treatment”** includes medical treatment, therapy, or admission to an education or rehabilitation programme, social reintegration which is aimed at ~~preventing~~ **treating** persons with substance use disorder from further abusing drugs, and assisting them to overcome their dependence **on controlled substances;**

**Voting details on the Adoption of the Narcotic
Drugs, Psychotropic Substances and Substance
Abuse Bill 2014**

Date: 25/11/2014; Time: 10:39; Total Votes: 22; “YES”:
22; “NO”: 0; “Abstain”: 0

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Damcho Nidup
4. Hon Tashi Wangmo
5. Hon Nima
6. Hon Sangay Khandu (Gasa)
7. Hon Sangay Khandu (Samtse)
8. Hon Kaka Tshering
9. Hon Nima Gyaltshen
10. Hon Pema Tenzin
11. Hon Sonam Wangchuk
12. Hon Jigmi Rinzin
13. Hon Rinzin Dorji
14. Hon Jigme Wangchuk
15. Hon Dhan Bdr. Monger
16. Hon Tashi Phuntsho
17. Hon Kamal Bdr. Gurung
18. Hon Tashi Dorji
19. Hon Pema Dakpa
20. Hon Sonam Dorji
21. Hon Tempa Dorji
22. Hon Tharchen

(Friday, 28th November 2014 corresponding to the 7th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

6. Re-deliberation on the Office of the Attorney General Bill of Bhutan 2014

The National Council during its 13th session deliberated on the Office of the Attorney General Act (Amendment) Bill 2014 and submitted it to the National Assembly along with 59 amendments. After having deliberated on the Bill during its 4th session, the National Assembly sent it back to the National Council along with 29 amendments. The National Council re-deliberated on the Bill on 28/11/2014 but could not agree on 9 sections. The House resolved to submit these to His Majesty the Druk Gyalpo to command a joint sitting.

6.1 The National Council accepted the following amendments made by the National Assembly

Section 13

The Office shall in **accordance with Article 29 of the Constitution of Kingdom of Bhutan** be the central litigation and prosecuting agency of the Government.

Section 21

The Office may call for ~~During the prosecution or civil litigation, the Office may require~~ presence of an official or employee of the Government or relevant agency at any stage of proceedings before the courts **as may be required during the prosecution or a civil litigation.**

Section 34

The test for prosecution **shall be** deemed to have been ~~be~~ fulfilled if in the opinion of the Office:

Section 36

In a civil case, preponderance of evidence shall be the test for initiation of litigation. In the case of a constitutional issue, no **such** test shall be applicable.

Section 40

The Office shall initiate prosecution only if the evidence sufficiently identifies a person **or persons or institutions** responsible for the crime.

Section 43

The public interest considerations for prosecution **shall** include **cases where** ~~that:~~

Section 44

The public interest considerations against prosecution **shall** include:

Section 65

Retain as in the draft

New section 65 A

The Office may develop a drafting manual in consultation with relevant stakeholders.

Section 67

The Druk Gyalpo shall, by warrant under His hand and seal, appoint an eminent jurist as the Attorney General of ~~Bhutan~~ on the recommendation of the Prime Minister.

Section 67 A

A person eligible for appointment as the Attorney General shall:

- 1) Be a natural born citizen of Bhutan;
- 2) Be not married to a person who is not a citizen of Bhutan;
- 3) Be from among eminent jurists
- 4) Possess a LLB Degree from an institution of repute recognized by the Government;
- 5) Has served in the government, public or private service for a minimum of 15 years;
- 6) Not have political affiliations;
- 7) Not have been convicted of criminal offence ~~under any law of the country~~ **and sentenced to imprisonment;**
- 8) Not be in arrears of taxes or other dues to the Government;
- 9) Not have been terminated or compulsorily retired from the Government or public service on disciplinary grounds.

Section 67B

~~The Attorney General shall take an Oath or Affirmation of Office, as provided in the Third Schedule of the Constitution, before assuming office. The Chief Justice of Bhutan shall administer the Oath or Affirmation of Office.~~

Section 87

The Attorney General shall not **let himself/herself** be influenced in any manner by any individual **or any interest group** in the discharge of his or her official duties.

Section 96

The Attorney General may resign voluntarily from his or her office by submitting a resignation in writing to the Druk Gyalpo **through** ~~and to the~~ Prime Minister one month in advance.

Section 110

The Attorney General may frame and issue Rules, Guidelines, Manuals and such other orders for the effective functioning of the office from time to time.

Such Rules, Guidelines, Manuals and such other orders shall be in accordance with the provisions of this Act.

Section 113 (1) A

"Administrative Nature"- Cases that do not warrant criminal sanctions.

Section 113 (5) (c)

Any individual who works in ~~other~~ **an** agency of the Government or organization, who is delegated to represent the Government before the courts.

Section 113 (7)

"Private interests" ~~may~~ **shall** include financial **or any office of profit** and other interests of the Attorney General or his or her spouse;

Section 113 (9)

“**Referring agency**” means the **Government** institution or organization which forwards the case to the Office for initiating legal proceedings before the court.

