

## **1. STANDARDS BILL OF BHUTAN, 2009**

The Member In-charge of the Bill, the Minister of Works and Human Settlement moved the motion for leave to introduce the Bill on November 20, 2009. Presenting the Bill, he said that the Bill was highly important in order to foster and promote standards and standardization activities as a means of advancing the national economy and for the welfare of the public. Further, he informed that the Bill was adequately deliberated and subsequently passed in the 3<sup>rd</sup> Session of the National Council. The Bill was then adopted for discussion after the entire members present raised their hands in favour of the motion.

### **The Member In-Charge moved the motion for the Second Reading of the Bill on 23<sup>rd</sup> November 2009**

He submitted that instead of having to establish numerous standards control authorities, there would be only one Standards Bureau for which there was an urgent need for a Standards Act in the country. He added that not only should the Standards Bureau be independent but should also consist of 15 Board Members from the relevant Ministries.

He said that there was the need to develop proper standards for all materials, even for stones and timbers. Till date, standards developed in other countries were followed due to the absence of a Standards Act in our country. There were risks that this would adversely affect the development of trade and commerce.

The Standards Bill provides provisions on granting of licence, its cancellations and penalties to the defaulters. The Bill also states that the Government shall provide the initial funds for the establishment of its office. The accounts procedures to be followed as per the Government rules and tabling of its annual

audit reports to the Parliament are also clearly spelt out in the Bill.

Hon Member of Kengkhar-Weringla constituency submitted that standards should be overlooked by a single Bureau because inconveniences may arise later on in the event there are also other relevant agencies under different ministries overseeing the standards. Hence, he suggested that it would be appropriate to establish an umbrella institution to coordinate and oversee all standardization activities. Hon Member of Gangzur-Minjay, Nysho-Sephu, and Menbi-Tshenkhar constituencies seconded the submission and further expressed that the relevant ministries be consulted.

Hon Minister for Labour & Human Resources submitted that although the Bill should refer only to standardization of goods, the Dzongkha text of the Bill provides for the “standardization of goods and **employment**”. Hence, he expressed doubts as to how the Bill would be able to cover the standardization of employment. To this, Hon. Minister for Finance clarified that the Bill is purported to ascertain the quality of goods while manufacturing only. Therefore, he suggested that it would be more appropriate to use the term “services” or any other equivalent word in lieu of “**employment**” in the Dzongkha text.

Hon Member of Goen-Khatoe-Laya constituency submitted that there is no need to establish a separate Standardizations Bureau since it was most appropriate that the existing Standards and Quality Control Authority under the Ministry for Works & Human Settlement continue to oversee the standardization activities as they have the requisite experience, capability and knowledge. He expressed doubts as to how the lesser-affluent people would be able to make purchases in the event the Bill requires setting a very high standard. He said that there was also

the need to look into its advantages and disadvantages to which the Hon. Minister for Education seconded the submission.

Hon Member of Gangzur-Minjay constituency submitted that provisions on penalties to non-compliance to this Act should be made firm during the initial drafting of the Bill, otherwise, a lot of defaulters would arise in the event the penalties were relaxed. Thereafter, the Bill was referred to Private Sector Development Committee. The Committee was advised to discuss with the heads of the relevant ministries and thus concluded the Second Reading of the Bill.

**Members of National Assembly deliberated the Standards Bill of Bhutan, 2009 for the Third Reading from November 25<sup>th</sup> till the 1st December 2009 and adopted the Bill with the following amendment.**

**Title**

Bhutan Standard Bill, 2009

**Preamble**

WHEREAS, it is highly important to foster and promote standards and standardization activities as a means of advancing the national economy, benefiting the health, safety and welfare of the public, assisting and protecting consumers, protecting our natural environment, promoting industrial efficiency and development, facilitating domestic and international trade;

AND WHEREAS, the Royal Government is desirous to promote the concept of “Brand Bhutan” as a mark of quality, purity and originality;

AND WHEREAS, Bhutan respects international standardization norms and practices, and had acceded to major international standardization bodies;

AND WHEREAS, there is a need for an umbrella institution to coordinate and oversee all standardization activities in the country and avoid duplication of works;

Parliament of the kingdom of Bhutan do hereby enact the Standards Act of the Kingdom of Bhutan 2009, at its **fourth** session of the 1<sup>st</sup> Parliament as follows:

**Section 1 (b)**

Come into force on the \_\_\_\_\_ day of the \_\_\_\_\_ month of the Earth **Female Ox** Year of the Bhutanese Calendar corresponding to \_\_\_\_\_ day of the \_\_\_\_\_ month of 2009; and

**Repeal**

This Act hereby repeals any provisions of laws, by-laws, rules or regulations or directives which are inconsistent with this Act.

**Section 4 (g)**

oversee the implementation of ~~the World regional and international Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT)~~ **related to standards and technical barriers to trade**; and

**Section 5**

~~A Chairperson ex-officio, who shall be the Minister in-charge of the Ministry having administrative control of the Bureau;~~

~~The Secretary in charge of the Ministry of the Royal Government having administrative control of the Bureau, ex-officio;~~

~~The Head of the Bureau, ex officio, who shall be the Member Secretary of the Bureau; and~~

~~not more than 15 members representing industry, scientific and research institutions, consumer interests and other interests appointed by the Minister who shall possess knowledge of standards or other matters likely to be of assistance to the Bureau in the performance of its functions under this Act.~~

- a) **Chairperson, who shall be the minister from a relevant ministry**
- b) **One member each, above or equal to the level of director, from different relevant ministries;**
- c) **The head of the Bureau who shall be the Member Secretary of the Bureau; and**
- d) **Not more than 5 members appointed by the Chairperson representing industry, scientific and research institutions, consumer interests and other interests who shall possess knowledge of standards or other matters likely to be assistance to the Bureau in the performance of its functions under this Act.**

## **Section 7**

The ~~Minister~~ **Chairperson** shall, on the recommendation of the Royal Civil Service Commission, by public notice, appoint a person suitably qualified, scientifically and technically as the Head of the Bureau who shall be the Chief Executive Officer of the Bureau, subject to the general superintendence of the Bureau.

