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**THE OFFICE OF THE ATTORNEY GENERAL ACT  
OF BHUTAN, 2006**

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# **THE OFFICE OF THE ATTORNEY GENERAL ACT OF BHUTAN, 2006**

## **Preamble**

In keeping with the noble vision of His Majesty the Druk Gyalpo to promote and impart justice through fair, impartial and just proceedings in civil and criminal cases, by enacting enlightened laws and to uphold the rule of law, natural justice and the Constitution through responsive and accessible legal process, the National Assembly do hereby enact the Office of the Attorney General Act of the Kingdom of Bhutan.

The Office of the Attorney General Act of Bhutan has been passed on the Fifth Day of the Fifth Month of the Male Fire Dog Year, corresponding to 30<sup>th</sup> Day of the Month of June of the Year 2006, during the 85<sup>th</sup> Session of the National Assembly of Bhutan.

## **CHAPTER 1 PRELIMINARY**

### **Title, Commencement and Extent**

1. This Act shall:
  - (a) Be called the Office of the Attorney General Act of Bhutan, 2006;

- (b) Come into force on the Fifth day, Fifth month of the year of the Male Fire Dog, corresponding to 30<sup>th</sup> Day of the Month of June or the Year 2006; and
- (c) Extend to the whole of the Kingdom of Bhutan.

## **Repeal**

- 2. This Act shall repeal all directives and circulars that are inconsistent with this Act.

## **CHAPTER 2 THE OFFICE OF THE ATTORNEY GENERAL**

### **Establishment of the Office of the Attorney General**

- 3. There shall be an Office of the Attorney General (the Office) entrusted with the responsibilities arising within the domain and authority of the Government on internal and external legal matters.
- 4. The Office of the Attorney General shall be autonomous, effective and efficient, and worthy of public trust and confidence.
- 5. The Office of the Attorney General shall provide the highest standard of professional legal services to the Government.

6. The Office of the Attorney General shall prosecute, render legal opinions, draft and review bills, advice on all legal matters and perform such other duties of legal nature, as may be assigned by the Druk Gyalpo or the Government.
7. The Office of the Attorney General shall be headed by the Attorney General.
8. The Office of the Attorney General shall have divisions and sections that shall be determined by the Attorney General as deemed necessary.
9. The Government shall provide adequate facilities for the smooth functioning of the Office.
10. Except for the Attorney General, the service conditions of the employees of the Office shall be governed by the Civil Service Act of the Kingdom of Bhutan.

### **CHAPTER 3 FUNCTIONS OF THE OFFICE OF THE ATTORNEY GENERAL**

#### **Prosecution and Litigation**

11. The Office of the Attorney General shall endeavor to promote fair, impartial and just proceedings in civil and criminal cases.

12. The Office of the Attorney General shall:
  - (a) Represent the Government in civil litigation and criminal prosecution before the Courts of Law and tribunals and perform such other functions as may be referred to by the Government;
  - (b) Render advise on cases affecting the Government in which it is a party;
  - (c) Obtain relevant information, particulars and necessary documents pertaining to a case and the Government shall not withhold such information and documentary evidence;
  - (d) Be entitled to enlist the presence of officers and employees of the Government who shall render active cooperation and assistance pertaining to a case;
  - (e) Advise the Government on orders passed by Courts of Law in and outside Bhutan as and when required; and
  - (f) Render necessary advice and support to the Government for the execution of judgments.
13. The Government shall ensure the presence of the concerned officers and witnesses as and when required.



## **Legal Services**

14. The Office of the Attorney General shall:
  - (a) Endeavor to promote efficiency, transparency and accountability of the Government through effective legal services;
  - (b) Provide legal services and opinions on matters of law and such other issues assigned or referred to it by the Druk Gyalpo or the Government;
  - (c) Provide legal education to legal personnel; and
  - (d) Disseminate information to enhance awareness of laws among the people.

## **Drafting**

15. The Office of the Attorney General shall draft bills referred to it by the Government.
16. The ministries/agencies shall furnish clear policy guidelines and support to the Office for drafting of the bills.