6.2 The National Council did not accept the following amendments made by the National Assembly and resolved to submit these to His Majesty the Druk Gyalpo for a Command to deliberate in Joint Sitting of Parliament:

Section 8

~~The Attorney General in consultation with the Government may establish regional and other offices in different parts of the country.~~

Section 27

Upon receipt of the case for litigation or prosecution, the Office shall review facts of the case **not later than 6 months.**

Section 62

~~The Government shall provide adequate funds required to draft bills.~~

Section 80

Retain as in the draft

Section 98

The Druk Gyalpo may, on the recommendation of the Prime Minister remove or require the Attorney General to resign, as the case may be, on the grounds of:

1. Physical, mental or other incapacity of a permanent nature;
2. Incompetence to perform his or her functions;
3. Violation of the Code of Conduct;
4. Willful—violation of any provision of law, that substantially and adversely affects interest of the Office; or
5. **Not have been Convicted of Conviction** for any criminal offence and sentenced to imprisonment.

New section 103A

~~If the Attorney General dies, or resigns or otherwise vacates his or her office before the expiry of the term, the new Attorney General shall be appointed for a full five year term.~~

Section 104

~~The Office shall conduct research to facilitate its daily functions.~~ **establish Library and Archive.**

Section 106

~~The Administration and Finance Division of the Office shall discharge its function in accordance with the relevant laws.~~

Section 107

~~The Policy and Planning Division of the Office shall discharge its functions in accordance with the policy of the Government.~~

Voting details on the Adoption of the Office of the Attorney General Bill of Bhutan 2014

Date: 28/11/2014; Time: 10:13; Total Votes: 23; “YES”: 23; “NO”: 0; “Abstain”: 0

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi
4. Hon Karma Damcho Nidup
5. Hon Tashi Wangmo
6. Hon Nima
7. Hon Sangay Khandu (Gasa)
8. Hon Sangay Khandu (Samtse)
9. Hon Kaka Tshering
10. Hon Nima Gyaltshen
11. Hon Pema Tenzin
12. Hon Sonam Wangchuk
13. Hon Jigmi Rinzin
14. Hon Rinzin Dorji
15. Hon Jigme Wangchuk
16. Hon Dhan Bdr. Monger
17. Hon Tashi Phuntsho
18. Hon Kamal Bdr. Gurung
19. Hon Tashi Dorji
20. Hon Pema Dakpa
21. Hon Sonam Dorji
22. Hon Tempa Dorji
23. Hon Tharchen

(Thursday, 27th November 2014 corresponding to the 5th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

7. Ratification of the Trade and Economic Cooperation Agreement between the Government of the Kingdom of Thailand and the Royal Government of Bhutan

The Chairperson of the Economic Affairs Committee reported that the Trade and Economic Cooperation Agreement between the Government of the Kingdom of Thailand and the Royal Government of Bhutan was introduced to the National Council for ratification during the 13th Session by the Hon'ble Minister for Economic Affairs. However, deliberation could not take place during the session since the office concerned under Ministry of Economic Affairs was not available to make a presentation on the background of the Agreement prior to its deliberation in the House.

After the recent presentation on the background of the agreement by the ministry concerned, the Committee carried out a review during which it was found that in addition to the existing strong relations between the monarchs, governments and the peoples of the two countries, the agreement would further help enhance trade and economic development. Therefore, the Chairperson said that the background was being introduced in the House to facilitate ratification of the Agreement.

The Hon'ble Member of Trongsa Dzongkhag asked why the Agreement that had already been signed between the two governments was submitted to Parliament, and said that import of fast food from Thailand under the Agreement would cause problems in the country. The

Chairperson of the National Council said that the Agreement was submitted to Parliament in accordance with the provisions of Article 10.25 of the Constitution of Bhutan. Further, the Deputy Chairperson of the Economic Affairs Committee clarified that the agreement was for the general economic development and had no direct provision related to import of fast food.

The National Council thoroughly deliberated on the Trade and Economic Cooperation Agreement between the Government of the Kingdom of Thailand and the Royal Government of Bhutan on 27/11/2014 and ratified it. The Agreement shall be submitted to the Druk Gyalpo for Royal Assent.

Voting details on the Ratification of the Trade and Economic Cooperation Agreement between the Government of the Kingdom of Thailand and the Royal Government of Bhutan

Date: 27/11/2014; Time: 10:22; Total Votes: 21; “YES”: 20; “NO”: 0; “Abstain”: 1

The following voted, “YES”:

1. Hon Kuenlay Tshering
2. Hon Karma Damcho Nidup
3. Hon Tashi Wangmo
4. Hon Nima
5. Hon Sangay Khandu (Gasa)
6. Hon Sangay Khandu (Samtse)
7. Hon Kaka Tshering
8. Hon Nima Gyaltshen
9. Hon Pema Tenzin
10. Hon Sonam Wangchuk
11. Hon Jigmi Rinzin
12. Hon Rinzin Dorji
13. Hon Jigme Wangchuk

14. Hon Dhan Bdr. Monger
15. Hon Tashi Phuntsho
16. Hon Kamal Bdr. Gurung
17. Hon Tashi Dorji
18. Hon Pema Dakpa
19. Hon Sonam Dorji
20. Hon Tempa Dorji

The following abstained from voting:

1. Hon Tharchen

(Friday, 28th November 2014 corresponding to the 7th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

F. Issues related to Review of Policies

1. Performance Audit Report on Taxes related to Mining and Quarries

The Chairperson of the Ad hoc Committee, the Hon'ble Member of Pemagatshel Dzongkhag said that the previous National Council had started the discussions on the issues related to mining and quarries during its 8th and 9th sessions. The present National Council continued the discussions in its 11th session during which a resolution was passed asking the Royal Audit Authority to conduct a Performance Audit on taxes related to mining and quarrying sector. He expressed his appreciation to the Royal Audit Authority for submitting a comprehensive Performance Audit Report to the House.