## **Section 8**

The terms and conditions of service of the Head **and employees** of the Bureau shall be such as may be prescribed in the regulations.

## **Section 11 to 14**

~~11. The terms and conditions of service of the officers and employees of the Bureau appointed under Section (10) shall be such as may be determined by the regulations.~~

~~12. The conditions of service, including remuneration, of any officer or staff appointed under Section (10) shall be determined by the regulations.~~

~~13. The Bureau shall have the power to exercise disciplinary control over the Head, officers and staff of the Bureau in accordance with the regulation made in this behalf.~~

~~14. The Bureau may delegate all or any of its powers relating to the appointment of officers or staff of the Bureau to its Head.~~

## **Section 15 (r)**

Oversee implementation of **WTO-TBT regional and international trade agreement** provisions **related to standards** including operation of TBT National Enquiry Point;

### **Section 15 (z)**

Establish, **in consultation with the Royal Government**, branches, offices or agencies in Bhutan or outside;

### **Section 18 and 19**

~~18. The Bureau may, with the prior approval of the Royal Government, by a notification, constitute an Executive Committee to assist and carry out the day to day functions on behalf of the Bureau which shall consist of the following members, namely:~~

~~(a) A Chairperson, ex officio, who shall be the Secretary in charge of the Ministry having administrative control of the Bureau;~~

~~(b) Head of the Bureau, who shall be its ex-officio Member Secretary; and~~

~~(c) not more than 10 members representing industry, scientific and research institutions, consumer interests and other interests appointed by the Minister who shall possess knowledge of standards or other matters likely to be of assistance to the Bureau in the performance of its functions under this Act.~~

~~19. The Executive Committee shall perform, exercise and discharge such functions, powers and duties of the Bureau as may be delegated to it by the Bureau.~~

### **Section 21**

The Bureau may, by order, grant, renew, suspend or cancel a license for **the use of the Bhutan Standards Certification Mark** in such manner as may be determined by regulations.

### **Section 23**

Any person aggrieved by an order made under Sections (21) and (22) may prefer an appeal to the Appellate Board comprising of such members representing industry, scientific and research institutions, consumer interests, law and other interests, appointed by the ~~Minister~~**Chairperson** who shall possess knowledge of standards or other matters likely to be of assistance, within such period as may be prescribed in the regulations.

### **Section 28**

The Head may, out of the funds of the Bureau, and with the consent of the ~~Minister~~**Chairperson** authorize the:

- (a) payment of all such sums of moneys as may be necessary to enable the Bureau to discharge its functions under this Act and to give effect thereto.
- (b) payment for meeting the expenses on objects and for purposes authorized by this Act.

### **Section 29 (b)**

~~such other~~ statements of account as may be necessary to indicate the financial status of the Bureau as at the end of that year.



### **Section 31**

The Bureau shall, submit to the ~~Minister~~ **Chairperson** all such information as he may from time to time require in respect of the activities and financial position of the Bureau.

### **Section 32**

The Bureau shall as soon as practicable after the end of each financial year submit to the ~~Minister~~ **Chairperson** an annual report on its activities including a balance sheet and a statement of income and expenditure audited in accordance with Audit Act of Bhutan in force, and such other particulars as the ~~Minister~~ **Chairperson** may request, and such report shall be presented by the ~~Minister~~ **Chairperson** before the Parliament.

### **Section 33**

The Annual report shall be published by the Bureau. ~~in such manner as it may deem necessary.~~

### **Section 41**

A person who is or has been engaged in the administration of this Act, discloses, except for the purpose of exercising his functions or when required to do so by a court or under any law, any information acquired by him in the exercise or purported exercise of his functions under this Act to any other person shall be guilty of an offence punishable **under the Penal code of Bhutan.** ~~with imprisonment for a term which may extend to six months or with a fine which may extend to seven months of daily national minimum wage rate~~

## **Section 42**

A person who willfully contravenes Sections (34) to (38) shall be guilty of an offence punishable **under the Industrial Property Act**, ~~with imprisonment for a term which may extend to one year or with a fine which may extend to fourteen months of the daily minimum national wage rate.~~

## **Section 45**

~~No court subordinate to that of a District Court specially empowered in this behalf shall try any offence punishable under this Act. A court of law having jurisdiction shall hear cases and try any offence punishable under this Act.~~

## **Section 48**

The ~~Minister~~ **Chairperson**, after consultation with the Bureau may make regulations for carrying out the provisions and purposes of this Act. Without prejudice to the generality of this Section, the regulation may include, but not limited to, the following:

## **Section 49**

~~In this Act, unless the context indicates otherwise, the singular shall include the plural and the masculine shall include the feminine.~~

## **Section 52 (n)**

~~“Executive Committee” means the Executive Committee constituted under Section (18) of this Act.~~

## **26. Section 52 (q)**

**“Minister Chairperson”** means the ~~Minister~~ **person** for the time being responsible for matters relating to Bhutan Standards Bureau.

After submitting their general views, Hon’ble Members of National Assembly adopted the Bill by raising their hands. All the members present raised their hands and thus adopted the Bill on 1<sup>st</sup> December 2009.

## **2. ROYAL MONETARY AUTHORITY BILL OF BHUTAN, 2009**

**The Finance Minister, Member In-Charge of the Bill, while moving the motion for leave to introduce the Royal Monetary Authority (Amendment) Bill of Bhutan, 2009 and adoption for discussion in the first reading on 20<sup>th</sup> November 2009**, said that due to the economic development in the country, the roles and responsibilities of the Authority has undergone drastic change and the existing Act is inadequate to address these changes. Therefore, it was imperative to amend the Royal Monetary Authority Act, 1982. He reported that, the Bill was deliberated and endorsed by the National Council in its 3<sup>rd</sup> session. All the Members of the House raised their hands in favour of the motion and adopted the Bill for discussion.