17. The ministries/agencies shall designate in writing an official to facilitate the Office in drafting of the bills.

## **Review**

18. The Office of the Attorney General shall:
  - (a) Review bills referred to it by the Government;
  - (b) Review the laws and propose for necessary amendments to the Government;
  - (c) Constitute Committees to review laws as and when required; and
  - (d) Endeavor to ensure that there is no duplicity or contradiction of laws by reviewing the form and content of bills, rules and regulations.

## **CHAPTER 4 THE ATTORNEY GENERAL**

### **The Attorney General**

19. 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.
20. The Attorney General shall be accountable to the Prime Minister.
21. The Attorney General shall not abuse the powers bestowed upon him.
22. The Attorney General shall hold Office for a term of five years.
23. The Attorney General shall be paid such remuneration and benefits as may be from time to time determined by the Government.

### **Duties and Responsibilities of the Attorney General:**

24. The Attorney General, as the Chief Legal Officer, shall:
  - (a) Defend the cause of the Kingdom and discharge his functions in pursuit of justice;

- (b) Advise the Druk Gyalpo and the Government on all legal matters and perform such other duties of a legal nature as may be assigned or referred to him;
  - (c) Have the right of audience in all Courts of Law in Bhutan; and
  - (d) Be responsible for the functioning of the Office of the Attorney General to uphold the rule of law, justice, and in pursuit of excellence.
25. The Attorney General shall represent the Government in any Court of Law outside the Kingdom of Bhutan.
26. The Attorney General shall furnish the Druk Gyalpo and the Government such information and advice as may be required on legal matters or issues related to national interests.
27. The Attorney General shall avail the services of Jabmis, as and when deemed necessary, to perform specific legal assignments.
28. The Government shall seek opinion from the Office of the Attorney General in writing, through a concise statement on the subject, supported by documentation or other materials that may be necessary.
29. The Attorney General shall furnish opinion in writing only and oral communication shall not be considered as part of the opinion.

30. The Attorney General shall:
  - (a) Authorize and supervise Government pleaders, prosecutors and special counsels for and on behalf of the Government, in any Court of Law;
  - (b) Create, change and merge divisions, sections, and units in the Office and the regional offices as deemed necessary;
  - (c) Supervise formulation of plans and policies of the Office; and
  - (d) Take any other action necessary in the administrative interests of the Office of the Attorney General.
31. The Attorney General shall have the right to appear and express opinion on any legal question in Parliament or any committee thereof, but shall not have the right to vote.
32. The Attorney General shall have the power to institute, initiate, or withdraw a criminal case or civil litigation in accordance with the law.
33. The Attorney General shall submit annual reports of the activities of the Office to the Druk Gyalpo and the Prime Minister.

## **Accessibility**

34. The Attorney General shall have access to persons, relevant records, documents and properties pertaining to a civil or criminal case in the performance of his duties.

## **CHAPTER 5 CODE OF CONDUCT OF THE ATTORNEY GENERAL**

### **Ethical Values and Principles**

#### **35. Loyalty and Dedication**

The Attorney General shall perform his duties with complete loyalty and dedication to the Tsa-Wa-Sum and he shall not indulge in any activity that may affect the sovereignty and interests of the Kingdom of Bhutan.

#### **36. Responsibility**

The Attorney General shall ensure that his personal conduct is consistent with the dignity, image and integrity of the Office.

#### **37. Honesty**

The Attorney General shall act honestly, and with propriety in the performance of his duties and functions.

**38. Fairness and Diligence**

The Attorney General shall not make an official decision without first giving due consideration to the matter at hand and the impact it is likely to have on the rights and interests of the people involved.

**39. Confidentiality**

The Attorney General shall maintain confidentiality in cases where the Office of the Attorney General's decisions and documents should not be disclosed in the interest of the nation.

**40. Integrity**

The Attorney General shall not be influenced in any manner whatsoever by any individual or body of individuals in the discharge of his official duties.