The Chairperson of the Ad hoc Committee said that taxes and royalties from mines and quarries greatly contributed to the internal revenue of the country and helped accumulate foreign currency reserves through

exports. Sources of revenue like mining and quarries belonged to the public; however, such resources were not renewable. He said that the revenue from those resources needed to be shared equally by all the Bhutanese. With this objective in mind, the National Council discussed the issue repeatedly in its past sessions and took out numerous recommendations, one of which was the resolution for the Royal Audit Authority to carry out a Performance Audit on taxes.

Accordingly, the Royal Audit had carried out the Performance Audit to determine the adequacy and effectiveness of the existing legal and policy instruments to administer mining and quarrying activities in the country; to ascertain contributions to the Government from mining and quarrying operations in terms of revenue and other social benefits to the community; to ascertain the adequacy and effectiveness of check and balance mechanisms in the system to ensure proper collections of revenue and administration thereof; and to ascertain the level of Corporate Governance and Good Practices existing in the companies' management of mines and quarries. The Committee Chairperson reported that the audit had found that there were inadequacies in legal, institutional and regulatory frameworks; weaknesses in enforcement and administration of relevant rules and regulations by the authorities; weaknesses in Information Management Systems; and deficiencies in Application Processing Systems.

Due to inadequacies in legal and regulation frameworks, it was reported that the government suffered a loss of Nu. 1,006.00 million through formation of intermediary companies and Nu. 48.242 due to unpaid taxes for hiring vehicles. Board Members and CEOs of the companies were paid very high salary and allowances

while corporate social responsibility lacked proper guidelines resulting in minimal community services. Disputes arising from audits were not followed up and there was the absence of a confirmed list of companies running on losses. Even where legal and regulatory frameworks existed, there was weak enforcement of the relevant rules and regulations by the authorities. This has resulted in non-mapping of mineral resources of the country, contradictory allotment of mines and quarry sites, non-revision of royalty and other levies, non-collection of Environmental Restoration Bonds (ERB), false information on Final Mines Feasibility Study Report (FMFS), and escaping tax obligations by potential taxpayers.

Further, the inadequacy in Information Management System has resulted in non-establishment of registry titles and lack of database on minerals. There were also huge delays in processing of applications caused by unsystematic procedures, unclear delineation of responsibilities within the department and lack of coordination within the relevant authorities in obtaining clearances. All these have deprived the State of Nu. 1,125.832 million between 2008 and 2012.

Reporting on dolomite mining, the Hon'ble Member of Wangduephodrang Dzongkhag said that dolomite mining was recorded as one of the biggest activities in the country. Nu. 920.98 million was collected as taxes and other collectibles towards government revenue from 2008 to 2012. However, he said the audit report revealed that there were differing prices due to exchanges between concerned companies, unequal distribution of mining revenue through payment of higher salaries and allowances to the employees of the concerned companies, collection of different royalties, payment of high commissions, and improper

appointment of directors, which were an indication of improper implementation.

Similarly, the Hon'ble Member of Samtse Dzongkhag reported that gypsum mining was started in the country in 1983. Bhutan Mining Company, one of the biggest companies in the country had paid Nu. 553.212 million as taxes to the Government from 2008 to 2012. However, the report revealed that there was conflict of interest between parties involved in the business – related party transactions had occurred thus affecting the minority share holders. Further, it was reported that income generated by private vehicles were not declared, environmental restoration bonds included as part of tax exemption and 3% tax from non-Bhutanese carriers was not deducted resulting in non-collection of Nu. 3,748,496.37 from 2008 to 2012. The Board of Directors were also engaged in illegal transfer of land.

The Hon'ble Member of Gasu Dzongkhag reported that coal mining was started in the country in 1970 but was privatized only in 1993. From 2008 to 2012, Nu. 380,848,522.37 was collected as tax revenue. The Government was allocated 58.05 percent of the shares which was one of the highest held by the Government. However, the report revealed that the activities were not carried out through tender. SD Eastern Coal Company's promoter held more shares than the other share holder companies in the country and even his personal treatment expenses were paid out by the company. There was no proper record of transportation of coal and income of private carriers were not declared.

On mining of slate, limestone and medicinal powders, Hon Karma Yezer Raydi reported that most of the minerals were used as ingredients for manufacture of other goods. Taxes paid to the Government from these

minerals amounted to Nu. 153.811 million from 2008 to 2012. While the minerals extracted for use of the main factory were not allowed to be sold to others under the lease agreements, it was reported that such sale had taken place. The Department of Geology and Mines had failed to take preventive actions against such unlawful practices. Moreover, the report revealed several inconsistencies in the information contained in Bhutan Merchandised Trade Statistics (BMTS) and National Statistical Bureau (NSB).

With regard to mining of construction materials, stones and rocks stones, the Hon'ble Member of Bumthang Dzongkhag reported that 48 quarries in the country in 2013 extracted 10,083 metric tones of stones. Of this, 90% was used within the country while 10% was exported. Taxes collected from the quarries from 2008 to 2012 amounted to Nu. 30,620,533.66 and provided employment opportunities to 423 Bhutanese and 82 non-Bhutanese. However, the report showed that the business was consistently running on a loss, which adversely affected revenue. Such a projection of loss all the time was somewhat suspicious as well as in violation to the lease agreement. And yet, neither the lease agreement was revoked nor the quarries registered with the Department of Revenue and Customs. Moreover, the lease rights were transferred without the ministry's approval.