### **The Member In-Charge moved the motion for the Second Reading of the Bill on 23<sup>rd</sup> November 2009**

He said that Royal Monetary Authority is an important autonomous body. Unlike other financial institutions, profit making is not its primary objective. However, in the process of its business operations, it does generate some profit of which 50

percent is remitted to the government. Due to the foreign exchange gain, authority generates profit in one year and other year it may suffer loss because of foreign exchange loss. While the books of accounts may show profit, it is not accounted for until the foreign currency (Dollar) is sold. He also reported that, the Managing Director of the Monetary Authority will be appointed as Governor in line with the provision of the Constitution as practiced in other countries. The Authority, as the banker of the government, it will maintain the books of accounts in pursuant to the financial norms and report to the government. He also reported that there is an internal audit in the Authority and explained the Bill chapter by chapter.

The Speaker said that the short title of the Bill states as “Royal Monetary Authority (Amendment) Bill, 2009”. However, a Bill could be tilted as Amendment Bill, only if the proposed amendments pertain to few Sections of the Act and entire Act could be amended. Therefore, he sought the opinion of the House whether the Bill could be tabled as Amendment Bill or new Bill. He also instructed the House to deliberate on the insertion of the word “Royal” in line with the circular issued by the Royal Privy Council.

Hon Member of Drakten –Langthel Constituency submitted that, when the amendments are too many leading to overhauling of the bill, it is not an amendment but should be tabled as a new bill. It was seconded by Goenkhatoe-Laya Constituency Member, who expressed the need for adding a sentence repealing the Bill. Drakten-Langthel constituency member also expressed for the need to change the title of the bill as the “Central Bank of Bhutan” in addition to elaboration on the restriction of opening bank account in the foreign countries as no other agency is deemed fit to audit on it.

Hon Minister of Labour and Employment expressed that the Royal Monetary Authority Act was already there and the amendment of the same Bill should be considered as an amendment. Regarding the title of the Bill, he explained that the title was chosen as the best one after considering several titles of the Central Bank of many other countries. It was decided to keep the same title after being seconded by the Minister of Finance, Lhamoezingkha-Tashiding Constituency Member and Khenkhar-Weringla Constituency Member.

Hon Member of Ganzur-Minjay raised the point on the need to include a Section regarding substitution of the Committee member if he/she absents himself/herself from the Committee meeting for three times.

Hon Speaker suggested that it is necessary to deliberate on the title of the bill as per the Constitution of the Kingdom of Bhutan and the Royal Privy Council the Bill was referred to the Public Accounts Committee for further examination.

**Hon Members of National Assembly deliberated the Royal Monetary Authority (Amendment) Bill of Bhutan, 2009 for the Third Reading from November 26<sup>th</sup> till the 30<sup>th</sup> November 2009 and adopted the Bill with the following amendments.**

**Title**

The Royal Monetary Authority of Bhutan (~~Amendment~~) Bill, 2009

**Preamble**

Parliament of the Kingdom of Bhutan do hereby enact the Royal Monetary Authority of Bhutan (~~Amendment~~) Act, 2009 at its ~~Third~~ **Fourth** Session of the First Parliament as follows:

**Section 1 (a)**

Be called the Royal Monetary Authority of Bhutan Act,~~(Amendment)~~ 2009;

**Repeal**

**The RMA Act, 1982 and any provisions of any law, by law, rules or regulations which are inconsistent with this Act shall be repealed unless otherwise provided in this Act.**

**Title of Chapter 2**

~~Constitution of the~~ the Royal Monetary Authority of Bhutan

**New sub section under section 8**

**Perform regulatory functions for sectors which have a direct bearing on the monetary financial system, but not covered under this or any other Act.**

Sub section 8 (i) inserted after new sub section

**Section 11 (c)**

~~upon the unanimous vote of all the members of the Board, establish offices abroad.~~

**On the recommendation of the Board, establish offices abroad upon approval by Royal Government.**

**Section 32 (c )**

~~four other members appointed from outside the Authority.~~

**Four other members appointed from outside the authority shall include at least one member from the Ministry of Finance.**

### Section 33

~~The Chairman of the Board shall be appointed by the Government from among the four appointed directors Board members, with the exception of the two Deputy Governors. In the temporary absence or incapacity of the Chairman, and in the event that the Governor is not the Chairman, the Governor shall act as Chairman of the Board. In the absence or incapacity of both the appointed Chairman and the Governor, the remaining members shall elect one of their number to act as Chairman.~~

**The Chairman of the Board shall be appointed by the government as may be elected by the four appointed members from amongst themselves. In the temporary absence or incapacity of the chairman, the governor shall act as the chairman. While, in the absence of or incapacity of the both appointed chairman and the governor, the remaining members shall elect one of the members to act as the chairman**

### Section 34

Any fees and allowances for members of the Board shall be determined by the ~~Board~~ **government on the recommendation of the board.**

### Section 39

~~An appointed member of the Board may resign from his office~~ **board** on giving notice in writing to the Royal Government. Such resignation shall be effective upon its acceptance by the Royal Government and, as soon as may be practicable, another member shall be appointed in his place for the **full five year term unexpired period** ~~of his appointment.~~

#### **Section 40**

~~The Governor and appointed members of the Board may be removed from office by the Royal Government only upon a finding, by a committee constituted for the purpose, of permanent incapacity or incapable of carrying out his duties expected from him or of serious misconduct, substantially prejudicing the interest of the Authority. The affected party shall be given a proper hearing and shall have the possibility to appeal against the decision before an independent court.~~