**41. Selflessness**

The Attorney General shall take decisions solely in the interest of the nation and in the interest of justice and not on any other factors.

**42. Transparency**

The decisions and actions of the Attorney General shall be made transparent and he shall provide reasons for his decisions.

### **43. Leadership**

The Attorney General shall display high moral values and conduct himself at all times in a manner that reflects credibly on the Office. He must abide by the spirit and letter of the laws and rules, and adhere to the ethical standards expressed in this Act.

### **Personal Conduct**

44. The Attorney General, shall comply and execute laws, uphold the administration of justice and protect the integrity of public life.
45. The Attorney General entrusted with the sacred responsibility to serve the Tsa-Wa-Sum, shall:
  - (a) Refrain from indulging in habits and behaviour that infringe upon the performance of official duties or tarnish the image of the Office;
  - (b) Maintain dignity and decorum of the Office;
  - (c) Not use Government resources for personal purposes and benefits;



- (d) Be liable for unlawful and improper behaviour or the non-performance of his duties;
- (e) Not do or direct to be done, in abuse of his office or power, any act prejudicial to the rights of another person knowing that such act is unlawful or contrary to Government policy;
- (f) Maintain transparency in the policies of the Office and in his decisions and actions;
- (g) Not knowingly mislead the Government on any matter of significance arising from his functions;
- (h) Not maintain or operate a bank account in any country outside Bhutan;
- (i) Not provide information which is detrimental to the interest, territorial integrity and sovereignty of the Kingdom;
- (j) Protect and uphold professionalism of a Jabmi, render decisions based on merit, and shall prohibit all forms of discrimination; and
- (k) Not accept any gifts, presents or benefits.

## **Conflict of Interest**

46. The Attorney General shall ensure that no conflict arises, or appears to arise between his official duties and his private interests, financial or otherwise. A conflict of interest may exist when the Attorney General is influenced or appears to be influenced by private interests.
47. Private interests include not only the Attorney General's financial or other interests but also the financial or other interests of the Attorney General's spouse.
48. The Attorney General shall:
  - (a) Declare his income, asset and liability including the asset and liability in the name of his spouse and dependents within three months upon taking the office, annually thereafter and three months prior to the vacation of the office to the Anti Corruption Commission;
  - (b) Not undertake any private trade or commercial activity or additional employment;

- (c) Be entitled to retain any shares held before his appointment as the Attorney General, provided that he does not trade those shares or acquire new shares while in office;
- (d) Not appear, advise or represent any party against the Government; and
- (e) Not be a member of, belong to, or take part in any society the membership of which is incompatible with the functions or dignity of his office.

49. The Attorney General shall not accept decorations from foreign countries.

### **Removal of the Attorney General**

50. The Prime Minister may remove the Attorney General on grounds of:

- (a) Physical, mental, or other incapacity of a permanent nature; or
- (b) Any violation of this Act; or
- (c) Conviction under any other law.

## **CHAPTER 6 OTHER FUNCTIONS OF THE OFFICE OF THE ATTORNEY GENERAL**

### **Research and Library**

51. The Office of the Attorney General shall conduct research to facilitate the functions of its divisions, sections and units.
52. The Office of the Attorney General shall be the depository of all laws.

### **Administration and Finance**

53. The Administration and Finance Division of the Office of the Attorney General shall discharge its functions in accordance with the relevant laws, rules and regulations.

### **Policy and Planning**

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

## **CHAPTER 7 MISCELLANEOUS**

### **Immunity from Prosecution or Civil Suit**

55. No criminal proceeding or civil suit shall be brought against any employee of the Office of Attorney General in respect to any proceeding in a Court of Law, which has been done in good faith, in the course of his duties under this Act.

### **Savings**

56. This Act does not affect the validity of any action or decision of the Office of Legal Affairs as was constituted before the commencement of the Act.

### **Rulemaking Power**

57. The Office of the Attorney General may make rules from time to time to carry out the provisions of this Act.

## **Amendment**

58. Any amendment of this Act shall be made by Parliament.

## **Authoritative Text**

59. The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.