The National Council deliberated thoroughly on the Performance Audit Report on 28/11/2014, 1/12/2014 and 3/12/2014, and resolved as follows:

Upholding the core principles enunciated in Article 1.12 of the Constitution of the Kingdom of Bhutan which states that: *“The rights over mineral resources, rivers, lakes and forests shall vest in the State and are*

the properties of the State, which shall be regulated by law”;

Recognizing that mineral resources, though essential for economic development, are non-renewable and publicly owned resources whose utilization must be sustainable and beneficial to the state and society;

Bearing in mind the overarching national goal to achieve balanced and equitable socio-economic development of the people that the benefits from natural resources must be equitably shared amongst the population and not captured by a few;

Recalling the need articulated by the National Council in the past successive sessions for a holistic understanding on the socio-economic and environmental impact of mining and quarrying in the country;

Noting that the RAA report confirms the perception that natural resources that belong to the people of Bhutan are being monopolized by a few individuals leading to concentration of wealth and wide disparities in income which is against the principles of equitable distribution enshrined in Article 9, Section 7 of the Constitution – Principles of State Policy;

Concerned that the persistence of such policies could have severe impacts on the internal security and stability of our country;

The National Council hereby expresses grave concern on the current policies and practices related to mining and quarrying sector and therefore, calls upon the Government to:

1. Expedite the establishment of the State Mining Corporation (SMC) as a state-owned company under Druk Holding and Investments (DHI). To promote social and economic equity in the country and to ensure that benefits derived from state owned resources are not captured by a few people leading to greater income and wealth concentration and further socio-economic disparities, the SMC must be mandated to conduct all primary mining activities and extraction of minerals in the country;
2. Immediately terminate the existing mining leases based on the terms and conditions of the lease, the Articles of Incorporation, if applicable, and as per Section 32 of the Mines and Minerals Management Act 1995. This would logically entail the nationalization of all mineral extraction activities. Further, the private sector should be engaged only in activities that provide significant value addition to the primary mineral resource. Likewise, licenses of those quarries who have not registered with Department of Revenue & Customs (DRC) should be terminated and those who have not maintained books of accounts should be suspended;
3. Immediately amend Section 2.6 of the Rules on the Income Tax Act 2001 exempting trucks from Personal Income Tax (PIT) since it contravenes the Act, which does not exempt trucks and taxis. Section 11.1 of the Act states, *“For the purpose of this Act, income from other sources shall mean income from hire of privately owned vehicles, plant and machinery, and from intellectual property rights”*. The exemption of commercial trucks from PIT, in contravention of the Act, has led to huge loss of revenue and accountability must be fixed accordingly;

4. Conduct necessary diagnostic studies in Department of Geology & Mines (DGM), Department of Revenue & Customs (DRC) and the Division of Company Registry in view of repeated audit observations on their failures in supervisory and monitoring functions. Such diagnostic studies could be conducted in collaboration with the Royal Civil Service Commission to identify the organizational problems and reinforce its periodic Organization Development (OD) exercises.

Further, in consultation with the RCSC, relevant organizations should consider taking appropriate administrative sanctions against officials who have failed to prevent blatant contravention of laws and rules by the mining companies, such as:

- a. The commissions paid by M/s Jigme Industries Private Limited (JIPL) to their agents in India to the tune of Nu.235.697 million (2008-2012) was not authenticated with necessary sales agreement and other documents as required under Rule No. 2.5.1, Part I of RITA 2001, which states (2nd Paragraph): *“Commissions paid to a sales agent is an allowable deduction provided that the commission is clearly stated in all relevant bills, invoices and cash memos, or a special agreement in writing between the parties exists and is properly recorded in the books of accounts”*. Concerned tax officials have failed to ensure fulfillment of this provision during the filing of the annual tax returns by the company.

Further, as required under Section 86 of the Companies Act of the Kingdom of Bhutan 2000 on the appointment of selling or buying agents which states: *‘No company shall appoint a selling or*

buying agent, who is not a citizen of Bhutan or any foreign company or party, except with the previous approval of the Government on payment of fee prescribed in Schedule IV, the Division of Company Registry, Ministry of Economic Affairs had failed to ensure fulfillment of this particular legal requirement. This legal clause requires written approval from the Government to appoint such selling agents.

- b. Non-declaration of income by a Director of JIPL to the tune of Nu. 6.750 million who must be subjected to appropriate actions as per the provisions of Chapter 5 of the General Provisions of Income Tax Act of the Kingdom of Bhutan 2001.
- c. While the construction of M/s Druk Gyp-Product Limited (DGPL) was in progress and there was no practical operation in reality, the statutory audit was conducted and its performance reported thereby fulfilling the legal requirements. The Office of the Company Registrar must, therefore, be held responsible for allowing such ghost companies to operate.
- d. The DGM officials have not collected Environmental Restoration Bond (ERB) from 17 quarries, and had short or partially collected from 19 quarries. Therefore, ERB should be collected from all quarries in full and appropriate interest calculated for those ERB not collected on time, besides fixing accountability on the officials concerned for their lapses.
- e. Instances of sale of minerals to third parties from captive mines and sub-leasing of Lease to third parties in violation of the lease agreements were reported. Therefore, appropriate actions should be

taken against the officials concerned for their lapses.