**The Governor may be removed from office by His Majesty, the Druk Gyalpo, upon the recommendation of the Prime Minister. The appointed members of the board may be removed from office by the government. Both removals shall be only upon finding by a committee constituted for the purpose of permanent incapacity or incapable of carrying out of their duties or of serious misconduct, substantially prejudicing the interest of the authority. The affected members shall be given a proper hearing.**

#### **Section 41**

~~If the Governor or Any one of the other appointed directors dies, or resigns or otherwise vacates his office before the expiry of the term for which he had been appointed, another shall be appointed in his place for a full five year term. the unexpired period as soon as may be practicable.~~

#### **Section 44**

The Deputy Governors shall be appointed for a term of five years, **which may be extended by one more term**



**if he performs well or until the superannuation age, whichever is earlier.—and shall be eligible for reappointment.**

**Section 46**

Sections 38, 39, 40 **and 41** shall apply, so far as is applicable, to persons appointed to the office of Deputy Governor.

**Section 49**

The quorum for a meeting of the Board shall be ~~four~~ **five members, of which the governor and one of the two deputy governors shall be present.**

**Section 55**

The Executive Committee shall consist of ~~six~~ **seven** members, namely the Governor, the two Deputy Governors and ~~three~~ **four** other members appointed from the Division Heads by the Governor in consultation with the Deputy Governors.

**New Section after section 55**

**The decision shall be passed by the simple majority vote. In case of a tie vote, the chairman shall have the authority to cast the deciding vote.**

**Section 66**

The salary, allowances and benefits of the Governor and **Deputy Governors** shall be determined by the Royal Government.

**Section 67**

The Governor and **Deputy Governors** shall not receive any salary or contribution, or supplementation thereof,

from any source other than the Authority.

### **Section 68**

The ~~Authority~~ **Board** shall determine the salaries, allowances and benefits of the officers and employees of the Authority. The Authority shall ensure that these arrangements are fully appropriate, having regard to remuneration for comparative work in the public and private sectors.

### **Section 72**

~~The Authority may approve advances to its officers and employees subject to terms and conditions to be prescribed by the staff regulations pursuant to Section 70—~~

- ~~a. for the purchase, construction or repair of one residential house for his personal use against the security of the said house; and~~
- ~~b. for other purposes the outstanding amount of which shall not exceed the annual remuneration received by the borrower from the Authority.~~

### **New sections after 76**

#### **New section**

#### **Integrity**

**The members of the board and the executive members shall not be influenced by any manner what so ever by an individual or body of individuals in discharge of their official duties.**

**New section**

**Responsibility;**

**The members of the board and the executive members shall ensure that their conduct is consistent with dignity, reputation and integrity of the authority and sovereignty of Bhutan.**

**New section**

**Personal Conduct:**

**The members of the board and the executive members having been entrusted with sacred responsibility to serve tsa-wa sum, they shall refrain from:**

- Indulging in bad behaviours that infringe the performance of official duties or tarnish image of the authority or the country.**
- Bank accounts in any country outside Bhutan.**
- Abuse of his office power or any act prejudicial to the right of any person or contrary to any government policy.**

**New section**

**Conflict of Interest:**

**The Board of Director shall ensure that no conflict of interest arises between his public duties and private interest, financial or otherwise the member of the Board and the executive committee members shall:**

- 1. Declare Income, assets and liabilities including the income, assets and liabilities of their spouses and dependants within three months after the appointment in compliance to anti-corruption Commission Act.**
- 2. Not undertake any private business or commercial activity.**
- 3. Maintain the highest degree of incorruptibility.**
- 4. Not make any unauthorized commitment or promise that purports to bind the government**

**New section**

**Any person who breached this code of conduct may be removed from the office.**

**New Section**

**Accountability**

**The members of the Board and the executive committee members shall have duty to account and be held accountable for policies, decisions and actions of the authority.**

**Section 77**

**A person who contravenes the provisions of this Section commits an offence shall be liable ~~upon conviction in a court of law, to an appropriate penalty.~~ as per the Penal Code of Bhutan.**

**Section 88 (b)**

**In the case of coins, ~~for each denomination of coins~~ for the payment of an amount not exceeding twenty times the face value of that denomination.**

### **Section 107 (a)**

submit to the Royal Government **and Parliament** a report on the reserve position and the causes which have led or may lead to such a decline together with recommendations concerning the measures that may be deemed necessary to forestall or otherwise remedy the situation; and

### **Section 111**

The ~~powers of the~~ Authority shall have the power to (i) make regulations, or establish limits, prescribe rules and procedures, and issue notifications, orders, guidelines and clarifications in respect of foreign exchange transactions; and (ii) impose administrative penalties for any contravention thereto, shall be as specified in the Foreign Exchange Regulations, 1997, as may be amended.

### **New section after Section 111**

#### **Priority Sector consideration**

**The Authority may, from time to time, prescribe the terms and conditions associated with lending activities of financial institutions towards priority sectors as may be determined by the government from time to time.**

### **Section 134**

The Board shall have the authority to **establish a mediation or arbitration cell as and when necessary.** ~~to set up Payment & Settlement Tribunal to hold hearing and adjudicate, in an independent manner, on disputes among system participants, service providers~~

~~and operators of any recognized Payment & Settlement System.~~

**New section after Section 141**

**The Royal Government may, from time to time, issue such directives to the Authority, as it may consider necessary after consultation with the Governor, in the public interest. Any directives issued under this Section shall be reported to the Parliament.**

**Section 156**

~~The accounts of the Authority shall be subject to audit at least once every year by suitably qualified external auditor appointed by the Board.~~

**The accounts of the authority shall be subject to audit at least once every year by the Royal Audit Authority or by suitably qualified audit firm appointed thereon by the Royal Audit Authority.**

**Section 179 (i)**

“Development banking” means extending credit or investing in securities with funding obtained primarily from institutional investors **and also from the deposit or general public.**

After submitting their general views, Hon’ble Members of National Assembly adopted the Bill by raising their hands. All the members present raised their hands and thus adopted the Bill on 30<sup>th</sup> December 2009.

### **3. TOBACCO BILL OF BHUTAN, 2009**

The Hon Minister for Education, on behalf of the Minister for Health, moved the motion for leave to introduce the Bill and adoption for discussion on 29<sup>th</sup> November, 2009. He said that the use of tobacco products was not only contradictory to our religious beliefs but was also harmful to the physical health and wellbeing of the people. The Bill was very important in view of realizing Gross National Happiness by means of improving social health through the control of tobacco use. The Bill was elaborately deliberated and endorsed by the National Council during its 3<sup>rd</sup> Session. The Bill was then adopted for discussion after the entire members present raised their hands in favour of the motion.

#### **The Member In-Charge moved the motion for the Second Reading of the Bill on 24<sup>th</sup> November 2009**

Hon Minister for Health said that under the farsighted and magnanimous leadership of our successive Monarchs, the works carried out till date as per the policies of the Government have been exemplary and is commended by the outside world. He informed that Bhutan received international recognition and was conferred the best immunization award by the World Health Organization for aggressively promoting and achieving 95 percent immunization coverage on 19<sup>th</sup> November, 2009.

Efforts to control tobacco consumption were initiated since 1980 and the sale of tobacco products was banned in the country following the Resolution of the previous 82<sup>nd</sup> Session of National Assembly. Since ours is a Buddhist Kingdom, His Holiness the Je Khenpo had also issued a Kasho banning tobacco use. Further, the Member In-Charge informed that Bhutan even won an award of recognition for becoming the first nation in the world to ban tobacco and its related products.

The Bill was drafted by the concerned Ministry and the NGOs in keeping with the provisions of the Framework Convention for Tobacco Control (FCTC). Further, he reminded that the provisions on imposing penalties to offences be explicitly studied by the concerned Committee while reviewing the Bill and that the ban of tobacco be continued effective as before.

The Hon Minister for Foreign Affairs put forth that the Bill should not be confined to tobacco and related products alone but would be more desirable to also incorporate provisions on substance abuse, *doma* and alcohol which are equally harmful to physical health. On this, the Hon Drakteng-Langthel constituency Member said that the Act on the substance abuse was already in place and that it was adequate to draft separate legislations on alcohol and *doma* control as per the need.

The Hon Minister for Information & Communications suggested inserting a provision on prohibiting consumption of tobacco and tobacco products similar to the existing provision in the Bill prohibiting the sale of tobacco and tobacco products. He added that inconveniences may occur later-on while implementing the Act in the event the current Bill allowed import of tobacco and tobacco products for personal consumption.

The Hon Chumey-Ura constituency Member said that Section 11 & 12 was fundamental to the Bill and that the Committee after having thoroughly discussed has agreed that these two provisions be maintained as presented. On this, the Hon Chapcha-Bongo constituency member informed that tobacco leaves known as "*Tendu*" which grows naturally in Samtse Dzongkhag are being harvested and sold outside the country by the people there. Therefore, he said that merits and demerits to



the income of the people and their welfare be also looked into in the process of enacting the said Act.

The Hon Wamrong constituency Member and Hon Bji-Katsho-Uesu constituency Member put forth that the Bill should also provide on the total number of Board Members and specifications from which ministries and departments the Board Members will consist of. The Hon Minister for Health elucidated that the present Bhutan Narcotic Control Board shall also function as the Tobacco Control Board.

The Hon Speaker noted that the general merits and principles of the Bill were discussed subsequent to the motion moved by the Member In-Charge, Hon Minister for Health for Second Reading of the Bill. The Speaker then forwarded the Bill to Legislative Committee and reminded the Committee that the submissions made by the Hon Members pertaining to the Bill be kept in mind during its further review.

**Hon Members of National Assembly deliberated on the Tobacco Control Bill of Bhutan, 2009 for the Third Reading from November 30<sup>th</sup> till the 3<sup>rd</sup> December 2009 and adopted the Bill with the following amendment.**

#### **Preamble**

The Royal Government and People of Bhutan

*Concerned* with the physical health and well being of the people of Bhutan which are important elements of the development principle of Gross National Happiness,

*Recognizing* the harmful effects of tobacco consumption and exposure to tobacco smoke, from a spiritual and social health point of view,

*Recalling* that the National Assembly of Bhutan during the 82<sup>nd</sup> session held on 12<sup>th</sup> August 2004 ratified the WHO Framework Convention on Tobacco Control (FCTC),

*And acknowledging* that as a party to the WHO Framework Convention on Tobacco control, Bhutan is implied by its provisions to implement it through national legislation and policies to fulfill the obligations and to ensure the effective control of tobacco and tobacco related products,

~~the Parliament of the Kingdom of Bhutan do hereby enact the Tobacco Control Act at its.....session of the .....Parliament as follows:~~

**Parliament of the Kingdom of Bhutan do hereby enact the Tobacco Control Act at its fourth Session of the first Parliament as follows:**

**Section 3 (e)**

Public transportation: all buses and taxis, all forms of motor vehicles and aircrafts for passenger transport; **and**

**Section 11 (c)**

Sell **and buy** tobacco and tobacco products **within the country**

**Section 12**

A person may import tobacco and tobacco products for personal consumption as per the ~~quota~~ **quantity** approved by the Tobacco Control Board.

**Section 26 (b)**

Board shall ~~have the authority to~~ designate smoking rooms/areas in public places under section (3) from time to time.

**Section 31**

The Office may employ such staff as ~~maybe approved by the Tobacco Control Board~~ **per the Civil Service Act.**

**Section 33 (c)**

Carry out research on the ill effects of tobacco consumption on health; **and**

**Section 35 (a) and (b)**

- a. enforce ~~quota~~ **quantity** limitation on import of tobacco and tobacco products across borders at the entry points;
- b. Enforce as per ~~the provision of this Act~~ section 13 of this Act.