5. Initiate new legislation as under:

- a. Competition Law (Anti-Trust Law) to prevent monopolies and to promote market competition by regulating anti-competitive conduct by companies;
- b. Accounting & Auditing Standard Act to legitimize the role of Accounting & Auditing Standard Board of Bhutan (AASBB) as a regulatory and accounting & auditing standard setting body.

Further, the National Council calls upon the attention of the Royal Audit Authority and the Anti-Corruption Commission to the following:

6. In recognition of the alarming instances of irregularities uncovered by the Royal Audit Authority (RAA), all companies engaged in the business of extracting or utilizing mineral resources of the country to be audited regularly by the RAA based on the Constitutional provision that empowers the RAA to *“audit and report on the economy, efficiency, and effectiveness in the use of public resources”*, considering that such companies are using “public resources” in the form of minerals, the rights over which are vested in the State.
7. The commissions paid by JIPL to their agents in India to the tune of Nu.235.697 million (2008-2012) was not authenticated with necessary sales agreement and other documents. In view of lack of supporting documents for excessive payments as commissions made across the border, the National Council is not able to affirm the legality and the procedural compliance of such international financial transactions as stipulated under extant laws and

bye-laws of Royal Monetary Authority. Therefore, the matter is re-directed to RAA for further review and auditing in consultation with RMA, if required.

8. Performance Audit Report on Leasing of Government Land, GRF Land and Mines (issued by RAA in Aug. 2013) reported that 46 Final Mines Feasibility Study (FMFS) Reports were borrowed by DGM officials from its library and not returned (as of 31 Jan. 2013). Out of the 46 reports lost, 22 mines were found operated by private parties. These 22 mines were approved on *'first-come-first-serve basis'* thereby according undue favour and advantage to these 22 applicants. This issue merits detailed investigation by Anti-Corruption Commission to find out how and who were involved in disclosing and sharing the FMFS reports and to take actions against individuals.

Voting details on the Adoption of Recommendations on the Performance Audit Report on Taxes related to Mining and Quarries

Date: 3/12/2014; Time: 16:43; Total Votes: 23; "YES": 23; "NO": 0; "Abstain": 0

The following voted, "YES":

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi
4. Hon Tashi Wangmo
5. Hon Tashi Wangyal
6. Hon Nima
7. Hon Sangay Khandu (Gasa)
8. Hon Sangay Khandu (Samtse)
9. Hon Kaka Tshering
10. Hon Nima Gyaltshen
11. Hon Pema Dakpa

12. Hon Sonam Wangchuk
13. Hon Jigmi Rinzin
14. Hon Rinzin Dorji
15. Hon Jigme Wangchuk
16. Hon Dhan Bdr. Monger
17. Hon Tashi Phuntsho
18. Hon Kamal Bdr. Gurung
19. Hon Tashi Dorji
20. Hon Pema Drakpa
21. Hon Sonam Dorji
22. Hon Tempa Dorji
23. Hon Tharchen

(Wednesday, 3rd December 2014 corresponding to the 12th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

2. Issue related to the Establishment of Business Opportunity and Information Centre

Hon Karma Yezer Raydi submitted that the Hon'ble Prime Minister had issued an Executive Order on 19/12/2013 under which the Business Opportunity and Information Centre (BOIC) was established. The National Council, during its 13th session, had put an oral question to the Hon'ble Prime Minister asking him on which legal provision the establishment of such a centre was based, and if there was none, how it would be legalized. The Hon'ble Prime Minister then gave numerous reasons and said that the centre was established as per Article 20.5 of the Constitution. If, however, the National Council proved with evidence that it was unlawful, he said that the office shall be closed. He agreed to discuss about the matter with the National Council. However, the Government had not initiated the discussion until now, and the activities were carried out from 27/8/2014 which was a cause of concern.

The reason why the office was not established lawfully was evident from the fact that no legal provisions covered the establishment of the centre. For instance, if the employees working there were civil servants, they were not governed by the Civil Service Act; and if they were not civil servants but financial service providers, they were not governed by the Financial Services Act, either. This indicated that the centre was not established lawfully.

For democracy to be strong and sustainable in the country, the Hon'ble Member of Bumthang Dzongkhag said that the rule of law should be followed. While the executive order issued on 19/12/2013 stated that the office shall be established under the Ministry of Economic Affairs, the office was established as an autonomous body and not as part of the civil service, which was not lawful. He said that the establishment of such an office was in contravention to Articles 20.2 and 20.6 of the Constitution of Bhutan and Sections 29 and 5 (f) of the Civil Service Act.

The Hon'ble Member of Wangduephodrang Dzongkhag also expressed concern and said that the bad precedent set by the Government would allow future governments to establish unlawful offices to benefit their supporters which would greatly undermine our democratic system. Hereafter, whatever public policies the government adopted should be as per provisions of laws passed by Parliament, or the Parliament should approve these policies.

Since Parliament had approved the budget and policy for establishment of the Business Opportunity and Information Centre, some members felt that it was lawful. However, others argued that mere deliberation on the budget and policy should not be construed as

approval for establishment of such an autonomous body. Moreover, the National Council did not have the powers over approval of budget.