**Section 48**

A person smoking in any non smoking area designated under section 3 shall be punishable **fined with an amount specified by the Tobacco Control Board from time to time and if the person fails to pay the fine he/she shall be kept under the police custody until the fine is paid or such number of days equivalent to fine amount calculated at the minimum wage rate.....ngultrum** ~~for the offence and with fines which may extend to..... ngultrum for second offence and subsequent offence shall be penalized as per the Penal Code of Bhutan 2004~~

**Section 49**

If a person is found smoking in non smoking area, a person in charge of that place shall be **fined punishable with an amount specified by the Tobacco Control Board from time to time and if the person fails to pay the fine he or she shall be kept under the police custody until the fine is paid or such number of days equivalent to fine amount calculated at the minimum national wage rate.....ngultrum** ~~for the first offence and with fine which may extend to.....ngultrum for~~

~~second and the subsequent offence shall be dealt according to the Penal Code of Bhutan 2004~~

**Section 50**

Any person who contravenes the provisions of section 11 (a) and (b) shall be guilty of an offence of misdemeanor and shall be penalized as per the Penal Code of Bhutan ~~2004~~,

**Section 51**

Any person who contravened the provision of section 11 (c) **shall be fined with an amount specified by the Tobacco Control Board from time to time for the first offence and if the person fails to pay the fine, he/she shall be kept under the police custody until the fine is paid or such number of days equivalent to fine calculated at the minimum national wage rate.** In the event of the subsequent offence, the person shall be penalized as per the Penal Code of Bhutan ~~2004~~.

**Section 52**

Any person found smuggling tobacco or tobacco products shall be guilty of an offence of smuggling and shall be penalized as per the Penal Code of Bhutan, ~~2004~~

**Section 53**

Any person who contravenes the provision of section 19 shall be guilty of an offence of petty misdemeanor and shall be penalized as per the Penal Code of Bhutan ~~2004~~

**Section 54**

To be deleted as it is covered under Section 52

**Section 60 (k)**

Thromde” means an ~~large~~ urban area or a municipality **as specified in the Local Government Act** ~~with a minimum population of 5000 people in which more than 50% of the~~

~~population is dependent on non primary activities and having the potential to sustain its service through its revenue such as taxes and fees.~~

After submitting their general views, Hon'ble Members of National Assembly adopted the Bill by raising their hands. All the members present raised their hands and thus adopted the Bill on 3<sup>rd</sup> December 2009 at 11:00 am.

#### **4. RATIFICATION OF SAARC CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

On December 1, the Hon Minister for Foreign Affairs moved the motion to adopt the SAARC conventions on mutual assistance in the criminal matters along with a summary of the background and its objectives.

The House while deliberating on the convention submitted that they should endorse the convention on mutual assistance in criminal matters which is already accepted and signed by the ministers of the eight SAARC countries.

Hence, the convention was adopted by a majority of the members present although a few members didn't raise their hands. The SAARC convention on mutual assistance in criminal matters was adopted on 1<sup>st</sup> December 2009.

#### **5. MARRIAGE (AMENDMENT) BILL OF BHUTAN, 2009**

**The Chairperson for Women and Children Committee, Member In-Charge of the Bill, while moving the motion for leave to introduce the Marriage (Amendment) Bill of Bhutan, 2009 and adoption for discussion in the first**

**reading on 1<sup>st</sup> December 2009**, said that not only does the Marriage Act, 1980 contain sections where there is bias between men and women but also sections where the women are undermined. Hence, most of the Non Government Organizations proposed for the amendment of the Marriage Act. The Hon Member thanked the Members of National council for deliberating it in the third session and transmitting it to the National Assembly.

**The Member In-Charge moved the motion for the Second Reading of the Bill on 2<sup>nd</sup> December 2009**

Member In-Charge of the Bill moved the motion that the Bill be set down for Second Reading after which she read out the amended sections and proposed that the Marriage Act be amended.

The Hon Member of Nyisho-Sephu constituency asked whether only the amendment submitted by the National Council is to be discussed or any other points raised by the National Assembly can also be discussed. He submitted that presently there are no prejudice between men and women and also said that the pros and cons should also be weighed. To this, Hon Minister for Works and Human Settlement and Hon Member of Kabji-Talo, Hon Member of Wamrong, Hon Member of Drujeygang-Tseza, Menbi-Tsenkhar and Hon Member of Kenkhar-Weringla seconded the motion.

The Hon Member of GoenKhatoe-Laya constituency said that the whole Act needs to be deliberated and the duration for the Committee to work should also be looked into. He submitted that it has been 29 years since the Act has been implemented so the amended sections need to be reviewed by the Joint Committee. To this, the Hon Minister for Economic Affairs, the Hon Member of Bardo-Tong and the Hon Member of Kabji-

Talo seconded the proposal. Hence it was resolved that the bill will be reviewed and presented to the House by the Joint Committee during the current session or the next session.

**On 3<sup>rd</sup> December, Hon Members deliberated on the Bill for the Third Reading.** Most of the Hon Members felt that the Marriage Act 1980 had to be amended as per the present norms and although some of the amended sections were accepted most of them were not. Thus it was resolved that the two Houses should form a committee to review the whole Act. On 7<sup>th</sup> December a meeting between the two Houses was held chaired by Hon Speaker wherein the Bill was discussed elaborately and adopted the Bill with following amendments:

#### **Section KHA 1-8**

Notwithstanding the number of years that have elapsed since a marriage has been contracted, a couple shall only be recognized as a legally married couple from the date of acquiring a Marriage Certificate from a Court of law (Amendment to Section Kha 1-5 of THRIMSHUNG 1957).

~~**However, the couple may be granted a back dated the marriage certificate upon paying the following fines to the court by both parties together:**~~

- ~~**a) Ngultrum two hundred for less than three years of marriage without the marriage certificate.**~~
- ~~**b) Ngultrum four hundred for three to seven years of marriage without the marriage certificate.**~~
- ~~**e) Ngultrum six hundred for more than seven years of marriage without the marriage certificate.**~~

### **Section KHA 3-30**

~~In a case involving a married woman **person** and a religious celibate in adultery, a submission in the form and manner "cha" set forth in the Schedule shall have to be forwarded by the local village headman and his assistant **gup/thrompon and other members of the Gewog/Thromde Tshogde** after due consultation to **with** the nearest court of law. Thereafter, the court shall sentence both the offenders to six months rigorous imprisonment. And such a sentence shall not be remitted by payment of a fine or by any other compromises. But if the village headman and his assistant **When the gup/thrompon and other members of the Gewog/thromde Tshogde** fail to submit a report of such and adultery, then they shall be **liable for petty misdemeanor**, punished with a term of imprisonment extending to three months each or in lieu a fine stipulated by the court.~~

### **Section KHA 7-2**

~~In any proceedings under this Act where a **the case of married couple having children have granted getting** a divorce, **children under the age of 9 years shall remain under** the custody of the children not attaining the age of nine years shall be given to the mother **unless the court finds compelling reasons to order otherwise**.~~

**Compelling reasons by which a mother can be deprived of custody include: neglect, abandonment, unemployment and immorality, habitual drunkenness, drug addiction, maltreatment of the child, insanity, affliction with communicable illness, and any other ground that the court determines.**

**In such a case, the custody of a child may be given to the other parent or to a third person or recognized organization**



**established under Civil Society Organization Act in the best interest of the child.**

**The court shall determine the frequency and conditions under which the other parent(s) may meet with the child/children.**

**Section KHA 7-6(2)**

**For finding out the costs incurred for a marriage, the amount determined by a minimum of three impartial witness not related to either of the parties to the marriage shall be accepted.**

**Section KHA 8-6**

**If any person causes a dispute between a couple who are innocent of committing any ~~misdemeanour~~ offence or brings a false allegation of a ~~misdemeanour~~ an offence on the part of either of the parties to cause a divorce between them, then such a person shall be punished with a term of imprisonment extending from one month to six months or with a fine amounting from Ngultrums one hundred fifty to Ngultrums nine hundred ro with both, depending upon the gravity of the offence causing rift between a married couple by making false allegations shall be liable under relevant provisions of the Penal Code of Bhutan.**

**Section KHA 8-7(1)**

**If a ~~woman~~ married person who had consented to have illicit relations with one or two men/women is injured because of the act of several other men/women ~~several other men also having enjoyed her~~, then in such a case, a report shall have to be submitted to the ~~local~~ Court of ~~law~~ or ~~village~~ ~~elders~~ **competent jurisdiction or Royal Bhutan Police or Gewog/Thromde Tshogde members** within twenty-four hours of the incident, excluding the time taken for making the journey to submit the report;**

**Section KHA 8-7 (2)**

~~If that woman who had been used for immoral purpose is not of a loose, immoral character, than that person who had procured her and each of those men involved in an immoral act with that woman shall have to pay Ngultrum fifty to Ngultrum two hundred to that woman, depending upon the gravity of each of their individual faults; in addition each of those men in the act, excepting that procurer, shall have to deposit with the Court in the form of a fine a sum equal to double the amount paid as damages to that woman, but that procurer shall have to pay a sum equal to double the amount paid by the other offenders as damages and fines.~~

**In such a case, the person who procures her/him and each of those involved in the immoral act shall be guilty of gang rape and shall be liable for sentencing as per the Penal Code of Bhutan.**

The person who procures her/him should be charged with deception as per the Penal Code of Bhutan. He/she and the members of the group shall also pay *gaw* to the other partner.

**Section KHA 8-8(1)**

If such a ~~woman~~ **person** succumbs to **his**/her injuries when committing such an act, then that person who had procured **his**/her and those persons involved in the act shall be ~~have to~~ **liable for** culpable homicide under the Penal Code of **Bhutan** as **and make** contribution towards the expenses for the ~~last~~ **funeral** rites for that ~~woman~~ **person**.

**Section KHA 8-17**

**If a person alleges his/her partner having illicit relation with another person and takes position of property of that illicit partner or engages in battering that person and causes**

**physical damages, such harmful and forceful acts shall be forbidden. If a person violates these provisions, he/she shall be guilty of extraction and battering of the other person on separate accounts and shall be liable as per the Penal Code of Bhutan.**

**Section KHA 8-24**

1) If as mentioned in the aforesaid Section, a person abducts a woman after making her unconscious or by influencing her mind by the use of medicines or drugs, and if that woman is subsequently traced out, then that offender shall be **liable as per the Penal Code of Bhutan.**

**Such compensation shall be paid to the victim as determined by the court in accordance with the Penal Code of Bhutan**

2) And if in such a search, the abductor only is caught and the ~~woman~~ **person** who had been abducted is not found, then that offender shall have to restore all the properties taken by that ~~woman~~ **person** who had been abducted, ~~and shall be punished also with a term of imprisonment extending from one year to seven years~~

**6. CIVIL SERVICE BILL OF BHUTAN, 2009**

The Hon Minister for Labour and Human Resource, Member In-Charge of the Bill, while moving the motion for leave to introduce the Civil Service Bill of Bhutan 2009 and adoption for discussion in the first reading highlighted that the management and administration of the Royal Civil Service Commission which is inline with the Royal Charter is provided in the Constitution to promote the civil service in an efficient, transparent and accountable manner and for the Royal Civil Service Commission to function as the central personnel agency of the Government. Thus, the House resolved to discuss the Bill further.