The National Council thoroughly deliberated on the establishment of Business Opportunity & Information Centre and resolved as follows:

Recalling the discussion during the Question Time of the 13th session of the National Council on the legality of the establishment of the Business Opportunity and Information Center (BOIC) with the Hon'ble Prime Minister;

Recognizing that the foundation of a vibrant and stable democracy is the Rule of Law that requires the government to exercise its power in accordance with well established and clearly written laws;

Arguing that while Section 29 of the Civil Service Act 2010 authorizes the Lhengye Zhungtshog to “*create, abolish, upgrade or alter organizational structures in Ministries and autonomous agencies*”, Section 5 (f) states that the Act will not apply to “*any other as determined by Parliament from time to time*” meaning that only Parliament can approve the de-linking of any agency from the Civil Service;

Concluding that the Government Order of the Hon'ble Prime Minister of 19 December 2013 approving the establishment of the BOIC as a non-civil service agency has no legal basis since the Civil Service Act covers only agencies within the civil service and no other law empowers the government to create non-civil service agencies that draw funds through the Consolidated Fund based on a government executive order;

Doubtful that the establishment of the BOIC may have

breached Section 11 of the Financial Services Act 2011 which prohibits a person from offering financial services or to function on behalf of a financial services business without an appropriate license or registration and the associated perceptions of governmental interference in the banking sector through BOIC;

Concerned that exercise of such discretionary power without the approval of Parliament creates precedents that are undesirable and which could hurt our young democracy by allowing future governments to create institutions for the sole purpose of providing employment and monetary gains to party loyalists and supporters at the cost of the national exchequer;

The National Council hereby calls upon the Government to:

1. Ensure that its public policy decisions are backed by an Act of Parliament; and
2. Urgently table legislative Bills for the Business Opportunity and Information Center (BOIC) and Agency for Promotion of Indigenous Crafts (APIC) so that in future, agencies are created only after authorization by Parliament.

Voting details on the Adoption of Recommendations on the Issue related to the Establishment of Business Opportunity and Information Centre

Date: 3/12/2014; Time: 16:52; Total Votes: 23; “YES”: 21; “NO”: 1; “Abstain”: 1

The following voted, “YES”:

1. Hon Tshering Dorji
2. Hon Kuenlay Tshering
3. Hon Karma Yezer Raydi

4. Hon Tashi Wangmo
5. Hon Tashi Wangyal
6. Hon Nima
7. Hon Sangay Khandu (Gasa)
8. Hon Sangay Khandu (Samtse)
9. Hon Kaka Tshering
10. Hon Nima Gyaltshen
11. Hon Pema Tenzin
12. Hon Sonam Wangchuk
13. Hon Jigmi Rinzin
14. Hon Rinzin Dorji
15. Hon Jigme Wangchuk
16. Hon Dhan Bdr. Monger
17. Hon Tashi Phuntsho
18. Hon Kamal Bdr. Gurung
19. Hon Tashi Dorji
20. Hon Sonam Dorji
21. Hon Tempa Dorji

The following voted, “NO”:

1. Hon Pema Drakpa

The following abstained from voting:

1. Hon Tharchen

(Wednesday, 19th November 2014 corresponding to the 27th Day of the 9th Month of Wood Male Horse Year of the Bhutanese Calendar)

G. Proceeding of Question Time

1. Hon’ble Minister for Agriculture & Forests

Question I: The Hon’ble Member of Mongar Dzongkhag said that both drinking and irrigation water were important, and asked what kind of policies and plans were in place to not only secure water sources, but

water reservoirs as well, and what the aims were to enable people to engage in beneficial activities in fields without water. Similarly, he asked what the initiatives or programs were to identify permanent watershed areas that could be used for irrigation and drinking water.

The Hon'ble Minister for Agriculture & Forests said that the 11th Plan had plans and programs for minor irrigation channels, projects for drinking water, water source management, common water management, and Bhutan Water Regulations. Most of the water sources were in the forests and parks and therefore, measures related to park security were in place. Measures such National Forestry Reserve, Druk Green Initiative and reduction of electric tariff in rural areas were also implemented.

Some members asked if works were being done on water reservoirs, and whether budget had been kept for these activities, what the plans were regarding shortage of water extracting equipments and enhancement of quality of such equipments, and what projects were in place for building channels in places where the water source was far away.

To this, the Hon'ble Minister said that budget was being kept annually for purchase of water extracting equipment and building water reservoirs where there were no water sources.

Question II: The Hon'ble Member of Bumthang Dzongkhag said that when asked during the past sessions on the lease of Tsamdos and Sokshings, the response was that the lease would start from 1st July 2014, according to which the National Council members informed the people. However, the lease was not given even today. He asked what the basis was for making the

previous statement, when the lease would actually begin and what other measures were in place.

In response, the Hon'ble Minister said that the work could not begin mainly because while determining how much Tsamdo each Dzongkhag had, there were differences in the Thram between the Dzongkhags and the National Land Commission. Lot of time was required to resolve the differences. While it was not sure as to when the differences in the Thrums could be resolved, he said that the lease would begin at the earliest possible. On the question of some members whether the lease charges considered the border security concerns while leasing Tsamdo in the highlands (*La-gong-sum*), the Hon'ble Minister said that while a lease rate was prepared for approval of the Cabinet, it was difficult to decide immediately due to the vast areas covered under Tsamdo.