Hon Speaker informed the House that the Bill was extensively deliberated in both the Houses during its 3rd session and the Joint Committee also deliberated on the Bill and submitted to the Parliament but the Bill could not be endorsed as an Act. Hon Members while raising their hands whether to deliberate the Bill or not, Hon Opposition Leader submitted that for re submission of the Bill was not as per the procedure. However, majority decided to re-introduce and adopt the Bill as per system of democracy.

**The Member In-Charge moved the motion for the Second Reading of the Bill on 7<sup>th</sup> December 2009**

Hon Minister said that the Civil Service was first drafted in 2003 as per the Royal Charter 1982. Thereafter, the Bill was presented for adoption during the 87<sup>th</sup> session and also as an Urgent Bill during the 3<sup>rd</sup> session of the First Parliament but it could not be passed.

Hon Minister submitted that the Bill was drafted in line with Article 26 (5) of the Constitution which states that the Commission shall, in the interest of promoting merit, productivity and equity ensure that uniform rules and regulations on recruitment, appointment, staffing, transfer and promotion prevails throughout the Civil Service. Again Article 26 (8) states that the Commission shall meet regularly and shall be supported by a permanent Secretariat, which shall function as the central personnel agency of the Government.

In keeping with the above points, the civil servants working under the three branches of the Government, Constitutional Bodies and Autonomous agencies will be governed uniformly by the Civil Service Act and administered by the Royal Civil Service Commission. He also said that the entire

authority/power is not left with the Commission but the separation of the three branches and the independence of the Constitutional Bodies are also incorporated in the Bill. Hence, the appointment, promotion, transfer and trainings of the civil servants working under the three branches and Constitutional Bodies are clearly vested with the ministries.

Subsequently after informing the chapters of the said Bill to the House, the Bill was referred to legislative Committee for discussion.

**Hon Members of the National Assembly deliberated the Civil Service Bill of Bhutan, 2009 for the Third Reading on 8<sup>th</sup> December 2009 and adopted the Bill with the following amendment.**

**Section 33 (a)**

~~Provide and ensure effective leadership in the civil service~~

**Section 33 (d)**

~~Appoint, promote and transfer civil servants except as specified otherwise in this Act~~

**Section 61**

A secretary to the Government shall be the highest position in the civil service and may serve a maximum term of five years or until the superannuation age, whichever is earlier.

**Section 64**

A person may be appointed on contract on competitive basis to meet specialized or short-term human resource needs of an agency. **However, exceptions to this section may be made in public interests by the HR committee with special approval of the concerned Minister.**

**Section 68**

To insert subheading “**Authority of Agency**”

**Section 73**

To insert the subheading “**Authority of Agency**”

**Section 80**

Notwithstanding section 79 the cabinet shall determine and approve the inter-ministry and inter-dzongkhag transfer of secretaries and Dzongdags in the same positions.

**Section 88**

The Commission **in consultation with the government** may introduce Early Retirement Scheme or Special Retirement Scheme to allow a civil servant to retire early on payment of such benefits as prescribed by the BCSR.

After submitting their general views, Hon’ble Members of National Assembly adopted the Bill by raising their hands. All the members present raised their hands and thus adopted the Bill on 9<sup>th</sup> December 2009.

**7. ENTITLEMENT AND SERVICE  
CONDITIONS BILL FOR THE HOLDERS OF  
CONSTITUTIONAL OFFICES OF BHUTAN,  
2009**

**Hon Members on 9<sup>th</sup> December re-deliberated on the Entitlement  
and Service Condition Bill for the Holders of the Constitutional  
Offices of Bhutan, 2009**

## **Title**

Entitlement and Service Conditions Bill for the Holders, **Members and Commissioners** of the Constitutional Offices of Bhutan, 2009

## **Preamble**

*Whereas*, Article 31(2) of the Constitution of the Kingdom of Bhutan stipulates that the Chief Justice of Bhutan, the Drangpons of the Supreme Court, the Chief Justice of and the Drangpons of the High Court, the Chief Election Commissioner, the Auditor General, the Chairpersons of the Royal Civil Service Commission and the Anti-Corruption Commission shall be the holders of the Constitutional offices;

*Whereas*, Article 31(7) of the Constitution of the Kingdom of Bhutan, requires that the salary, tenure, discipline and other conditions of the holders/**members and Commissioners** of constitutional offices be prescribed by law;

Parliament of the Kingdom of Bhutan do hereby enact the Entitlement and Service Condition Act for the Holders/**members and Commissioners** of the Constitutional Offices of Bhutan 2009 at its Third session of the First Parliament.

**Section 3**

The appointment and tenure of holders of the Constitutional offices, **Member or the Commissioner** shall be governed by the Constitution and **relevant** laws.

**Section 4**

The Holders of the Constitutional offices shall resign with **post service benefits** upon appointment to the Constitutional offices.

**Section 5 (f)**

**In the Government or public service for minimum of 20 years for the members and 25 years for the Heads of Constitutional Offices.**

**Section 18**

The holders of the Constitutional offices shall be entitled to telephone allowance as per the annexure A.

**Section 19**

The holders of the Constitutional offices, may, before expiry of term, resign after giving notice in writing at least thirty days in advance.

**Annexure**

<b>POST</b>	<b>PAY SCALE</b>	<b>ALLOWANCE</b>
Chief Justice of Bhutan	At par with that of the Speaker	At par with that of the Speaker



-Drangpon of Supreme Court -Chief Justice of High Court -Chairperson of Royal Civil Service Commission -Chief Election Commissioner -Auditor general -Chairperson of Anti Corruption Commission	55,030-1,100-60,530	At par with the Secretary to the Government
Drangpons of High Court	50,445-1,010-60,545	do
Commissioners	45,860-915-55,010	do

After submitting their general views, Hon'ble Members of National Assembly adopted the Bill by raising their hands. All the members present raised their hands and thus adopted the Bill on 10th December 2009.



December 11, 2009

( **Jigme Tshultim** )  
Speaker