(Friday, 28th November 2014 corresponding to the 7th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

2. Hon'ble Minister for Works & Human Settlement

Question I: The Hon'ble Member of Thimphu Dzongkhag noted that while the Education City Project was stopped as it was in violation of the Land Act, works related to its infrastructure development were continuing. Accordingly, fund was kept in the budget for the fiscal year 2014-15. He asked whether the project would be started again, or if there were plans to start other projects.

The Hon'ble Minister for Works & Human Settlement clarified that the works were being continued so that the expenses incurred previously did not go to waste. On an

alternative project, she said that the issue would be discussed later. With regard to the budget allocation, the Ministry had not utilized it as of now although it had been included in the report.

Question II: The Hon'ble Member of Wangduephodrang asked what reasons led to the inordinate delay in construction of the by-pass road between Chhukha and Damchu on the Thimphu-Phuentsholing highway, and what the level of coordination was with Project DANTAK which was involved in its construction.

The Hon'ble Minister for Works & Human Settlement clarified that there were geological problems in the areas where the by-pass was being constructed. The alignment had to be shifted due to risk posed to the water reservoir of the Chhukha Hydropower Project and build around three bridges. These caused delay in the execution of works. To expedite completion of the work, she said that the Government including the Prime Minister himself was in constant touch with the project concerned.

On this, the Hon'ble Member of Chhukha Dzongkhag asked whether Project DANTAK had to abide by the laws, rules and regulations of the Ministry of Works & Human Settlement, and reported on the destruction of farm roads and drinking water sources caused by construction of the by-pass road. While acknowledging the inconveniences caused, the Hon'ble Minister said that such problems should be resolved by the local governments through proper dialogue with the local community and the project concerned keeping in mind the close relations between India and Bhutan.

3. Hon'ble Minister for Health

Question I: The Hon'ble Member of Gasa Dzongkhag asked what policies and programs were in place to respond to the various needs and challenges of Bhutanese people living with physical impairment and what surveys or programs the Government had launched to determine the exact number of people living with physical impairment and identify their various needs. Bhutan became a signatory to the United Nations Convention on the Rights of Persons with Disabilities in 2010. He inquired what plans there were of submitting the UN Convention on the Rights of Persons with Disabilities to Parliament for ratification or of drafting policies or an Act.

In response, the Hon'ble Minister for Health said that the implementation of basic social rehabilitation programs, and prevention and rehabilitation of disabilities programs by the Government had benefitted the people with disabilities. Treatment, wheel chairs, hearing aids and walking sticks were provided, and preventive programs and policies put in place with regard to preventable diseases. Similarly, collaborative activities were carried out with non-government organizations such as Bhutan Capable Society, Bhutan Disabilities Board and Draktsho Handicrafts, and research related to disabilities were being carried out. However, the Hon'ble Minister said that he could not say anything with certainty with regard to submission of the United Nations Convention on Rights of Persons with Disabilities to Parliament for ratification.

Some members asked whether the Government was going to frame policies and work on the issue, and if a new Act would be drafted. If not, how long it would take for Parliament to ratify the United Nations Convention

on the Rights of Persons with Disabilities. The Hon'ble Minister said that he was hoping for results within six to seven months.

Question II: The Hon'ble Member of Haa Dzongkhag said that the number of suicide cases in the country was increasing each year and asked if the Government had considered it as an issue that merit deeper enquiry into the socio-psycho causes and circumstances, which require a comprehensive response. He also asked what programs or initiatives were conceptualized or implemented to address this growing national concern.

On this, the Hon'ble Minister for Health said that the Government was greatly concerned by the issue. It had carried out a thorough research and come up with preventive policies which were endorsed by the Cabinet. A copy of the research report was also submitted to the Hon'ble Chairperson. He said that the Government and non-government organizations will hereafter continue to work together and come up with treatment, awareness programs and plan activities for implementation upon submission to the Cabinet.

(Tuesday, 2nd December 2014 corresponding to the 11th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

4. Hon'ble Minister for Information & Communications

The Hon'ble Member of Trashiyangtse Dzongkhag asked why the Ministry of Information & Communications allowed Tashi Air to violate the terms and conditions of licensing international flights which was to subsidize domestic flights and why the Government was not able to enforce a legal agreement with the particular business group despite the assurance given to resume

flights by October 2014 as submitted during the previous session. He further questioned whether giving large companies such special exemptions would not create an unhealthy precedent for other large and powerful companies in the future and if the government was not concerned about setting such precedents.

In response, the Hon'ble Minister for Information & Communications said that though the Government ordered Tashi Air to resume domestic flight services, the airline had submitted that it needed another two years to strengthen its international flight services. Therefore, domestic flight services could not be resumed. Moreover, the airline had sought an approval to use suitable smaller planes which was put up to the Cabinet.

Some members asked again why the legally executed agreement between the Government and business operator could not be followed. Violation of the agreement gave the impression that different levels of business followed different laws, and that one country had two laws. They said if domestic flights could not be resumed, why the airports were built in the first place. The Hon'ble Minister for Information & Communication explained that while research was done for building the airports, the results could not be anticipated which led to the current problems. The small population of the country led to the business running on loss which ultimately led to disruption in the continuity of domestic flights.

(Wednesday, 3rd December 2014 corresponding to the 12th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

5. Hon'ble Minister for Home & Cultural Affairs

The Deputy Chairperson of the House, Hon'ble Member of Haa Dzongkhag said that while most Dzongkhags used Dzong as a centre of civil and religious administration, in Haa Dzongkhag, the Dzong was used as a training centre by the Indian Military Training Team (IMTRAT). While it was a symbol of the close relationship between India and Bhutan and the benefits derived from associated development activities, he said that the Dzongkhag was deprived of a centre for civil and monastic administration. The Royal Government has recently opened Haa to tourism. As in every dzongkhag, Dzong is one of the major tourist attractions. Therefore, he asked whether the Royal Government had plans to reinstate Wangchuk Lo Dzong and when the plans would be implemented.

On this, the Hon'ble Minister for Home & Cultural Affairs said that before asking the Dzong back, a place had to be identified for IMTRAT and construction of infrastructure undertaken. However, the current economic situation was not conducive and asking back the Dzong was not easy. However, he said that the Urtse of the Dzong had been handed back to the Dratshang in 1989 and the whole area been registered in the name of the Royal Bhutan Army in 1995. Further measures would be taken to solve the problem as soon as possible.

Some members felt that Indian tourists visiting Haa should be allowed to do so without a permit similar to the visits to Thimphu and Paro. However, the Hon'ble Minister for Home & Cultural Affairs clarified that

permit was necessary since Haa was a bordering Dzongkhag.

(Wednesday, 3rd December 2014 corresponding to the 12th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

6. Hon'ble Minister for Finance

The Hon'ble Member of Haa Dzongkhag asked what level of 11th Plan expenditure had been spent in the past year, and whether it was on target or fallen short of plan projections. What level of external aid commitment had been received in the past year and had it met our expectations of fund flows? Further, he asked what the level of fund disbursement had been to the local governments in the past year, whether it was as per the plan target and what the main impediments were that the Government was facing in successfully implementing the plan works.

On this, the Hon'ble Minister for Finance explained that of the total budget of Nu. 213 billion for the 11th Plan, Nu. 121 billion was for Current Expenditure and Nu. 92 billion for Capital Expenditure. Of these, 15% had been allocated during the 1st Year and the total expenditure amounted to around Nu. 34,474.59 million. Although external assistance was estimated at Nu. 58 billion when the Plan was being framed, it had risen to Nu. 71 billion during talks with external assistance providers, of which Nu. 11 billion had been received and spent during the 1st Year of the Plan.

(Monday, 8th December 2014 corresponding to the 17th Day of the 10th Month of Wood Male Horse Year of the Bhutanese Calendar)

H. Closing Ceremony

1. Hon'ble Chairperson's Closing Address

The Hon'ble Chairperson said that the National Council was able to conclude its 14th Session successfully because of the wise guidance of His Majesty the King. He also attributed the success of the session to the constant review meetings carried out by the Chairpersons and members of individual Committees and thanked them for their contributions. He thanked the staff of the Secretariat for their support during the session, the Royal Bhutan Police for providing external security, the staff of the Department of National Properties for making all logistical arrangements, and the staff of Bhutan Broadcasting Service Corporation for live broadcast of the deliberations.

He also thanked the Hon'ble Speaker of the National Assembly for his gracious presence during the opening and closing sessions of the National Council which was the start of a tradition that was not earlier practiced. He pointed out that the Hon'ble Speaker's presence was indicative of the existence of healthy cooperation, respect and support for each other between the two Houses of Parliament.

With the conclusion of the 14th Session of the National Council, the Hon'ble Chairperson announced the draft agenda for the 15th Session. According to the agenda, the Committees were tasked to carry out the following activities related to amendment of bills and review of policies and programmes with immediate effect:

A. Legislative Committee

1. Entitlement and Service Conditions Act (Amendment) Bill for the Holders, Members and Commissioners of the Constitutional Offices of Bhutan 2014.
2. Election Act (Amendment) Bill of Bhutan.
3. Procedures for Ratification of International Protocols and Agreements.

B. Natural Resources and Environment Committee

1. Issues related to Gewog Delimitation.
2. Doha Amendment to the Kyoto Protocol to the UN Framework Convention on Climate Change.
3. Statute of the International Renewable Energy Agency.

C. Economic Affairs Committee

1. Budget and Appropriation Bill for the Fiscal Year 2015-16.
2. Tourism Policies and Measures.

D. Social and Cultural Affairs Committee

1. Policies and Programs related to Employment.

E. Ad Hoc Committee

1. Hydropower Policies, Programs and Measures.

The Hon'ble Chairperson pointed out that the Members of Parliament and the Government were all working towards solving the problems of the people in the country and, hence, all the policies and programs initiated by the Government should be in accordance with laws passed by Parliament. Independent policies, in violation of laws, would create additional problems. Therefore, he said that one of the resolutions of the current session was in support of the need to base the

decisions of all public policies on the Acts of Parliament, and thereby calling upon the Government to, hereinafter, follow accordingly.

In conclusion, the Hon'ble Chairperson expressed his appreciation for the blessings of the *Kenchog Sum*, the protection of the guardian deities, the guidance of His Majesty the King and the support of the general public. The 14th Session of the National Council concluded with prayers of tribute to His Majesty the Fourth Druk Gyalpo and His Majesty the King and *Tashi Moenlam*.

(Sonam Kinga)

Chairperson

National Council of Bhutan